

OBAN HARBOUR UPDATE

1.0 INTRODUCTION

- 1.1 This report is provided to update Members on the status of plans to establish the Municipal Oban Harbour and the progress of the Oban Harbour Revision Order (HRO).
- 1.2 It also details the next steps process for the formal consultation process to make the order.

2.0 RECOMMENDATIONS

It is recommended that the Harbour Board:

- 2.1 Notes the update provided in this report; and
- 2.2 Agrees the final draft HRO provided herewith for submission to Transport Scotland.
- 2.3 Agrees the Terms of Reference for the consultative bodies appended to the report.

3.0 DETAIL

Harbour Revision Order (HRO)

- 3.1.1 Since December 2022, following Harbour Board approval, the Oban Harbour draft HRO has been subject of informal discussions with the aim of finalising the document.
- 3.1.2 The key changes made to the draft Order as a result of the informal consultation process are set out in appendix B. It should be noted that the bulk of the changes that have been made are primarily for clarity or for drafting reasons and do not amend the substantive powers to be exercised by the Council over the Harbour, or the way in which the Council may exercise those powers. Appendix B does not include all those changes made for clarity or drafting reasons, or which are technical in nature. The draft attached as appendix A is provided for agreement of members as the final draft HRO provided herewith for submission

to Transport Scotland.

- 3.1.3 A Business Day for the Harbour Board was held on 20th June that included a presentation from our Designated Person (DP) Monty Smedley. A similar presentation was given at the following Oban Bay Management Group (OBMG) meeting for the benefit of other interested parties.
- 3.1.4 Recruitment has been completed for a replacement Assistant Harbour Master and two additional Assistant Harbour Masters to ensure a smooth first step is made in preparation for the new shift patterns once the HRO is in place.
- 3.1.5 Terms of Reference have been drawn up for the proposed Consultative Forums and are set out in Appendix C for agreement of Members. Based on the guidelines and recommendations of the Port Marine Safety Code (PMSC), it is proposed to have an administrative management level group made up of the organisations with financial and legal responsibility in the bay and a broad Consultative Forum made up from the stakeholders and communities who rely on Oban Harbour.

3.2 Next Steps

The next steps from there are summarised in the following table:

Formal submission and Statutory Consultation

Step	Description	Actioned by
1	Formal application requested by Transport Scotland and submitted by Argyll & Bute Council. Accompanied by fee, maps etc.	Transport Scotland & RIS / Legal
2	Public Notice – 42 days of public consultation. May result in representations being received from members of the public, community groups or statutory consultees.	Objection handling by Transport Scotland by written representation, hearing or inquiry. Negotiation/ modifications by Argyll & Bute Council.
3	Consultation with statutory consultees is also open for 42 days but may not exactly match the same commencement day as the public consultation period. (see 3.2.6)	Managed by Transport Scotland, then passed to Argyll & Bute Council.
4	Scottish Ministers consideration of application and decision.	Scottish Government.
5	Decision letter issued & decision published.	Transport Scotland.
6	Order Made. Argyll & Bute Council assume control of new harbour area.	Scottish Government.

- 3.2.1 Approval of the draft HRO will enable the Council to submit this to Transport

Scotland. On doing so, the Council must then publish notice of the application once in the Edinburgh Gazette and once in each of two successive weeks in one or more local papers, most likely the Oban Times.

- 3.2.2 The notice must comply with the 1964 Act and will give:
- Notice that the application has been made.
 - Note that an Environmental Statement is not required.
 - A concise summary of the draft order.
 - Information on how objections should be made within 42 days of the date the order was first advertised and details of the procedure for handling these.
 - Original copies of the publications which must be provided to Transport Scotland.
- 3.2.3 Scottish Ministers may direct that the draft is served on specified bodies or persons and they will formally advise us if this is the case when we submit the application. Examples are Maritime & Coastguard Agency (MCA), UK Chamber of Shipping, and Northern Lighthouse Board etc.
- 3.2.4 We will publish the submission on the Council website for public viewing and promote that via Social Media, our 'Keep in the Loop' service and by any other appropriate means identified in liaison with the Communications team. This is an established consultative process from the informal consultation already carried out for the Oban HRO.
- 3.2.5 We have received representation from OCHDA and Oban Community Council for these groups to carry out the consultation on behalf of the Council. Given the formation of the HRO is a matter that falls directly to the Council and for which it is responsible, the formal nature of the statutory process, that the council needs to be fully accountable for the consultation process and the responses that it provides to any representation and maintain direct communication with Transport Scotland throughout that process it is considered appropriate that the Council retain the direct responsibility and control over the exercise of this function.
- 3.2.6 The process requires at least 42 days for representations to be made and during this period Transport Scotland will conduct their own consultations with the statutory consultees served with the draft HRO. Each consultee will have 42 days to respond so this may not run concurrently with our public consultation period.
- 3.2.7 All objectors must state the grounds and their representations will be forwarded on to us from Transport Scotland. In addition, as we have had consultations on this subject before, there may be representations sent directly to us which we should share with Transport Scotland.
- 3.2.8 There is no fixed timescale for handling any representations received and the Council will have the opportunity during the 42 day period to address any issues that can be resolved with more information or mitigation. At the end of the 42 day period Transport Scotland and Argyll & Bute Council will then agree a timeframe to review the representations. The timeframe may be extended if

required and objections can be withdrawn at any time by writing to Ministers but at the end of the timeframe Transport Scotland will contact all outstanding objectors to confirm the status of the objection.

3.2.12 Ministers will make the decision on the appropriate route to deal with any objections which are not withdrawn which can include further written representation or in extreme or complex cases a hearing or public inquiry on similar lines to planning inquiries.

3.2.13 The Minister will then consider the material provided and reach a decision, which may involve modifications to the order to meet objections or provide mitigation measures.

3.2.14 Ministers will then consider the draft and issue a formal decision letter to us, copied to consultees and objectors and published on the Transport Scotland website.

3.2.15 Assuming the decision is positive the order will be made and we must publish notice of this in the Edinburgh Gazette and a local paper (again most likely the Oban Times) and serve copies on the same people identified and notified of the original application.

4.0 CONCLUSION

4.1 This report provides an update to Members on the status of plans to establish the Municipal Oban Harbour and the progress of the Oban Harbour Revision Order (HRO). The report also provides the Terms of Reference for consultative groups for once the HRO has been made.

5.0 IMPLICATIONS

5.1 Policy – The Harbour Board agreed in December 2021 that the Council should proceed to make the arrangements to formally manage the unmanaged section of Oban Bay.

5.2 Financial – No financial implications at this stage, all costs have been met through existing budgets and the Municipal Harbour will have fees and charges through conservancy charges etc. which will cover the operating costs

5.3 Legal – the HRO process is a formal legal process set out in the 1964 Harbours Act.

5.4 HR – HR implications will be identified as the proposal progresses.

5.5 Fairer Scotland Duty:

5.5.1 Equalities – None known

- 5.5.2 Socio-economic Duty – None Known
- 5.5.3 Islands – consultation will be carried out with the island communities as a continuation and expansion of the Options Appraisal Process reported to the December harbour Board.
- 5.6 Climate Change – due regard will be given to climate change with a view to minimising any climate change impact and these will be considered as and when they arise.
- 5.7 Risk - The Council progressing to become a Municipal Port Authority for the unmanaged areas of Oban Bay increases the safety within Oban Bay. There is a risk that there could be a number of objections and representations during the process which could impact on timescale and these will be considered as and when they arise.
- 5.8 Customer Service – Improved and safer environment for all users

Kirsty Flanagan, Executive Director with responsibility for Roads and Infrastructure

Jim Smith, Head of Roads and Infrastructure

Policy Lead for Roads and Transport, Councillor Andrew Kain

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For further information contact: Jim Smith, Head of Roads and Infrastructure, or Scott Reid, Marine Operations Manager

- Appendix A: Oban HRO with map of limits (Appendix A1)
- Appendix B: Notes on amendments to Oban HRO
- Appendix C: Terms of Reference, Oban Harbour Consultative Forums