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**PIERS & HARBOURS - OBAN HARBOUR – COSTS AND CONSERVANCY**

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**1.0 INTRODUCTION**

- 1.1 There are three separate Harbour Orders in place for Oban: the North Pier, Railway Pier and South Pier. The approaches and waters through the bay are not covered by an Order. The responsibility for these waters defaults to the Maritime and Coastguard Agency (MCA). Having one or more Statutory Harbour Authority controlling the entirety of the bay would remove any ambiguity and would likely result in benefits to users of the bay.
- 1.2 For a number of years the Council with CMAL, CalMac, the Northern Lighthouse Board and various stakeholders have worked to progress a solution which would result in all of the bay, including the approaches, being covered by provisions which would enable the bay to be fully managed. In particular, the Oban Bay Management Group (OBMG) has been providing a joint approach to improving navigational safety at Oban since 2007. The group consists of Caledonian Maritime Assets Ltd (CMAL), Argyll and Bute Council (ABC), Northern Lighthouse Board (NLB), CalMac Ferries Ltd (CFL), Oban Bay Stakeholder Group (OBSG), Oban Community Harbour Development Association (OCHDA) and Oban Community Council (OCC). The Council's plans for a Municipal Harbour have the support of the OBMG.
- 1.3 This report follows on from the decision of the Council's Harbour Board at its meeting on 31 August where the Harbour Board agreed the final draft HRO for submission to Transport Scotland to commence the statutory consultation process. That report clearly set out the key steps, including the 6 week consultation period consequential to that decision. It was for Council officers to then progress with these steps, including the commencement and timing of the consultation period to ensure that the HRO was in a position to be operational as soon as practicably possible.
- 1.4 This report also allows Members to consider the costs and associated reasonable charges (Conservancy Charge) for the running and maintenance of an expanded Oban Harbour, as defined in the Harbour Revision Order (HRO) currently under process with Transport Scotland.

## 2.0 RECOMMENDATIONS

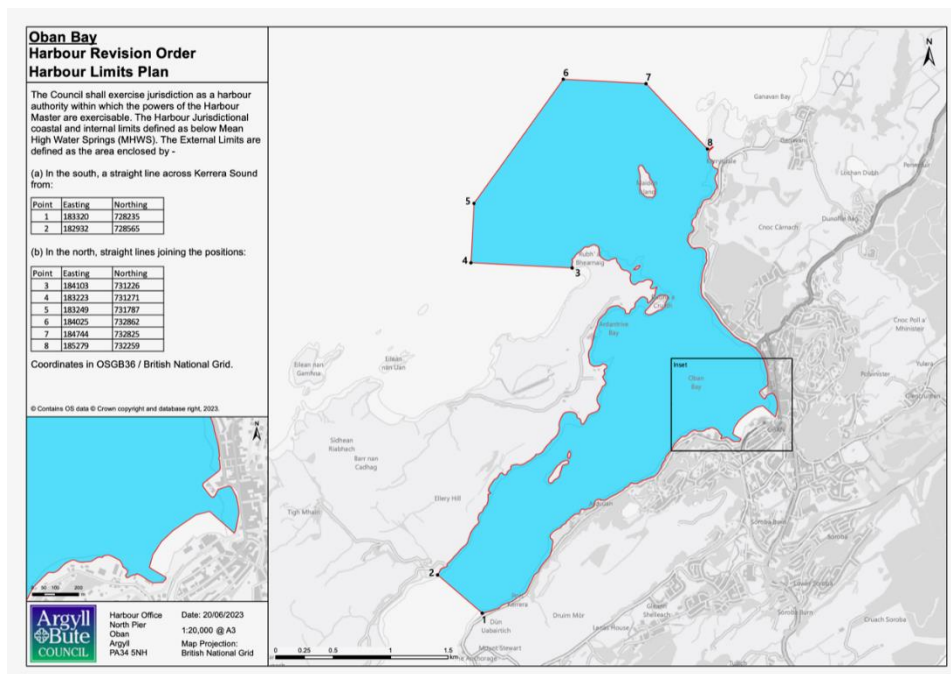
2.1 Members are asked to recommend to Council in the event the HRO is made:

- 2.1.1 When setting the fees and charges for 2024 / 2025 that it approves, for vessels with a Gross Registered Tonnage (GRT) over 50 registered tonnage, a baseline Conservancy Charge of 7p / GRT to generate sufficient income to run, maintain and develop Oban Harbour and the Council's marine infrastructure;
- 2.1.2 Agree that CalMac ferries have a reduced rate of 2p / GRT due to the reasons detailed in the report;
- 2.1.3 Note that this represents a figure for the first year only and that it should be assessed for effectiveness each year and adjusted accordingly;
- 2.1.4 Agree that the adjusted conservancy charge is to be assessed, reported and approved annually in line with the Marine Fees and Charges and is to be included in that report for the Harbour Board for recommendation to Council; and
- 2.1.5 Agree that the vessel types listed in the report at 4.3 should be exempt from transit or 'Conservancy' charges.

## 3.0 BACKGROUND

3.1 In August 2023 the Harbour Board agreed a final draft of the HRO for submission to Transport Scotland which expands the current SHA area around Oban North Pier to include a larger portion of Oban Bay and the Kerrera Sound.

3.2 Figure 1: Chart of new harbour limits included with the HRO. The harbour limits shown shaded blue below:



- 3.3 On 10<sup>th</sup> November 2023 following a period of informal review with Transport Scotland, the formal application for the HRO was made by the Council. The statutory consultation period of 42 days commenced on 30<sup>th</sup> November 2023 with the publication of an advert in the Oban Times newspaper and expired on 11<sup>th</sup> January 2024.
- 3.4 If made, the draft Order will become law and Oban Harbour will come into existence by extending the Council's current jurisdiction out to the limits shown in Figure 1. This will come with added responsibility for maintaining the harbour for shipping and the powers to raise funds to do so. These charges are usually referred to as 'Conservancy' charges but can be equally combined in the day to day 'harbour dues' or berthing fees.
- 3.5 In determining the level at which charges are set, a number of assumptions have to be made which will be monitored over the year, so that the Harbour Authority can be confident when recommending the fees and charges each year that they are effective and reasonable. Some of those assumptions and notes are listed here:
- a. CalMac Ferries timetables – an assumption has been made around the number of sailings for the year. At present service disruption and weather have some impact on the expected income.
  - b. CalMac vessel allocation – an assumption has been made around tonnage and vessels deployed on the routes although these may change. A figure of 15M GRT has been used from generally accepted historical data for GRT with available recent updates e.g. Loch Frisa deployment has a significant reduction on GRT on the Craignure route.
  - c. Large vessel movements – an assumption has been made around the level and size of non-ferry traffic.
  - d. Small vessels less than 50 GRT and 'pleasure craft' will be exempted from conservancy charges.
  - e. Economy of scale savings and recharging within Council departments for services may not be reflective of the costs which another Harbour Authority would incur for the same services e.g. training, resilience and insurance.
  - f. Recognition that as public bodies utilising public funds CFL already pay CMAL harbour dues for the CMAL Harbour Authority area as detailed in their own schedule of charges. Every effort will be made to simplify the charging process between Argyll and Bute Council and CFL as the current ferry operators.
- 3.6 Discussions between Argyll and Bute Council and CFL are ongoing regarding an agreement for the payments and charges made each year. It is anticipated that a simplified charging structure, beneficial to both bodies can be agreed during 2024 / 2025.

## 4.0 DETAIL

The Oban Harbour Statutory Harbour Authority (SHA) will have an obligation to ensure open and safe use of the Harbour and to make reasonable charges for the running and maintenance of the Harbour.

- 4.1 The authority to charge “ship, passenger and goods dues” as considered “fit” is vested in Argyll and Bute Council by the Harbours Act 1964 section 26(2) and applicable at all locations where Argyll and Bute Council is the statutory harbour authority and exercise its statutory harbour powers in accordance with its governing legislation.

The monies raised from levying harbour dues are primarily used to maintain the harbours and to provide for their long-term viability and encompasses, 'ship, passenger and goods dues', namely those charges associated with:

- a. Ships entering, using or leaving the harbour;
- b. Passengers embarking or disembarking at the harbour;
- c. Goods brought into, taken out of, or carried through the harbour by ship;

- 4.2 Definitions given below are not exhaustive but are significant in the context of this report and Oban Harbour. A more detailed schedule of charges will be required to cover the full range of Ports and services carried out by Argyll and Bute Council as Harbour Authority at other locations and the legal distinctions between the different types of vessel or craft.

- 4.2.1 ‘Pleasure vessels’ are vessels used for sport or recreational purposes and do not operate for financial gain. A more extensive legal definition is provided by the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) 1998 (SI 1998/2771) as amended.

If more than 12 passengers are carried, irrespective of whether payment is made, the vessel is a “passenger ship” under UK Merchant Shipping regulations and needs to be appropriately surveyed and certificated.

- 4.2.2 ‘Fishing Vessel’ means a vessel for the time being used (or, in the context of an application for registration, intended to be used) for, or in connection with fishing for sea fish other than a vessel used (or intended to be used) for fishing otherwise than for profit; and for the purposes of this definition “sea fish” includes shellfish, salmon and migratory trout (as defined by section 44 of the Fisheries Act 1981).

A vessel for the time being used (or intended to be used) wholly for the purpose of conveying persons wishing to fish for pleasure is not a fishing vessel.

- 4.2.3 ‘Ferry’ means a sea going passenger vessel designed or adapted to carry more than 12 passengers and may also have the ability to convey vehicles and goods, especially over a relatively short distance and on a regular service. Which refers to a series of ro-ro ferry or passenger craft crossings, operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either:

- a. According to a published timetable; or
- b. With crossings so regular or frequent that they constitute a recognisable systematic series.

4.2.4 Charges will be referred to the Gross Registered Tonnage (GRT) of a vessel and normally per day, although future rates may incorporate other durations of stay if required for flexibility and convenience e.g. 4 day cruise call or short stay call

#### 4.3 Exemptions

4.3.1 The following categories of craft shall be exempt from payment of 'conservancy' charges but may still be liable for berthing or combined charges at berths within Oban Harbour Authority area, being vessels not covered by the other defined categories and which are not exempt (in law) from paying pier and harbour charges:

- a. No charges will apply to vessels which are involved in an ongoing emergency.
- b. Commercial and pleasure vessels under 50 GRT.
- c. Fishing vessels.
- d. Tenders used to access another vessel in the vicinity of harbour or facility.
- e. Canoes / kayaks.
- f. Personal watercraft (Jet Ski etc.).
- g. Sail / paddle boards.

#### 4.4 Present Costs Estimates

4.4.1 The table 1 below lists a summary of running costs for Oban Harbour

Table 1 - Summary of costs

Category	Description (examples)	Annual Cost
Equipment Service Agreements	Workboat engine / service contracts	£5,000
Building & Admin	PMSC / ISPS / CCTV	£6,000
Survey & Dredging	Bathymetry 3 & 10 years / Dredging 6 to 10 years	£13,000
Maintenance & Repair	Infrastructure / Dive inspections / fender repairs	£50,000
Staff	Staff employment on current shift pattern	£225,000
Training	IOSH / PFSO / Powerboat	£5,000
Total annual estimate		£300,000

#### 4.5 Vessel Traffic

4.5.1 In 2022 the Harbour area saw c.15,500 transits of the North entrance to the Harbour area by vessels with Automatic Identification System (AIS) fitted. 54% of these were attributed to passenger vessels, of which the vast majority are CalMac ferry transits to and from the CMAL Harbour Authority area.

- 4.5.2 Most of the traffic entering, transiting or departing the Harbour area will have had some interface with a facility in the harbour, either the North Pier, Northern Lighthouse Board quay, CMAL Harbour Authority area or one of the anchorages. When this is the case berthing dues etc. will be charged by the facility owner and in the case of the North Pier as this is owned by the Harbour Authority these charges can be adapted to include a combined fee inclusive of conservancy.
- 4.5.3 In determining a base rate for the 'transit only' or 'conservancy' charge it is recognised that it should not overburden customers and businesses using Oban Harbour who pay 'berthing dues' elsewhere already.
- 4.6 Conservancy income**
- 4.6.1 The table 2, below shows a summary of estimated income for a base rate of 7p per GRT for liable vessels and a reduced rate of 2p per GRT for CFL services.
- 4.6.2 The total estimated income incorporates an initial c.15% to cover some of the start-up costs and the commencement of a business case for the North Pier extension, which will look at the future development of Oban Harbour.
- 4.6.3 The estimates below should be refined over the first year, reassessed and reported with recommendations on changes for year 2 onwards. Changes will take account of:
- Any 'fixed sum' simplified agreement with CFL, taking into account new tonnage and scheduled timetables.
  - Reduction of the determined 'start-up' costs over an agreed period.
  - Actual vessel traffic movements and GRT over the year.

Table 2 - Summary of estimated income for Year 1

<b>Facility</b>	<b>Description</b>	<b>Value</b>
<b>North Pier</b>	c.200,000 GRT / year @ 7p	£14,000
<b>Cruise anchored</b>	c.265,000 GRT / year @ 7p	£18,550
<b>Other liable commercial transits</b>	c.200,000 GRT year @ 7p	£14,000
<b>CalMac</b>	c.15,000,000 GRT / year @ 2p	£300,000
<b>Total</b>		£346,550

## **5.0 CONCLUSION**

- 5.1 This report follows on from the decision of the Council's Harbour Board at its meeting on 31 August where the Harbour Board agreed the final draft HRO for submission to Transport Scotland to commence the statutory consultation process. This report also allows Members to consider the costs and associated reasonable charges (Conservancy Charge) for the running and maintenance of an expanded Oban Harbour, as defined in the Harbour Revision Order (HRO)

currently under process with Transport Scotland. The Conservancy Charges will form part of the fees and charges report which will be considered by Council as part of the 2024/25 budget process.

## **6.0 IMPLICATIONS**

- 6.1 Policy - None directly arising from this report however this position to be revisited in the event that the HRO is adopted.
- 6.2 Financial - The proposed increase of fees and charges will ensure that future income is sufficient to maintain and develop marine assets. Costs incurred to date have been met through existing budgets.
- 6.3 Legal - Considered to be none directly arising from this report.
- 6.4 HR - Additional staff required to operate the extended SHA have been recruited and are currently deployed assisting the Harbour Master in preparing for the introduction of the SHA together with training and general marine duties.
- 6.5 Fairer Scotland Duty:
  - 6.5.1 Equalities - protected characteristics An EqSEIA is being developed for the Oban SHA.
  - 6.5.2 Socio-economic Duty - None directly arising from this report.
  - 6.5.3 Islands - Development of the harbour will enhance safety, service reliability and community connectivity between the mainland and islands and provide additional resilience and support for vessels utilising Oban Bay.
- 6.6 Climate Change - there are no direct impacts in regard to climate change from this report, 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.
- 6.7 Risk - Applied charges will help ensure the repair and maintenance on existing infrastructure.

Above charges may have a detrimental economic impact on businesses using the facilities for example:

- bulk importers
- timber exporters
- wind farm developers
- Cruise companies.

Significant increases may also reduce usage and customers while making attracting new business more difficult.

External influences may come to bear on ferry usage patterns which may, in turn, impact on income from ferry fees and charges i.e. Vessel breakdowns

and redeployments, Environmental issues (car use) and potential changes in RET.

- 6.8 Customer Service - Customers and key stakeholders will be informed of fees and charges when set. An overall improvement in travel experience and reliability should result with improved and maintained infrastructure.

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