

OCHDA's Critique of the Council Officers' Report for the Argyll & Bute Harbour Board on 2 December 2021

1. The Oban Community Harbour Development Association (OCHDA) is disappointed that it is again necessary to comment on the quality of briefing material contained within a Report prepared by Argyll & Bute Council (A&BC) Officers for Harbour Board (HB) Members' consideration. Overall we do not believe that this options appraisal provides sufficient information for Members to make a safe and properly considered decision regarding its 'preferred option', and we note that it does not attempt to do this. Since that was the task given to Officers by the HB, no decision should be made on the basis of the Report, pending completion of the options appraisal and the identification of a preferred option for A&BC. To ensure a credible product for subsequent consideration of all options, including the Trust Port, by the Oban Bay Management Group (OBMG), we suggest reference is made to the Accounts Commission Guidance¹ on conducting options appraisals.

2. OCHDA does, however, recognise that the original timescale given was perhaps insufficient to allow a comprehensive options appraisal process to be undertaken. The poorly conceived Terms of Reference (copy attached) did not assist Caledonian Economics in their work, appearing to be a "brain dump" with factual inaccuracies of topics for consideration. In addition it is regrettable that so little detail is given neither on previous work, eg the Fisher Associates Report from 2014 and the OBMG deliberations, nor to the contributions from other consultees apart from brief mention of the considerable work undertaken and presented by OCHDA. However, the structure used does offer the potential for a comprehensive appraisal of all options, on a 'like for like' basis with opportunities to engage fully with all stakeholders.

3. OCHDA draws attention in particular to the following:

- a. The omission of any comparison of the relative safety merits of each option.
- b. Failure to complete the fundamental task given by the HB of identifying a preferred option for the Council to support, noting that it is not the final arbiter.
- c. Failure to assess all options on a 'like for like' basis, as briefed to the OBMG.
- d. Failure to explain why HB instructions of December 2019 for Council Officers "to investigate further with OCHDA the options of transferring the powers at the North Pier and the transfer of assets at the North Pier on a commercial basis" and to agree a Memorandum of Understanding have not been completed. The delays in Council Officers' engaging with OCHDA have directly impacted on the development of the Trust Port case; eg a date to start lease negotiations of identified assets is still

¹ Accounts Commission (Audit Scotland) Publication "Options Appraisal: are you getting it right?" dated March 2014.

awaited, although the issue was first raised in November 2019 (essential to complete the OCHDA business case).

e. The report suggests limited understanding of what a Trust Port is; eg use of the word “private”. Transport Scotland² state that “Trust ports are independent statutory bodies, governed by their own local legislation and, run by independent boards who manage the assets of the trust for the benefit of stakeholders”.

f. Inclusion of significant previous work which should inform discussion is omitted, and attention is drawn to:

(1) Fisher Associates Report of 2014.

(2). The public consultation in 2018 which clearly demonstrated the CMAL/CalMac option was not acceptable. What has changed?

(3) A public meeting also in 2018 at which a Council Officer stated that “We are currently not equipped to actually run a port which has 13,000 vessel movements which are predominantly ferry type movement. So the Council’s current position is as stated, a trust port is the better option if we are moving that way”. Again, what has changed?

(4) By 2019 vessel movements in the Bay had increased almost three times to 32,000 from 2014 with 67% being traffic to the North Pier and Pontoons and 24% ferry traffic in the peak season³. This demonstrates that Harbour management is best exercised from the North Pier as the single point of contact.

g. There is no assessment of the potential economic or social impact of any of the options on any of the stakeholders or communities most affected. The supposed Equalities & Socio-Economic and the Islands Act Impact Assessments which appear to be applied to the Trust Port proposal are, in fact, not completed though the templates have been included. Engagement with the local community in Oban was also inadequate; eg omitting Community Councillors from the consultation.

h. There is no mention of social value⁴ or working with stakeholders/ communities to improve services⁵.

² Transport Scotland Publication “Modern Trust Ports for Scotland: guidance for good governance”.

³ OCHDA Deliverables F5, F6, F7 23 August 2021.

⁴ Community Empowerment Act.

⁵ Best Value: Use of Review and Appraisal.

4. The work undertaken has exposed the complexity of appraising these options and it requires at least further analysis, with evidence, of:
 - a. Identification of any safety differential between options;
 - b. The impact of each option on the key stakeholders/communities (Best Value, Equalities & Socio-Economic and the Islands Act Impact Assessments);
 - c. Analysis of the business case for each option;
 - d. Analysis of the business and operational plan for each option including staff numbers and their expertise committed to the proposed Oban Harbour Authority;
 - e. Critical path analysis to evidence which option could be in place most rapidly;
 - f. The legal advice on jurisdictions contained within the Report requires clarification to complete a Harbour Order. Assumptions made about the current and future legal processes also need resolution to inform discussion on the speed with which one or other option could be brought into existence.

5. In conclusion, OCHDA respectfully requests that the Harbour Board:
 - a. Rejects the Report and its recommendations;
 - b. Requests Council Officers present for Harbour Board consideration, before March 2022, an options appraisal to the Audit Scotland standard covering all options;
 - c. Requests Council Officers engage with the sponsors of all options, including OCHDA, to assist completion of their respective proposals.

John MacAlister
Chair OCHDA

30 November 2021

Attachment:

1. Options Appraisal Terms of Reference (as issued by A&BC).

OPTIONS APPRAISAL TERMS OF REFERENCE

(As issued by A&BC)

Services

The Services to be provided in respect of the agreement are:

CONSULTANT SCOPE OF SERVICES

BACKGROUND

The Council wish to carry out an appraisal of options and determine a preferred option for the operation and management of Oban Bay.

The Options are:

1. continue as at present.
2. a Trust Port model to include the transfer of the current Harbour limits around North pier and the transfer or lease of some or all assets.
3. a Trust Port model excluding the transfer of the current Harbour limits around North Pier (wet port).
4. CMAL as a unitary Harbour Authority;
5. Argyll and Bute Council as a unitary Municipal Port.

In order to identify the preferred option from the Council's perspective the Consultant will carry out a three stage options appraisal as set out below.

Stage 1 – fact finding, comprising:

1. Document review:
 - a. records of meetings and reports to date, including information prepared presented by OCHDA in support of their proposals;
 - b. information on the 2018 CMAL proposals to become the Harbour Authority including why there was public concern over this option;
 - c. business plan for North Pier developments and other Council initiatives at Oban waterfront;
2. interview stakeholders (roughly one hour phone interview with each):
 - a. CMAL;
 - b. CalMac;
 - c. OCHDA;
 - d. NLB;
 - e. Transport Scotland;
 - f. stakeholders in island communities (likely to be community councils or representative groups on Tiree, Coll, Lismore, Kerrera and Mull).

Stage 2 – Analysis of the information gathered under the four headings described earlier as follows:

1. Best Value and Strategic Fit:

a. commentary (and where possible quantifying with reference to the original North Pier and Transit Berth business cases) future benefits (social, economic, financial) of the Council control/ownership of the North Pier assets;

b. proposals for valuing the North Pier assets in a hypothetical asset transfer (lease or sale) scenario.

2. Islands Impact Assessment:

a. an initial (high level) Islands Community Impact Assessment of the creation of the single Harbour Authority on the island communities;

b. this will highlight where the options might differ in terms of their island impacts, or where the impact on individual islands might differ;

c. the purpose of this exercise is to form a sound assessment framework which could be built once a preferred option is known and detailed implementation proposals are being developed.

3. Structural Advantages:

a. a summary of the key features, strengths and weaknesses of each option in terms of, for example, operational flexibility, ability to raise capital and apply surpluses to specific uses, transparency, accountability;

b. VAT rules for shipping, marine and harbour operations are complex. We suggest that the Council consults its own VAT advisers to confirm any VAT implications of the options under consideration.

4. Pathway to Implementation:

a. OCHDA are working on a business and operational plan for a Trust Port (Options 2 and 3), CMAL has previously done some work on an operating plan (for Option 4), and likewise the Council has given thought to the practicalities of delivering Option 5;

b. we will review each of these (on paper so far as they exist, and during the stakeholder interviews), comparing and contrasting them where possible in terms of:

i. stage of development and completeness;

ii. implementation timescales;

iii. development and implementation uncertainties and risks;

iv. financial analysis and underlying assumptions (tonnage, vessel movements, costs and revenues);

c. to increase confidence in the financial and operational forecasts, we suggest benchmarking the plans against published data from a selection of comparable Scottish trust port authorities;

d. identify which option and implementation pathway is most likely to deliver the desired benefits most quickly and with the smallest risk.

Stage 3 – Reporting the findings of the analysis and reporting:

1. preparation of a report summarising:
 - a. the analysis under the four headings set out above
 - b. identification of a preferred option from the Council’s perspective;
 - c. recommendation for next steps and outline implementation plan;
2. preparation and delivery of a summary presentation to a relevant group from the Council (Officers and Members).