

**Note of meeting between Argyll and Bute Council (ABC) and Oban Community Harbour
Development Association (OCHDA)**

Friday 16th April 2021

In attendance:

Kirsty Flanagan, ABC (KF)
 Jim Smith, ABC (JS)
 Tony Bennett, OBSG (TB)
 Ross Wilson, OCHDA (RW)
 Veronica MacFarlane, ABC (minute taker)

		ACTION
1.	<p>Introductions</p> <p>KF welcomed everyone to the meeting and advised that this area of work was something that she has taken over last year when she secured the Executive Director role. KF's background has been in finance and therefore she has an interest in the business case going forward. KF advised that Jim Smith was joining her at the meeting as JS is the Head of Service responsible for marine and he has a lot more knowledge about Oban Bay than KF due to her being relatively new into position.</p>	
2.	<p>Update from OCHDA on their current issues</p> <p>KF suggested that we kick off the meeting with TB outlining the issues that he would like to discuss.</p> <p>TB thanks KF for instigating the meeting today.</p> <p>TB referred to a meeting with Pippa Milne (PM), Jim Smith, Councillor Elaine Robertson, John MacAlister (JM) and Ross Wilson in November 2019 which discussed progress with A&BC's delivery of the Oban Bay management project since 2003 and where it was stated that the Council had no intention of moving forward with a municipal port for Oban. Also that PM "In principle supported formation of a Trust Port; she thought the Harbour Board was sympathetic to this approach"; and "OCHDA should press on with producing a Harbour Order". OCHDA left the meeting in a positive frame of mind and the Council had made it clear that they wanted to work jointly with OCHDA.</p> <p>The volunteers within OCHDA stepped forward to do the preparatory work required on the Harbour Revision Order but by mid-2020 there were rumours that the Council was going to change its position so TB sought clarification from PM and she assured OCHDA that things were just as they were so working continued to the back-end of lockdown. Not only has work been done, but monies have been spent.</p>	

	<p>In order for a Harbour Revision Order to go to Transport Scotland it has to have approval and support of the authority that currently holds the power which is ABC. Council makes clear – website states – ‘Lead provider for marine safety and related services for Oban Harbour is ABC.’</p> <p>TB had touched base with ABC at end of 2020/early 2021. OCHDA feels that there has been deterioration in the relationship and there is uncertainty as to what ABC want for Oban Bay.</p> <p>The first meeting with PM and JS (Nov 19) stated that the North Pier wasn’t the cash cow that OCHDA might think it is and it struggled to make a return. Some clarification is required on the figures and there has been a delay receiving these.</p> <p>An MOU should have been prepared, something that was instructed to officers in December 2019, and this was raised in a meeting with TB, RW, JS and Stewart Clark (SC) in February 2021. Assurance given at the meeting that an MOU would be prepared by JS by 19 February 2021, but didn’t get anything through until 31 March. In terms of the financial position, was advised that the 2020-21 year-end figures would not be available until the end of April 2021.</p> <p>A request is also outstanding for an update on staffing costs which TB understands has been referred to HR.</p> <p>Fundamentally OCHDA is trying to deliver a project which the Council initiated in 2003 and trying to save the Council a huge amount of work and expenditure. Some money has been raised through public support for the project, and considerably more is required. OCHDA held a Committee meeting yesterday and it involved 12 people who have worked on this project for last year and half and longer. One Member said it was time for the gloves to come off and TB is desperately trying to stop that. Real sense of frustration that requests going to ABC are being ignored. Sometimes get a reply but not always; FOI route would achieve results quicker (21 days). Agreements and instructions from Councillors are being ignored and OCHDA is fed up with this. TB’s predecessor back in around 2011 attended a meeting at the North Pier with the MCA and the Oban Bay Development Group where it was stated that it would take a fatality in Oban before the Council take their responsibility seriously.</p> <p>OCHDA is trying to deliver something which is for the benefit of everyone, the Council, the people of Oban, users of the harbour and Argyll and Bute. Something has to change. He emphasised that the key issues are safety and the protection of the environment in Oban Bay and Approaches, and that the MCA expected timeous action.</p>	
<p>3.</p>	<p>Response/Discussion on Issues Raised</p> <p>KF apologised to TB and RW for the way that they are feeling and assured them that as this is a significant project, JS continues to be the council’s main point of contact and correspondence/discussions should be channelled via JS. KF will be taking an interest as Executive Director on the progress and</p>	

wants to ensure that from today's meeting both parties have a clear understanding on what each other's needs are with a clearer indication of timelines of what we can progress at each stage.

KF advised that we are bound by our Council processes and Committee timetables but remain committed to working with OCHDA. She did advise that currently there is no formal decision from the Council on the agreed way forward. To date the Harbour Board have asked us to work with OCHDA. In order for that work to flow smoothly the council will need details of both the financial and technical models which OCHDA are proposing. Currently there is insufficient information from OCHDA to enable officers to carry out due diligence and be in a position to make any recommendations to Council Members.

KF suggested that we go back to basics almost and JS is working on an options appraisal for Oban Bay that would be presented to Council Members. PM (ABC CEO) had suggested taking incremental steps so OCHDA can carry out work at appropriate stages once we have got Council approval.

We also need to be clear on the assets, are the assets at the North Pier to be included and if so, we need to consider the pros and cons of a lease or a transfer of assets. This will all take time to work through so timescales for this year are unrealistic.

TB has concerns that this is a repeat of what Councillor Rory Colville said to him. In his mind the options appraisal has already been carried out in the 18 years since ABC picked up the projects and there has been many different reports on the options for Oban Bay. Originally there were 7 different options and then in 2017 further proposals were put out. TB said that these reports took us up to the point where it was either CMAL or a Trust Port.

TB said that JS stood up in 2018 in the Corran Halls and said that the Council is not currently equipped to manage a port which has thirteen thousand vessel movements which would suggest that the council had already carried out an evaluation at that time. JS advised that ABC operate 38 ports and harbours across the area and what he recalls saying in full context was that it would be unusual for the Council to take on board a significant risk where ABC were not the main operator of the port given that there are over thirteen thousand vessels operated by CalMac.

The point TB was making that it is on public record that the Council has said that it supports the trust port and they don't intend to step forward with the municipal port. Initially the Council supported CMAL but when public opinion made it very clear that this is not what the people wanted the Council stepped in to provide support to the trust port and to bring forward a Trust Port proposal

JS helpfully noted that we haven't had a formal view from Council Members yet who are the decision makers but officers are still supportive of the trust port idea. JS also stated again that the Council needs sufficient information to carry out due diligence to take a report to Council Members on what the

	<p>options would look like and the various financial implications.</p> <p>KF agreed that we need to get Finance to look at these figures and produce what they consider to be a reasonable annual figure of the three aspects based on previous history, forward projections and the income from the pontoons.</p> <p>JS advised that ABC need to know what the vessel management system would be for that area, plus what OCHDA are looking for overall. Not clear on what the overall ask is, is it looking towards a more lease type arrangement?</p> <p>TB advised that there are two principle sides, on a straight transfer of powers at the north pier of the waters around the north pier to have a single harbour authority to the benefit of everyone and a second tied in with the lease of the assets with a potential for a future option to buy, a decision for the proposed Trust Port Board in due course. Understands it should be a straightforward commercial lease.</p>	<p>ABC</p> <p>OCHDA</p>
<p>4.</p>	<p>Way Forward</p> <p>TB outlined 4 objectives that OCHDA wanted to get from the meeting today:</p> <p>There is concern that the MOU prepared by Mark Calder (MC) does not reflect a significant part of what has happened over the last 10-15 years. OCHDA is offering to draft an MOU and get back to KF within a week and put forward their preference on what they think is deliverable from both sides. KF advised that she was agreeable to this but would have to get the Council's legal team to review the MOU when it was received. JS pointed out that the MOU had belatedly been provided to further assist OCHDA in pulling together information to enable due diligence to be carried out.</p> <p>OCHDA would like clarification on the figures within a week. OCHDA's analysis of the figures provided by ABC demonstrated that over the last 10 years their North Pier operation had returned an average annual loss of circa £60K and confirmation was requested. KF advised that due to year-end, a week's turnaround is too ambitious but she would speak to Finance officers about the financial information with a view to getting something back within the next two weeks. Noted that the next Oban Bay Management Group is on 29 April 2021.</p> <p>OCHDA has not been happy with the communication and has twice had to go to PM and KF. Request that KF be actively involved and include KF in any communication. KF is agreeable to this but advised that the main point of contact is still JS as the Head of Service responsible for this area of work. KF also proposed that monthly meetings are scheduled between herself, JS, TB and RW so that we can touch base on anything that is outstanding from either parties or any issues arising. This was agreed and KF/JS will arrange a schedule of meetings to be issued. Mid-week was suggested as a suitable day noting that OCHDA meets on the second Thursday of the month, so around that would be good.</p>	<p>OCHDA</p> <p>KF</p> <p>KF/JS</p>

<p>Would like the meeting of stakeholders, OCHDA, Councillors and Council Officers agreed by the Harbour Board in March 2021 to take place. KF will speak with the Chair of the Harbour Board but meantime it would be helpful to get some further information from OCHDA on the proposed operations. Also would be useful to understand what OCHDA would like to see on the agenda and TB will produce this.</p>	<p>KF</p> <p>TB</p>
<p>Other things discussed: The HRO will need documents prepared for Transport Scotland which set out viability, operational model, finances and sustainability. The Council will need to approve and there is dubiety over whether they approve for North Pier only or the outer bay. KF confirmed that she now held the Duty Holder role for Oban Harbour, previously the responsibility of PM. JS asked TB that if they have a document that suggests ABC are responsible for the outer bay it would be good to see that document. JS will also seek clarity on this issue as the content and status of the Harbour Orders from the 1880's needs to be bottomed out.</p>	<p>TB</p> <p>JS</p>
<p>Afternote: Email from Mr Kelly, Legal Services Manager Commercial A&BC, 14 Mar 17 at 0805 states inter alia "that the Council as successor of the Oban Harbour Authority is the harbour authority for the wider area of Oban Harbour and as well as that as owner/operator of the North Pier also has responsibilities for the specified area off the North Pier". Copied to KF/JS.</p>	<p>KF</p>
<p>TB advised that a clause they want in the MOU is that once financial sustainability and viability is demonstrated then council officers will recommend to Councillors that transfer of powers/responsibility should be made. KF suggested that we may have to call a special harbour board meeting as next meeting not until September 2021 in order to progress. Officers need to take care as to what agreements they enter into committing the Council particularly where there is no formal council decision. There may have been options appraisals carried out but we need something in front of the Harbour Board to get an agreed official/policy position. It is likely that any final decisions would be required through Policy and Resources and/or Full Council due to the strategic nature and financial value of the matter.</p>	<p>KF</p>
<p>TB advised to run a wet port can almost cover what is being done at north pier, significant overlap, staff, overheads etc. There is an opportunity that the conservancy would subsidise the running of the north pier and pontoons and this is the reason for suggesting commercial lease. Five years from now Trust Port may have demonstrated its viability and credibility. Deadline for these constraints and payback will have expired. Then the Trust Port and Council could have discussion re an asset transfer. The Council would receive a capital lump/expenditure that which it hasn't received payment for from a grant and which the payback would have expired. Simplest business model they can do. By subsidising operations at the north pier from the conservancy income it allows a commercial payment to be made to the council for the use of facility council owns and any operations operation surplus other than contingency to be invested back in harbour. Generates additional monies for Oban Harbour and Oban. OLI Councillors are supportive.</p>	

	<p>KF sought clarity on what assets does OCHDA wish to transfer lease? TB advised seaward facing assets of the pier. The walls that vessels come along side, harbour building and pontoons. No fixed view on car parking spaces. Need for harbour to have some control over parking spaces in the north side of car park for when cruise ships come in and passengers need to be off loaded into buses. Also for operations involving large vehicles. Safest way to do. Recognise though a significant income stream for council and not interested in carpark management or responsibility for the Restaurant Buildings island.</p> <p>KF sought clarity on the type of lease – with care and maintenance or without. TB advised that it would depend on the duration and this is something still to be discussed with the Council once ABC had confirmed its figures and using existing leases as a start point</p> <p>JS will set out in a note an aide memoir for some of the detail required. We need more information than that currently provided to carry out due diligence.</p> <p>In terms of timescales JS asked OCHDA what they had in mind for the harbour order to be drafted and put in place. TB advised that if OCHDA can show consistent and ongoing progress then they may be able to keep the management group content. Late Summer/Early autumn 2021 is a timeframe, possible sign off by Harbour Board meeting in September. JS advised that the whole process can take around 18 months if things go well for an Harbour Order and in reality potentially much longer, particularly if any objection is made and a hearing required Oban bay is quite complex given the number of vessels and stakeholders.</p> <p>KF advised that she doesn't think the Harbour Board have the authority to sign this off. She will check this out with the Council's Legal team but her understanding is that the Harbour Board can set policy, direction of travel and recommendation to either Council or Policy and Resources Committee.</p> <p>RW, as OCHDA Vice Chair, stated that the OCHDA Committee and Members benefitted from a wide range of skills and expertise contributing to the establishment of a Trust Port for Oban Bay and Approaches. They are all volunteers giving their time freely and with several also donating financially. He asked that they are respected by Council Officers. He pointed out that a newsletter is overdue to keep them and local Community Councils informed of project progress; a press release is also required. It was agreed that both drafts would be passed to KF for any appropriate A&BC input.</p>	<p>JS</p> <p>KF</p> <p>RW/KF</p>
<p>5.</p>	<p>Summary of Actions agreed and Meeting Close</p> <p>KF summarised what had been agreed:</p> <ul style="list-style-type: none"> • OCHDA will produce a draft MOU – in one week. • The Council will provide further clarity on the financial figures at North Pier – in two weeks. • Another meeting will be arranged between KF, JS, TB and RW in a month's time with a schedule for future monthly meetings. 	<p>OCHDA</p> <p>KF</p> <p>KF/JS</p>

	<ul style="list-style-type: none"> • KF will engage with the Chair of the Harbour Board re arranging meeting as per the Harbour Board meeting in March 2021. • TB to provide any document that suggests to the Council have responsibility for the outer bay. • JS to set out a note of what information is required from OCHDA to allow him to carry out due diligence and present a timely report to Council. • TB will send JS an update that he prepared for the OLI area committee which set out what has been done in the last 12-15 months. • OCHDA will send KF its draft OCHDA newsletter and press release for any appropriate A&BC input. <p>JS confirmed that he will be at the Oban Bay Management Group meeting on 29 April 2021 and also offered to come along to an OCHDA Committee meeting to discuss the Trust port project as this is something which officers would normally do when working with community groups. With the pandemic this is something which has been missed from the process and may well be helpful so that full and open discussions can be held.</p> <p>The meeting ended with KF thanking everyone for their time and looks forward to working together and keeping the communication channels open to jointly take this project forward.</p>	<p>KF</p> <p>TB</p> <p>JS</p> <p>TB</p> <p>RW/KF</p>
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Distribution:

TB
 KF
 JS
 RW

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Chair A&B Harbour Board
 Chair OLI
 Secretary OCHDA