

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

**Tuesday 9 November 2021 at 15:30 via Microsoft Teams**

**In attendance:**

- Kirsty Flanagan, ABC (KF)
- Jim Smith, ABC (JS)
- Tony Bennett, OBSG (TB) – left meeting at approximately 16:02 (during Item 3)
- Ross Wilson, OCHDA (RW)
- Phil Hamerton, OCHDA (PH)
- Lissa Brackley, ABC (minute taker)

1.	<p><u>Minutes of last meeting (13 October 2021)</u></p> <p>The amendments submitted by OCHDA were accepted and the minute of the last meeting was agreed as a true record.</p>			
2.	<p><u>Matters Arising</u></p> <table border="1" data-bbox="244 1111 1303 2036"> <tr> <td data-bbox="244 1111 539 2036"> <p>JS to provide update to OBMG</p> </td> <td data-bbox="539 1111 1303 2036"> <p>Partially complete – JS provided an update to the OBMG which did not include timelines going forward.</p> <p>RW said that the intention had been to look forward rather than go over the history. JS replied that the view from our advisors is that this would take a significant period of time (approx 3 – 5 years) and summer 2022 would not be an achievable timeframe.</p> <p>TB stated that OCHDA has not been advised that the timeframe could be years, and that JS had previously advised the OBMG that it could be completed in months.</p> <p>JS said that we need to be realistic, stating that the Council is still not in receipt of a substantive proposal from OCHDA.</p> <p>PH said that when he queried the 3 – 5 years statement at the last meeting, JS had said that this timescale is one shared by numerous practitioners and experts.</p> <p>TB said that this is not the view of Mike Brew or Transport Scotland. OCHDA still awaits lease discussions first requested in 2019.</p> <p>JS said that the Council’s governance process is not holding anything up. He stated that he Council had provided a real body of information in 2018.</p> <p>KF said that we were just going over old ground which is not productive. The timeframe provided by OCHDA of next summer is ambitious and we have stated this previously.</p> <p>TB stated for the record OCHDA was not provided with</p> </td> </tr> </table>	<p>JS to provide update to OBMG</p>	<p>Partially complete – JS provided an update to the OBMG which did not include timelines going forward.</p> <p>RW said that the intention had been to look forward rather than go over the history. JS replied that the view from our advisors is that this would take a significant period of time (approx 3 – 5 years) and summer 2022 would not be an achievable timeframe.</p> <p>TB stated that OCHDA has not been advised that the timeframe could be years, and that JS had previously advised the OBMG that it could be completed in months.</p> <p>JS said that we need to be realistic, stating that the Council is still not in receipt of a substantive proposal from OCHDA.</p> <p>PH said that when he queried the 3 – 5 years statement at the last meeting, JS had said that this timescale is one shared by numerous practitioners and experts.</p> <p>TB said that this is not the view of Mike Brew or Transport Scotland. OCHDA still awaits lease discussions first requested in 2019.</p> <p>JS said that the Council’s governance process is not holding anything up. He stated that he Council had provided a real body of information in 2018.</p> <p>KF said that we were just going over old ground which is not productive. The timeframe provided by OCHDA of next summer is ambitious and we have stated this previously.</p> <p>TB stated for the record OCHDA was not provided with</p>	<p align="center"><b>JS</b></p>
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		<p>sufficient information in 2018. In 2019 officers were instructed to work with us. At the last OBMG it was made clear by CMAL that if constructive progress is not made they will step in.</p> <p>KF replied that once a decision is made in December, we can move forward. Officers have contributed a considerable amount of time over the last few months.</p> <p>TB said that he does not understand why lease discussions have not yet commenced as they were first requested in 2019.</p> <p>JS stated that the initial request was for an asset transfer not a lease.</p> <p>PH said this is not true. The request was made following a direct request from a council officer.</p> <p>TB said that OCHDA has been pursuing the lease of assets and transfer of powers since 2019 consistently.</p> <p>TB asked how an options appraisal can be undertaken on a “like for like” basis without an economic assessment and sufficient information.</p> <p>KF advised that the consultant has confirmed he has sufficient information.</p> <p>KF suggested that the time we have in these meetings is used productively rather than going over old ground and points of detail which did little to progress the task in hand.</p>	
	Commercial lease with information redacted where appropriate	Estates are providing this. RW confirmed that this has not been received and has been outstanding for 3 months. JS will follow up with the Estates team.	JS
	Business case review	This action is still to be completed.	KF/JS
	OCHDA to provide info to consultant	Complete	
	KF to express urgency with Estates for lease negotiations to start	Complete	
3.	<p><u>Options appraisal: Terms of Reference</u></p> <p>TB stated that the word safety does not feature in the ToR and there is no mention of Oban, just an initial reference to Oban Bay. There is also no mention of community groups, elected Members, harbour users, business users etc. TB stated that this was quite a serious omission from the scope and that OCHDA has explained this to the consultant.</p> <p>RW asked for clarification on the handling classification of the ToR; the covering email had caveats but the document itself has no restrictions – can this be shared? JS confirmed that as per the covering email, the document is confidential and should not be shared any further.</p> <p>RW asked what the timescale for the report from the consultant is? JS said that this has been delayed a number of days due to one stakeholder initially not engaging. However,</p>		

	<p>it was still the intention to include the consultant’s finding in the report to the Harbour Board in December.</p> <p>RW stated that there is an error in para 4a of the ToR as OCHDA is not progressing a wet port and OCHDA has advised the consultant of this.</p> <p>KF replied to TB’s comment regarding safety being omitted from the ToR and confirmed that this is the reason we are undertaking this process. As stated at the previous meeting - all options are regarded by A&amp;BC as equally safe options except for the do nothing option.</p> <p>At this point KF pointed out that the tone of the meeting was quite uncomfortable and unproductive; if this did not improve, the meeting would be brought to an early close.</p> <p>TB said that he cannot take part in a process where someone is saying one thing at one meeting and another at this meeting, citing the different references which had been made by JS to safety at recent meetings. TB left the meeting at approximately 16:02 hrs.</p> <p>JS stated that the Council’s position has been consistent.</p> <p>PH said that the ToR do not explore any assessment of impact on the Oban community. He stated that the entire basis of the trust port is the impact on the local community. PH said that it is not clear in the ToR that options 4 and 5 would not be a unitary authority as, in either case, another authority would be nested. PH said that he did not think the consultant understood this either.</p> <p>RW said that he thought the ToR should be directed to Council governance for review. KF replied that governance have been involved and it is for the Council to determine the terms of reference for their options appraisal, not OCHDA as a stakeholder. However, KF said that she would share OCHDA’s concerns with the governance team.</p>	<p><b>KF</b></p> <p><b>KF</b></p> <p><b>KF</b></p> <p><b>KF</b></p> <p><b>KF</b></p>
<p>4.</p>	<p><u>Lease Preparation</u></p> <p>RW advised that on 21 October 2021 OCHDA met with the A&amp;BC Estates team and the consultant appointed to assess lease values. OCHDA went through the assets they wish to lease in a priority list as the Estates team had not been given this. OCHDA’s business case will not be ready for the December 2021 Harbour Board (HB) meeting as lease costs are unlikely to be available in time. KF replied that the Council does not require a completed business case for the December meeting. RW asked that JS would stop asking for this. JS stated that he was referring to an overall business plan in relation to the harbour management, this has not yet been provided and it is not considered that the lease arrangements need to be included in a management/operational plan.</p> <p>PH said that if OCHDA is to undertake a critical path analysis, the starting point for this would be the lease negotiations. PH asked that OCHDA is advised as soon as possible what the Council’s critical path analysis would be for the production and agreement of a lease following a decision at the HB meeting on 2 December. This would help OCHDA to explain the position to stakeholders. KF agreed to raise this with the Estates team.</p> <p>KF also confirmed that a full list of assets was provided to the Estates team, however, it may be part of the process for OCHDA to confirm which assets they wish to lease.</p>	<p><b>KF</b></p>

5.	<p><u>Jurisdictions</u></p> <p>RW advised that the reason this has been raised is because OCHDA submitted this paper (attached) to A&amp;BC in July 2021 but has had no reply. RW stated that JS's statement at the OBMG that there was nothing stopping OCHDA progressing a wet port was inaccurate: until the jurisdictions are agreed a wet port cannot be progressed. RW asked what is the Council's position on what it thinks is its waters.</p> <p>KF commented that she thought this to be a moot point as OCHDA has been clear they do not wish to progress a wet port. JS confirmed that the legal advice and the Council position is that there is a relatively small area of water which the Council has responsibility for. JS accepts there have been differing views in the past from a number of individuals, but stated that A&amp;BC work on the basis of the legal advice we received based on the Harbour Act. The document OCHDA has produced is not something that officers agree with. The extent of the Oban harbour is not shown on a map in the 1800s Harbour Act, it is described by a narrative. JS opined that the extent of the North Pier jurisdictions had been shared before and this same matter discussed previously.</p> <p>RW asked if JS could be clear that he is no longer accepting the advice from the council's Legal Manager at that time (March 2017), Donnie Kelly. JS replied that there appears to have been a misunderstanding by some on some information put forward.</p> <p>RW asked why the Council's website under marine management shows a different area of council responsibility: ie waters to the East of the line from the Dog Stone to the Brandystone? JS replied that this will be checked and amended if necessary in line with our understanding.</p> <p>RW asked what the Council's timeline is for responding to this document sent in July 2021. This first arose in November 2019. JS replied that a response had been provided already. JS will ask the Legal team to explain our understanding of the position. RW asked when this would be. JS replied that this would be done as soon as possible. RW requested this be before the HB meeting in December 2021 and that this also be to the OBMG as they are currently going by what is on the website. JS agreed to action this.</p> <p>RW said that OCHDA has had discussions with Transport Scotland who have confirmed it is a Harbour Revision Order and not a Harbour Empowerment Order that is required. PH added that this issue will apply whatever Order is submitted as the issue of jurisdictions will apply in either case. KF and JS will discuss Oban Bay jurisdictions with Legal urgently and confirm the Council's understanding to OCHDA and the OBMG ASAP; the meeting agreed that this work should be initiated on 10 November 2021.</p>	<p>JS</p> <p>JS</p> <p>KF/JS</p>
6.	<p><u>ABC feedback on deliverables</u></p> <p>RW asked when OCHDA would receive feedback on the Deliverables (Schedule and Deliverables attached). Some of the statements made by Council representatives and consultants made it quite clear that they have not been briefed on these Deliverables. KF recalled providing feedback on one of these (Governance Papers) in an earlier meeting. KF also noted that it was agreed that OCHDA would provide the consultant</p>	

	<p>with these documents. RW confirmed OCHDA had and that a lot of time had been spent correcting the consultant.</p> <p>PH stressed the importance of feedback on all the Deliverables papers as these will form the basis of an initial operating model and it would be helpful to have feedback from A&amp;BC's professional staff with the expertise on this. OCHDA was working towards a MoU until KF stated at the last meeting that this was out of its lifespan. PH said that any advice would be very welcome. KF replied that we must keep in mind that this would ultimately formulate any submission to Transport Scotland which the Council would be a stakeholder of as well. PH agreed and that OCHDA is engaging with the Council as part of that process. KF said that the documents would be reviewed and feedback provided.</p>	<b>KF/JS</b>
7.	<p><u>Document shared by OCHDA prior to OBMG on establishing a new harbour authority for Oban Bay</u></p> <p>KF confirmed that she had not had chance to review this document. JS has had an initial look. It is our intention to respond with our comments to the OBMG as this is the forum in which this document was shared.</p>	<b>KF/JS</b>
8.	<p><u>Date of Next Meeting</u></p> <p>KF noted her appreciation of the change in tone during the second half of the meeting and that it was unfortunate that TB left the call. KF also stated that the first part of the meeting was not a good use of time and that there needs to be a focus on progressing matters.</p> <p>PH asked when the report for the HB is expected to be distributed. KF advised that the normal timeframe is a week prior to the meeting which would be 25 November to allow time for Members to review this prior to the meeting. Once published to Members, reports are then made available to the public from midnight. KF advised that, exceptionally, papers can be submitted later than one week before the meeting.</p> <p>RW asked if the meeting would be closed or would OCHDA be able to comment, present etc. KF advised that the meeting will be public and requests to speak would be considered by the Chair. RW asked if other stakeholders would be invited. KF said this is a meeting open to the public.</p> <p>It was agreed that the next meeting would be held on Tuesday 7<sup>th</sup> December.</p>	
9	<p>Attachments:</p> <ol style="list-style-type: none"> <li>1. Options Appraisal Terms of Reference.</li> <li>2. Jurisdictions Appendix to OCHDA Paper dated 10 July 2021.</li> <li>3. Deliverables Schedule dated 25 October 2021.</li> <li>4. Deliverable A1: Details of Council assets which OCHDA is seeking to lease from the Council and background information relating to this, dated 15 May 2021.</li> <li>5. Deliverables F5, F6 and F7: Conservancy charges and financial summaries including a review of vessel movements in Oban Harbour (draft Business Case), dated 23 August</li> </ol>	

	<p>2021.</p> <p>6. Deliverables G1, G2, G3 and T9: Trust Port Governance, dated 28 May 2021.</p> <p>7. Deliverable T1: Confirmation of harbour extents Including clarification on public consultation, dated 15 May 2021.</p>	
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