

OCHDA briefing note for meeting with Argyll and Bute Council

Background

Recent increases in marine traffic within Oban Bay and its approaches have highlighted the need for the waters to be controlled and regulated by single Harbour Authority. This was first highlighted by Argyll and Bute Council (A&BC) almost two decades ago, at which time the Council's view was that Development and Infrastructure Services should take the lead in forming a new Harbour Authority which would bring this about (see Appendix A). This led to the creation of the Oban Harbour Users Association, which was subsequently superseded by the Oban Harbour Development Group and then more recently the Oban Bay Management Group. (Over the c15 years that this process has taken place there has also been a significant shift in the structure of the 'lead group' - initially it was dominated by A&BC who had seven representatives on the group whilst CMAL and CalMac had one each, whereas now the Council has just two representatives and CMAL/CalMac have up to five people representing their various interests.)

In March 2018 the OBMG advised the Oban Bay Stakeholder Group that they had decided that CMAL would expand their Harbour Area to include the outer bay and its approaches. Two significant notes of interest from that time:

- A&BC's decision not to expand their own SHA was based upon the desire not to adopt additional risk
- CMAL stated that the OBMG position was that if there is a desire to set up a Trust Port in the future to adopt the wider SHA area, the OBMG and CMAL would support this .

Over the summer of 2018 an extensive public consultation exercise was undertaken by the OBMG. This produced a widespread consensus on the following points:

- Almost all respondents agreed that the outer part of the bay needs to be regulated;
- The vast majority of respondents stated that they did not think that CMAL should be responsible for this;
- Given that the Council had made it clear that they did not want to extend their SHA area to create a larger Municipal Port then the majority of respondents favoured the creation of an independent Trust Port for Oban. (This was the structure which the OBMG/OHDG had previously identified as the favoured option, as highlighted in Appendix A).

The Stakeholder Group therefore asked that they be given the opportunity to undertake an evaluation of the financial viability of a Trust Port, a request which was supported by the A&BC Harbour Board and was subsequently agreed to by the OBMG. The assessment was completed in the spring of 2019, following which the OBMG agreed to give the Stakeholders until March 2020 to make significant progress towards the preparation of the necessary legislation to enable the new Harbour Authority to be created.

Current status

In March 2019 Stakeholders formed the Oban Community Harbour Development Association (OCHDA), which has been working on the next phase of 'the project' during the summer and autumn of 2019. Whilst significant progress has been made by this (voluntary) group, a number of challenges have arisen which are serving to frustrate the process. Many of these relate to the Council and their existing interests in the maritime affairs of Oban, particularly those around the North Pier. Some of the more significant issues are as follows:

1. The legislation relating to the regulation of Oban Bay has an extensive and complex history. Whilst broad consensus has been reached between the OBMG and OBSG as to who currently has jurisdiction over which body of water (Appendix B), incorporating this historic legislation into a new Harbour Order is at best challenging - and that is before the issue of the waters around the North Pier pontoons are considered.
2. The primary aim of the exercise is to improve safety within the bay for all users. There is a growing realisation that requiring a visiting vessel to first contact the new HA when entering the bay, and then liaise with the Council Harbour or Pier Master before approaching the North Pier and/or pontoons is not consistent with this as it complicates the process and increases the potential for confusion and/or conflict.
3. Finally, there seems to be little point in duplicating many of the facilities and services that each Harbour Authority will have to provide. Existing A&BC harbour staff have advised that if they were given the opportunity they would be able to expand their scope of responsibility to the outer bay given a modest increase in resources (mainly staffing).

OCHDA have discussed these issues at length, both internally and also with local Councillors and the wider group of stakeholders. This has led to the conclusion that OCHDA need to try and engage with the Council in order to bring about a solution which is advantageous to both organisations as well as the users and residents of Oban.

Outline proposal

The OCHDA proposal is based on the following observations:

- All parties, including the Council, agree that a new Harbour Order and Authority is required for Oban in order to enable the regulation of the outer bay and approaches;
- The OBMG public consultation exercise has demonstrated that CMAL is not the preferred means of bringing this about;
- The Council have repeatedly stated that they have neither the desire nor the competence to take on the additional responsibility themselves;
- Members of the OBMG (and its predecessors) have repeatedly stated that a Trust Port is the preferred structure for a new Harbour Authority in Oban.

OCHDA would therefore like to propose that the Council agree to transfer their existing powers and responsibilities in Oban Bay, including those around the North Pier, to the new Harbour Authority. This would address all of the issues outlined in this briefing note and provide the single Harbour Authority for the majority of Oban Bay that all parties agree is required.

Possible approach

OCHDA is aware that timescales are tight and that if the March 2020 deadline is to be met then a pragmatic strategy will need to be followed. This will require a collaborative approach between OCHDA and the Council. OCHDA would therefore like to discuss the following proposals with the Council:

- For both parties to agree (by way of a Minute of Agreement if appropriate) that the new Harbour Order will be drafted on the basis of the Council agreeing to transfer its powers to the new Harbour Authority (the transfer will not happen unless the Harbour Order is subsequently granted by Transport Scotland);
- Both parties work towards the transfer of relevant assets (initially the seaward part of the North Pier, the North Pier pontoons and the associated harbour building/offices) from the Council to OCHDA. It is envisaged that this transfer might take place over a number of years, and could perhaps be in the form of a 'lease with an option to buy' agreement;
- To explore the possibility of funding towards the creation of the Trust Port coming from the Crown Estate Scotland funds which have recently been received by the Council for new projects that will specifically benefit coastal communities in the current financial year.

OCHDA are of the view that such an approach will bring about significant benefits for both Oban and the wider area of Argyll and Bute, and will also provide a number of benefits and savings to the Council.

11/11/2019

Appendix A

Extracts from recent Argyll and Bute Council and associated records:

Oct 2003

Report from Susan Mair, Head of Legal Services, to OLI Area Committee, on "*procedure which may be used to bring about the creation of a Harbour Trust to operate all harbour installations and facilities within Oban Bay.*"

The report recognized the existence of Oban GHA in terms of the 1878 legislation, and recommended that:

"D & I Services be made lead to form project group ...to bring about formation of a single Harbour Authority....and that "the mechanism for achieving such an outcome would appear to lie within the provisions of Section 18 of the Harbours Act 1964...."

Nov 2006

Minutes of the Oban Harbour Users Association (ABC, Calmac and NLB, with an RYAS rep also invited).

ABC presented "Oban Action Plan" at meeting, which included reference to establishment of "*a harbour authority/trust port*".

Minutes state

"It was considered that a Trust Port may attract grant funding to offset the costs of constituting a new tripartite Harbour Authority". Chairman (John Pirie, NLB) agreed "*to contact British Ports Association for advice on setting up a Trust Port*".

2012

Oban Harbour Development Group (chaired by CMAL) minutes state

"It was agreed by all that it in the interim it would be beneficial to consider establishing a harbour association supported by the OHDG which would be a transition to establishing a Trust Port".

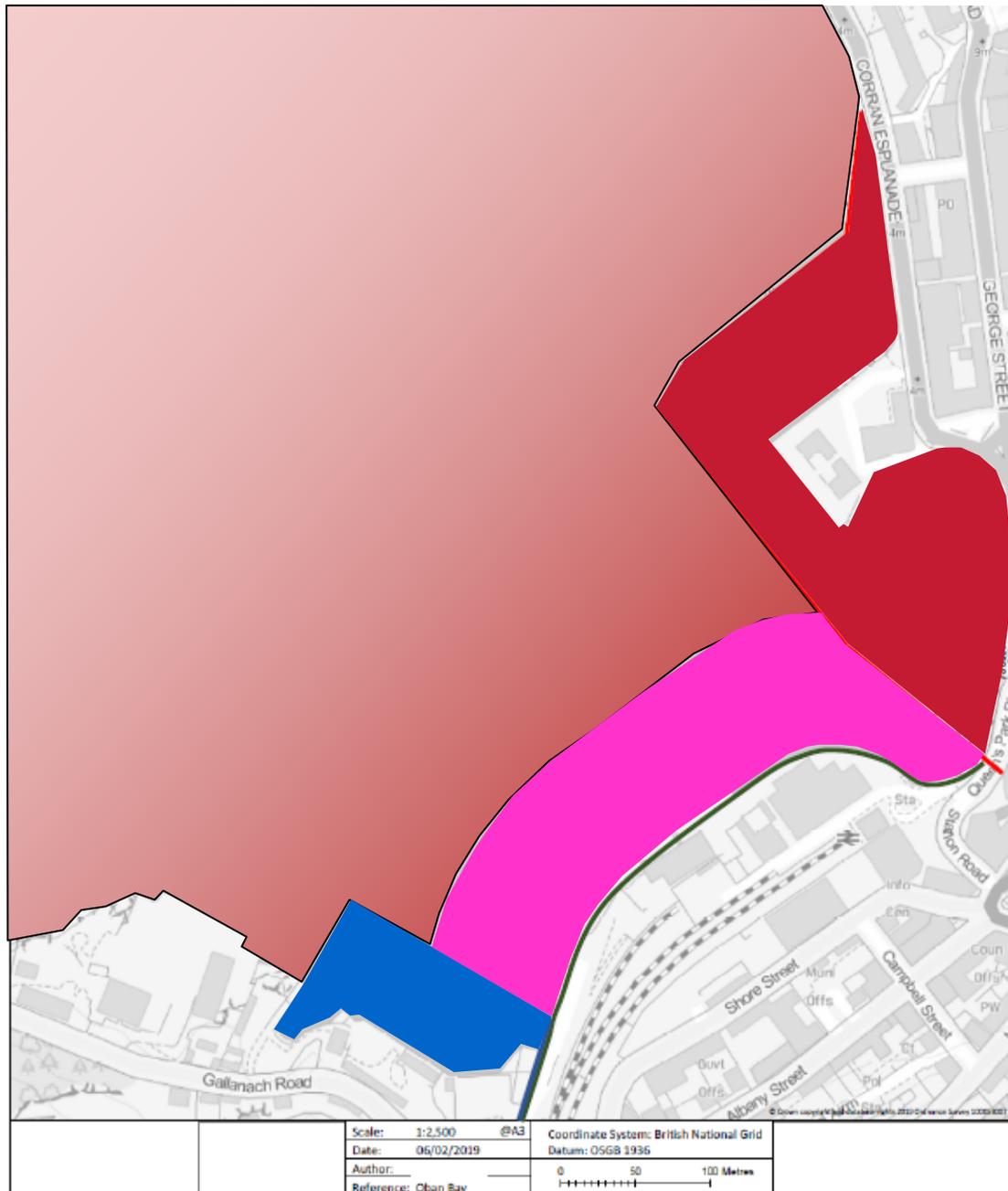
March 2017

Donnie Kelly (Legal Services Manager) advised A&BC Councillors and Officers that:

"This 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."

Appendix B

Existing areas of jurisdiction within Oban Bay



-  Argyll and Bute Council North Pier
-  CMAL Railway Pier
-  Argyll and Bute Council South Pier
-  Argyll and Bute Council outer harbour