

# Oban Community Harbour Development Association (OCHDA) Newsletter 8 (February 2024)



## **AGM & joining OCHDA**

If you are a member of OCHDA you already know that our AGM is to be held, in Oban, on 29<sup>th</sup> February (6.30 p.m.). Please don't forget! If you are not yet a member of OCHDA, contact us at [info@ochda.scot](mailto:info@ochda.scot); it's free to join for anyone with an interest in the future of Oban Harbour.

## **Formal Consultation update**

The Council's choice of dates for the formal consultation may have backfired! Argyll & Bute Council decided to open the 42 day consultation on the draft Harbour Revision Order (HRO) on 30 November, meaning the consultation period spanned both Christmas and New Year holiday periods, concluding on January 10, 2024. This decision was made by the Council despite a request from Oban Community Council that consultation should not be taking place across the holiday period.

The Council had also refused to convene a public meeting to explain its proposals despite being asked to do this several months earlier. Working with Oban Community Council, OCHDA held a public meeting on December 14<sup>th</sup> to help people understand the Council's proposals. The meeting was very well attended with in excess of 90 people present. The presentation and transcript of the Question & Answer session are available on the OCHDA website.

The consultation period has now closed and this newsletter includes some initial analysis of what we know. We had hoped to be able to make all objections and other representations publicly available following a Freedom of Information request to Transport Scotland but this has been refused and we are waiting for the outcome of our appeal. At the January 31<sup>st</sup>. Harbour Board meeting some of the elected Members asked if they would be able to see the submissions but this was not clearly answered. In the meantime we have shared, with Members of the Harbour Board, those submissions we have permission to share.

An astonishing, and possibly unprecedented, 126 representations, the great majority of them objections that we have seen, were submitted. A total of 76 objections were copied to us, making 77 known altogether (including our own) from 69 individuals or organisations (some made multiple, different submissions). Objections were of variable length and complexity: from a single sheet of paper making a single point to 69 pages making acute observations, with extensive background data, objecting to very large parts of the HRO . The official OCHDA submission,

drafted with advice from our legal representatives, is available on our website ([here](#)) and runs to a mere 35 pages. Also on the OCHDA website you can read the original HRO and the associated Statement of Support document. This “Statement of Support “ is itself the subject of challenge by OCHDA since it does not explain the purpose or the effect of the powers requested and it is systematically, and significantly, inaccurate regarding the history. Our ‘critique’ of the Statement of Support is also available on the OCHDA website.

## **Submissions summary**

Very little mention is made, in the draft HRO, of consultation regarding the future running and development of the planned Harbour Authority. Nevertheless 60 of the 68 (88%) who sent submissions to us commented – many of them extensively – about **consultation**. These comments refer to: the consultation on earlier drafts of the HRO, and to the consultation over this draft of the HRO, particularly its timing (52); and to the proposed arrangements for future consultation over the running of the Harbour Authority (30). Objectors made extensive comment regarding consultation, drawing comparison with previous experience and doubting the transparency and accountability of the proposals for future consultation.

75% of those who copied their objections to us made the issue of **moorings** a primary concern. It should be borne in mind that, at the time of writing, there is no information from the Council regarding the reason why it seeks to take powers over moorings, what the potential charges for moorings might be in the future, nor of the arrangements by which current mooring holders will have their licence application handled. Specific advice has been given to the Council, by Crown Estate Scotland, and this advice has been ignored.

Extensive concern was also expressed about the lack of information in relation to **finance**, the plans for publishing accounts and the proposal to use surplus revenue in Oban to support ports and harbours elsewhere in Argyll & Bute. The analysis of all the objections available to OCHDA, by heading, is at the end of this newsletter.

Conspicuous among the objections, but not mentioned in the HRO, was a very strong lobby for reconsidering **the Trust Port option**. Despite not being part of the HRO almost half of the submissions refer to it as their preferred way forward and this may become highly relevant in the context of potential hearings or a Public Inquiry. The enthusiasm for Trust Ports was clearly, in part at least, a response to the Council's proposals to use any surplus income generated in Oban across its marine estate and the lack of accountability, in terms of intention to publish harbour accounts. Both of these were also the subject of extensive concern by objectors.

If you made a submission on this to Transport Scotland but didn't send it to us please do so if you are happy to share with us. This will allow us to produce a full summary of the responses, in the event that the Council's summary is in any ways lacking!

## **So what happens next?**

We are in a limbo situation where discussions are taking place between Transport Scotland and the Council over the best way of moving forward. There are, perhaps, five alternatives available and it remains unclear what the Council's preferred response is:

1. The Council could withdraw the draft HRO and start again, in consultation with stakeholders, including the Oban Bay Management Group.
2. The Council could simply ignore all objections and asked Transport Scotland to submit the HRO to the Minister for approval.
3. More likely is that, in agreement with Transport Scotland, the Council may endeavour to satisfy objectors by negotiating key alterations to the HRO and encouraging objectors to withdraw their objections. (This process can be quite drawn-out with a timescale that would cover 2 to 3 months).
4. Transport Scotland and the Council might consider that, in view of the number and range of objections, the most expedient way of addressing concerns would be through a hearing; (the detail of the arrangements for such a hearing are not clear at this point).
5. Finally, if none of the above seems appropriate and the concerns are significant enough, Transport Scotland may agree with the Council that the best way forward is a Public Inquiry.

OCHDA has made clear, in its objection, that a Public Inquiry would be the preferred way forward if the Council does not withdraw the HRO for revision. In the event that a Public Inquiry is launched it will, inevitably, delay the inception of the new HA. This risk was made clear to the Council several months ago and, in particular, the Council's attention was drawn to concerns regarding future consultative arrangements for the HA which must be satisfied.

### **Future governance**

Alongside all the 'nuts and bolts' issues to do with the development of a new HA, which OCHDA is anxious to support without unnecessary delay, there are profound questions being asked regarding the past and future role of the Harbour Board and the overall governance arrangements for the harbour. The Council's proposed consultative model is largely regarded as inappropriate and the relationship between the harbour users and other stakeholders and the decision-makers of the proposed Harbour Authority is regarded as unsatisfactory.

There appears to be no policy statement which indicates how the Council envisages the harbour might develop, what it might regard as strategic direction and measures of improvement or development, nor any clear line of effective reporting and accountability for such a complex exercise. At its most immediate, and practical, there is no information available anywhere regarding the proposed safety arrangements/systems in the harbour that will lead to improved safety for vessels transiting the HA area. Instead we have a statement that most, if not all, harbour users will not notice any difference; this statement does not fill one with much confidence that the proposed new HA have a clear vision of what might need to be different to reduce risk!

### **Conclusion**

It has been OCHDA's position for some months now that the Council's refusal to engage in meaningful dialogue around the development of the draft HRO is, in itself, sufficient reason for us to make objections. The indications are that the future HA will not be significantly influenced by harbour users other than ferry operators and the Northern Lighthouse Board and that, in terms of planning future development of the harbour, the wider stakeholder group (the community of Oban,

local businesses, the populations of the islands, and other harbour users) will not get a fair hearing. For that reason we have made it clear that, should the discussion end with a Public Inquiry, we would hold the Council entirely responsible for the ensuing delay.

It is entirely within the Council's power to put in place arrangements that satisfy all the concerns, without restricting its ability to deliver the core task of improving safety in the harbour. Equally the Council could explain and seek to justify the range of powers that it is seeking over, for example, moorings. With genuine engagement with users and other stakeholders the new HA could be brought into being quickly; alternatively it may drag on for a considerable time with the Oban Bay Management Group continuing to hold the reins as they have done successfully in recent years.

### **Objections analysis (69 respondents - some made multiple objections)**

**Note:** topics in **bold** are not directly related to Articles in the draft HRO.

MOORINGS (Article 16)	48	71%
<b>COMMUNITY ENGAGEMENT:</b>	<b>45</b>	<b>66%</b>
ANNUAL ACCOUNTS: (Article 19)	44	65%
RESERVE FUNDS: (Article 39)	42	62%
ARDENTRIVE/KERRERA MARINA:* (Article 4)	40	62%
HARBOUR LIMITS:** (Article 4)	29	43%
<b>NO BUSINESS PLAN:</b>	<b>29</b>	<b>43%</b>
<b>PREFER TRUST PORT:</b>	<b>28</b>	<b>41%</b>
<b>LACK OF CONSULTATION:***</b>	<b>27</b>	<b>40%</b>
GENERAL POWERS/ CMAL: (Article 5)	21	31%
EXEMPTION FROM CHARGES:**** (Article 37)	6	24%

#### **NOTES:**

Only those scoring 10 or more are included here

\* These where Ardentrive Bay and/or Kerrera Marina are specifically mentioned.

\*\* Harbour limits other than Ardentrive Bay/Kerrera Marina

\*\*\* This is refers to lack of consultation over the draft HRO, and/or the timing of the 42 days

\*\*\*\* This refers to the exemptions conferred by Art 37, which was only spotted after many submissions had been made.

### **Membership & support**

We continue to welcome new members and you are invited to pass this Newsletter on to other interested people in order to encourage them to join.

Full details of how to join and some useful background information is available on our website at [www.ochda.scot](http://www.ochda.scot).