

Background

- The Oban Harbour Management Group (OHMG) was established in 2008 as a partnership between the three main infrastructure providers in the marine environment in Oban.
- The group includes CMAL, NLB and A&BC with CalMac providing assistance when required.
- The group is primarily focused on marine navigational safety and associated activities and developments that may impact on safety.
- The reference for the need to improve marine safety is the Port Marine Safety Code and the Guide to Good Practice, published by the DfT, regularly reviewed and updated; compliance managed by the MCA.
- A Navigational Risk Assessment (NRA) was first undertaken in early 2011 following plans submitted for a marina between North Pier and the Railway Pier and acknowledgement of the increase in ferry and leisure activity in the harbour.
- This NRA highlighted a number of risks that the group agreed should be addressed.
- While the group made some improvement it became clear that there was a need to develop a suitable implementation plan and ensure that resources were in place to deliver the plan.
- A procurement process took place in 2013 with Fisher Marine Associates appointed to develop the plan.
- A review and update of the original risk assessment was undertaken as part of the process.
- The plan identified short/medium and long term measures to improve marine navigational safety.
- All the members of OHMG contribute to the costs of this work though a mechanism associated with vessel activity at each facility.
- A full time employee was put in place by CMAL/CFL to report to OHMG and continue with the work
- The RA is subject to regular review and the collaborative work continues.
- The short and medium terms measures have been completed
- In order to implement the long term measures the wider harbour requires to be incorporated as a Statutory Harbour Authority
- A number of options were proposed and reviewed
- This paper provides a high level summary of the SHA options and the outputs of the evaluation workshop held on the 30th November 2017
- The workshop included representations from NLB, A&BC, CMAL, CFL and two members of the Users Consultation Group

SHA Options Identified – shortlisted from 8 original proposals presented in 2014

1. A&BC extend current SHA area, CMAL remain nested
2. CMAL extend current SHA area, A&BC remain nested
3. Trust Harbour with CMAL and A&BC remaining as nested
4. Hybrid SHA between CMAL and A&BC with both organisations giving up current areas
5. Additional the criteria were evaluated against a “do nothing” option

Each of the options were evaluated against the following criteria

1. A Conservancy environment that provides clear, simple and safe navigation without danger
 - Wrecks
 - Dredging
 - AtoN
2. A single point of contact / seamless interface for users
 - Priority to ferry activity
 - Timely berth allocation and information
 - Information management and promulgation
3. Effective Management of Marine incidents
 - investigation
 - Review of procedures
 - Education / learning
 - Delivery of Emergency plans
4. A Cost-effective solution
 - Set up costs
 - Annual operating costs
 - Cost recovery mechanism
5. Efficient Governance
 - Transparency
 - Expertise
 - Cost
 - Ability to be Objective – safety first
6. Effective and efficient Implementation
 - Timescales
 - Difficulty
 - Known objections

Assessment of Options against criteria and parameters

General Comments

- Option 1 or 2 could be a good start point with the view of working towards a trust port.
- Many of the concerns raised with respect to Option 1,2 and 3 can be managed through the inclusion of protective provisions within the Statutory Legislation
- The role of the OHMG should be defined in legislation

√√ strong positive impact

XX strong adverse impact

√ positive impact

X adverse impact

| | Evaluation Criteria | Option 1 | Option 2 | Option 3 | Option 4 | Do Nothing |
|---|--|----------|----------|----------|----------|------------|
| 1 | A Conservancy environment that provides clear, simple and safe navigation without danger | √√ | √√ | √√ | √ | XX |
| 2 | A single point of contact / seamless interface for users | √√ | √√ | √√ | √√ | XX |
| 3 | Effective Management of Marine incidents | √√ | √√ | √√ | √ | XX |
| 4 | A Cost-effective solution | √√ | √√ | X | X | √√ * |
| 5 | Efficient Governance | √ | √ | √√ | √ | XX |
| 6 | Effective and efficient Implementation | √√ | √√ | X | XX | XX |

*Not truly a solution as none of the existing and future navigational risks are addressed

Agreed Way Forward

Following further discussion on the above analysis at the OHMG meeting on the 26th January the representatives of the OHMG.

Representatives agreed that extending one of the two existing SHA areas is the most appropriate way forward (option 1 or 2 from above table) agreed it.

A&BC have indicated that the Council Harbour Board were not minded to assume responsibility for additional navigational risk and would prefer option 2 provided A&BC SHA remains nested.

All agreed to take forward option 2 with appropriate protective provisions that will safeguard the interests of all parties.

CMAL to take forward this proposal for consideration at the next CMAL board meeting planned on the 16th March.

Following the CMAL board meeting on the 16th March the Board have agreed in principle to moving forward with the recommendation that CMAL extend their Harbour area while A&BC remain nested provided agreement is reached in regard to:-

- Appropriate management framework for the wider harbour activities
- Clear understanding of any arising issues and consideration of appropriate protective provisions.
- Cost sharing mechanism

The OBMG will prepare and share a project plan and activity schedule with interested parties and look to deliver against this.

This is the start of an extensive engagement process that everyone will have the opportunity to engage in.

Option 1 - A&BC extend current SHA area, CMAL remain nested

| 1 | Evaluation Criteria | Discussion Summary | Risks | Comments |
|---|--|---|--|--|
| | <p>A Conservancy environment that provides clear, simple and safe navigation without danger</p> <ul style="list-style-type: none"> • Wrecks • Dredging • AtoN | Criteria can be met | <ul style="list-style-type: none"> • May not be acceptable to all stakeholders • Concerns over impact on management and use of moorings / short-term berthing facility • Are Duty Holder and Harbour Board willing to accept additional risk? | <ul style="list-style-type: none"> • Protective Provisions embedded in legislation may assist with acceptability |
| | <p>A single point of contact / seamless interface for users</p> <ul style="list-style-type: none"> • Priority to ferry activity • Timely berth allocation and information • Information management and promulgation | Criteria can be met | <ul style="list-style-type: none"> • Activities of major lifeline ferries not recognised as requiring navigational priority? • Concern over management of moorings | <ul style="list-style-type: none"> • Could be resolved with inclusion of Protected Provisions and appropriate agreed general directions |
| | <p>Effective Management of Marine incidents</p> <ul style="list-style-type: none"> • investigation • Review of procedures • Education / learning • Delivery of Emergency plans | Criteria can be met | <ul style="list-style-type: none"> • Are Duty Holder and Harbour Board willing to accept additional risk by expansion of SHA? | <ul style="list-style-type: none"> • Sharing of information is key to improvements • The OHMG should remain and be the forum through which all key operators are engaged • OHMG responsibilities could be incorporated into legislation by way of a MOU |
| | <p>A Cost-effective solution</p> <ul style="list-style-type: none"> • Set up costs • Annual operating costs • Cost recovery mechanism | <p>Indicative costs £28k set up £250k running costs</p> | <ul style="list-style-type: none"> • Current cost centre management does not provide for ring fencing revenue from Oban for use in Oban • Unclear how A&BC would recover additional costs, charges would be added to all users of harbour. | <ul style="list-style-type: none"> • Revenue to be ring fenced – included in legislation • Could receive ongoing subsidy or grants from Government |

| | Evaluation Criteria | Discussion Summary | Risks | Comments |
|---|--|---|---|--|
| | | | <ul style="list-style-type: none"> • Competing for finance with other Council services | |
| 5 | Efficient Governance <ul style="list-style-type: none"> • Transparency • Expertise • Cost • Ability to be Objective – safety first | <ul style="list-style-type: none"> • The nominated Duty Holder is the Executive Director, Development and Infrastructure Services. • Current Harbour Board comprises councillors • Clear responsibilities in terms of Duty Holder and Designated person • Working towards Oban being able to balance income and expenditure • Open book accounts • Specialist training is provided to ABC Harbour Board in order to develop skills. | <ul style="list-style-type: none"> • The current ABC Harbour Board is composed of Council Members only. • Legislation governs the management of Council Committees – including the ABC Harbour Board. • Current board arrangements do not provide for full transparency • No evidence the DH or any appointed member of the Board can demonstrate relevant maritime experience to act as the initial point of contact for the designated person. • Unlikely that A&BC would change current governance arrangements | <ul style="list-style-type: none"> • Changes may be made but would need agreement at Council • Would need to demonstrate objectivity and clear focus on safety |
| 6 | Effective and efficient Implementation <ul style="list-style-type: none"> • Timescales • Difficulty • Known objections | <ul style="list-style-type: none"> • A&BC could bear some costs internally • Office infrastructure and staff already in place | <ul style="list-style-type: none"> • Complex to deliver due to the challenges around how the Council Harbour Board operates • Depends on A&BC appetite for taking on associated risks | <ul style="list-style-type: none"> • Could be delivered in a cost-effective manner through an HRO in a reasonable time frame or within a future works order. |

Option 2 – CMAL extend current SHA area, A&BC remain nested

| 1 | Evaluation Criteria | Discussion Summary | Risks | Comments |
|---|--|--|--|--|
| | <p>A Conservancy environment that provides clear, simple and safe navigation without danger</p> <ul style="list-style-type: none"> • Wrecks • Dredging • AtoN | Criteria can be met | <ul style="list-style-type: none"> • May not be acceptable to all stakeholders • Stakeholders do not recognise that CMAL and CFL are separate companies with different roles and priorities | <ul style="list-style-type: none"> • Protective Provisions embedded in legislation may assist with acceptability |
| | <p>A single point of contact / seamless interface for users</p> <ul style="list-style-type: none"> • Priority to ferry activity • Timely berth allocation and information • Information management and promulgation | Criteria can be met | <ul style="list-style-type: none"> • Activities of major lifeline ferries recognised as requiring navigational priority but wider stakeholder's perception is this will be to the detriment of all other users | <ul style="list-style-type: none"> • Could be resolved with inclusion of Protected Provisions and appropriate agreed general directions e.g. ensure continuing unfettered access to moorings, the North Pier and the transit berthing facility while ensuring all managed within the ColRegs. |
| | <p>Effective Management of Marine incidents</p> <ul style="list-style-type: none"> • investigation • Review of procedures • Education / learning • Delivery of Emergency plans | Criteria can be met | | <ul style="list-style-type: none"> • Sharing of information is key to improvements • The OHMG should remain and be the forum through which all key operators are engaged • OHMG responsibilities could be incorporated into legislation by way of a MOU |
| | <p>A Cost-effective solution</p> <ul style="list-style-type: none"> • Set up costs • Annual operating costs • Cost recovery mechanism | <ul style="list-style-type: none"> • Indicative costs £18k set up £250k running costs • Funded by CMAL with incremental additional costs being charged from NLB (10%) and A&BC (15%) – subject to mechanism for review. Would be for NLB and A&BC to recover | <ul style="list-style-type: none"> • Current cost centre management does not provide for ring fencing revenue from Oban for use in Oban • Unclear how A&BC would recover additional costs, charges would be added to all users of harbour. | <ul style="list-style-type: none"> • Revenue to be ring fenced – included in legislation • Could receive ongoing subsidy or grants from Government |

| | Evaluation Criteria | Discussion Summary | Risks | Comments |
|---|--|---|---|--|
| | | additional costs | | |
| 5 | Efficient Governance <ul style="list-style-type: none"> • Transparency • Expertise • Cost • Ability to be Objective – safety first | <ul style="list-style-type: none"> • Harbour Operating Agreement provides for clear accountability between CMAL and CFL as the Harbour operator • Separate organisation structure for CFL harbours to provide a safety-first focus on general harbour operations and avoid conflict with ferry ops • CMAL board is Duty Holder • CMAL board is subject to public appointments process • CMAL board bring relevant industry experience • CMAL Harbour Master is DP (audit of contract). Protects independence as does not have direct control of daily harbour ops – delegated to the harbour operator, but does maintain an overview • Clear Governance transparency | <ul style="list-style-type: none"> • CFL Ferries is CMAL’s main facility customer – concerns at unfair management of other customers • TS policy review may result in CMAL/CFL being one organisation in the future • A&BC would need to protect their interests | <ul style="list-style-type: none"> • Would need to demonstrate objectivity and clear focus on safety • Protective provisions could be included in drafting to provide necessary assurances |
| 6 | Effective and efficient Implementation <ul style="list-style-type: none"> • Timescales • Difficulty • Known objections | <ul style="list-style-type: none"> • CMAL could bear some costs internally • Harbour Ops & office infrastructure and staff already in place | | <ul style="list-style-type: none"> • Could be delivered in a cost-effective manner through an HRO in a reasonable time frame or within a future works order. |

| Evaluation Criteria | Discussion Summary | Risks | Comments |
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Option 3 – Trust Port with CMAL and A&BC remain nested

| Evaluation Criteria | Discussion Summary | Risks | Comments |
|--|-------------------------|--|---|
| 1 A Conservancy environment that provides clear, simple and safe navigation without danger <ul style="list-style-type: none"> • Wrecks • Dredging • AtoN | Criteria can be met | <ul style="list-style-type: none"> • Would not exert control over existing 'nested' SHAs • Additional conservancy charges for vessels approaching / leaving 'nested' SHAs | |
| 2 A single point of contact / seamless interface for users <ul style="list-style-type: none"> • Priority to ferry activity • Timely berth allocation and information • Information management and promulgation | Criteria may not be met | <ul style="list-style-type: none"> • Concern that board may represent own interests rather than that of the harbour • Would not exert control over existing 'nested' SHAs or facilities so could not allocate berths or other facility specific information (NTMs) • As the LLAs, only the 'nested' SHAs would promulgate information regarding their own AtoNs | <ul style="list-style-type: none"> • 'Nested' SHA marine operations could be resolved with inclusion of Protected Provisions and appropriate agreed general directions |
| 3 Effective Management of Marine incidents <ul style="list-style-type: none"> • investigation • Review of procedures • Education / learning • Delivery of Emergency plans | Criteria can be met | <ul style="list-style-type: none"> • Concern that board may represent own interests rather than that of the harbour • Lack of clarity as to whose emergency plan, resources and command and control would deal with cross-boundary issues. e.g. oil spill | <ul style="list-style-type: none"> • Sharing of information is key to improvements but agreements and controls required ensure data protection compliance • The OHMG should remain and be the forum through which all key operators are engaged • OHMG responsibilities could be incorporated into legislation by way of a MOU • 'Nested' SHAs would retain primacy over investigation of their own incidents |

| | Evaluation Criteria | Discussion Summary | Risks | Comments |
|---|---|--|--|---|
| 4 | <p>A Cost-effective solution</p> <ul style="list-style-type: none"> • Set up costs • Annual operating costs • Cost recovery mechanism | <ul style="list-style-type: none"> • Indicative costs £166k set up • £800k running costs • New board would set recovery mechanism | <ul style="list-style-type: none"> • Who would incur cost and drive delivery • Initial organisation would need to be established • Additional costs for running of the board, wages and expenses recovered from harbour users • Concern at level of surplus the board would require and how this would be used when not the operator of any marine facility • Trust ports operate on a commercial basis generally without financial support from government. | <ul style="list-style-type: none"> • Protective provisions could be used to manage this but substantial uplift of costs in comparison to present – cannot determine at this time which harbour users would pay to cover this, this is a matter for the New Board • As statutory bodies, trust ports need specific legal powers in their HROs or private Acts that allow them to borrow, as well as to enter into joint ventures and certain other transactions. |
| 5 | <p>Efficient Governance</p> <ul style="list-style-type: none"> • Transparency • Expertise • Cost • Ability to be Objective – safety first | <ul style="list-style-type: none"> • New board would be recruited | <ul style="list-style-type: none"> • Concern raised at suitably qualified / skilled people available to sit on board that meet the Trust board appointments criteria • A trust port's stakeholders must be prepared to interest themselves in the port's operation and consider the interests of the port as a whole • Concerns that local representation may bring own agenda leading to internal conflict or with 'nested' SHAs • Loss of control by key harbour operators • Misapprehension by some stakeholders that CMAL and CFL SHAs will be subsumed within a Trust Port model | <ul style="list-style-type: none"> • Protective provisions could be included in drafting to provide necessary assurances • Trust port boards should contain an appropriate balance of skills, competencies and experience to control the port effectively and provide it with leadership, motivation and strategic direction. |
| 6 | <p>Effective and efficient Implementation</p> | <ul style="list-style-type: none"> • Difficult • Complex | | <ul style="list-style-type: none"> • Would need to be delivered through an HEO – expensive and extensive time to obtain |

| Evaluation Criteria | Discussion Summary | Risks | Comments |
|--|---|-------|----------|
| <ul style="list-style-type: none"> • Timescales • Difficulty • Known objections | <ul style="list-style-type: none"> • Will take more time • Higher costs | | |

Option 4 – Hybrid Port = CMAL/CFL joint SHA – no nested SHA’s

Key Points Discussed – not included in a table as initial discussions indicate this would not be a suitable option – points recorded for future reference only.

- Mixed Board CMAL /A&BC, what would be the distribution of representation?
- Would require both A&BC and CMAL recruit and appoint additional board members
- There would be limited liability issues to resolve
- Would operate as a separate organisation – Trust port would then be better option
- May result in impasse if board split equally – no clear decision making
- Issues of conflict would arise
- Set up and running costs would be similar to Trust port

Option 5 – Do Nothing

- This was discounted as it does not meet the mitigation requirements as identified through Risk Assessment