

ADVISORY BODY TO THE NEWPORT HARBOUR COMMISSIONERS

9 October 2019

A meeting of the Advisory Body to the Newport Harbour Commissioners was held at The Mission to Seafarers, Alexandra Dock, Newport, on Wednesday, 9th day of October 2019, at 11:00 hrs.

PRESENT

Mr A Hemmings (in the Chair)

Messrs M Beale (Liberty Steel), L Davey (Simec Ports UK Ltd), C.W Dowds and R Smith (29th Newport Sea Scouts).

IN ATTENDANCE

Mr J.C Neale (Chairman - Newport Harbour Commissioners).

Mr M. C James (Newport Harbour Commissioner)

Mr R Steed (Newport Harbour Commissioner)

Captain R.M McDonald (Newport Harbour Commissioner)

Mr A.R Speight (Newport Harbour Commissioner)

Mr E. J Watts MBE, DL (Newport Harbour Commissioners)

Captain R Lewis (Harbour Master & ABP)

Mrs J Lloyd (Clerk – Newport Harbour Commissioners)

APOLOGIES

Apologies for absence were received from Ms A Kingston (Tata Steel) and Mr N.E Challenger (Institute of Chartered Shipbrokers).

The Chairman thanked the Mission to Seafarers for again providing the venue for the meeting. He also thanked Mr R Morgan (Natural Resource Wales) for his many years of service on the Advisory Body, including his service as Vice Chairman.

MINUTES

190. It was agreed unanimously that the minutes of the last meeting of the Advisory Body, held on 13 March 2019, (a copy of which had been sent to every Member), be taken as read, received and adopted.

VICE CHAIRMAN

191. It was agreed that an appointment as Vice Chairman would be considered at the next Meeting of the Advisory Body.

REPORT OF THE CHAIRMAN OF NHC

192. The report of the Chairman of NHC had been circulated to all members. Mr J.C Neale (Chairman - Newport Harbour Commissioners) referred to the following matters in particular:

- a) The financial position of the Commissioners had been considered in detail at the last Board meeting of the Commissioners. Due to a continued decline in the traffic utilising the Port and Harbour of Newport income had declined. As a result it was necessary to increase the level of harbour dues by 1p/GT to 8.5p/GT.
- b) The Designated Person intended to undertake his annual audit in early-2020. All the previous recommendations from the DP had been enacted.
- c) All Commissioners (along with some members of this Body) had received detailed PMSC training from Marico Marine. In addition Commissioners had visited Severn Area Rescue Association's premises at Beachley and had noted the efficient and effective operation in place there.
- d) The modifications at the East Usk Lighthouse were working very well, and had now been reviewed by Trinity House as part of their annual inspection.

- e) The Chairman noted that the proposed new M4 traversing the dock (the Black Route) had now been axed.

The Chairman thanked the Chairman of the Newport Harbour Commissioners for his report.

Mr L Davey (Simec Ports UK Ltd), enquired further about the increase in harbour dues set for 1 November 2019. The decrease in Gross Tonnage of vessels both entering the Dock and moving up River was discussed. It was noted that the increase had not been made in relation to Brexit. It was simply unknown at this point how this could affect harbour dues, or the harbour generally. Mr L Davey (Simec Ports UK Ltd) considered that Brexit could make trade volatile in the short term.

HARBOUR MASTER'S REPORT

193. The Harbour Master's report on the period to 30 September 2019 had been circulated to all members. Captain R Lewis (Harbour Master) expanded upon the following matters in particular:

- a) The Harbour Master confirmed that Trinity House had recently inspected both lights and PANAR. Other than for minor issues, there was nothing to report.
- b) The new berth and mooring guidelines now in place at Liberty Steel berth were working well. The lack of any safety issues to report, both at the dock and on the river, indicated that all the plans and risk assessments now in place were working well.
- c) Pilotage numbers were discussed. There are now 17 pilots available, 16 of which are trained to work on the River Usk. A further two trainees had recently transferred to the area and should be fully trained by summer 2020.
- d) It was noted that an Oil Pollution Prevention Exercise, attended by Commissioners, had taken place in June.

The Chairman thanked the Harbour Master for his report.

ABP PROPOSALS FOR THE FUTURE OF CHA/SHA STATUS IN NHC'S CURRENT JURISDICTION

194. The Chairman thanked the Clerk for her administrative work in this area, and all those Advisory Body members who had replied to the consultation document. He considered the process adopted allowed all interested parties to input to the debate and that the process had been fair and transparent. He asked Mr J.C Neale (Chairman – Newport Harbour Commissioners) to lead the discussion on the proposals received from ABP.

195. Mr J.C Neale (Chairman – NHC) commenced by thanking those members of the Advisory Body who had returned comments on the consultation document sent in August 2019. They had been very useful and thought-provoking. He described the proposals on a chart of the relevant area, put the key issues into context and furnished each member with a Paper detailing and summarising ABP's proposals. He asked recipients to note that the wording in italics indicated his personal interpretation of the consultation document or highlighted an area not specifically stated in the consultation document. He confirmed that no agreement had been made to date between NHC and ABP; all matters were the subject for discussion. For transparency though, and without tying the hands of the Commissioners, it was fair to say that Commissioners were broadly in favour of a transfer of CHA powers to ABP but were undecided on the SHA proposals

196. Mr J.C Neale (Chairman – NHC) then confirmed the key issues implicit in the consultation. In summary, ABP proposed that the Competent Harbour Authority (CHA) status of Newport Harbour Commissioners (NHC) relating to Pilotage would cease. ABP would become the CHA covering the present NHC area of jurisdiction. Further, NHC would cease to be the Statutory Harbour Authority (SHA), relating to other navigational, shipping and other marine responsibilities, in the area seaward of the entrance to the enclosed Docks. ABP would assume this responsibility. This would leave Newport Harbour Commissioners as the Statutory Harbour Authority for the River Usk upriver from the entrance of the enclosed Docks to Newbridge-On-Usk and for the River Ebbw to the railway bridge. The Commissioners would need to decide if they wished to continue to act as the Statutory Harbour Authority

for stretches of the rivers unsuitable for commercial navigation where no revenues could be earned. These are the River Ebbw and the River Usk above the SDR Bridge.

197. The following matters were then discussed in detail, with reference to replies received as a result of the consultation process where relevant:

a) Timing of process

The process of amending the SHA status of an organisation is likely to take many years. Any amendment would have to take place via a Harbour Revision Order. The power for dealing with such Acts has moved from Westminster to the Welsh Government. It is understood that WG have the resource to deal with this were the process to continue. Based on prior experience of HRO's at Westminster, the process is likely to be laborious. The process of amending the CHA status of organisations is likely to take less time, as these powers would be transferred using the contents of the Navigation Act 2013 which would to a degree simplify matters.

b) Can one transfer (CHA or SHA) be done in isolation?

The Chairman enquired whether the CHA transfer of powers could be undertaken without a transfer of SHA powers. Mr J.C Neale (Chairman – NHC) replied that this was certainly possible, but it should be noted that ABP had put forward both amendments as one proposal. Clearly if this was the final position of the Commissioners it would be for ABP to confirm whether this was acceptable to them.

c) Summary of SIMEC position per their written submission

- i. There were no objections to the transfer of CHA status from NHC to ABP.
- ii. There was a concern over additional ABP charges should the SHA transfer occur.
- iii. There would, prima facie, be no independent scrutiny of ABP charges.
- iv. NHC overheads for dealing with a smaller area would increase disproportionately.

Mr J.C Neale (Chairman – NHC) said that the summary paper provided to Advisory Body members at the meeting was intended to clarify matters. He confirmed that:

- i. There was no intention for ABP to charge vessels for traversing the area that would have become their SHA – this would be part of the protective orders that would be enshrined in any HRO. In response to a question from Mr C.W Dowds, it was confirmed that ABP intended to pay all the routine dredging and conservancy costs in relation to the area that would be their SHA without recourse to any other party.
- ii. There would not be any requirement for an independent scrutiny of charges since no such charges will accrue.
- iii. It was estimated that, should the proposals go ahead, NHC would lose approximately 2/3rds of its income whilst costs would reduce by 50%. Although only an estimate, it was likely that dues would increase to c12-14p/ GT. Mr J.C Neale (Chairman – NHC) considered that this remained favourable when compared to other ports although other members contended that comparisons were not always easy to make.
- iv. In response to a question from Mr L Davey (Simec Ports UK Ltd), Mr J.C Neale (Chairman – NHC) noted that any dredging upriver would require authorisation from NRW as is the current position. The SHA does not own the sea bed and therefore ABP would only be a consultee in such a decision.

Captain R Lewis (NHC – Harbour Master & ABP) added that the proposals put forward by ABP were not put forward to generate revenue but rather to create a sustainable place for NHC and more closely reflect the reality of the current position. The “statutory place” held by NHC, a not-for-profit body, was valued by stakeholders. In particular, he noted that the mechanism that allows NHC to benefit from Harbour Master services meant that NHC could remain economically viable should the ABP proposals be accepted.

d) Pilotage

Mr C.W Dowds raised the provision of pilotage and enquired what protections would be in place to ensure third party customers are treated fairly in respect of charges and availability of pilots. Captain R Lewis (Harbour Master & ABP) agreed that pilotage numbers had been limited in the past but now the level of resource had increased markedly so that reasonable demands would be covered. Circumstances occasionally dictate that a pilot is not available - in that case, it is incumbent on the Pilotage management to make reasonable choices on how the resource is apportioned. A general discussion on pilotage resources ensued – it was noted that pilot availability is not necessarily on a “first-come-first-served” basis as other factors may also be taken into account.

e) Summary of Liberty position per their written submission

Mr M Beale (Liberty Steel) confirmed that the issues noted in Liberty’s submission had been discussed in (c) above.

Given the additional rates that NHC would need to charge river users, as noted earlier in the meeting, Mr M Beale (Liberty Steel) asked whether ABP could take SHA responsibility for the whole of NHC’s current jurisdiction. Captain R Lewis (Harbour Master & ABP) considered this course of action to be inappropriate. It was important that there was a statutory difference between users of the Dock and the River – this gives added security to non-ABP users of the Harbour.

The potential for commercial conflict arising whereby one Port Authority has SHA control over traffic entering another port was discussed. Capt. R Lewis confirmed that the Statutory duty of a Port Authority is managed separately from the commercial undertaking. This is a common scenario around the UK, examples of the ports of Garston/Liverpool, Ipswich/Harwich and ports on The Humber Estuary were described.

f) Trinity House position

Trinity House has requested to be kept fully apprised of any actions/ decisions taken.

g) TARMAC position

It is believed that the matters raised by Tarmac in their written submission have been discussed above.

The Chairman thanked all those members of the Advisory Body who had set out their concerns and to the Harbour Master and NHC – Chairman for their responses. He concluded by noting that everyone involved were keen to future proof any change to the current regime to ensure the continued economic prosperity of Newport. It was agreed that these minutes be discussed at forthcoming NHC Board meetings in advance of their approval at the next meeting of the Advisory Body.

CONTROL OF RIVER WHERE NO COMMERCIAL TRAFFIC IS VIABLE

198. Mr J.C Neale (Chairman – NHC) raised the future control areas of the areas currently within NHC’s jurisdiction where no commercial vessels can traverse and therefore no dues could be levied. Were any of ABP’s proposals to progress NHC would consider whether they should relinquish control of these areas.

199. Captain R Lewis (Harbour Master & ABP) thanked the Advisory Body for giving him the opportunity to clarify the proposals of ABP

Next meeting:

The next meeting is planned for Wednesday 11 March 2020 at 10:45am, at a venue to be agreed.

Chairman: _____

Date: _____