



DESIGNATED PERSON'S REPORT

Report by Chief Officer, Assets and Infrastructure

PURPOSE

- 1.1 The purpose of the Report is to provide the Comhairle with an update on the Designated Person Report from August 2023.

EXECUTIVE SUMMARY

- 2.1 The Port Marine Safety Code (the Code) and the Health and Safety Executive (HSE) publication Safety in Docks: Approved Code of Practice (ACOP) relate to the marine and shore side safety of harbours. The Code requires an annual internal audit and a three-year independent external audit to verify compliance.
- 2.2 The Designated Person, David Phillips of Nash Maritime, was appointed on 1 July 2022 following which he has reported back on compliance with Port Marine Safety Code. As part of agreement for providing Designated Person service there will be two reports per annum.
- 2.3 The Designated Person carried out a visit to the Isle of Barra in March 2023 and presented his Report to the Comhairle at the April 2023 Series of Committees. An action plan has been provided at Appendix 1 to the Report and shows how the observations and recommendations of that Report are being taken forward.
- 2.4 A visit to Uist was carried out by the Designated Person in August 2023. An action plan has been provided at Appendix 2 to the Report and shows how the observations and recommendations of that Report are being taken forward.
- 2.5 In March 2024 the Designated Person visited the Ports of Leverburgh and Stockinish with the Harbour Master and the Report is provided at Appendix 3. The recommendations will be considered, and a Report will be presented to the June 2024 Series of Meetings.

RECOMMENDATIONS

- 3.1 **It is recommended that the Comhairle:**
- (a) note the External Audit Action Plan included at Appendix 1 to the Report;**
 - (b) note the External Audit Action Plan at Appendix 2 to the Report; and**
 - (c) note the April 2024 Designated Person Report.**

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Appendix:

- 1. Designated Person Report 2023 Action Plan
- 2. Designated Person Report August 2023 Action Plan
- 3. Designated Person Report April 2024 (Private)

Background Papers:

- 1. Comhairle nan Eilean Siar Marine Safety Management System
- 2. Reports to Transportation and Infrastructure Committee (Harbour Board) and Audit and Scrutiny Committee, April 2023

IMPLICATIONS

4.1 The following implications are applicable in terms of the Report.

Resource Implications	Implications/None
Financial	None in terms of Report but there will be financial implications in satisfying audit report recommendations. These financial implications will be considered against other requirements within the Marine Services portfolio of harbours.
Legal	The Comhairle is Harbour Authority of 32 Harbours as identified in the Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002. The Transportation and Infrastructure Committee in its capacity as the Harbour Board, is the Duty Holder as defined in the Port Marine Safety Code. The duties and powers of a harbour authority in relation to marine operations are of three types, statutory duties imposed either in the local legislation for that authority or in general legislation; general common-law duties; and fiduciary duties.
Staffing	Marine Services is a small team to manage all the Comhairle's harbours, piers and slipways.
Assets and Property	None
Strategic Implications	Implications/None
Risk	Risk assessments are in place for each facility and routine safety maintenance is undertaken. Also, lone working by members of staff.
Equalities	Consideration of equalities issues and compliance with legislation has been followed.
Corporate Strategy	In demonstrating compliance with the Port Marine Safety Code, Marine Services is working towards the outcome of strategic priority "2.1.3 to ensure that economic investment, development and research is increased within the Outer Hebrides and people are provided with a safe, sustainable and healthy environment in which to live, work, visit or do business."
Environmental Impact	None
Consultation	Pier Users

BACKGROUND

5.1 The Comhairle's compliance to the PMSC requires to be internally audited annually and externally audited every three years. This Report presents a progress update on how audit recommendations are being actioned.

DESIGNATED PERSON REPORTS

- 6.1 The March 2023 Designated Person Report Action Plan is included at Appendix 1 to this Report, showing actions against observations and recommendations found within that Report.
- 6.2 The August 2023 Designated Person Report Action Plan is included at Appendix 2 to this Report, showing actions against observations and recommendations found within that Report.

- 6.3 The 2024 Designated Person Report is included at Appendix 3 to this Report. Together with the Harbour Master the Designated Person visited the ports of Leverburgh and Stockinish in Harris in March 2024. The Designated Person observations and recommendations can be found within the Report.
- 6.4 Marine Services will review the Designated Person Report and present a Report on any actions resulting from the recommendations to the June 2024 Series of Meetings.
- 6.5 It is proposed that the Designated Person meet with the Chair and Vice Chair of the Transportation and Infrastructure Committee to present the 2024 Report directly to them. It is hoped that this can be prior to the Committee meeting, but if this is not achieved then a meeting will take place before June 2024.

CONCLUSION

- 7.1 To ensure compliance with the Code and its performance, the Transportation and Infrastructure Committee (Harbour Board), as Duty Holder as defined in the PMSC and individually accountable for marine safety, will continue to monitor the outcomes of the three-year audit of the Comhairle's Piers and Harbours and the Designated Person's Report.
- 7.2 It is proposed that monitoring updates continue to be submitted in the current format as a combined Report to the Harbour Board.

APPENDIX 1: DESIGNATED PERSON REPORT 2023 ACTION PLAN

RECOMMENDATION/OBSERVATION	COMMENT	ACTION TAKEN	STATUS
It is recommended that a Board Member is selected to whom the DP may report.	This was agreed and a Report went to April 2023 Comhairle Committee Series.	The Chair of the Harbour Board was appointed at the April 2023 Comhairle Committee series as the point of contact for the Designated Person.	Closed
Abandoned van to be removed from Ardmhor.	Noted.	Van has been removed.	Closed
Low water pressure at Ardveenish New Pier.	As part of compliance with Water Byelaws, we were required to install a break tank which means that water is not supplied at mains water pressure.		Closed
<p>Vatersay -</p> <ul style="list-style-type: none"> the road edges should be clearly marked, possibly with white paint to show both edges of the road and yellow hazard lines as well to warn of the danger; there should be signs warning motorists of the likelihood of pedestrians crossing the road and signs inside the work areas warning workers about the proximity of the main road. Safety would be considerably enhanced by traffic calming measures such as 'rumble strips', a 20- mph speed limit accompanied by flashing lights, speed sensors and Signs to prevent tourists and other passers-by from parking in the work areas. o Marked parking spaces would help to keep the fishermen's vehicles away from the edges of the road. Parking space is also required for lorries to wait while the catch is loaded. 	It is advisable to take measures to increase safety around the point where there is road and pier user activity.	Roads engineers have reviewed, and any recommendations being taken forward will be carried out.	Open

RECOMMENDATION/OBSERVATION	COMMENT	ACTION TAKEN	STATUS
<ul style="list-style-type: none"> Dinghies - the eastern slipway was cluttered with dinghies, which blocks parts of the slipway. In a marine environment it is a commonly observed and seamanlike protocol that slipways should always be kept clear and not cluttered with trailers and gear. The dinghies are necessary to enable people to get out to their vessels on their moorings, so a dinghy park is recommended 	While there is no dedicated Dinghy Park there is space where users could park them that is not on the slipway. It should be recognised that it is the regular users who keep the dinghies near to where they need them and that the Harbour Master has never received a complaint in regard to lack of access to a slipway at Vatersay.	Harbour Master has asked the Pier Operative to monitor this and discuss with users if there is an issue.	Closed
<ul style="list-style-type: none"> Ramp - the slope of the slipway ramp on the eastern side is a little too steep which causes boat trailers to ground. 	The angle of the slipway ramp cannot be changed without significant financial impacts which could not be justified.	This should be considered as part of development project which local users are proposing.	Closed
<ul style="list-style-type: none"> Mooring Rings - it is understood that work was done on the mooring rings relatively recently, which is hard to believe looking at the wear, rust and general condition of the mooring rings now. Either substandard materials were used or the quality of the works was poor, or both. Again, these facilities are provided by the Harbour Authority and if a vessel is damaged because of one or more of these rings failing then, again the Comhairle may have some or all liability. The photos below at Fig. 8 and 9 clearly illustrate the comments made here. 	Agreed to fit replacement mooring rings.	Mooring rings are in Barra and waiting on contractor to fit. Local contractor has begun work to replace them with completion prior to vessels moving to west coast fishing.	Open
<ul style="list-style-type: none"> Fendering - the pile fenders on the causeways at Vatersay enable vessels to lie alongside them at most states of the tide, although it is not safe to leave vessels tied up alongside for prolonged periods. Again, it seems that considerable works were completed on the fenders on the eastern slipway recently, but again it seems that the quality of work and materials was shoddy at best and negligent at worst, as is evidenced by the photos. Yet again, any damage incurred as a failure of the fendering will not reflect very well on the Harbour Authority. 	Comhairle Engineer observed that the fixing system for steel boots housing the fenders was sub-standard. He has also observed that due to the design of the system where the steel boot is bolted into the slipway surface that there are significant cantilever forces applied to the fenders especially at higher tides and to fully remove risk of further damage would require a significantly more robust engineering solution with a disproportional increase in budget impact.	Comhairle engineer is working with engineering contractor to reinstate the wooden piles with the steel boots being fixed by a more substantial fixings. Further issues identified post report which will be taken into consideration.	Open

RECOMMENDATION/OBSERVATION	COMMENT	ACTION TAKEN	STATUS
<ul style="list-style-type: none"> It was reported to the DP that over the past 20 years the VPUA had recorded 23 incidents of vessels being damaged or destroyed at Vatersay. The DP was unable to verify these figures and was informed that the Comhairle didn't have these figures, possibly because the incidents were not reported to the Harbour Master, but there may also be some shortfalls in the safety management system. It is recommended that the Comhairle reviews its methods for reporting and recording of incidents. In any event, in the experience of this DP, in comparison with other ports in the Western Isles and Highlands, this seems a higher than average figure and its cause should be investigated by the Harbour Master and his team. 	<p>As stated, incidents are not reported to Harbour Master as they will generally be related to incidents of vessels on Private Tackle Moorings and not in regard to incidents at the slipways.</p> <p>Private Tackle moorings are where mooring gear is owned by a party other than CNES and throughout the network of harbours there will likely be hundreds of these.</p> <p>To recognise and take account of incidents on Private Tackle Moorings would require in the first instance for these to be documented, licenced and managed. It is considered that this would be a difficult process both in terms of resource required but also in regards to resistance from the mooring owners where the mooring place may have been in families for generations and long before there was a Harbour Authority.</p>	<p>It is not proposed that CNES Harbours go down the route of documenting, licencing and managing Private Tackle Moorings within harbour areas but we will review our SMS in regard to reporting and recording of incidents as they relate to physical structures owned by the Comhairle.</p>	Closed
<ul style="list-style-type: none"> The fencing around the work areas is broken down with many gaps which has allowed cows and sheep to foul the work areas creating an unpleasant working space. It is recommended that the fencing is repaired to keep the animals out and extended to discourage pedestrians and tourists parking in the working areas. The VPUA could probably be persuaded to help complete this task. When the fencing is up the enclosed area should be cleared of rubbish and surplus gear. 	<p>The Comhairle does not own any land at Vatersay and therefore has no boundary to fence.</p>	<p>The Comhairle does not own land at Vatersay beyond slipways and causeway. Economic Dev looking at opportunity to use funds to repair fences and create laydown area.</p>	Open

RECOMMENDATION/OBSERVATION	COMMENT	ACTION TAKEN	STATUS
<ul style="list-style-type: none"> Breakwater - Pier user argued authoritatively, with conviction and substance for a breakwater to be constructed on the eastern side of Vatersay Causeway. The detailed case for a breakwater is well made at the Feasibility Study into the provision of 'Sheltered Berthing & Supporting Facilities at Vatersay' written by Wallace Stone and the similarly named Community Business Case paper for Just Enterprise. It is easy to see how a breakwater would enhance safe operations from Vatersay but such an undertaking will be hugely expensive and more importantly take time that could detract from fixing lesser issues which together would enhance safety considerably. 	Comhairle harbours are supportive of the local users pursuing the provision of sheltered berthing at Vatersay.	We will offer assistance as required and work with the local group in moving forward proposals.	Closed
<ul style="list-style-type: none"> The Fuel Facility cannot maintain capacity against demand and ran out twice during 2022. 	Fuel facility is considered relatively robust and any issues have been with the fuel provider having problems getting a space on the ferry.	<p>Kallin 15,000 litre tank to be swapped with the Vatersay 10,000 litre tank to increase capacity. Waiting for new Kallin tank to be commissioned before carrying this out.</p> <p>Due to issues in the completion of project to remove live storage building at Kallin we have not been able to get power to the new tank yet. When new tank is operational the 15,000 litre tank will be moved to Vatersay.</p>	Open
<ul style="list-style-type: none"> Insurance - taking together the issues at Vatersay makes it difficult, and in some cases apparently impossible for people to get insurance for their boats. For local people, Vatersay is their only option as the fishermen feel that they are actively discouraged from using Castlebay as a base for their operations. 	Noted.		Closed
<ul style="list-style-type: none"> Electric Supply trips repeatedly. 	Noted.	Property Maintenance Delivery are aware of this and are working with electrical contractor to rectify the issue.	Closed

RECOMMENDATION/OBSERVATION	COMMENT	ACTION TAKEN	STATUS
<ul style="list-style-type: none"> Lighting in the works areas and on the slipways is very poor meaning that the fishermen need to position their vehicles so that the vehicle lights can supply the necessary illumination. 	Noted.	Lighting all working satisfactorily	Closed

APPENDIX 2: DESIGNATED PERSON REPORT AUGUST 2023 ACTION PLAN

RECOMMENDATION/OBSERVATION	COMMENT	ACTION TAKEN	STATUS
Berthing issues: This issue would probably be more satisfactorily resolved by formally directing vessels where to moor and then enforcing mooring directives.	Kallin is very much a victim of its own success and while it was originally a fishery only pier, there is now significant aquaculture sites close to the harbour and serviced by it with Bakkafröst having a shore base close by.	Discussions have been ongoing in terms of Bakkafröst installing pontoons for their own vessels and this would alleviate many of the issues identified.	Open
Plea made for a more proactive and regular presence of the Harbour Master or his representatives, rather than simply responding to complaints.	Agreed.	Uist Pier Operative now makes scheduled visits twice weekly and the times of these visits are reported to users to allow discussion of any issues.	Closed
Request made that some space be allocated on the jetty to store gear. This is not an unusual or unreasonable request, but to ensure that gear remains within bounds and is tidily stowed, storage area limits should be clearly marked and enforced.	While it may not be unreasonable, Kallin has only a limited amount of laydown/storage area and is constrained in terms of creating any additional area available for storage.	This will be reviewed through 2024.	Open
Waste - the DP was informed that in the past a skip had been provided but recently this has been replaced by the large green bins commonly seen about the islands, which are not large enough and are not emptied often enough. Furthermore, the waste oil facility also needs to be emptied more frequently.	It is the Duty of all commercial operations to ensure that they have adequate waste disposal facilities. As harbour authority we only provide waste disposal for domestic waste created on the vessels using our facilities.	This will require cooperation between users and Comhairle harbours in identifying a solution as the Comhairle cannot become responsible for bearing costs related to commercial operations at piers.	Open
New Fuel Facility - comment was made that it is too close to the jetty edge making it awkward to use and has asked if it could be moved further back. The DP considered that it did seem unnecessarily close to the edge of the quay and there is space to move it back, if that is possible.	It is positioned in such a way as to allow free access to the other side of the pier. A safety rail is to be fitted on the jetty edge to ensure safety at all times when using the new fuel system.	In commissioning the new tank provision has been made to move the tank should the final arrangement still be deemed too close to the edge. Due to issues in the completion of project to remove live storage building we have not been able to get power to the new tank yet.	Open

RECOMMENDATION/OBSERVATION	COMMENT	ACTION TAKEN	STATUS
Pontoon - a pontoon of 20 - 30 metres long would enhance the harbour to facilitate loading and unloading cargo, stores and equipment, as well as passengers. Ideally, this should go in the enclosed harbour, but it could be sited outside; the DP stated that a pontoon was a significant undertaking and was unlikely to be realised without a proper case for such a structure being made.	It is agreed that a pontoon facility somewhere in the harbour would indeed be an excellent addition to the current facilities.	This will be considered as part of infrastructure requirements but is unlikely to be taken forward unless there is significant money made available.	Closed
Laid-Up Vessels - it was pointed out a number of vessels that apparently haven't moved for some time. Some did appear not have moved for some time, but others looked well maintained and kept and their owners may disagree with Mr Stewart. Nevertheless, his point is clear in that if vessels are laid-up they should not be cluttering up the enclosed harbour. When the DP made these points to Mr Stewart, he suggested that laid-up vessels could be safely moored in the sheltered waters at Bagh Mor, which was used in the past for this purpose.	Harbour operations agree with this suggestion and this is a recurring problem at many Comhairle facilities.	The process of having vessels removed can be protracted but where it is identified we will.	Noted
Creels were stowed about the harbour and that most were abandoned and should be removed. To the DP, in comparison with other ports, the creels were neatly stacked and clear of the access routes, others will have their own views (Figure 7).	This is inevitable and always been the case at fishery piers.	Pier Operative continues to monitor.	Closed
Slipway - it was considered that the slipway was too cluttered and that it should be kept clear. It is customary that slipways should be kept clear and boats, creels, should not be left untended on the slipway. It is clear at Figure 6 that there are boats on the slipway, which although relatively tidy and squared off to one side, ideally, they should not be there. The creels however look tidily stacked and out of the way but note the creels at Figure 6 above which are not neatly stowed.	Noted.	Pier Operative continues to monitor.	Closed