

TRUSTEES MEETING – 22 SEPTEMBER 2011

Major issues for the Trustees to address at future meetings

The fifteen issues set out below are 'live' in as much as they are either key concerns for stakeholders or key business decisions that need to be resolved over the next 12-18 months. We have briefly summarised each issue to provide an overview and set out a date (in Red) by which we believe it would be prudent for the Trustees to agree their position.

If these dates are agreed, we would plan for the Trustees to receive detailed briefings and allocate time for discussion at future meetings to arrive at a policy decision within the time frame.

1. NWC Remuneration Policy

1.1 Background

The BW Remuneration Committee is currently reviewing director remuneration with the aim of setting out a draft NWC director remuneration policy for adoption by the Trustees. They also intend to propose any necessary transition arrangements. Any decisions on changing director remuneration, for example performance related pay, will also have an impact on the pay policy for all other people within BW.

We need to provide some reassurance into the organisation on future pay policy as there is concern that NWC will result in more redundancy, more outsourcing, reduced professionalism and recruitment and lower reward generally.

Although TUPE will dictate that all existing employees transfer on similar T&Cs, the Trustees may wish to set out a different direction of travel with different T&Cs for new recruits.

1.2 Current position

The Remuneration Committee are due to meet on the 21 September.

1.3 Future action

As soon as the Remuneration Committee have made their proposals, the Trustees need to consider the implications for the wider NWC pay policy and have in mind the process they wish to see completed before setting out NWC's policy to the workforce. In particular the Trustees need to be clear as to whether they are continuing with BW's Performance Related Pay Policy.

Position Date: October 2011

2. Continuous Cruisers

2.1 Background

Under the 1995 BW Act boats on our network require a valid licence AND either a home mooring or to be 'continuously cruising' (CC). Our Guidance document on defining CC summarises:

If a boat is licensed without a home mooring it must move on a regular basis. This Guidance seeks to explain in day to day terms the nature of the movement that must take place.

There are three key legal requirements:-

- ⤴ the boat must genuinely be used for navigation throughout the period of the licence.*

- ⤴ unless a shorter time is specified by notice the boat must not stay in the same place for more than 14 days (or such longer period as is reasonable in the circumstances); and*
- ⤴ it is the responsibility of the boater to satisfy BW that the above requirements are and will continue to be met.*

This definition has long been a point of contention between us and some boaters. However in a recent court case our definition was upheld as being in accordance with the Act and we have taken the opportunity that this brings to revisit precise wording of the Guidance with boating organisations (especially the National Association of Boatowners) to gain greater acceptance without any substantive change in the definitions.

In recent years there has been a steady growth of boaters claiming to CC and thereby avoid the cost of a mooring. Very many of these people do not comply with our definition of CC and moor up at convenient places along the network (near bridges, shops, schools) for long periods of time. Many of them have jobs or children at school in these locations. They have become known as continuous moorers (CM).

The heaviest concentrations of CMs are on the Kennet & Avon Canal (western end in particular) and more recently on the River Lee and the Regent's Canal.

The issues around this type of CM are:

- leisure boaters become unhappy when they cannot access popular mooring spots and support facilities
- local communities and local authorities can be in conflict with concentrated communities when the consequent increase in demand puts pressure on (for instance) rubbish collection or car parking.
- leisure boaters who pay for moorings resent the 'free ride' the CMs seem to have
- CM communities do not have planning permission

Over the past 12-18 months, after having successfully reduced general licence evasion, we have begun to enforce our CC definition on the Kennet & Avon Canal and this led to the court case referred to.

We have also recently turned our attention to CMs on the River Lee and Regent's Canal and consulted on proposals to introduce strictly enforced zonal mooring and overstaying charges. This consultation and our enforcement of our CC interpretation has been vigorously opposed by CMs although the boating movement generally is supportive (but not vocally).

2.2 Current Position

In the light of the recent court case we have revised our CC definition and now have all the major boating organisations to agree them. This is a major step forward as we have never had this uniform agreement in the past. A relatively new organisation The Bargee Travellers Association representing many CMs vigorously opposes these new guidelines.

We have recently reported back on the River Lee consultation exercise with a decision to explore the potential of a new model for managing demand for residential boating there. Following feedback from waterway users and local authorities, we will explore the potential for establishing a new facilitating body, such as a social enterprise, to help achieve a more sustainable model for residential boating on the Lee & Stort Navigations. This could allow a greater degree of boater involvement and generate much-needed revenue for the waterway whilst satisfying demand in a way acceptable to most people involved.

2.3 Future Action

We will continue to

- enforce our guidelines
- explore the social enterprise model and.....
- if the model proves successful extend it to other areas
- encourage local authorities to give consent for residential berths in marinas (we recently persuaded them to extend New Homes Bonus for this purpose)

Position Date: October 2012.

3. Classification of Waterways

3.1 Background

The system of waterway classification is key to the delineation of the core statutory undertaker duties contained in the Transport Act 1968 (ss.104-107). Its consequences go further however and also determine the extent of protection for the waterway in question from highway developments and (soon to be introduced) water resource regulation. These core statutory duties, together with the other statutory duties applicable to navigation authorities, provide the key rationale to the 'Steady State Model' and therefore ultimately underpin the long term financial liabilities of BW/NWC.

3.2 Classification Basics

Waterway classification has two elements to it: categorisation and dimensions. Classified waterways are either Commercial or Cruising waterways; all other waterways are termed 'the remainder' so in practice there are three categories of Commercial, Cruising or Remainder. This categorisation is determined by a schedule in the Transport Act 1968 which is capable of amendment through a statutory process. The basic maintenance obligations are that Commercial waterways must be kept in a condition suitable to enable use by freight carrying vessels and cruising waterways for use by cruising (passenger) vessels. Aside from infrastructure condition being fit for that purpose, supply of water to navigable depths is the key requirement of the duty. No such duties apply to remainder waterways, although the prospect of future use as cruising waterways must be taken into account in any plans for the waterways.

- 3.2.1 In addition to the very generic duty arising from categorisation, the classification regime imposes specific maintenance duties on a waterway by waterway basis. These provisions specify precise dimensions of the vessels that must be capable of navigating the commercial or cruising waterway in question by reference to length, beam, water draught and air draught. This determines the 'gauge' to which individual waterways must be repaired, maintained and operated. This includes lock and bridge hole dimensions etc, for that waterway but also in particular the channel dimensions to which the waterway must be dredged and/or supplied with water.
- 3.2.2 Both the classification category and/or the specified dimensions of any particular classified waterway can be changed, but only by ministerial Order following a prescribed consultation process specified in the 1968 Act.

3.3 Current live issues concerning waterway classification

- 3.3.1 The scheme of waterway classification and the duties arising under it are of intense interest to boating groups, leisure and commercial. It is seen, correctly in many respects, as the guarantee of the availability of the waterways for public use to specified standards. Classification also gives waterways some protection under the Highways Acts and planning regime; and some element of special consideration in water resource regulation. Thus whenever the prospect of some variation in the classification regime arises – either a change of category or change to the specified dimensions, intense interest is aroused. It can be either a very supportive interest or an interest of great concern depending on whether the prospect of change is seen as an improvement to the perceived 'guarantee' or a retreat from it.
- 3.3.2 **Remainder to Cruising.** The prospect of improvement arises from the recognised long term aim of having those navigable waterways that are 'remainder' waterways classified as cruising waterways. At the time of the 1968 Act most remainder waterways were un-navigable and in varying states of dereliction. The restoration projects over the intervening decades have restored many to a navigable condition and they are now operated as integral parts of the navigable network. Many restorations were undertaken with the objective of classification of the restored waterways as cruising waterways but government discouraged any growth in enforceable statutory duties. Whilst navigation of the waterway as if it were a cruising waterway remained possible there was limited call for a formal change to classification.

- 3.3.3 With the move out of the public sector and the loss of the perceived (if illusory) government 'guarantee' to financial sustainability of the waterways, many interests wish to see the statutory duty 'guarantee' of classification to be extended to the navigable remainder waterways. In addition, from the navigation authority angle, advantages to classification have arisen with the prospective extension of water resource regulation to inland waterways. Classification of a waterway as commercial or cruising gives some limited protection to its water resources from over-zealous regulation.
- 3.3.4 Some time ago the BW board agreed in principle to a phased programme of seeking classification of navigable remainder waterways as cruising waterways. The process is resource hungry and the only such fresh classification to date is of the Kennet & Avon Canal. With introduction of the much delayed extension of water resource regulation to inland waterways closer to hand pressure to re-invigorate the programme has built up.
- 3.3.5 **Commercial to Cruising.** The prospect of perceived retreat in waterway classification is in respect of commercial waterways under-used by freight carrying vessels or not so used at all. The statutory specified dimensions for such waterways were established by reference to a survey of vessels typically using those waterways in late 1967. Since then the great majority of such traffic has disappeared and although the statutory dimensions have not been changed, BW does not regularly maintain to such dimensions by dredging where the traffic does not exist or is very intermittent. This was on the basis of an agreement with government that BW would maintain the waterways on the basis of "use or prospects of use".
- 3.3.6 Disgruntled operators have held back from actual enforcement of the statutory duties in fear of provoking a formal order to revise and reduce the statutory dimensions, which government indicated it was willing to do if enforcement materially increased BW costs (and therefore the call on public funding).
- 3.3.7 The issue for NWC going forward is that such direct protection provided by government from enforcement proceedings is much diminished once the waterways move out of the public sector and public funding is fixed over the longer term. There was therefore a perceived need from the NWC point of view for a 'pre-emptive' variation in the statutory dimensions at the time of the transition. This prospect was very unwelcome to freight interests and an interim solution was reached whereby no change to dimensions would be made pre-emptively but the grounds on which, and process by which, NWC could seek such variation through a ministerial Order in the future would be updated and strengthened. In particular the minister will in future be required to take into account NWC financial resources when considering any proposed variation.

3.4 Summary

It is anticipated that in the relatively early life of NWC the boating interests (leisure and freight) will be looking for the formulation or refreshment of policy and plans for a programme of applications to have navigable remainder waterways classified as cruising waterways. Furthermore, the issue of facilitating and preserving existing freight traffic, as well as encouraging future such traffic in an affordable framework will be an early challenge to NWC.

Position Date: Mid to late 2012

4. Restoration of Waterways

4.1 Background

We only enjoy the existing network because of the efforts of a small group of enthusiasts in the 60's and 70's. They managed to reverse government policy and get the network restored and reinvented for leisure use. Canal restoration still captures the imagination of local communities and there are around 50 'live' projects most of which are very long term aspirations. Nevertheless we know from experience that from time to time all the pieces of a funding jigsaw fall into place and apparent long term aspirations can become realities almost overnight. So there is a strong case for continuing to give moral and high level fundraising and technical advice to these groups.

4.2 Current position

We have some level of involvement in almost every scheme although this is mostly just 'keeping in touch'. We do provide technical and fundraising advice to some of the more advanced projects. We have to be very disciplined about our involvement because we have lots of people with lots of expertise and it is very easy to quickly get drawn into greater involvement.

4.3 Future Action

There is a feeling amongst some stakeholder groups that we should do more to support restorations and they hope the trustees will be more sympathetic in that direction. We can do more but it will mean we do less on the existing network. The trustees should make a statement in due course about their approach to restoration.

Position Date: Mid 2012

5. Freight

5.1 Background

Freight has become a relatively small part of BW's activities but it attracts considerable interest from stakeholder groups and politicians.

BW is required to maintain certain waterways as Commercial Waterways, i.e. available for freight traffic. In practice only some of these waterways are now suitable for modern day waterborne freight and these tend to be the major rivers of the Severn and Trent, the Aire & Calder and Sheffield & South Yorkshire Navigations and major city canal networks like London and Birmingham.

BW has long been criticised for not doing enough to facilitate and promote more freight traffic. It is thought that more waterborne freight would increase revenues and help reduce CO2 outputs. The Board however are not convinced that the cost of promoting freight and maintaining waterways for freight use is commercially beneficial. They also believe that equal or better CO2 output can be achieved by improving towpaths and encouraging use by cyclists, commuters, etc.

5.2 Current Position

BW maintain its Commercial Waterways on a 'use and prospects of use' basis that has been agreed with ministers. This means that not all Commercial Waterways are maintained to commercial standards. We no longer have a dedicated freight department but we willingly follow up all freight enquiries and we try to facilitate all freight activity within the resources available. There are probably not much more than a dozen major freight contracts on our waterways and income does not cover costs.

5.3 Future Action

We wish to set up a Freight Advisory Committee to assist the Executive and Trustees to establish a new policy on Freight. This Committee would be drawn from experts in transport and logistics across all modes (rail, road and water). It will examine the data available from BW and elsewhere. It will consider what NWC's role should be in promoting and facilitating waterborne freight transport and recommend a policy framework for the charity. We have not yet begun to identify suitable candidates for this Committee.

Position Date: Mid 2012.

6. Health and Safety

6.1 Background

BW's approach to managing the health and safety of employees, contractors, volunteers and users of the network was outlined in a recent paper to Trustees.

6.2 Current Policy

We believe that our approach and policies are pragmatic and proportionate in relation to a publically accessible infrastructure network.

6.3 Future action

Given that a number of stakeholders believe that our approach to health and safety is over the top it is important that Trustees confirm that our policies remain appropriate for NWC. It would represent good health and safety practice if a Trustee was nominated to take a special interest in health and safety matters.

Position Date: early 2012

7. Heritage

7.1 Background

We are privileged to care for the third largest estate of listed buildings and structures in the UK. The heritage of the network defines much of its popular attraction so we are always at risk of eroding its value through poor repairs and maintenance. Our stakeholders also consider we should retain and even acquire more buildings of historic waterway importance.

7.2 Current Policy

Our policy is that we should only retain those that are of critical operational importance or where there is no other suitable home. This has led us to sell of many of our listed lock cottages for example.

7.3 Future Action

The Trustees need to review BW's heritage policy and either endorse it or amend it to suit their requirements.

Position Date: Late 2012

8. Environment

8.1 Background

The natural environment again defines much of what makes the waterways attractive. We care for over 60 SSSI's and hundreds of special conservation areas. This is one of the most heavily regulated parts of our activities and we spend a lot of staff time ensuring we comply with the many environmental, waste, water and other regulations.

8.2 Current position

BW has for many years had a sizable environment team with many specialists. This team was considerably reduced in the last efficiency savings. We now concentrate on operational matters and have less time available for monitoring research etc. We do not consider we have lost any key capability to manage our environmental responsibilities.

8.3 Future Action

The Trustees should at some stage review BW's environmental policy and either endorse it or make any necessary changes

Position Date: Late 2012

9. Water Resources

9.1 Background

General

Much of the BW network relies on managed supplies of water (reservoirs, river abstractions, groundwater abstractions, effluent discharges and backpumping) to ensure sufficient water to maintain navigable levels and support lock usage. The 2008 BW National Water Resource Plan (NWRP) identified a number of future pressures on our water resources (climate change, increased boat usage, asset deterioration, increased regulation) and forecast the impact on meeting our current standard of supply through to 2030, against three scenarios (Best, Average, Worst case).

Five “hydrological units” were identified as failing to meet this standard (in the “Best Case” scenario), and Directors asked the Water Management team to develop individual Water Resource Plans, using the best case scenario, for each unit, with costed, prioritised investment plans for schemes to improve the deficit (either via reduced water demands and/or increased water resources). The five hydrological units are: 1) Leeds & Liverpool Canal, 2) Kennet & Avon Canal, 3) Oxford & Grand Union Canals, 4) Peak & Potteries, and 5) Shropshire Union, Staffs & Worcestershire Canals. The first two of these were modelled as being unable to meet the standard at present; the other three were projected to fail before 2030. A sixth unit (Rochdale Canal) was also identified as not meeting the standard, but Directors agreed that we had inherited this standard of supply, and were managing the canal on behalf of The Waterways Trust, so a Water Resource Plan was not required.

Threat to Abstractions

Currently, any surface water abstraction by a navigation authority is exempt from the requirement for abstraction licencing due to s.26 Water Resources Act 1991. This exemption will be removed when s.5 Water Act 2003 is commenced, and the Environment Agency (EA) will be responsible for determining the applications for abstraction licences. Transitional Regulations have been drafted by Defra, to define how and when the removal of exemptions will be implemented. British Waterways are thought to have around 250 licensable abstractions which provide valuable water to our canal network, although the precise number is still subject to some interpretation.

9.2 Current Position

General

The Water Management team is nearing completion of Water Resource Plans, and have developed whole life costs (expressed as Net Present Value) for each of the improvement schemes (covering both capital and operational cost, over a 35 year lifecycle). The drought conditions (and associated restrictions to navigation) experienced to date in 2011 have affected two of the five hydrological units that our original NWRP identified as likely to experience problems, confirming the validity of the NWRP and highlighting the importance of planning future investment, should the Trustees wish to maintain the same standard of supply for our canal network (BW Directors previously agreed that this standard should be a 1:20yr return period drought, i.e. 5% probability of occurring in any year).

Threat to Abstractions

The likely commencement date for the removal of abstraction exemptions is expected to be no earlier than October 2012, with a one year application period following. It is expected that the EA will then have five years to determine the application. The Water Act makes compensation provisions for those who were previously exempt who suffer loss or damage as a consequence of the EA failing to grant a licence (or granting one on more restrictive terms). However, the 2009 consultation by Defra on the implementation of the removal of abstraction exemptions proposed that public authorities will not be eligible to claim such compensation. As the NWC are now thought to be included in the definition of a public authority, BW has expressed concerns over this provision to Defra, but to little avail. The most concerning aspect of the removal of exemptions is the changing scope of any likely curtailment of our existing abstraction rights.

Initial discussions referred to maintaining the *status quo* in the majority of situations, although it was acknowledged that abstractions impacting on internationally significant sites (i.e. Habitats Directive) would be likely to face restrictions upon issue of a licence. Based on information received from the EA in the past year, it is now a concern of ours that the EA will seek to restrict our abstractions against a wide range of drivers, thereby adversely affecting our water resource position [see associated Trustees Paper on Water Resources]. The EA have stated they may need to adopt this approach as Defra are unwilling to dis-apply their general environmental duties. Furthermore, as we have not received any quantitative information from the EA on the likely extent of any restrictions, it is very difficult to estimate the extent of the impact on maintaining the desired standard of supply, and hence any likely costs that NWC may face to secure new water from alternative sources (or the impact of a reduced standard of supply).

9.3 Future Action

General

Once finalised in Autumn 2011, the schemes in the individual Water Resource Plans will need to be phased for deliver (typically via Major Works) over the planning horizon (present day to 2030) to ensure the system is able to meet the desired standard of supply, providing that the Best Case Scenario is experienced. The level of investment will be greater for the Average and Worst Case Scenarios. The approximate capital costs are £3.2m - £3.6m and the total operational costs are £4.0m - £5.3m, based on 2011 prices, although these are still being developed and are subject to some uncertainty.

With the proposed merger of The Waterways Trust and British Waterways to form the NWC, it will be necessary to prepare a Water Resources Plan for the Rochdale Canal hydrological unit; work on this will start in November 2011.

Threat to Abstractions

We will continue the debate with Defra and the EA to progress the issues raised above, and to seek to minimise the impact of the removal of abstraction exemptions on BW's water resource position. If necessary, we will vigorously challenge the EA determination process and formally appeal the imposition of licence conditions that we consider unreasonable. There may be scope to influence the contract negotiations as a result of this risk.

Position Date: Mid 2012

10. Water Framework Directive

10.1 Background

The Water Framework Directive (WFD) aims to standardise management of the water environment across the EU and ensure the attainment and maintenance of minimum standards defined in terms of ecology, chemical quality and hydromorphology (referred to as "Good Status"). While there is a fairly long timescale allowed for attaining these standards (2015 or 2021), no deterioration from overall current conditions is allowed in the interim.

There are potentially massive fines (hundreds of millions of pounds) for any member state that fails to properly implement.

The WFD affects ***all*** surface watercourses (including our canals); all groundwater; and standing waters such as our reservoirs where they are over a certain size or designated as SSSI.

Artificial water-bodies (i.e. canals and reservoirs) and heavily modified water-bodies (i.e. engineered river navigations) are allowed to maintain lower standards where to do otherwise would adversely impact their use. This is referred to as “Good Potential” and varies depending on the use to be protected.

All waterbodies have been characterised (defined as Artificial, Heavily Modified or Natural and then assessed for Good Status or Good Potential accordingly) and BW has been involved in this process where it affects our waterways. For Artificial and Heavily Modified navigations this has involved setting standard mitigation measures which can be adopted without adversely affecting use.

The main tool for implementation is then the River Basin Management Plan (RBMP) which works at a large scale (e.g. the whole of the Thames catchment including all tributaries) to identify why waterbodies do not meet Good Status or Good Potential and set out the actions required. These Plans are drawn up by the Environment Agency (EA) with wide stakeholder involvement and BW are represented on the partnership groups for the main areas affecting us (Severn, Thames, Humber and Northwest).

The Plan then drives regulatory action under existing controls (changing or revoking permits for instance and identifying requirements for EA consents for works in watercourses) and improvement programmes by water companies and other relevant public funding arrangements.

10.2 Current position

- I. BW has been assigned some specific local actions in the various River Basin Management Plans.

These are generally in line with the standard mitigation measures agreed nationally (see 3 below) which we are implementing. Where they are additional to this (i.e. improving migratory fish passage at weirs), our approach has been to state that we are happy to see these works take place but not at our cost. This area represents a potential future risk.

- II. Requirement to prevent deterioration of current condition of waterbodies

Waterbodies are quite large, and deterioration of condition would require quite significant impacts, however we are already experiencing pressure from the EA to implement what we would see as “enhancements” in circumstances where we need their consent. Our approach to this is to implement certain standard measures (as outlined in (3)) for activities most likely to impact (such as bank protection) and argue against any additional requirement. This risk is adequately covered.

- III. Standard measures agreed by BW during the condition assessment process to deliver “Good Potential”

BW identified certain reasonable and deliverable standard measures that we would implement, largely through the Environmental Appraisal system, to achieve the required standards for “Good Potential” (which takes into account that we do not need to compromise use in order to do so).

These have been incorporated into the Environmental Appraisal templates, so use of Appraisals and delivery of the actions set out in them achieves compliance with the Directive. This ensures that this risk is being adequately met without excessive costs to BW

IV. New regulations e.g. eels / fish passes and weirs

Some new regulations are being passed or will be required in the future to facilitate the implementation of WFD requirements, such as installation of fish passes. This process has already started with, for example, the Eel Regulations in England & Wales. There are also a number of general powers available to regulators which could be used in the future to implement WFD requirements.

As with other environmental Regulations affecting our activities, these are subject to review with our Legal team and detailed consultation response to protect BW’s interests. Any necessary actions are incorporated into our Environmental Appraisal system.

This remains an area of risk where future regulations or a change in the implementation of existing powers could impose costs on BW/NWC.

10.3 Future action

At present the government is delivering WFD requirements through existing mechanisms – regulatory action, water company improvement programmes and relevant public funding streams including £110m announced in 2011 specifically to address some of the issues in the River Basin Management Plans.

BW’s position remains that we can undertake certain measures as a standard part of our maintenance of the network but that significant changes (such as new fish passes) need to be centrally funded (as per recent EA offer of funding for a new fish pass at Knostrop weir on the Aire & Calder).

The main threat is that this funding may not be available in the future/ for all requirements and that regulatory action might be taken against BW/NWC to enforce WFD requirements.

Position Date: Late 2012 or earlier if indications of funding regime changes arise.

11. Climate Change

11.1 Background

It is now generally accepted that globally Climate Change is occurring as a consequence of the activities of man. 'Climate change' means the increase in the Earth’s average temperature since the beginning of the 20th century and its impacts now and in the future.

Since about 1900, the average near-surface temperature of the planet has increased by 0.75 degrees Celsius and the UK's sea level has risen by about 10 centimetres. Further global rises are expected, as well as more extreme weather events like flooding and drought. In order to understand the potential scale of climate change and its likely impacts many organisations have developed complex models to predict what these changes might be.

Predictions are uncertain but indicate that in winter there will be more rainfall and rainfall intensity will increase whilst in summer there will be less rainfall but increased intensities. This will result in:

- Peak winter river navigation levels could increase and occur more often;
- More strong stream warnings could be issued;
- More water could flow into canals;
- Increased boater traffic in response to warmer weather;
- Reduction in summer water resource availability;
- Overtopping could occur more frequently and with greater depth; and
- Flood induced breaches could increase.

11.2 Current position

In December 2009, Defra invited BW to report to them on the risks presented to BW by climate change and our plans for adapting to them. Defra expect that the report will include an assessment of the impact of climate change on BW/NWC's functions and our proposals and policies for addressing these impacts; the report is currently being completed.

In preparing the report for Defra, we have used the 2009 UK Climate Projections (UKCP09) produced by the UK Climate Impacts Programme (UKCIP). Projections are available for every decade from the 2020s to the 2090s but we have chosen to base our report on the projections for the 2050s, because

- our water resources strategy used a 25 year time horizon (it can take as long as this to build a new reservoir);
- the assets we maintain and build have life times of anything from 5 to 100 years;
- emissions in the three scenarios start to diverge widely after the 2050s.

We have looked at projections for all UK regions that contain our waterways.

At its simplest by the 2050's, we must expect:

- milder, wetter winters
 - average winter temperature to increase by between 1.6 and 2.2 °C depending on region
 - average winter precipitation to increase by between 10 and 17 % depending on region.
- warmer, drier summers –
 - average temperature increase between 2.0 and 2.7 °C depending on region.
 - average summer precipitation to decrease by between 11 and 20 % depending on region.
- sea level rise

These changes progressively increase from North West of the UK to the south east.

Other aspects of climate are also predicted to change, those of relevance to BW being:-

- cloud – moderate increase in summer
- wind – relatively small changes

The report considered the impacts, risks and adaptation measures in eight business areas:

- Recreation
- Utilities and freight
- Asset Management
- Environment
- Human Resources
- Water Management
- Operations
- Heritage

11.3 Future action

Of the 56 impacts identified, only 5 have been assessed as posing an unacceptable risk after current adaptation measures are taken into account.

The five high risk impacts are:

- Increased risk of failure of earth structures
- Damage to assets from river flooding
- Overheating of offices
- Flooding of culverts
- Increased dredging requirement

There are a further 10 with only a marginally acceptable risk. The priority for future adaptation measures for these impacts have therefore been assessed as HIGH and MEDIUM respectively. These measures have been put into an action plan which will be included in the forthcoming Business Planning instructions and reviewed at appropriate intervals.

Position Date: Mid to late 2012.

12. Investment Policy

12.1 Background

The investment strategy of British Waterways has been focussed on property assets and equity held in joint ventures, predominantly as a consequence of the statutory powers of the organisation and its status. However, other assets are also held by British Waterways with typical investment characteristics although the value of those assets is not fully reflected on the balance sheet of the public corporation. These “investments” include a direct managed on-line mooring business, a marina business (BWML) and the utilities business.

All these businesses provide income which, taken with income from the “regulated” boat licencing side of activities, gives a broad spread of risk characteristics which has helped the organisation manage business effectively, particularly during the recent economic downturn. Even within each activity area, there is a spread of risk characteristics which adds further to the risk management equation.

BW is currently unable to borrow money, has limited powers of reinvestment (in terms of type and location) and has a significant endowment property portfolio which has strongly influenced its approach. As a consequence, the skills and experience available within the organisation have developed to ensure that the potential of its assets, within the currently defined parameters, can be optimised.

Capital for investment is currently largely self-generated, deriving from the sale of investment property with low returns and limited potential, and development assets which have been matured through securing planning consents and preparing them for development.

12.2 Current Position

In summary, the current spread of “investments” is set out in the table below with actual or estimated values as at 2010/11:

Asset	Annual Contribution	Capital Value (*=estimated)	Risk profile
Utilities – Omnibus/Easynet	£13.6m	*£200-£250m	Low
Utilities Other	£9.7m	*£130-£150m	Low/medium
Moorings	£3.3m	*£40-£50m	Medium
BWML	£1.3m	*£14m	Medium/high
Property – Investment	£18.4m	£222m	Medium
Property – Development	£3.5m	£122m	Medium/high
Property – Joint ventures (activity dependant)	~£10m	£90m	High
Total	£49.5m-£59.5m	£818-£898m	

In summary terms, this gives an asset value risk spread broadly along the following lines:

Risk Profile	Low	Low/medium	Medium	Medium/high	High
Capital Value	£200-£250m	£130-150m	£262m-£272m	£136m	£90m
Capital Value %	24-28%	16-17%	30-32%	15-17%	10-11%
Income	£13.6m	£9.7m	£21.7m	£4.8m	£0m-£10m
Income %	23-27%	16-20%	36-44%	8-10%	0-17%

The majority of the current portfolio is at the low to medium risk end of the spectrum and, as a consequence of current strategies to exit some of the joint ventures and convert those interests into medium to low risk property investment assets, this will enhance the proportion of the portfolio at the low risk end in both capital value and income terms. By late 2011/early 2012, the proportion of assets held in the higher risk joint ventures is likely to reduce to less than 5% of the portfolio by capital value. At the same time and as a consequence of current known events, this will also cause an increase in the value of the property portfolio by around £100m as a consequence of the current “business as usual” strategy. The “business as usual” approach will also accelerate net income from property for spend on the network from around £20m per annum in 2010/11 to £30m per annum in 2014/15.

12.3 Future Action

Going forward, as the waterways are transferred to a new charitable trust, the investment strategy needs to be reviewed in the context of the new corporate governance regime within which the waterways will operate, taking into consideration the needs of the network and the trust environment, together with new powers which the trust might enjoy. The current source of capital (internally self-generated) will inevitably expand to take-in other capital raising opportunities, including debt and bonds and, in time, legacies and other capital gifts. Additionally, NWC will have new and wider powers than BW to invest in different sorts of investments and we need to consider what beneficial impacts this might or might not have.

The overriding determinant of the investment strategy will always be the needs of the network in terms of the income it requires to operate effectively. Reduction in actual income through adjustment downwards of the overall risk profile will lead to increased asset risk in respect of core waterway assets as a consequence of reduced investment. Similarly, increasing risk profiles and thus income might lead to improving asset risk profile but may lead to volatility in income streams and an inconsistent investment profile.

There are a number of key issues which need to be explored to inform the trustees in their decision making and before a new strategy can be formulated. A further more detailed report will be issued for discussion by the Trustees in January 2012.

Position Date: January 2012

13. SAP Renewal

13.1 Introduction

The purpose of this paper is to provide a background to SAP, the related outsourcing contract with Logica and the plan to hold an independent review of SAP. The paper concludes with the rationale for procuring a specialist fundraising/volunteering package.

13.2 Background

BW chose the SAP solution in 2001 to replace it's aging legacy systems environment, which comprised a mix of bespoke and packaged software running on an in house managed IBM AS/400 mid range computer. Both hardware and software were end of life, inflexible and unable to support the rapidly changing business and consequently needed to be replaced. In January 2002 the BW Board approved the project to procure and implement SAP under the terms of a 10 year full managed service contract with Logica. This was the first major outsourcing contract to be implemented and therefore broke new ground for BW.

Implementation was planned in two phases. Phase 1 replaced all BW's legacy systems in one simultaneous big bang implementation which went live successfully on time in April 2003 after a planned one year development period. The much smaller Phase 2 was planned to deliver new functionality such as Customer Relationship Management but was cancelled in order to release the project team to make the changes required to support the major business re-structure of 2003.

The strategy was to manage the whole of BW's business within one ERP application eliminating the requirement for bespoke interfaces and making it easier to produce consolidated reports across all of BW's business activities. Since 2003 SAP has supported all BW's core business processes including:

- Back office processes such as finance, procurement, HR and payroll.
- Work and asset management.
- Plant maintenance.
- Project systems.
- Investment management.
- Sales and distribution.
- Property management.
- Analysis and reporting with Business Warehouse.
- SAP Enterprise Portal.

The solution interfaces with British Waterways' ESRI geographic information system to allow information on waterway assets from the SAP system to be viewed in GIS.

13.3 Delivery of benefits

A Post Project Appraisal was presented to the BW Board in January 2005. This demonstrated that the hard benefits accruing from savings in staff (61 in total) and the running costs of the legacy IT infrastructure had been delivered and were forecast to release £19m over the term of the outsourcing contract. Other hard and intangible benefits were forecast to be delivered in later years and included e-procurement which went live in 2005/6 and HR processes such as Manager and Employee Self Service implemented in 2011. The PPA recognised that SAP had supported the creation of the Shared Service Centre in Leeds and the delivery of the benefits that accrued from the improvement in back office processes.

SAP has now supported numerous business restructures, the system changes for which would have been more complex, costly and time consuming with BW's legacy systems as they would have required interface re-programming as well as changes to the organisation structures. A number of new companies have also been set up in SAP relatively easily for new BW operations e.g. Waterscape, BWML, Workshops and Property, which are either wholly owned subsidiaries or run as separate entities within the BW management structure.

13.4 Contract with Logica

The contract with Logica started in April 2002 for a period of 10 years ending in April 2012. The contract was designed to smooth out all the up front costs of procuring and implementing SAP. Logica financed these over the term of the contract with BW paying an annual fee, 71% of which was fixed and the other 29% subject to a pre-determined inflation calculation. Logica therefore paid for the SAP licences in 2002 and has financed the annual SAP maintenance charge which initially was 17% of the licence cost. The fixed priced element of the contract has shielded BW from the increase in maintenance charge which over the last few years has been increased by SAP incrementally to 22%.

Logica was the implementation partner and since 2003 has provided a full managed service from their data centre in South Wales. Software and hardware upgrades and other essential services such as Disaster Recovery tests were all built into the contract.

They provide second and third level support with first level support provided by a small in house BW Business Systems Team (8.6 FTE's). It was decided to have the in house team so that staff with knowledge of both BW and SAP could support the business. The cost of the in house team was market tested with Logica in 2004 and shown to be more cost effective than outsourcing to them.

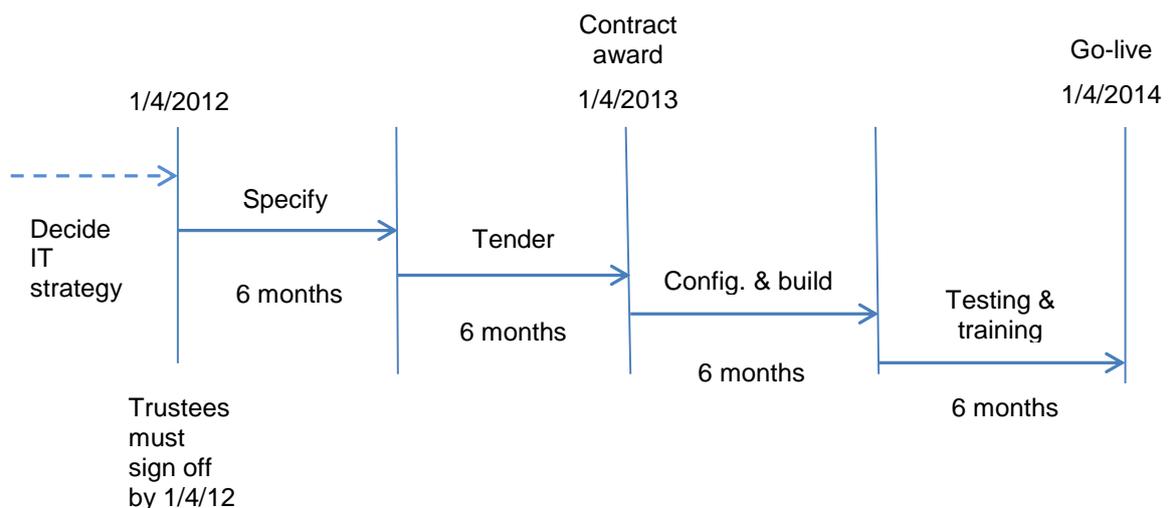
The cost of the Logica contract for 2011/12 is [...] (which includes 17% for SAP maintenance) plus [...] for additional services that have been commissioned over the term of the contract.

13.5 Logica Extension

The current contract with Logica is due to end in April 2012 at the same time that NWC is due to be inaugurated. The potential change of IT partner supporting the main business application at the same time as setting up a new organisation together with the time and resource required for a full European Journal Public Procurement exercise was considered too large a risk by the IT Board. They therefore agreed that a two year extension be negotiated with Logica which would give time for NWC and the Board of Trustees to become established and able to take an informed view about the replacement contract. This would also allow time for the procurement (minimum 6 months) and a transition period between Logica and any new supplier (4 to 6 months).

Negotiations are at an advanced stage with Logica and close to agreement at an annual fee of [...] from 2012. This is a large reduction over the current annual payment as all the up front costs for SAP licences and software implementation have been amortised over the term of the contract and represent a major investment which is now fully paid for. The annual SAP maintenance fee will be paid separately under the terms of the extension and potentially could be [...] at [...]% of the licence charge per year.

Negotiations via Logica have already started with SAP to try to reduce this fee. [...]



Position Date: March 2012

13.6 Review of SAP

The creation of NWC represents an opportune time to review the SAP strategy. The IT Board have therefore commissioned an independent review to be undertaken. The objective is to review BW's use of SAP and whether it is likely to remain relevant and cost-effective for NWC, or whether one or more alternative approaches could better meet NWC's corporate computing needs at lower ongoing cost.

The scope of the review is for a consultant to consider and provide expert advice on:

- BW's use of SAP and the value that it has given to the business.
- Alternative solutions to SAP including other ERP and Best of Breed packages.
- Market trends in the support and delivery models for business applications including Software as a Service as an alternative to application hosting.
- Feasibility of implementing an alternative to SAP including the cost, timescale and the disruption to the business during the change.
- Fit of SAP to NWC long-term.
- Scope for further leveraging BW's existing investment in SAP.

The review brief was sent to Deloitte, KPMG, Ernst and Young and Gartner. Costed proposals were received from Deloitte (£[...]), KPMG (£[...]) and Gartner (£[...]). Gartner have therefore been commissioned and will start the review in September 2011.

They have a maximum period of 3 months to complete the following:

- A report that addresses the objective and scope of the review.
- Present the report to the BW IT Board and Executive Directors as required.
- Deliver regular progress reports during the review to the BW Head of ICT.
- Provide presentation materials with the conclusions of the report which can be delivered to the new Trustees of NWC when they are appointed.
- On completion of the investigation provide all evidence, notes and other relevant materials to the Head of ICT.

Position date: Spring 2012

13.7 CRM/Fundraising/Volunteers

BW is currently not allowed to fundraise and therefore this will be a new activity after NWC has been set up. Volunteering is planned to grow rapidly over the next few years. Both are specialist activities which will require systems support. SAP has comprehensive Customer Relationship Management (CRM) functionality which BW uses for Boat Licensing, customer complaints and some customer interactions particularly in Scotland. It does not have, however, a pre-configured fundraising or volunteering system. This undoubtedly could be set up in SAP but due to the short implementation timescale (fundraising must be available for use on the 1st April 2012) and the lack of in house expertise, it was decided to procure an established standard fundraising package. After a procurement exercise involving the 6 most used packages in the charitable sector, ThankQ has been selected as providing the most cost effective match to NWC's expected requirements. BW's new Head of Fundraising, Ruth Ruderham, was involved in the procurement as was Caroline Killeavy who is responsible for volunteering.

14. Overcrowding/Congestion

14.1 Background

This is a problem of success. There are c35,000 boats on our waterways, some 10,000 more than there were ten years ago.

At some key points such as major lock flights and junctions, the system can be affected by congestion at busy times although the problem is notoriously hard to define as one person's 'intolerable delay' is another person's 'make a nice cup of tea and chat whilst waiting.'

In the main, this is a complaint by existing marina operators at busy points on the system. It usually arises when a new planning permission is sought by another business for a marina near an existing operation. Congestion is cited by objectors as a reason for the local authority to turn down a planning application. Our New Marinas Unit follows a transparent process in giving BW's (as opposed to Local Authority's consent) which takes account of the objective criteria of water supply and navigational safety. We do not consider congestion.

14.2 Current situation

After vigorous representation from a small number of marina operators in the Braunston area (facing applications for new marinas nearby) we persuaded the trade bodies, led for this purpose by The Yacht Harbour Association, to form their own working group to see if they could devise an objective practical definition of congestion that could become part of our processes.

So far, in over a year the working group has made little progress. There appears to be little common ground between operators and lack of unanimity about the need for the work.

14.3 Future action

Monitor boat numbers.

Let the working group take its course.

Water supply constraints are likely to be more influential on the development of new marinas in the next 5-10 years than congestion.

Position Date: Mid 2012

15. Hydropower and Wind Energy

15.1 Background

BW has an exclusive arrangement with Partnerships for Renewables (PfR) for the development of wind turbine sites on its estate. BW also has a non-exclusive arrangement with a number of developers to build hydro stations at its river weirs and other suitable structures. The main relationship in the hydro field is with the Small Hydro Company (SHC).

The BW Board approved, in July 2009, the taking of a 10% stake in the SHC in order to benefit financially from the long term potential of hydro generation on our network.

BW is also working with UK Hydro, Beneco, The Carbon Free Power Company and PfR at other individual sites with hydro potential.

At this stage, it is anticipated that BW's partners will ultimately develop around 8 wind and 35 hydro sites on our network, although as the technology develops, it is possible that this may expand.

BW is involved in these opportunities for three reasons:

- To provide a long term sustainable income stream to reinvest in the Waterway network;
- In line with Government policy, to develop sustainable renewable energy sources;
- Again, in line with Government policy, to make a contribution to reducing the UK's post-2016 energy gap.

By 2015/16, it is anticipated that income to BW will exceed £700k per annum and this will rise to over £1m per annum by 2020. There is also the potential for a significant capital gain if we eventually sell all or part of our shareholding in the Small Hydro Company.

To some extent, BW has been encouraged to proceed with wind and hydropower initiatives in the context of wider Government policy in these areas. In moving to the charitable sector, and thus away from the direct influence of Government, it is important to ensure the Trustees are comfortable with the principles of involvement in wind and hydropower initiatives.

15.2 Current Position

WIND ENERGY

Viable (windy) sites tend to be found north of a line stretching from Bristol to the Wash. PfR has investigated many potential BW opportunities and taken out options for 20 sites. Generally, securing planning permissions for and development of BW sites is not straightforward due to poor access, site characteristics (small, thin and linear) and environmental and heritage reasons. Other key constraints in the industry generally include microwave links, MOD matters, aircraft flight paths and radar. For example, major difficulties have been experienced on four sites between Doncaster and Goole due to radar issues associated with Robin Hood Airport. These are yet to be resolved.

PfR's first planning application for a BW site was submitted in February 2011 for a single turbine site close to Boddington Reservoir near Daventry. Pre-application consultation and environmental/heritage studies have been extensive and as a result, the Boddington site has reduced from a five turbine site to a single turbine site. This turbine will be a 1.9MW machine so as to benefit from "feed-in tariff" arrangements. To achieve this, the turbine must be generating by April 2013. The income for BW from this turbine will be circa £[...] per annum.

It is fair to say that opinion about the proposed turbine is polarised in the local community. Some local environment groups are in favour, but one Parish Council and a number of local residents are fiercely opposed to the turbine. In particular, BW has been contacted directly by Boddington Parish Council and local residents raising issues and expressing opposition to the proposals and asking that BW intervenes directly as landowner to stop the scheme. From the perspective of all our internal specialists, the proposed installation is acceptable with appropriate conditions on implementation.

HYDROPOWER

SHC has so far secured five planning permissions and four Impoundment Licences for hydro schemes. Other schemes with SHC and other Developers are either in the Planning/Permitting process or soon will be. A community scheme in Wales is also being developed.

The national angling body, the Angling Trust (AT) and its legal arm (Fish Legal) are very vocal in their opposition to hydro development, and have targeted their opposition at the SHC's schemes at Sawley and Gunthorpe on the River Trent. They have publicly criticised both the EA and BW and met with the Chief Executives of both organisations. AT holds regular meetings with Government Departments and has recently put hydropower on the agenda of a ministerial meeting. Whilst BW is not the regulator in this process, our involvement in these schemes is seen (by AT) as putting income as a priority over the environment. The AT's ecological concerns relate to the possible negative impacts upon fish migration patterns, installation of artificial fish barriers, potential for fish mortality (particularly eels) and the loss of fish spawning habitats. AT believe that all the proposed schemes submitted to EA have inadequate environmental impact studies and they are calling for a strategic impact assessment to be completed. Both the regulator (EA) and BW do not consider this is necessary. BW's developers have complied with all requests for environmental information requested by the regulator. AT has singularly failed to provide any evidence to support its position.

As with wind power, there has been internal consultation involving BW experts throughout planning and permitting processes. It is fair to say that our internal processes in this regard can and will improve but, in general terms, our environment and fisheries teams are comfortable with the environmental processes in place for the development of hydro schemes – namely, the requirement for planning permission and an impoundment licence – and consider that the Environment Agency is best placed to consider the detail of schemes from an environmental perspective as they have the expertise and resources to do this. Externally, consultation on hydro schemes has been largely focussed on the statutory processes around planning and impoundment permissions and BW has committed to improve this moving forward in conjunction with our partners.

15.3 Future Action

On wind energy, if Boddington, as the first site to be developed, can be taken as typical then further sites may attract similar objections. It is the view of the Executive that, given our comfort with the extensive studies into the impacts of the turbine and local consultation undertaken by PfR, BW should continue to support PfR in taking forward currently optioned sites. Future opportunities for expanding this business will, however, need to be carefully considered in the light of the revenue benefit versus management time to implement.

On hydropower, although schemes are less controversial in terms of the breadth of those affected, anglers are clearly a specific group of stakeholders who are likely to have stronger views than others. Given the views of our internal experts and the substantial statutory and regulatory processes in place, it is the view of the Executive that BW should continue with activity on hydropower but seek to improve consultation with local stakeholders, particularly anglers, who are specifically affected.

As noted above, BW has been encouraged to proceed with wind and hydropower initiatives in the context of wider Government policy in these areas. Notwithstanding this, there is a significant revenue benefit from involvement in these schemes over the longer term. In moving to the charitable sector, and thus away from the direct influence of Government, it is important to ensure the Trustees are comfortable with the principles of involvement in wind and hydropower initiatives, particularly in the context of the views of some of our stakeholders.

It is recommended that the Trustees confirm their commitment to these initiatives on the basis that:

- Significant meaningful consultation is part of the approach to such schemes from our partners;
- NWC regards the Environment Agency as the experts in determining the appropriate environmental impact and response to such proposals as provided in legislative, regulatory or administrative provisions;
- NWC regards the statutory planning and permitting process as the right medium in which to resolve local concerns/disagreements and should not intervene directly to cut across that process;
- Future wind power opportunities (beyond those currently in place) will be considered carefully in the light of the revenue benefit versus management time to implement.

Position Date: September 2012