

To: Hampshire, Portsmouth and Southampton Coroners Service
Castle Hill,
The Castle,
Winchester,
SO23 8UL

Email: [REDACTED]

For the attention of Mr Henry Charles
Assistant Coroner for Hampshire, Portsmouth and Southampton

By email only

24 January 2025

Dear Mr Charles,

Concerns raised in the Regulation 28: report to prevent future deaths dated 15 November 2024 (the "Report") following the inquest into the death of Emily Jane Lewis on 22 August 2020

Further to our letter of 10 January 2025, this letter is Associated British Ports' ("ABP") response to those concerns raised in section 5 of the Report that ABP may have the ability to take action in relation to, in particular the matters relating to the use of its Southampton statutory harbour area ("SHA") by small high-speed craft being operated for commercial purposes, and the action that ABP has taken, or proposes to take in relation to these concerns.

It is made pursuant to our duty to give a written response to the Report in accordance with paragraph 7(2) of schedule 5 of the Coroners and Justice Act 2009 and regulation 29 of the Coroners (Investigations) Regulations 2013 (the "Regulations").

The death of Emily Lewis on 22 August 2020 was a tragic event that has been subject to prolonged scrutiny, as befits the death of any young person; ABP responded to the Marine Accident Investigation Branch's ("MAIB") investigation into the incident and its recommendations and, while ABP was not an interested party in the inquest proceedings, we welcome the opportunity to respond to your concerns with the aim of improving the safety of all harbour users.

We note that the Report has been issued to a number of parties and that these are predominantly government, trade and industry bodies. It is the case that ABP is the only commercial party not involved with the inquest to receive the Report, showing the general and regulatory nature of the concerns identified, and their potential application to all harbour areas in the UK, and all port users.

Our response is set out in detail below, however, in summary we:

- respectfully wish to clarify the position regarding the risk assessments that were in place at the time of the SEADOGZ incident;



- favour a national, sector-wide approach led by the MCA, as the appropriate regulatory body, to the regulation of RIB craft being used for high-speed experience rides;
- set out the interim measures that have been put in place in the Southampton SHA regarding commercial vessels; and
- have issued a notice to mariners stating that AIS transponders are required for all vessels being used commercially in the Southampton SHA from 1 January 2025.

Clarification regarding ABP's risk assessments

Before addressing the concerns that you have raised, we would like to clarify a potential misunderstanding in the Report regarding the risk-assessments that ABP had in place at the time of the SEADOGZ incident.

In section 4 of the Report, you state that "*ABP (the harbour authority) had not assessed the risks of high-speed commercial passenger craft operations in its area*". That is not correct.

There are a number of high-speed commercial passenger craft that operate on a regular basis in the Southampton SHA, ranging from vessels similar to SEADOGZ to the Red Jet high-speed ferries between Southampton and West Cowes. The passage quoted above suggests that ABP has not considered the risks such vessels pose, which is not, and was not, the case and could lead to readers of the Report coming to the wrong conclusion.

ABP keeps its risk assessments under continuous review and updates them as necessary to reflect developments in relevant risks, changes in regulation and lessons learned from incidents and events that occur across the sector.

Since May 2020, before the SEADOGZ incident, ABP has had a risk assessment in place for the Southampton SHA that relates to the risks associated with a high-speed vessel colliding with navigational marks (SOT – 133-4) and another regarding the risks associated with a high-speed vessel colliding with floating objects (SOT – 149-6).

Following a review of the risk assessments in place after the SEADOGZ incident, we amended SOT – 133-4 to specifically apply to vessels of less than twenty metres in length and introduced a new risk assessment, SOT – 153-3, which applies to vessels greater than twenty metres in length.

The size of vessels is considered to be the appropriate determining factor as it is a suitable analogue for passenger capacity. The risk profile, and therefore the control measures, for large and small high-speed passenger vessels are materially different. ABP considers the navigational risk posed by commercial and non-commercial high-speed passenger vessels operating in the Southampton SHA to be substantially the same and therefore does not have separate risk assessments for them as it would not materially improve navigational safety in the SHA.

Coroner's concerns

We have reviewed the concerns in the Report and consider a, b, and e in Row 5 to be those that ABP may have the ability to take action in relation to. As such we set out our responses to these concerns below. For ease of reference we have followed the numbering in the Report.

- a. **Whether consideration should be given to the licensing arrangements for ports authorities and local authorities to achieve an early, uniform and comprehensible framework of the use of RIB craft on high-speed experience rides, including crewing levels, manoeuvres, craft standards and risk assessments**

The licencing of all small high-speed commercial vessels operating in the UK, including RIB craft on high-speed experience rides, is complex and it would be appropriate for changes to be dealt with at a national level to ensure a consistent approach.

At the local level for Southampton, Southampton City Council (“**SCC**”) is the licencing authority of pleasure vessels used for carrying passengers for hire pursuant to section 94(1) of the Public Health Acts Amendments Act 1907, as amended (the “**1907 Act**”), with ABP acting as its appointed agent for inspecting vessels to be licenced. However, under section 94(4) of the 1907 Act, a licence is not required for vessels otherwise licenced by the Secretary of State, such as where vessels are certified to the Small Commercial Vessel Code (“**SCV Code**”).

As such, if vessels certified to the SCV Code (as was the case with SEADOGZ) were required to enter into an additional agreement with SCC as a condition of a licence, SCC and, by extension, ABP as its agent, would be open to challenge for acting outside of their statutory powers.

As was identified in the MAIB’s report into the SEADOGZ incident, local authorities and statutory harbour authorities have different approaches and powers to regulate small, high-speed passenger craft, even in a limited geographical area such as the Solent. Given this variation, were one local authority or statutory harbour authority to implement a local regime to regulate high-speed experience ride operators, the operators could move their vessels to another SHA rather than complying with that authority’s requirements, undermining local regulation attempts.

As such, any changes to the regulatory regime would be best implemented through a consistent national approach, led by the MCA, as the national marine regulator, to ensure that there is a uniform, consistent and comprehensible framework in all UK waters that is properly communicated to the relevant commercial vessel operators.

ABP is in favour of an appropriate national, sector-wide approach for the regulation of RIB craft being used for high-speed experience rides, led by the MCA, as the appropriate regulatory body, with support from the relevant industry bodies that HM Assistant Coroner has identified in the Report (the BPA, UKMPG, RYA, and UKHMA). This would ensure that any requirements or additional safety measures that are considered appropriate are consistently applied across the UK and that they are properly communicated to all relevant port users and commercial operators.

b. Whether interim measures should be considered to manage risks of high-speed RIB experience rides

As stated above, ABP keeps its risk assessments under continuous review and updates them as and when necessary to reflect developments in relevant risks, changes in regulations, and lessons learned from incidents and events that occur across the sector.

Following the SEADOGZ incident ABP reviewed its risk assessments and safety management system to assess whether they should be updated or whether any measures should be put in place, resulting in updates to its risk assessments for high-speed passenger craft.

In addition, ABP, in consultation with the MAIB, issued notice to mariners no.52 of 2024, which has been reissued as no. 22 of 2025 (the “**NtMs**”) to implement a register of commercial vessel operators in the Southampton SHA.

The NtMs require all operators of small craft, boats or vessels undertaking paid work, training or carrying fare-paying customers in the Southampton SHA to provide certain vessel details to ABP. The NtMs also specify that the Port of Southampton may, if appropriate, inspect vessels in line with existing national standards (such as the SCV Code), agreed codes of practice, OEM handbooks and similar specifications.

The NtMs have been necessary as an interim measure due to the substantial length of time it has taken for ABP’s application for a harbour revision order to be processed by the UK Government. The application was originally submitted in June 2020, before the SEADOGZ incident, and once granted will give ABP a broader power of general direction, thus giving it greater flexibility to regulate users of the SHA and support safe navigation.

e. The need to consider whether there should be provision of AIS for RIB craft to facilitate monitoring and intervention in the event of unsafe practices being identified

ABP supports the use of AIS transponders by all commercial vessels and has taken steps to promote their use by vessels operating in the Southampton SHA through issuing the NtMs, which require all commercial vessels operating in the Southampton SHA to have an operational AIS transponder fitted unless they have been granted an exemption.

It is ABP's intention to issue a general direction to support this requirement once its harbour revision order application has concluded.

While AIS is an important aid to navigational safety, monitoring the AIS tracks of vessels (or a specific class of them), identifying whether they are operating safely or not, and potentially intervening in their operation in the Southampton SHA would be very challenging for ABP, require dedicated resources (with associated costs), and may not materially increase the safety of harbour users. Statutory harbour authorities do not have the powers, expertise or resources to generally police all vessels in their SHA and bring enforcement action in the event of non-compliance.

The Southampton vessel traffic service ("**VTS**") area covers 274mi² and is responsible for co-ordinating the movements of large commercial vessels in Southampton Water, the SHA of the King's Harbour Master Portsmouth and the area within 7NM of the Nab Tower. On a weekend in the summer there are likely to be several thousand vessels of all classes, engaged in a variety of activities, operating in the Southampton SHA. Many of them will have active AIS transmitters and in most circumstances it is unlikely to be possible to distinguish between a vessel being operated safely and unsafely from its AIS track alone.

While ABP does have an on-the-water presence in its SHA and its pilot vessels and harbour patrol craft may intervene on an ad hoc basis if they witness harbour users acting unsafely while they are carrying out their other duties, this is secondary to their general function.

ABP is committed to improving the safety of all harbour users and, as set out above, we keep our risk management systems under continuous review and update them as necessary to ensure that they reflect changes in regulation and relevant risks, and developments in best practice learned from across all of ABP's ports and the wider port sector.

Should you require any clarification on any of the above, please let us know.

Yours sincerely,

A large black rectangular redaction box covering the signature and name of the Harbour Master.

**Harbour Master, Southampton
Associated British Ports**