

# Delegated decision report

Committee	<b>DECISION UNDER DELEGATED POWERS</b>
	<b>DECISION CANNOT BE TAKEN BEFORE 05 DECEMBER 2018</b>
Title	<b>REVIEW OF COUNCIL ASSETS – RYDE/VENTNOR HARBOURS</b>
Report Author	<b>DEPUTY LEADER AND CABINET MEMBER FOR RESOURCES</b>

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## EXECUTIVE SUMMARY

1. The Council has been approached by a small number of private sector investors/developers expressing interest in acquiring and investing in Ryde and Ventnor harbours. Consideration of such an approach is consistent with the council's agreed strategies. The harbours have not previously been included on the council's published list of possible reviews and therefore members are asked to approve consideration of freehold or leasehold transfer of Ryde by way of an open marketing exercise and with the inclusion of a covenant that the property may only be used as a harbour/marina. With regards to Ventnor, members are asked to consider the external management of the Harbour by a third party. If successful this could result in a significant saving to the council. In the next 10 years the council is not in a position to cover a revenue loss estimated at £515k at current pricing and a capital investment exceeding £1.2.million to cover dredging and repair costs. Consideration needs to be given at this stage to look at the options to protect the future of the harbours.

## BACKGROUND

### Ryde Harbour

2. Ryde harbour was constructed as part of the Ryde seafront development which included the car park, coach park, the ice rink and bowling alley. The tidal harbour was a later addition to the overall scheme with construction commencing in 1990 and the official opening in July 1991. It occupies an area of 1.8 hectares; it provides half tide access and can accommodate approximately 150 boats through a mixture of long stay (102) and short/overnight stay (48) berths.
3. The harbour is a popular marine destination on the south coast and receives in excess of 26,000 visitors each year; however the shore side hospitality facilities are well below the standards recommended by the Royal Yachting Association and this is a constant source of comments and complaints from harbour users.

4. The operation of the harbour requires essential annual maintenance works including dredging to remove accumulations of silt and beach material from around the entrance of the harbour and the area immediately adjacent to the harbour arm. It has also been necessary to carry out two major dredging operations to remove silt from the entrance channel and across the whole of the harbour area; these were undertaken in 1994 and 2002 at a combined total cost of £208,000. A specialist report produced in 2006 identified that the major dredging would be required every 6-8 years and that the next dredge would be due around 2008/09. It also identified that the gabions which make up part of the harbour may require replacement around 2016/17 and that the likely cost would be in the order of £800k, £1,062k at current pricing. The forecast capital dredge and the replacement gabions have not yet been required but the harbour is being closely monitored, as this work will be required in the future.

#### Ventnor Haven

5. Ventnor Haven is a small fair weather haven situated on the Esplanade, Ventnor. Part of the facility is used by a local sea fishing and processing company, and there are 5 permanent moorings small number of visitor moorings within the Haven. The 4 offshore moorings situated in deep water used during summer months have been discontinued, as the cost of their placement and removal far exceeded any income.
6. The Council owns the freehold interest of Ventnor Haven and It has granted a 125 year ground lease to a local sea fishing and processing company in an area in the centre of the Haven. The tenant has constructed a building on stilts that sits above the water and which provides for the landing of catch from boats operating from the harbour, a small scale fish processing facility and wet fish retail outlet, together with a fish and chip shop. The tenant is responsible for the maintenance and repair of this facility.
7. Since the Haven was built it has experienced the build-up of microalgae (seaweed), which has caused environmental issues in the town .The annual cost of removing the microalgae is currently £75,120. The cost of removing the microalgae is not sustainable and whilst alternative methods of dealing with the seaweed have been explored, no viable alternative has been identified. .
8. The council is the Statutory Harbour Authority for Ventnor Haven. Statutory Harbour Authorities (SHAs) are responsible for running most operational ports and harbours in the UK. Their powers are derived under a mixture of national and local legislation. Their duties typically include keeping the port or harbour open for the shipping and unshipping of goods and passengers, environmental protection and navigational safety. One of the three main types of SHAs in the UK are statutory ports and harbours run by councils. Ryde is not a Statutory Harbour

#### Ryde and Ventnor Harbours

9. Given the financial pressures facing the council and the need to prioritise its limited resources towards its statutory obligations the ability of the council to financially support the harbours, a discretionary service, in the short to medium term may be limited.
10. In this context a recent approach to the council by a small number of private sector investors/developers interested in acquiring the harbours is to be welcomed. The

council's duty to obtain best consideration when outsourcing of an asset precludes it from negotiating directly with potential purchasers and requires the council to seek best offers for the harbour before it can consider freehold or leasehold transfer or any form of outsourcing of the management function.

11. The possible freehold/leasehold transfer of the harbours or its management has not been included in the council's plans; therefore if this opportunity is to be explored then it is necessary for the council to confirm its approach to both harbours.
12. Consideration of the freehold/leasehold or outsourcing of the management of the harbours is entirely consistent with the council's expressed strategy to, "identify those services which we will no longer provide or those that we might enable others to provide with minimal input from the council. On this basis it is suggested that Ryde Harbour is offered for freehold/leasehold transfer on the open market but with restrictions via a covenant to ensure it will only used as a harbour. It is also important that the Council includes a reversion clause with compensation to allow any future developed of the seafront. In respect of Ventnor Harbour it is proposed that interest is sought for its management at no cost to the Council.
13. If the council is not able to secure new operators for these harbours then it will need to continue with its direct operation and management of these facilities until such time as a further review of their operation and sustainability can be considered.

#### STRATEGIC CONTEXT

14. The potential to outsource the harbours may create new opportunities and protect the assets in addition to and improving the Councils future financial position. Namely it will support the following commitments in the Corporate plan 2017-2020
  - Deliver economic growth and prosperity
  - Plan for our future needs
  - Provide sound financial management

#### CONSULTATION

15. The interest of the private sector investors/developers in the harbours presents a significant opportunity for the council however, in order to take advantage of this opportunity members need to determine the approach that they wish to take with both harbours.
16. All interested parties will however be able to make representations through the normal processes in the consideration of this paper. If the paper is approved a wider consultation will follow to seek the views of interested parties to be taken into account when considering the terms of any leasehold or freehold transfer or other arrangements to be put in place.

#### FINANCIAL / BUDGET IMPLICATIONS

17. The average last two year revenue subsidy, 2016-2018, provided by the council towards the operation of Ventnor harbour has been £65k per annum. Over the same period, Ryde Harbour has generated of £13.5k surplus. Hence the cost of operating both harbours is £51,500. This average annual figure excludes any significant one –off

costs during the period, such as specialist consulting costs for Ventnor, and pontoon replacement costs for fire damage for Ryde.

18. The costs associated with the marketing of the harbours and the evaluation any proposals received can be contained within existing budgets.
19. Within the next 10 years, it is estimated that in the region of £1.2 million will need to be found for essential repairs and maintenance

### CARBON EMISSIONS

20. There are no direct implications for the council's carbon management plan arising from the recommendations in this paper. There may be a potential increase in the Island's overall carbon footprint if the harbour is developed in the long term to provide a greater economic benefit to the Island.

### LEGAL IMPLICATIONS

21. The Council has the power to dispose of property under section 123 of the Local Government Act 1972, which requires it to achieve "best consideration" in any disposal.
22. Ryde Harbour is owned freehold by the Isle of Wight Council, but may be subject to a number of constraints to regeneration such as restrictive covenants in favour of the Lind and Bridgstock estates. The council has commissioned a report on title of its property assets on Ryde seafront and this will clarify these and any other recorded constraints. These constraints will be disclosed to potential bidders for the harbour during the marketing process and may impact on the value of the harbour.
23. Ventnor is a Statutory Harbour and will be required to seek approval from the Marine Management Organisation before the management function could be outsourced.
24. The council will need to be mindful of the Transfer of Undertakings (Protection of Employment) regulations (TUPE) 2006 which seek to protect employees' terms and conditions of employment (including pay, benefits and pension) when a business is transferred from one owner to another. In such cases the council staff would automatically become employees of the new business on the same terms and conditions as they currently have as employees of the council. The council would be required to inform and consult staff affected directly and indirectly by the transfer to comply with TUPE and avoid the cost of unfair dismissal claims and Employment Tribunals.

### EQUALITY AND DIVERSITY

25. The Council as a public body is subject to general and specific duties under equality and diversity legislation and as such has a duty to impact assess its service, policies/strategies and decisions with regards to diversity legislation and the nine protected characteristics (race, gender reassignment, disability, age, sex and sexual orientation, religion or belief, pregnancy and maternity, marriage and civil partnership). There are no direct implications for the Council's duties under the terms of the Equality Act 2010 arising from the recommendations in this paper.

## PROPERTY IMPLICATIONS

26. The utilities block (known as the hospitality suite) for Ryde harbour provides shower and toilet facilities for harbour users and is located approximately 150m east of the harbour within the Eastern Esplanade public conveniences building which is in part leased out to Ryde Town Council. The possible freehold/leasehold transfer of the harbour will need to also include access to this facility and it is envisaged that this would be through a lease of part of the building.

## SECTION 17 CRIME AND DISORDER ACT 1998

27. There are no direct crime and disorder implications arising from the recommendations in this paper. If regeneration occurs as a result of this paper this may have a positive impact on crime reduction.

## OPTIONS

28. The options available to the council are:
- 1) To offer the freehold/leasehold of Ryde harbour on the open market with a restrictive covenant that it be only used as a harbour/marina; such covenants to only be removed if an alternative use of the area could generate a significant and sustainable economic benefit to Ryde and/or the Island. Any consideration should include a reversion to allow for any future development of the seafront
  - 2) To offer the freehold/leasehold of Ryde harbour on the open market with no restrictive covenants
  - 3) Not to offer the freehold/leasehold transfer of Ryde harbour.
  - 4) To offer the management of Ventnor Harbour to a third party through the open market at no cost to the council;
  - 5) Not to offer the management of Ventnor Harbour to a third party and continue to fund the current deficit.
  - 6) The final agreed terms of any transfer/outsourcing to a third party be to be the subject of a further delegated decision of the Cabinet Member, but where no terms are agreed then the council will continue to directly manage the harbour

## RISK MANAGEMENT

29. If the council is not able to agree to consider the transfer of Ryde harbour and the outsourcing of Ventnor Harbour and to take advantage of this current opportunity there is as risk that similar opportunities may not present themselves to the council again in the short to medium term.
30. There is a risk that should the council agree to consider offers for the harbours it is not able to reach a suitable agreement with any third party which satisfies the council's needs to see the economic benefit of the harbour areas sustained and improved in the short term. Were this to be the case the council would still have to operate and sustain harbours.

31. Local users of the harbour and other interested parties will be able to comment on any paper that comes forward seeking the council's approval to the terms agreed for possible options for the harbours. It is possible that the council may not be able to balance the needs of these groups with its own aspirations for the future of the harbours. This risk is common to many decisions where the council is unable to continue directly providing or supporting a specific service but is able to secure alternative provision of the service which whilst changed is not stopped or closed altogether.

## EVALUATION

32. The provision of the harbours is not a statutory duty of the council. It has not previously been included in the council's proposed plans because the council continues to fund and operate the harbours and has not yet made any decision as to whether it wishes to cease doing so. Given the pressures on public sector finances in general and the council in particular the council would need to give some consideration to its aspirations for the harbours, a discretionary service, in the very near future.
33. Central to these considerations will be the potential capital and revenue expenditure that will be required for both harbours to remain open. This would be a minimum of £238k for the major dredging of the Ryde harbour and may at some time include the cost of replacing the gabions that make up the harbour arm (previously estimated at 800K in 2006. Which becomes £1,062k at current pricing). Nevertheless when these works are due the council will have a choice of prioritising these works above other priorities for its limited funding. With regards Ventnor Haven it continues to operate the harbour with a net deficit of £65k which includes the £75k per annum cost for the removal of seaweed.
34. Securing private sector investment in the operation of the harbours, through its transfer of the freehold/leasehold for Ryde and for the outsourcing of the management function for Ventnor, may permit the harbours to be sustained without additional council input or cost.
35. Any private sector investor/developer that may acquire the harbours would wish to invest in the facility in order to ensure that it remains viable for the foreseeable future. This in itself may begin to improve the overall attractiveness and environment of the seafront and could encourage others to invest in the area.
36. Securing a private sector owner for the harbour could therefore provide an opportunity for the council to both resolve the medium term future of the harbours and provide a possible catalyst for other investment into the Seafronts. How well these objectives can be achieved can only be evaluated following this process that involves openly marketing the harbours and evaluating all of the bids received for it against these criteria.

37. RECOMMENDATION

Agree to implement options (1), (4) and (6)

Option 1 - To offer the freehold/leasehold of Ryde harbour on the open market with a restrictive covenant that it be only used as a harbour/marina; such covenants to only be removed if an alternative use of the area could generate a significant and sustainable economic benefit to Ryde and/or the Island. Any consideration should include a reversion to allow for any future development of the seafront.

Option 4 - To offer the transfer the management of Ventnor Harbour to a third party through the open market at no cost to the council;

Option 6 - The final agreed terms of any transfer/outourcing to a third party be to be the subject of a further delegated decision of the Cabinet Member, but where no terms are agreed then the council will continue to directly manage the harbour.

38. BACKGROUND PAPERS

Ventnor Haven Phase II Works Final Report – Royal Haskoning DHV 11.09.17

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Decision

Signed \_\_\_\_\_

Date

