



Paper to: Full Ryde Town Council, 28 January 2019

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Ryde Harbour – Options Paper

1. Introduction

1.1 This paper has been prepared by officers to assist the Town Council with its consideration of any way forward it may wish to agree in relation to the Isle of Wight Council's (IWC) proposed sale of Ryde harbour. It clarifies any matters relating to the harbour that the Town Council has considered to date and provides some early evaluation of any next steps that the Town Council could now take and how these next steps could be taken forward in terms of the Town Council's governance arrangements. Any evaluation provided is based on what is known to the Town Council and in the public domain at the time of writing this paper.

1.2 The Town Clerks are not recommending any particular way forward, this is for the Town Council to decide. The Town Clerks have not had access to any other information about the harbour other than that referred to in this paper.

2. Background

2.1 On 26 November 2018 the IWC Cabinet for Resources published a proposed delegated decision report in respect of Ryde and Ventnor harbours. The Notice of Decision sought representations in respect of the proposals by 4 December 2018. The report recommended that the Cabinet Member agree the following:

"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.

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

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.”

2.2 The Delegated Decision Report contained the following information about Ryde harbour:

- *It occupies an area of 1.8 hectares with half tide access and can accommodate approximately 150 boats with 102 long stay and 48 short stay/overnight berths*
- *The harbour is not a statutory harbour*
- *The harbour receives in excess of 26,000 visitors per year*
- *The harbour generated a £13.5k surplus in the period 2016-2018, with operating costs in the region of £51,500, which are shared with Ventnor harbour.*
- *The harbour requires essential annual maintenance works, including dredging. It is also anticipated that additional major dredging is also now due. The last major dredging exercise in 2002 cost the IWC £208,000.*
- *The IWC indicates that the gabions at the harbour now require replacement. The likely cost of this will be £1,062k based on a price quoted to IWC in 2016/17.*

2.3 At a Ryde Town Council meeting on 3 December 2018 the Town Council agreed the that the following representation be submitted to the Isle of Wight Council Cabinet Member in response to the delegated decision report:

“Ryde Town Council objects to the recommendations contained in the Delegated Decision Report in regard to Ryde Harbour and asks that the Cabinet Member for Resources attend a public meeting in Ryde to discuss alternative options with the Ryde community within the next two weeks, which should include the option of the Isle of Wight Council selling the Harbour to Ryde Town Council for a £1.”

2.4 The Town Council’s representation was submitted to the Isle of Wight Council by email early on 4 December 2018 and published as part of a press release by the Town Council later that day.

2.5 The resolution was not a formal expression of interest nor did it commit the Town Council to the purchase of the harbour— it was a request that the IWC Cabinet Member consider the sale of Ryde harbour to Ryde Town Council as an additional option in the Delegated Decision Paper.

2.6 The Cabinet Member telephoned the Town Council on 6 December 2018 to confirm receipt of this representation. During the conversation he recommended that the Town Council seek advice from a specialist consultant who has been engaged

previously by the IWC. The Cabinet Member then arranged for budget information about the harbour to be sent to the Town Council and this was circulated to Members in the week commencing 10 December 2018. In addition, the following statement from the IWC about the harbour was sent to the Town Council on 13 December 2018, circulated immediately to Members and published on the Town Council's website:

"Following the publication of a report on the future options for Ryde and Ventnor harbours, the Isle of Wight Council wishes to clarify its position.

The council wants to find the best option to keep the harbours operating as harbours.

The report seeks to begin a process of identifying a potential investment partner to take on the required maintenance and much-needed improvements at both harbours.

This process will be open to all potential partners from the public, private and community sectors.

Councillor Stuart Hutchinson, Cabinet member for resources, said:

"We welcome any credible proposals that help us address the investment needs of our harbours. To be absolutely clear about our intentions, the council is working to develop a revised approach for the regeneration of Ryde Esplanade, which focuses on maintaining it for leisure and recreational purposes. Previous plans drawn up identifying options for development are no longer being pursued. We've had lots of consultation with residents and other interested parties over recent months which has helped make this clear."

No formal response to the Town Council's representation has been received in writing from the IWC.

2.7 The Cabinet Member took his decision on Ryde harbour on 7 January 2019. The Record of Decision states that the IWC will now proceed to:

- (i) *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.*
- (ii) *To offer the transfer the management of Ventnor Harbour to a third party through the open market at no cost to the council;*
- (iii) *The final agreed terms of any transfer/outsourcing to a third party be to be the subject of a further decision of the Cabinet, but where no terms are agreed then the council will continue to directly manage the harbour.*

- 2.8 The Record of Decision does not name Ryde Town Council, nor does it commit the IWC to either conferring preferred bidder status on the Town Council or to selling the harbour to the Town Council for £1.
- 2.9 The Record of Decision was called in under IWC procedures by IWC councillors on 14 January 2019. This call in has been accepted. The call-in refers to the Town Council agreeing to undertake a feasibility study at the harbour, this has not been agreed at any Town Council meeting. Should the call-in change any of aspect of this paper this will be reported at the meeting.
- 2.10 The Ryde Society applied to register the harbour as an Asset of Community Value on 14 January 2019. The Clerks have been advised by a solicitor that there is no advantage at all in Ryde Town Council also making the same application. However, if Ryde Society's application is successful the Town Council can write to the IWC and ask to be treated as a potential bidder in relation to the asset. This will not mean that the IWC has to sell the harbour to the Town Council, but it will mean that the Town Council and any potential bidder would have limited amount of time to try and persuade the IWC to sell to them.
- 2.11 The Town Council now needs to therefore consider and agree whether it wishes to take any next steps regarding the proposed sale of the harbour and what these next steps will be.

3 Possible Next steps and Evaluation

- 3.1 Whilst the IWC Record of Decision does not make it explicitly clear that the IWC will now launch a formal expression of interest process should the Town Council be interested in considering whether or not to purchase the harbour the Town Council will now need to consider taking a formal decision about this one way or another. Alternatively, the Town Council may wish to not proceed with an expression of interest but ask to be fully consulted by the IWC in all matters relating to the harbour going forward with a view to ensuring that any future decisions taken by the IWC are in the best interests of the Ryde community.
- 3.2 Should, however, the Town Council formally agree to submit an expression of interest in the sale of the harbour to the IWC this will not commit the Town Council to the purchase of the harbour at this stage, but will hopefully enable the Town Council to seek and have sight of any commercial, budgetary and legal information relating to the harbour and its sale and to undertake any necessary discussions pertaining to the sale with the IWC, subject to legal advice.
- 3.3 If the Town Council agrees to submit an expression of interest in the proposed sale of the harbour then the information and discussions referred to above will need to be sought and undertaken by the Town Council in a structured way with Town Councillors having input and oversight of the process and with Town Council officers, under the direction of the Full Town Council, ensuring that all due diligence is carried out and legal and other professional advice sought and provided to the Town Council at every stage. This due diligence is necessary to ensure that the Town Council and the community fully understand what any purchase of the

harbour could entail. Town Council officers will not be able to take any key decisions in any matter relating to the harbour unless authorised by the Town Council. There will be financial and resources implications for the Town Council if its proceeds with an expression of interest.

3.4 Under its Standing Orders the Town Council can adopt a range of different mechanisms in order to enable an expression of interest process and any negotiations to be taken forward under a formal delegation from the Full Town Council. These include:

- i. Confirming the delegated authority already given by Full Council to the General Purposes Working Party on 9 April 2018 (minute 45/28) to explore the future of IWC owned services, including Ryde harbour following a criteria set out in the Vision Statement that was agreed on the same date. The membership of and terms of reference for the General Purposes Working Party were agreed at the last Annual Town Council meeting in May 2018.
- ii. Establishing a Ryde Harbour Committee, which will be a Committee of the Council in accordance with Standing Orders 29, 30 and 31. The membership and terms of reference for a Committee would need to be agreed by the Full Council.
- iii. Establishing a Ryde Harbour Working Party (3 members), which will be an advisory committee to the Council in accordance with Standing Order 34. The membership and terms of reference for a working party would need to be agreed by the Full Council.

(NB: any Councillor or Member of the Public requiring sight of the Town Council's Standing Orders can find these on the Town Council website under the Town Council tab at the top of the home page or can ring the Town Council office for assistance)

3.5 There will also be a need to ensure transparency around Town Council decision making going forward. However, because any negotiations with the IWC will need to be confidential, at their behest, this may mean that the mechanism adopted for taking forward any negotiations would be most effective undertaken either by via option **(i)** or option **(iii)** above as a Committee of the Council would need to meet in public and would therefore may need to regularly exclude press and public from some of its discussions.

3.6 The Town Council will also need to consider allocating a budget to any Town Council committee/working party that is tasked by the Full Council with taking forward an expression of interest process. The budget will be required should the Town Council need to seek any type of professional advice and Town Council officers will need to be authorised by the Full Council to spend this budget in accordance with the Town Council's Financial Regulations. It is very unlikely that any professional advice can be obtained at no cost to the Town Council.

3.7 Under all the options referred to above there will be a need for regular reporting to the Full Council (subject to confidentiality issues) and all key decisions would remain with the Full Council at every stage of the process.

4 Matters for consideration

4.1 The Town Council should also be aware of the following matters when considering next steps:

- Agreeing to make an expression of interest process does not, and should not, commit the Town Council to any final purchase as due diligence must be undertaken before any final decisions about a purchase are made
- The IWC has not indicated that the Town Council, should it proceed with an expression of interest process, will be the successful purchaser
- The Town Council has not yet been advised about whether any transfer/lease will be for monetary value or for a £1
- Whilst a transfer/lease could well be for £1 the IWC has indicated that the cost of necessary maintenance could be in the region of £1.2 million should the Town Council decide to undertake this maintenance in the future. The IWC has not given any timescale for these works.
- Any costs associated with running the harbour and/or with maintenance that aren't covered by the berth fees will need to be met from the Town Council's budget and precept and/or by borrowing
- There is a lack of information of what the presence of the reversion clause in any IWC transfer/lease will mean for any potential bidder.
- It would be good practice for the Town Council to consult on any proposals for purchase that may emerge and any financial implications these may have
- There will be a need for the Town Council to consider any other financial implications that may arise as a result of any purchase
- There will be a need for the Town Council to consider how the harbour will be managed should it proceed to purchase, including management and staffing implications.
- Proceeding with an expression of interest process will have resource implications for the Town Council in terms of staff time, costs of administration and any need to seek professional advice, including

legal advice. These costs will need to be met from the Town Council's budget.

5. Options

5.1 It is suggested that the Town Council now consider whether it wishes to agree a way forward. In order to assist the Town Council with this, and having regard to all the matters referred to above, it is suggested that the Town Council first considers the following **two options**:

- A. That the Town Council does not submit an expression of interest to the Isle of Wight Council or its agents in the sale of Ryde harbour but asks that the IWC fully consult and undertake discussions with the Town Council, berth holders, the Ryde Society and the community to ensure that any future decisions about Ryde harbour are in the best interest of the local community and stakeholders

OR

- B. That the Town Council submits an expression of interest to the Isle of Wight Council or its agents in the sale of Ryde harbour

5.2 If **Option B** is agreed then it is suggested that the Town Council agree one of the following mechanisms in order to take forward next steps; these options reflect what the Town Council's Standing Orders allow the Town Council to do:

- C. The Town Council confirms the delegation previously given to the **General Purposes Working Party** in respect of Ryde harbour and asks that the Working Party also now have oversight of the expression of interest process and any necessary discussions with the IWC. Key decision making will remain with the Full Council.

OR

- D. The Town Council establishes a **Ryde Harbour Committee** in accordance with Standing Orders 29, 30 and 31 with delegated authority to have oversight of the expression of interest process and any necessary discussions with the IWC. Key decision making will remain with the Full Council.

OR

- E. The Town Council establishes a **Ryde Harbour Working Party** (3 members) in accordance with Standing Order 34 with delegated authority to have oversight of the expression of interest process and any necessary discussions with the IWC. Key decision making will remain with the Full Council.

5.3 Should any of the above **options C, D or E** be agreed then the Town Council is asked to also consider the following:

- F. That the Town Council agree the membership of either a Ryde Harbour Committee or a Ryde Harbour Working Party.
 - G. That the Town Council asks that the Finance Committee identify a budget should the Council need purchase any legal or professional advice and that the Council notes that this budget will need to be spent in accordance with the Town Council's Financial Regulations
- 5.4 Should **option A** be agreed then it is suggested that the Town Council agree one of the following mechanisms in order to take forward next steps; these options reflect what the Town Council's Standing Orders allow the Town Council to do:

H. The Town Council confirms the delegation previously given to the **General Purposes Working Party** in respect of Ryde Harbour and asks that the Working Party also now have oversight of any future discussions/consultation with the IWC. Key decision making will remain with the Full Council.

OR

I. The Town Council establishes a **Ryde Harbour Committee** in accordance with Standing Orders 29, 30 and 31 with delegated authority to have oversight of and any future discussions/consultation with the IWC. Key decision making will remain with the Full Council.

OR

J. The Town Council establishes a **Ryde Harbour Working Party** (3 members) in accordance with Standing Order 34 with delegated authority to have oversight of any necessary discussions/consultation with the IWC. Key decision making will remain with the Full Council.

- 5.5 Should any of the above **options H, I or J** be agreed then the Town Council is asked to also consider the following

K. That the Town Council agree the membership of either a Ryde Harbour Committee or a Ryde Harbour Working Party.

6. Legal Powers

6.1 The Town Clerks have sought legal advice that confirms that the Town Council has the legal power to acquire and run a harbour under Section 19 of the Local Government (Miscellaneous Powers) Act 1976 and which confirms that the options presented are sound. As usual this legal advice is confidential, and the solicitor has advised that this could be shared with Councillors if required. It cannot be placed in the public domain.

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Town Clerks