

## Port of Ramsgate - Replacement of Berth 4/5 Funding

<b>Cabinet</b>	29th July 2021
<b>Report Author</b>	Director of Operations
<b>Portfolio Holder</b>	Cllr Ashbee, Leader of Council and Cabinet Member for Port and Harbours
<b>Status</b>	For Decision
<b>Classification:</b>	Unrestricted
<b>Key Decision</b>	Yes
<b>Reasons for Key</b>	Expenditure not in budget and exceeding virement rules
<b>Ward:</b>	Central Harbour

### Executive Summary:

The delivery of the berth 4/5 project has been delayed whilst an Environmental Impact Assessment (EIA) is undertaken to inform the planning and marine licence consents process. This unanticipated delay has resulted in a significant increase in the estimated total cost of the scheme which now exceeds the allocated budget. This report provides detail on the additional scheme cost and proposes an increase in the budget allocation. The report also provides a summary of project activity to date along with the revised programme for the delivery of the new berth.

Recommendation 1 is a decision for Cabinet.

Recommendations 2 and 3 ordinarily are decisions for Council, but are recommended to Cabinet as urgent decisions. This is because the duration of the delay in completing the contract is directly connected to the value of the increase in project costs and it is not therefore recommended that the decisions be held until the next available meeting of Council on 9th September 2021. As urgent decisions outside the Budget Framework, the Chair of Overview and Scrutiny has been informed and has given consent for the matter to be dealt with by Cabinet. The matter will be reported to the next scheduled meeting of Council in September.

### Recommendation(s):

1. A 2021-22 General Fund capital virement to transfer budget totalling £55k to the 'Berth 4/5 Replacement Project' scheme for the development of the EIA be approved, to be funded from a £25k transfer from the 'Replacement of Lead Lights at Port' scheme and £30k transfer from the 'Ramsgate Port & Harbour Utilities Supply upgrade' scheme.

2. That a 2021-22 supplementary capital budget of £325,000 be approved for additional costs associated with the 'Berth 4/5 Replacement Project' scheme, to be funded from a £50,000 revenue contribution and £275,000 of borrowing, in accordance with Rule 4 of the Budget and Policy Framework Procedure Rules.
3. That additional revenue expenditure of £445,000 recognised in the 2020-21 accounts and financed from the Council's earmarked reserves be approved, in accordance with Rule 4 of the Budget and Policy Framework Procedure Rules.

## **Corporate Implications**

### **Financial and Value for Money**

On 16 December 2019 Cabinet approved the expenditure for the replacement of Berth 4/5 via an open tender route and a revised budget of £1.497m for the scheme, of which £206k was funded from the capital projects reserve and the remaining £1.291m funded from borrowing.

The delay in progressing and completing the project has directly impacted upon the overall scheme cost. The additional costs (over and above the approved £1.497m budget value) as a result of the delay are estimated at £825k, bringing the revised total estimated costs to £2.322m.

The increase in costs consist, as detailed in Annex 1, of additional revenue costs totalling £445k and capital expenditure totaling £380k.

It has been necessary to account for the additional £445k revenue costs in 2020-21, as presented in the 2020-21 Outturn report included elsewhere on this Cabinet agenda. In order to comply with accounting standards it has been necessary to create a provision to recognise and finance the expected expense in full from 2020-21 budgets. The outturn report shows that this expenditure has been consolidated into the overall budget overspend position for the year and therefore funded from the Council's earmarked reserves. However it needs to be formally approved.

The capital overspend is £380k. Included in this total is the requirement to spend £67k on an Environmental Impact Assessment (EIA), this can be partly funded from existing uncommitted funding within the scheme, but a further £55k budget is required to fund this in full. It is proposed to finance this cost by transferring budget from existing maritime schemes with uncommitted funds in the 2021-22 capital programme.

The proposed budget virements are as follows:

- Replacement of Lead Lights at Port - remaining project budget £70k (proposed virement £25k)
- Ramsgate Port & Harbour Utilities Supply Upgrade - remaining project budget £55k (proposed virement £30k)

Should this virement not be approved, alternative funding sources would need to be identified in order to progress with the EIA. This would result in further delay and a consequent increase in costs for the council.

After consideration of the EIA, there is a residual £325k of anticipated capital spend that requires budget approval and also financing. This can be part-funded from proposed contributions from the 2021-22 maritime revenue budget of £50k, which reduces the remaining capital budget shortfall to £275k. It is proposed to fund this additional £275k budget requirement from further borrowing. Over the expected 20 year life of the pontoon this will result in an annual debt repayment of £13.5k and interest payments of £6k. There is no provision in the revenue budget for this £19.5k increase in the Council's debt and interest repayments and as such will increase the budget gap forecast for 2022-23 (last reported at c.£2m in Feb 2021).

It should be noted that the objective of the awarded contract i.e. the replacement of berth 4/5 has not changed following contract award so there has been no impact on project costs as a result of any change in scope.

It is proposed to procure the required Environmental Impact Assessment directly from the existing project consultant who is acting in the role of project manager. This is to maintain continuity following the development of the EIA scoping report and to reduce further impact on the project programme which will lead to a further budget pressure. This will require a waiver of the Council's Contract Standing Orders to award on the basis of a single written quotation.

## **Legal**

Recommendations 2 and 3 above are subject to Rule 4 of the Budget and Policy Framework Procedure Rules in the Constitution which state that all decisions outside the budget and policy framework should be made by full Council. These two recommendations are being brought to Cabinet as urgent decisions to fit in with the recommendation 1 which is a Cabinet decision in its own right, since the next available meeting of Council is not until September. The Constitution states that Cabinet can deal with urgent decisions outside the budget framework, subject to the agreement of the Chair of Overview and Scrutiny Committee.

## **Corporate**

The council has a contractual obligation to provide an aggregate berth at the Port of Ramsgate.

The current project was taken forward following a Cabinet decision made on 16 December 2019. This resulted in a procurement exercise and contract award in 2020 to deliver a floating aggregate berth.

It is likely that the financial impact on the Council will worsen in any scenario where the council does not achieve the completion of the works specified in the 2020 design and build contract.

## **Equality Act 2010 & Public Sector Equality Duty**

The proposal has limited relevance to the duty in respect of the protected characteristics. It is the officer's assessment that the duty is not engaged by this proposal and no impacts have been identified. However, should any issues arise as a direct result of this proposal in the future, they will be assessed accordingly.

## CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- *Growth*
- *Environment*

### 1.0 Introduction and Background

- 1.1 Feasibility and design work for a project to replace the existing aggregate berth (Berth 4/5) at the Port of Ramsgate commenced in 2019. The berth was at the end of its useful life and a report outlining options was considered at Cabinet on 16 December 2019. Cabinet decided to undertake an open competitive procurement for a single floating berth to replace the existing berth.
- 1.2 A procurement exercise commenced in February 2020 and a contract for a replacement floating berth was awarded on 1 September 2020. The programmed contract start date was 21 September 2020 for off site and quayside 'dry' works and 9 November 2020 for marine based 'wet' site works.
- 1.3 The Marine Management Organisation (MMO) indicated on 17 June 2020 that the project would need to be screened to determine whether an EIA would be required. The purpose of screening for EIA is to assess the effects that a project may have on the environment and people. Where it is deemed that there may be significant effects, the screening process will conclude that the applicant must carry out an EIA to inform statutory permissions such as a marine licence or planning prior approval / planning permission. On 17 August the MMO confirmed that an EIA would not be required for the berth 4/5 replacement project.
- 1.4 On 16th October 2020 notification was received from Thanet District Council as Local Planning Authority (LPA) that the project would need an Environmental Impact Assessment (EIA) to inform the planning prior approval application. This required the construction work (both dry and wet) to be delayed to allow an EIA to be developed and submitted to the LPA for approval.
- 1.5 It is not tenable for an EIA to be required for one statutory permission but not another as both are screened against similar criteria. The MMO confirmed that it would defer to the LPA's decision on the EIA when submitted to inform the marine licence application.
- 1.6 The existing berth was taken out of service and removed from its station in November 2020. This was unrelated to the replacement contract and was necessary due to the deteriorating condition of the berth and to avoid unacceptable H&S risk during the rougher winter weather. Until a new berth has been provided the port customer Brett Aggregates is bringing coarse aggregates to site by road rather than via sea. Road haulage of aggregates is less cost efficient than transporting it by sea.

## **2.0 The Current Situation**

- 2.1 Following the notification that an EIA would be required a scoping exercise was undertaken. In January 2021 an EIA scoping report was prepared by the project consultant who was commissioned as project manager for the berth replacement scheme. The EIA itself has not yet been started and will be informed by a formal scoping opinion. An Environmental Statement will form the output of the EIA and this will inform both the planning (prior approval) application and marine works licence application. These consents are administered by the LPA and the Marine Management Organisation respectively. It is important therefore that both organisations inform the response to the scoping report.
- 2.2 The EIA scoping report was submitted to the LPA on 28 January 2021 with an anticipated response date of 4 March 2021. However the required comments by the Marine Management Organisation on the scoping report were not shared until 6th July 2021. This in turn has delayed the issuing of the scoping opinion by the LPA which is still awaited at the time of preparing this report.
- 2.3 A quotation for the EIA development work (based upon the likely scope of the EIA) was also sought and received from the project consultant. Option 1 as recommended by this report will allow the EIA development work to be commissioned and started early in August 2021.
- 2.3 The anticipated total cost of the project has now increased significantly following the notification that an EIA will be required. A breakdown of the costs by activity can be found at Annex 1
- 2.4 The anticipated increase in project costs is £825k. Contributions totalling £80k are identified and proposed in this report reducing the residual shortfall to £745k.
- 2.5 A programme which indicates revised project timescales is provided at Annex 2. This programme is based upon the assumption that Cabinet approves Option 1 as described in this report. The revised project completion date is 19 August 2022 which compares with the original contract completion date of 31 January 2021. The programme shows the critical path items (i.e. those which are reliant upon the completion of the previous activity) through to completion of the project.
- 2.6 A timeline showing principle project actions and events from March 2019 is provided at Annex 3

## **3.0 Options**

Note: The recommendations described at the beginning of this report are for both Option 1 and Option 2 (below) to be approved.

- 3.1 Option 1 - Cabinet approve the £55k virement to fund the EIA. Option 1 will enable the development of the required EIA to commence in August 2021. Should this virement not be approved, alternative funding sources would need to be identified in

order to progress with the EIA. This would result in further delay and a consequent increase in costs for the council.

- 3.2 Option 2 - Cabinet approve the £325k capital budget and the additional £445k revenue costs as described in the *Financial and Value for Money* section of this report to cover the cost of the items set out in Annex 1. Should Cabinet not approve this supplementary budget it will require the decision to be taken to Council in September for consideration. This would result in further delay and a consequent increase in costs for the council.
- 3.3 Option 3 - Cabinet do not approve the additional project funding as set out at Options 1 and 2 and detailed in this report. This would leave the council unable to complete the project and therefore unable to fulfill its contractual obligations to the port customer and principal berth user Brett Aggregates. This could result in a significant financial risk to the Council.

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### **Annex List**

Annex 1: Budget Summary and Additional Estimated Costs  
Annex 2: Revised Project Programme  
Annex 3: Berth 4/5 - Project Timeline

### **Background Papers**

N/A

### **Corporate Consultation**

**Finance:** Chris Blundell (Director of Finance)

**Legal:** Estelle Culligan (Director of Law and Democracy)