

Port of Ramsgate Future Delivery - Project Update and Budget Change Proposal

Cabinet	25 July 2024
By	Mike Humber - Director of Environment
Cabinet Portfolio Member	Cllr Everitt, Leader of the Council
Key Decision	No
Decision classification	unrestricted
Call in status	Can be called in
Ward:	Central Harbour

Purpose of the Report

This report sets out the progress of the project to award a port operator concession contract at the Port of Ramsgate since the last update to Cabinet in January 2024. The report also provides an update on the closely linked Port Infrastructure project and the estimated cost of the proposed capital works. The report proposes a realignment of Ramsgate Levelling Up Fund (LUF) budgets (which will have the effect of increasing the allocation for the Port Infrastructure project) for approval by Cabinet.

Recommendation(s):

It is recommended that Cabinet:

1. Note the progress of both the port operator concession project and the closely linked LUF funded port infrastructure project.
2. Agree to the transfer of a total of £4.12m from the Fishing Facilities project and the Visitor Accommodation Opportunities project to the Port Infrastructure project,
3. Agree to the mechanism of a grant payment of £4.5m, to be funded from the Port Infrastructure project Levelling Up Fund budget, to the successful port concession operator to contribute to the cost of the required enabling works.

1. Summary of Reasons

- 1.1 Following the Cabinet Decision on 2 March 2023 to tender a concession agreement for the operation of a large part of the port, officers have progressed the development of the concession model ready for tendering on the open market. In parallel the closely linked port infrastructure project has also been developed further. The survey and design work on the latter project has allowed an updated cost estimate for the required capital works to be produced. This confirms that the works cost is beyond

the LUF budget currently allocated to the port infrastructure work. It is proposed that the majority of the budget currently allocated to the fishing facilities project will be reallocated to the port infrastructure project. This will not adversely affect programme outputs as it has already been established that the originally intended Fishing Facilities project is no longer deliverable. A smaller scale project to enhance fishing facilities at the harbour is still planned and a small budget allocation will be reserved for this purpose. This report also proposes the reallocation of funds from the Visitor Accommodation Opportunities project budget to the Port Infrastructure budget. More detail on these proposed budget transfers can be found in section 3 of this report.

2. Background

- 2.1 The Port of Ramsgate is a municipal port, operated by Thanet District Council as a statutory harbour authority. Construction of the port started in 1979 with commercial activities commencing in the summer of 1981. The port expanded rapidly throughout the 1980's to meet the demand for cross channel services with three roll on roll off (ro-ro) berths serving vessel arrivals on a 24/7 basis.
- 2.2 For the first 17 years of operation the private company Port of Ramsgate Ltd operated the commercial port. In 1998 following the cessation of Duty Free concessions, the two ferry operators, Sally Ferries and Ostende Lines withdrew their cross channel services and the port operator, Port of Ramsgate Ltd, ceased trading. In that same year the Council took the decision to start operating the port directly. The council successfully attracted a new operator, TransEuropa Ferries, which ran freight and car passenger services to Ostend for 15 years, until 2013.
- 2.3 The Port is built on land reclaimed from the sea. The council owns part but not all of the port. The part of the port which is generally constructed in the former sub-tidal zone is owned by The Crown Estate. A lease between the council and The Crown Estate is in place until 2106, the annual rent is currently £246k p.a. Negotiation with agents acting for The Crown Estate has confirmed that in principal landlord support exists for the concession port delivery proposal. The rent may vary depending on future uses/recommencement of cross channel Port operations.
- 2.4 Since the last scheduled cross channel service ended 11 years ago there has been a general lack of investment in the fabric of the site, the floating port infrastructure and maintenance dredging. Although an Open Port, the quality of the estate has presented challenges and made it impossible to host a new scheduled cross channel service without investment in the infrastructure that previously made it work.
- 2.5 The council had also stood down nearly all of its in-house resources that operated the Port when it was in regular use. The financial risk of standing them up again in the hope that shipping would use the Port was not feasible.
- 2.6 Brexit experiences, with legal challenges, cemented this position. There was very little investment in infrastructure, and therefore, significant investment would have

been needed to restart Port activity. Nevertheless, there has been regular interest since then from established operators to warrant investment and an organised attempt to test the market.

- 2.7 Parts of the site have been leased or sublet for Port related uses for a number of years, running in parallel to previous Port operations. Long term wind farm operators and aggregates customers have established bases at Ramsgate. Currently there are two wind farm operators servicing four wind farms via their operation and maintenance facilities at Ramsgate. Brett Aggregates have operated an aggregate importation facility since the late 1990's in the south east corner of the port, utilising Berth 4/5, for self discharge vessels. The aggregate that is landed is used in the local construction industry and also supplies a concrete batching plant within their curtilage for the same purpose.
- 2.8 The council has completed a significant amount of research and evidence gathering, including stakeholder engagement over the recent years to understand the future opportunity for the Port of Ramsgate. In 2019 the council commissioned WSP to complete a high level study, which was published in January 2020.

Options reviewed in the 2020 WSP report included:

- Commercial maritime - such as Ro-Ro, cruise, trade cars, bulks, vessel maintenance
 - Other Commercial - including retail and industrial
 - Residential - dwelling only developments and mixed use options
 - Leisure - including holiday sector, filming, marina development, hotels, food and beverage
 - Mixed use - such as combining residential, leisure, commercial and industrial in a marina village type development
- 2.9 The consultancy team from WSP identified that there could be the possibility of a mixed use development on the Port and Harbour, but that there would need to be further work, and special consideration or mitigation measures implemented for some of the commercial proposals, if residential and leisure developments were also to be considered around the Commercial Port. The leisure and residential proposals were considered by WSP to be most relevant close to the Harbour. However, through the development of the Levelling Up Fund bid, this area was instead considered by the council to offer significant opportunities for job growth working alongside the wind farm operators in the development of a 'Green Campus'.
- 2.10 The 2020 WSP report also identified that developing a mixed use site which retains the potential for ro-ro ferry services, while adding light-medium industrial zones, a larger renewables O&M facility with better-located berths, would maximise the value which can be derived from the current Commercial Port site. Since the publication of the WSP report there have been a number of proposals and pitches to the council in relation to activities that could be delivered within the Commercial Port. These

proposals range from a housing development, removal of existing commercial uses, proposals for a tall ship to be based in the Port, commercial fishing facilities, amongst others. These do not link back to the Local Plan.

- 2.11 The process of developing the Local Plan is a key route to determine the most appropriate uses for major land sites in the District. The council did, of course, go through a robust process of evidence gathering and examination, before adopting the current Local Plan. The Plan clearly supports the use of the commercial port for cross channel services. The information from the Local Plan and WSP's report were used to support the evidence in developing the proposals for the Ramsgate Levelling Up Fund bid, which was supported and funded by central government.
- 2.12 On 2 March 2023, Cabinet approved recommendations which included the development of a procurement framework and process to secure a port operator via an open competitive process. This clear direction and plan approved by Cabinet is referred to in this report as 'Plan A'.
- 2.13 In January 2024 a Cabinet report provided an update on the Ramsgate Regeneration programme including the Port projects. Since then a major and detailed survey of the fixed and floating berth infrastructure has taken place. The output of this work is a detailed condition report and list of recommendations to inform a repair specification. Importantly, the output report includes works cost estimates based on the survey findings and conclusion. Other work since January includes progress on the 'dry side' design work which includes customs and immigration control and check-in facilities. This has also allowed updated works costs to be estimated leading to a higher confidence estimate of the overall cost of the port infrastructure project. Further information on this is contained in the body of this report and at Annex 1
- 2.14 Officers were asked to explore this direction until it became unfeasible - which would either be that no bidders responded to the tender, or that no compliant bids were submitted. If that became the position officers would report to Cabinet on next steps. When and if that became the case, the options to be considered would likely be:
- Plan B - to expand the existing Port related uses on the site
 - Plan C - to look at the residential/retail development possibilities, almost certainly as part of the review for the next Local Plan.
- 2.15 Further information on how and when alternative Plans may be progressed is contained within the body of this report.

3. Relevant Issues

3.1 Levelling up Fund (LUF) opportunity

- 3.1.1 In 2021 the Government launched a £4.8 billion Levelling Up Fund (LUF) to invest in local infrastructure that would have a visible impact on people and their communities

across the UK. The expectation was that proposals would include a range of high value local investment priorities, for local transport schemes, urban regeneration projects and cultural assets. Funding was prioritised based on the level of need in places, and Thanet was identified as a Category One area on the basis of its need for levelling up and economic growth.

- 3.1.2 The Fund focussed on investment in projects that require up to £20m of funding per Parliamentary Constituency. Margate was already in receipt of Town Deal funds, so Thanet South and specifically Ramsgate was the priority for LUF bids. Although there was an indication that there would be future rounds, there were no guarantees. The council therefore decided to focus efforts on a bid for round 1.
- 3.1.3 The timescale for bidding was very limited. There was also a great temptation to bid for multiple projects within the £20m limit. Unlike for other funding opportunities, such as Town Deal, there was no chance to do significant preparatory work to test costs due to the timescales between the launch of the programme and submission deadlines. So the bid was made on the basis of previous project proposals with high level textbook cost estimates in the knowledge that further work would be required in the development of detailed designs for the whole programme. At the time of the bid submission there could be no understanding of the impact of future inflation caused by the Ukraine war and other factors on construction and supplies, and although the schemes had standard inflation and contingency covers, this has not been enough to deal with the actual impact. Additionally, there were very limited staff resources within the council to deliver a series of major capital projects.
- 3.1.4 However, despite these challenges, the council was successful in securing £19.8m of Levelling Up funding in 2021 with more than £9m allocated to projects at the port. Of the port allocation £3.7m was allocated for Port infrastructure renewal.
- 3.1.5 Even in hindsight, when we now know that the £3.7m was well under what is needed, and we understand the impact of inflation, this seems to have been the right decision. Testing out the ability of the Port to function again was only possible with some financial kick-starting - however, it would not have been appropriate to apply simply for the Port infrastructure when so many other projects/buildings needed investment in Ramsgate. The recommencement of cross channel operations at the Port has mainly an indirect impact on the town, and of itself would not deliver the range of outputs demanded by the government in return for the LUF Grant. We also had no way of knowing the total necessary funding in 2021.

3.2 What has happened since the LUF allocation?

- 3.2.1 Officers have explored options for managing a fully operational cross channel Port with input from specialist port consultants and lawyers. This was (and, officers believe, still is) the politically desirable option for both the Labour and Conservative administrations at the decision-making points.

3.2.2 It is also the strategically desirable approach for the UK - offering a road route to the M25 on the A2/M2 rather than the M20. Re-establishing a route via Ramsgate will provide the market with greater choice and, importantly, will improve resilience by offering a new import/export route.

3.2.3 The options for re-establishing cross channel operations at the Port were:

- A. To run the Port operation in-house as before. The Council would employ all staff and maintain all infrastructure. Starting from scratch, with no guarantee of shipping use, and with such a backlog of necessary capital investment, that option was considered to present an unacceptably high financial and operational risk
- B. To tender for a concession for a Port Operator, based on available funding of £3.7m less what has been spent on project delivery (now net £3.08m). This was the chosen option approved by Cabinet on 2 March 2023.

3.2.4 At the meeting on 2 March 2023 Cabinet approved four recommendations as follows:

- To approve the future model for delivery of the Commercial Port as set out in Option 5, in Section 10 (of the March 2023 report to Cabinet) which proposed a Multi-purpose port;
- To give delegated authority to the Chief Executive Officer (CEO) to develop the procurement framework and process to be followed, to secure a port operator in accordance with Section 11 (of the March 2023 report to Cabinet);
- To give delegated authority to the CEO to conduct an open and competitive tendering process in order to make a recommendation to Cabinet to secure a Port Operator, based on the proposed scoring criteria; following which the CEO is authorised to negotiate and award a concession contract and enter into an accompanying lease, in accordance with Section 11 (of the March 2023 Cabinet report);
- To give delegated authority to the CEO to conduct negotiations with the aggregate operator, which will be subject to a best value exercise to ensure the agreed proposals add value to the Port of Ramsgate, the Council, and its communities. Negotiations will also cover any requirements in terms of formal approvals required being achievable for the expansion. The agreed proposals will be recommended by the CEO to Cabinet for approval. Following this, the CEO is authorised to enter into a subsequent contractual agreement with an accompanying new (or revised existing) lease with the aggregate operator.

3.3 What has happened since the Cabinet decision in 2023?

3.3.1 A great deal of work has taken place to develop the designs and refine the cost plans for all the projects supported by the Ramsgate LUF. This has shown that some projects are viable as originally envisaged, even if reduced in scale - but that others

are undeliverable even with major adaptations. That is almost inevitable given the lack of detailed feasibility and survey work prior to the LUF Bid and a challenge being faced by many of the government funded capital programmes from the last five years. It is also partly as a result of the scale of inflation experienced since the award of funding which could not have been predicted at the time of submitting the bid. This alone is estimated to have increased costs overall by 20-30%, and it is clear, from correspondence with the previous Secretary of State, that there will be no additional funding available from central government to lessen the impact of this cost rise.

3.3.2 Detailed survey work carried out recently on the ro-ro berthing infrastructure, and development of the design and layout for modern border control and quayside port facilities has resulted in the updating of works cost estimates which have significantly increased in value and well in excess of the available £3.7m. Although some of the excess can be covered by transfer of funds from other Ramsgate project(s), our ability to increase the amount available is limited due to:

- A) the need to demonstrate a range of outputs in return for the Levelling Up funding which cannot be delivered solely through the Port recommencing cross channel operations
- B) the Cabinet's decision not to transfer funds from Margate Town Deal to Ramsgate

3.3.3 Informal market testing has been carried out. This demonstrates interest from the market in bidding for the Operator concession. We have approached the market twice since the Cabinet decision in March 2023 to proceed to tender. The first was to informally test the market for interest in the tender. We received an encouraging number of replies. The second approach was to test (with those who replied to us during informal market testing) their willingness to invest their own funds in infrastructure, and how they would prefer to do that. This testing was via market engagement and did not constitute the formal procurement process.

3.3.4 The development of the concession and lease documents for an open tender opportunity for the port concession is a highly specialist piece of work which has been led by an external legal practice with specific commercial port expertise. A specialist project manager with port experience has also been commissioned to progress and coordinate the port delivery work. Both of these external commissions were important to ensure that the development of the port concession and port infrastructure projects is dovetailed, with the right level of experience and additional capacity to the councils project team.

3.4 Next steps

3.4.1 Plan A involves re-establishing port operations via a concession and lease agreement with a port operator. This reduces the council's financial and operational risk at the port. Substantial capital investment was anticipated as part of Plan A. This had been a stumbling block previously when negotiating new cross channel ro-ro opportunities

so the allocation of Levelling Up funding offered an excellent opportunity to deliver the capital investment required to facilitate a new ro-ro operation. However, as reported to Cabinet in January 2024 the provisional estimated cost of the works required to make the port ready for a 10+5 year port concession and lease was £10m+/- 25%. Since then detailed marine survey work has been undertaken on the existing ro-ro berths and associated mooring spine. That work has resulted in a higher confidence estimated cost of £14.09m including professional fees, risk allowance and contingencies for the required investment to the port estate, berths and dredging.

3.4.2 The concession and lease term must be identical and had provisionally been set at 10 years with an option to extend by up to an additional 5 years. The concession duration is a function of the investment required, it must be long enough to be attractive to the market but legislation requires that the maximum duration must not exceed the time that a concessionaire could reasonably be expected to take to recoup investments.

3.4.3 As a result of the latest cost plan estimate, the strategy is to tender the concession to the market, offering a fixed contribution of £4.5m from the Ramsgate LUF and a lease of 20 + 5 years and therefore requiring the bidders to offer their own funding to replace/refurbish the infrastructure to suit their requirements. This has the advantage of limiting the risk to the council as the council's contribution is fixed and there is no call on direct council capital funds. The longer concession duration is now deemed possible as a result of the increased confidence gained from the detailed berth survey work and the ability to deliver refurbishment works to extend the life of the berths to meet that timescale.

3.4.4 The fixed contribution of £4.5m will be administered via a grant agreement from the Council as the accountable body for the Levelling Up Fund to the successful port operator, with strict conditions upon its use. The grant agreement will set out key terms and the investment must directly enable port operations under the concession being offered via open tender. The grant agreement will also include details of the funding (draw down) profile and monitoring and evaluation requirements. The grant agreement will contain provision to ensure that we have safeguards in place including:

- The achievement of the outputs set out in the tender documents
- The appropriate use of the funds
- Ensuring that reporting, monitoring arrangements are in place
- Auditing systems are in place
- Adherence to statutory duties including procurement, EqIA, Data Protection, Fraud and Corruption

3.4.5 It is essential that as the accountable body, Thanet District Council has an established process in place to ensure that this money is safeguarded. So in addition to the initial Grant Agreement, internal monitoring processes will be established which will include:

- Receiving and reviewing all financial spends and forecasts
- Reviewing project milestones and delivery against an agreed plan
- Ad hoc site visits
- Regular progress meetings
- Audits to ensure appropriate reporting mechanisms are in place
- Financial audits to ensure propriety of funds

3.4.6 All these reporting activities will then be reported through the council's internal governance structures. The key decision to award the grant will be the subject of a future decision of Cabinet following the completion of the procurement exercise, along with the required decisions on the award of the concession and lease.

3.4.7 Based on replacement of the current infrastructure (which may not be exactly what a successful bidder would require) and the necessary dredging, the current **estimated** cost of the necessary works for a 20+5 year concession is £16.92m including professional fees, risk allowance and contingencies. This compares with the £14.09m total cost for a 10+5 year concession option. The final costs will depend on the works carried out. Much of the infrastructure is under water and is difficult to assess.

3.4.8 Of the original Ramsgate LUF projects, there is £3.08m available for the Port Infrastructure project. The entirely separate LUF project to improve fishing facilities in Ramsgate Harbour is no longer deliverable. An update on the status of that project was included in a report to Cabinet on 25 January 2024 (a link to the report can be found in section 10 of this report). The original ambition of that project was to create a site for the local fishing fleet where they could unload, freeze, store and process their catch. With the ability to process fish and seafood on site the fishing fleet would have been able to increase their income from each catch. A scheme was developed jointly with the Thanet Fishermen's Association (TFA). During Autumn 2023, following a period of engagement with the council, design team and the TFA on size and design of the facility, the TFA confirmed that their members were unable to financially commit to the maintenance and operation of a new facility, given the current state of decline in the fishing industry in Ramsgate. Factors including governing legislation relating to this industry and environmental and fishing impacts on local fish stocks, have impacted on the viability of the Ramsgate fleet and its ability to invest in new local infrastructure.

3.4.9 The fishing fleet remains an important part of Ramsgate as a working Harbour. Since the Cabinet update report on 25 January 2024 efforts have been made to find smaller scale improvements in the facilities at the harbour to support the fleet. Meetings have taken place including a site visit in March to the current fishing net storage area with TFA representatives, council officers, the portfolio holder and a shadow portfolio representative to discuss the future of the project and options to support the fishing fleet. In April the TFA put forward proposals for smaller scale improvements including better refrigeration, ice making facilities and fencing. A sum of £100k from the original

fishing facilities LUF budget is proposed to be allocated to fund this work. A practical design is being worked up using the TFA's request, on the basis of the £100k budget.

- 3.4.10 As a result of the un-deliverability of the originally scoped Fishing Facilities project for the reasons described above, there is funding available for re-allocation to other projects in the Ramsgate LUF programme. It is proposed to reallocate £3.55m to the Port Infrastructure project leaving a sum of £100k to deliver smaller improvements for the benefit of the remaining fishing fleet in agreement with the TFA. That proposal will need to be considered by the Thanet Regeneration Partnership Board, but owing to the council's status as a Simplification Pathfinder Pilot, the council has, under the rules of that pilot scheme, the authority to approve that transfer. The transfer of funds between LUF schemes and the approval of the use of a grant payment mechanism are the only decisions required of Cabinet at this stage.
- 3.4.11 The proposal to relocate the funds from the Fishing Facilities project can be justified in terms of the LUF award, and that additional funding will make a significant contribution to our ability to appoint a Port Operator and part-fund the infrastructure renewal. However, before the general election the Leader wrote to the Secretaries of State for the (then named) Department for Levelling Up, Housing and Communities and the Department for Transport to set out the case for additional government funding to enable further grant aid to be applied to this project. We have also enlisted the support of the Thames Estuary Growth Board who will lobby the government on this issue from their own perspective. Understandably, these considerations have been delayed by the general election campaign, and now a change of government, but we will continue to press for engagement. Although there is a strong strategic advantage in reopening a trading port in the South East, there will be many calls on the government, and there would be substantial risk in relying on support. In the meantime, therefore, the tendering process for an Operator must continue on the basis of available LUF funding. Any future financial aid from the government would be applied to the project once an Operator had been appointed.
- 3.4.12 The Visitor Accommodation Opportunities project (amended from the Smack Boys Restaurant with Rooms project) as part of the simplification pathfinder in September 2023 is no longer deliverable. It had been intended by ring fencing some investment for visitor accommodation opportunities, to identify a way in which an interim use could be created at the harbour for overnight accommodation. This 'meanwhile' use could then have informed future investment. The task of identifying a site and developing compatible scheme options when considering the Grade 2* and Conservation Area status of the harbour estate has proved to be too challenging to deliver in the available timescale. This report proposes the reallocation of the remaining £0.57m Visitor Accommodation Opportunities project budget to the Port Infrastructure budget.
- 3.4.13 It is important to note that any reallocation of funding within the Simplification Pathfinder Pilot allowances needs to be within existing projects. If a new project proposal was put forward a business case would need to be developed and approved

by central government, It is unlikely, on the basis of the levels of funding identified above that this would be achievable within the timescales required for delivery of the programme.

3.4.14 The port concession tender is programmed to be published at the beginning of August 2024. Legal advice was sought to establish the procedural process that the council should follow in order to complete the open process for engaging an operator for the Port. The agreed process follows 5 stages. These are set out below:

- **Stage 1: Combined Qualification Invitation to Submit Initial Tenders Stage** – this is the first official stage of the procurement process (which would commence on the publication of a Concession Notice) which will result in a short list of bidders that the council wishes to invite to dialogue. It would involve two elements:
 - assessment of each bidder's capability of meeting the minimum requirements (in terms of technical ability and financial standing) through evaluation of responses to a qualification questionnaire. The qualification questionnaire will be a mixture of pass/fail questions (which can include scored questions where the bidder needs to meet a minimum threshold to pass). Where a bidder does not pass one of the questions, the rest of its response will not be considered; and
 - evaluation of the bidder's initial tenders for the provision of the Services.
- **Stage 2: Dialogue Stage** – dialogue in a project of this nature would be really useful. It will enable the council to explore each bidder's solutions along with negotiating the contract. In terms of negotiation of the contract, those should also be limited to only certain terms so that negotiations do not become protracted.
- **Stage 3: Invitation to Submit Final Tenders Stage** – on the conclusion of dialogue, those bidders still left in the process will be invited to submit their final tenders for the opportunity.
- **Stage 4: Preferred Bidder Stage** – once the evaluation of final tenders has been concluded, and a preferred bidder identified, it is useful to have a short period in which to clarify certain elements of the contract with the preferred bidder;
- **Stage 5: Contract Award** – bidders will be advised of the outcome of the process, and a 10 day standstill period observed, following which the contract can be awarded.

3.4.15 Stage 5 of the above process is programmed to be completed in March 2025. Progression to the awarding of a concession contract will be subject to a decision by Cabinet (planned for 20 March 2025) this being described in the recommendations approved by Cabinet on 2 March 2023.

3.5 Plan B

- 3.5.1 As a result of the increase in the value of the cost estimates for the capital enabling works to the port some additional scoping work has taken place for consideration in the event that compliant/acceptable bids for the concession contract are not forthcoming. This scoping work for 'Plan B' options has been carried out to assess the possibility of expanding port/maritime related uses. The Levelling Up Fund project is time bound and it is therefore important that this Plan B scoping work starts now to ensure that there is time to progress alternative options, linked with existing projects, in the event that the port concession and lease option (Plan A) cannot be taken forwards. Clearly there are opportunities relating to Plan B and alternative maritime uses, but more detailed work is required.
- 3.5.2 The critical issue with any Plan B option is that the ro-ro berths would need to be decommissioned and the status of the port as an Open Port for ro-ro traffic would need to be formally changed via a Harbour Revision Order. There would be significant legal costs and the berthing and mooring spine infrastructure would have to be removed. That is work that is unlikely to be fundable from LUF, and so would fall to the council. The decommissioning of berths would not be capital as it doesn't lead to an asset being created.

3.6 Plan C

- 3.6.1 Plan C would only be considered in the event that Plans A and B fail, and would involve a wider review of options including those set out in the WSP report from January 2020. Plan C may result in a fundamental departure from existing port uses and therefore require consideration as part of the next Local Plan.
- 3.6.2 For either Plan B or C, it is not clear what would be the position on the LUF funding allocated to the Port. It may result in the original outputs envisaged in the bid not being delivered, and the council would need to negotiate the position with the government in those circumstances.

3.7 Brett Aggregates Expansion Proposal

- 3.7.1 Brett Aggregates have expressed an interest in a further 2 acres of land alongside their existing site to allow the expansion for aggregates. Having a diverse business base, with income from a number of entities, provides a sustainable operational port. There are a number of different businesses that operate out of the Port of Ramsgate and it is important that the council is mindful of the businesses requirements for growth and sustainability.
- 3.7.2 The original proposal was to offer 2 options to Port Operator bidders - with or without those 2 acres - but it is now planned to pursue the Bretts interest as a separate negotiation informed by an independent valuation of the land. The part of the port required for ro-ro operations can be operated without those additional 2 acres and the council would have the opportunity to renegotiate the existing Brett Aggregates lease.

It is anticipated that as a result of the extra land being leased to Brett Aggregates, additional income would be derived in three principle areas; the additional volume of aggregates handled at the Port, additional port dues associated with an increased frequency of vessel arrivals and lastly, from rent associated with a new lease for the additional land taken. In accordance with the Cabinet decision on 2 March 2023 regarding the port delivery project, any proposals agreed in principle for a lease of additional land by Brett Aggregates will be recommended to Cabinet for approval at a future meeting.

- 3.7.3 It should be noted that the nature of the existing aggregates operation, and potentially other leases in place on the Port land, may impact on the deliverability of Plan C.
- 3.7.4 Air quality testing undertaken in 2023 at the port shows that dust levels are below workplace exposure or nuisance levels at the port. It can be concluded therefore that the Brett Aggregates operation at the port does not have a harmful impact on residential dwellings beyond the boundary of the port or the town in general.

4. Recommendations from the Overview and Scrutiny Panel

- 4.1 This report is non-key and has not been considered by the Overview and Scrutiny Panel.

5. Alternative Options

- 5.1 The report sets out the option currently being progressed (Plan A) which was approved by Cabinet on 2 March 2023. This report also sets out the alternative courses of action, (Plan B or Plan C) in the event that Plan A is unable to be taken forward due to no bidders submitting a concession tender return, or no compliant or commercially viable bids being received. As described above, some scoping work is currently underway on Plan B due to the finite LUF project timescales but any decision to adopt Plan B or Plan C will be a future decision of Cabinet should the current plan and procurement exercise fail to yield a bid which can be taken forward to award.
- 5.2 Recommendation 2 of this report seeks Cabinet's approval to transfer funds from the Fishing Facilities project and the Visitor Accommodation Opportunities project to the Port Infrastructure project so that the Council can make the proposed funding position clear to prospective concession tender bidders.
- 5.3 **Alternative Option 1 (not recommended)**
To not reallocate the Fishing Facilities funding or the Visitor Accommodation Opportunities project to the Port Infrastructure project. This would result in the prospective port operators having to fund a much larger proportion of the port infrastructure works. This will significantly reduce the attractiveness of the tender opportunity because the operators will need to recoup a much higher initial outlay within the same concession term. This is likely to make it difficult for tenderers to

achieve a viable business case leading to a lower likelihood of any compliant tender returns being received. Note: the concession term cannot simply be extended further as it must match the service life of the assets that form part of the concession. There would be a far higher risk of Plan A failing under this alternative option.

5.4 **Alternative Option 2 (not recommended)**

Not to continue with the current concession tender exercise and instead explore options to reallocate the Port Infrastructure LUF budget now. This would mean that the port could not be made ready for a new cross channel ro-ro service and the council would need to consider the removal of the berths and change the current Open Port status for ro-ro traffic. This option would also mean that the market would not be tested in an open tender exercise and would therefore be a departure from the project direction agreed via the recommendations approved by Cabinet on 2 March 2023. Depending upon the future use of the port and berth space there is potential for legal challenge under this option from parties who may otherwise have tendered for the concession opportunity.

6. **Consultation**

6.1 There is no statutory or public law duty to consult in relation to this report. To note however that the Regeneration Partnership Board has been informed of the proposal to transfer budget between the Fishing Facilities project and the Port Infrastructure projects. The proposal is also on the agenda for the scheduled Regeneration Partnership Board meeting on 19 July. Feedback from the board is not available at the time of drafting this report. There has been no further consultation on the proposal to transfer funds between Ramsgate LUF projects as recommended by this report.

7. **Corporate Implications**

7.1 **Finance and Resources**

7.1.1 The financial and the resourcing implications are set out in the main body of the report. Approval of the proposed £4.12m budget adjustment will transfer additional funds to the port project and right-size the budget for the delivery of this capital scheme. The budget adjustment is wholly contained within the Ramsgate LUF capital grant allocation and as such does not require any direct financial contribution from the council's own financial resources.

7.1.2 More detail on the proposed budget transfers and the proposed grant agreement with a prospective operator can be found in section 3 of this report.

7.1.3 In summary, the proposed recommendations do not require investment of TDC's own resources and are limited to that of the LUF funding and private investment from a prospective port operator. This proposed arrangement limits the council's financial risk exposure, whilst providing the opportunity for potential income growth.

7.2 Legal and Constitutional

- 7.2.1 This report provides cabinet with a detailed update on the progress of the Port Operator and Port Infrastructure projects. Cabinet is also asked to approve the transfer of a total of £4.12m from the Fishing Facilities and the Visitor Accommodation Opportunities projects to the Port Infrastructure project and to agree that a grant be paid to the successful Port concession operator. As indicated in the body of this report, the Council can make changes to its investment plans in accordance with DLHUC's technical guidance which provides that local authorities are not required to submit individual project-level adjustment requests unless they are seeking to make 'material changes' to their investment plan. Material changes are those changes that involve moving at least £5m to a different intervention or moving at least £5m between projects in the same intervention theme. The proposals in this report do not therefore constitute a material change and may be changed without reference to DLHUC.
- 7.2.2 At a meeting of Cabinet on the 21st September 2023, the list of projects to receive grant funding through the Simplification Pathfinder Project were agreed. It is for Cabinet to take the decision to amend the projects as proposed in this report. The decisions sought are correctly classified as non-key decisions.
- 7.2.3 The Council may rely on the General Power of Competence under section 1 of the Localism Act 2011 for the power to award the grant referred to in this report. Further legal advice will be provided in respect of the proposal to award grant funding to the successful Port operator and more detailed legal comments will be provided in the decision report that will be presented to Cabinet in respect of the grant award once an operator is identified.

7.3 Council Policies and Priorities

- 7.3.1 The Port Delivery Project and the recommendation in this report is aligned with the following corporate priority:
- To create a thriving place

7.4 Risk

- 7.4.1 The risks associated with the port delivery project must be considered in parallel with the existing risks and challenges the council continues to face as the statutory harbour authority for an underperforming commercial port. These were considered in the development of the Levelling Up Fund bid, in order to bring in infrastructure investment, and the advice that has been sought in developing the proposal being put forward.
- 7.4.2 The report to Cabinet on 2 March 2023 sets out the key risk considerations for the port delivery project. These risks have naturally evolved as the project has developed and the most significant risk area remains the affordability of the capital works

required to bring the condition of port assets to a standard which will support a scheduled cross channel ro-ro service. However throughout the development of this project an approach which mitigates the council's financial exposure has been adhered to. In particular the sequencing of key milestones had been structured in the programme such that the larger financial commitments only occurred following the award of a concession contract.

7.4.3 However as a result of the most recent cost planning it has become clear that the budget gap for the capital works is too great and presents an unacceptable financial risk. This has been addressed through a change in the procurement strategy supported by some market engagement such that the concession operators will be responsible for the financing and delivery of the required capital investment which will be subsidised via a grant from the council. This allows prospective port operators to tailor the works required at the port to meet their business needs and shifts the delivery risk and potential for cost increase or programme overruns from the council to the operator. This shift in risk and funding responsibility will have the effect of reducing the revenue income derived from the concession, however this is an open competitive tender process and the council therefore has a mechanism to assess and manage that risk via the evaluation criteria set out in the concession tender documents. This change in the procurement approach is key to mitigating the financial risk to the council. To be clear there are no plans for a local capital funding contribution to this project.

7.4.4 In summary, this opportunity is going out to the market through an open procurement process following informal market engagement, the council is reducing its exposure and risks associated with bringing in a third party operator. Through the open expression of interest process, the council has also gained an insight into the risks that the operators will consider in the development of their proposal, what their risk management process might be, and the mitigations they will consider.

7.5 Climate Change and Biodiversity

7.5.1 The recommendation to Cabinet in this report to transfer funds between LUF projects, does not in itself have significant climate change or biodiversity implications. The decision to tender for a port operator was made by Cabinet on 2 March 2023. This decision was made against the backdrop of an existing port that whilst underperforming, was and is still an Open Port with an obligation to accept vessels and trade.

7.5.2 Part of the council's Net Zero Strategy sets out the aspiration to address the emissions from activities which are outside the scope of its net zero 2030 target and set targets to reduce these by 2050 at the very latest. Port of Ramsgate customer emissions are not completely within the council's control. Therefore in order to influence the prospective operators' consideration of climate change and environmental stewardship in their proposals, the concession tender includes the criteria for a number of method statements which must be provided as part of the

tenderer's bids. The criteria covers multiple factors but specifically includes the following:

- details of the policies, initiatives and mitigating measures the bidder will put in place through the provision of the services to tackle climate change, reduce carbon footprint and assist the Council in meeting its commitment to achieve its net zero target
- details of how the bidder will ensure compliance with all UK environmental law and guidance and local designations
- details of how the bidder will develop oil spill contingency plans compliant with the relevant UK environmental law

The quality element of the open tender submissions will be evaluated by scoring these method statements which will help to rank the bids received.

7.5.3 The port operator's approach to their customer's vessel type and efficiency is likely to feature in the method statements which will form part of the tender submissions. There are also strict maritime regulations that set standards for large vessel emissions. Regulations on pollutant emissions are contained in Annex VI of the International Convention for the Prevention of Pollution from Ships (MARPOL). In 2015, the International Maritime Organization (IMO) brought into effect new rules requiring ships operating in Emission Control Areas including the English Channel to use onboard fuel oil with a sulphur content of no more than 0.1%. This means that vessels using the Port of Ramsgate are likely to be fuelled by marine gas oil rather than higher sulphur content heavy fuels. Alternatively ships may be fitted with exhaust gas cleansing systems, rather like a catalytic converter on a car to reduce sulphurous particulate emissions. It is important to note that these regulations came into force after the end of the last scheduled ferry service from Ramsgate in 2013 so emissions of this greenhouse gas will be reduced when compared with previous cross channel services from Ramsgate.

7.5.4 Local designated sites.

The Port of Ramsgate is surrounded by sites designated for their habitat and coastal features, including intertidal and subtidal habitat. Engagement with the Marine Management Organisation and the Local Planning Authority has started to help scope environmental considerations relating to the dredging and capital works elements of this project. All works elements will be required to be screened to establish the need for Environmental Impact Assessment and/or Habitat Regulations Assessment.

7.5.4 Location and Sea Level rise

The majority of the Port of Ramsgate is in Flood Zone 1 indicating a low probability of flooding (<0.1% chance of flooding from the sea). The site is protected by rock breakwaters which are designed to attenuate wave energy. Climate change allowances are published as regional rates of sea level rise for various epochs up to 2115 with the rate of rise accelerating towards the end of the period considered. For the concession term the rate to be applied in the south-east of England is 5.7mm/year

from 2024-2035 and 8.6mm/year from 2036 onwards. This leads to a predicted sea level rise of 177mm over the maximum (25 year) duration of the concession. Sea level rise has the effect of eroding the standard of flood defence at the port over time. As with many ports and coastal assets such as sea walls, flood defences will require improvement over time in order to sustain the standard of defence from sea flooding risk. However the port quayside will still be above the current 1 in 500 year extreme water level at the end of the concession period allowing for the predicted sea level rise. The standard of defence over the concession term is therefore currently considered to be sufficient.

8. Equality, Equity and Diversity Implications

- 8.1 The proposal to transfer funds between LUF project budgets 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. Should any issues arise as a direct result of this proposal in the future, they will be assessed accordingly. The duty may be relevant to subsequent work and this will be assessed as part of the concession evaluation process.

9. Crime and Disorder Implications and Community impact

- 9.1 The recommendations in this report and the port delivery project as a whole is not considered to have negative local impact upon crime and disorder. The existence of a fully operational port near to the town of Ramsgate has the potential to offer net positive community benefit through primary and secondary employment opportunities.

10. Subject History

- 10.1 The Port of Ramsgate has been underperforming for more than 10 years. It has seen some successes through diversifying trade and by securing ad hoc business, most notably cross channel trade car imports from 2016-2020. However there is a firm objective to revitalise the port as a regionally strategic asset and achieve sustainable income. There are a number of documents and reports which have informed the current position and direction for the Port of Ramsgate as listed and linked below:

- [Port of Ramsgate High Level Feasibility Study - 31 January 2020](#)
- [Port of Ramsgate Strategic Advice - 16 February 2023](#)
- [Cabinet Report - Future Delivery - Port of Ramsgate - 2 March 2023](#)
- [Ramsgate Port Narrative July 2023](#)
- [Cabinet Report - Ramsgate Regeneration Programme - 25 January 2024](#)
- [Web page of the Ramsgate Levelling Up Fund Port Infrastructure Project](#)
- [Dust Monitoring Report January 2024](#)

Annexes

Annex 1 - Port Infrastructure Works Cost Plan and Budget Summary

Background Papers

None

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