
ESTABLISHMENT OF THE INDOOR STADIUM DEVELOPMENT TRUST: ADOPTION OF THE STATEMENT OF PROPOSAL

1. Purpose

To report on the submissions that were received during the special consultative procedure to establish the Indoor Stadium Development Trust, and recommend that this committee recommends to Council that the proposal is adopted.

2. Recommendations

It is recommended that the Committee:

1. *Receive the information.*
2. *Note that the Council approved the “Statement of Proposal” and initiated the special consultative procedure to establish the Indoor Stadium Development Trust (required under ss56(1) and 88(2) of the Local Government Act 2002) at its meeting on 10 February 2005.*
2. *Note that the proposal to ‘Establish the Indoor Stadium Development Trust’ was publicly notified on 20 April 2005 concurrent with the 2005/06 Draft Annual Plan consultation process.*
3. *Note that 82 submissions were received on the proposal to establish the Indoor Stadium Development trust, and that 80% (66 out of 82) of the submissions were in favour of the proposal.*
4. *Note that the Residents’ Satisfaction Survey of May 2005 resulted in 68% of respondents being in favour of the proposal with 17% neutral and 15% opposed.*
5. *Recommend to Council that it adopts the proposal to establish the Indoor Stadium Development Trust.*
6. *Note that there are a number of further steps to be taken to document and establish the Trust and that the expected timing for completion of those steps is September 2005.*

3. Background

Background to the establishment of the Indoor Stadium Development Trust is contained in the “Statement of Proposal” attached as “Appendix 1”. Prior to the approval of the Statement of Proposal by Council on 23rd February 2005 the proposal had been considered by the Strategy and Policy Committee on 10th February 2005.

3.1 Consultation

After the Council resolution the Statement of Proposal was then made available for public consultation in accordance with the Special Consultative Procedure. This included the following processes:

- Inclusion of the “Statement of Proposal” (pages 32 and 187 to 192) in the 2005/06 Draft Annual Plan
- A public notice in the Dominion Post on 20th April 2005
- An information pack about the proposal at Council reception and at the Council Service Centre
- Inclusion of the “Statement of Proposal” on the Council’s website

3.2 Summary of Submissions

A total of 82 submissions were received on the proposal to establish the Indoor Stadium Development Trust. Of these submissions 66 were in support and 14 were against, while 2 were undecided.

The submissions in support expressed broad support for the proposal without reasons. 29 of them stated they support this funding. This suggests that much of the comment relates to the grant, rather than the proposal of a Trust. Further, 26 of the submissions refer to the need for an Indoor Stadium, rather than a development Trust. A number of supporters would like to see other parties contributing to the project, both public and private.

The 14 submissions against the proposal gave the following reasons:

- 10 opposed the funding. This may in part reflect concerns about the proposed \$35 million cost of the Indoor Stadium, rather than the Development Trust. For example, some suggested extending existing facilities.
- 4 submitters felt other parties could do it, from the private sector (2) or the Westpac Stadium (1), or central government (1)

Copies of the submissions were available to the Strategy and Policy Committee when it heard the submissions. No new issues were raised when the submissions were heard by the Strategy and Policy Committee between 1 and 7 June 2005.

3.3 Summary of Survey

The Residents Satisfaction Survey asked respondents if they supported the establishment of a charitable trust – The Indoor Stadium Development Trust – to manage the business plan and raise funds for the Indoor Stadium Development. 68% were in favour, 17% were neutral, and 15% were opposed.

3.4 Discussion & Recommendation

The reasons to support the proposal were considered by the Strategy and Policy Committee leading up to the approval of the Statement of Proposal and initiation of the Special Consultative Procedure. The reasons for the proposal and the assessment against the other options considered are described in the Statement of Proposal.

No new information has been brought out through the consultation process that might cause a rethink of the proposal. As the majority of community support has favoured the establishment of a trust, it is recommended that the Council establish the Indoor Stadium Development Trust.

3.5 Next Steps

The remaining processes required for establishing the Trust will be completed. These include:

- The draft Trust Deed for the Indoor Stadium Development Trust is submitted to Inland Revenue for review
- Approval by Council of the Trust Deed
- Appointment of Indoor Stadium Development Trustees

Subject to the above steps it is envisaged that the new Indoor Stadium Development will be established by September 2005.

4. Conclusion

Given the level of expressed support for the Indoor Stadium Development Trust it is recommended that the Council agrees to establish the Indoor Stadium Development Trust.

Supporting Information

1) Strategic Fit / Strategic Outcome

The proposal supports Council activities as a facilitator of recreation partnerships and provider of recreation services. Agreement to the proposal will contribute to Council meeting the outcome of offering a diverse range of quality recreation and leisure activities (see outcome 7.1 Recreation Opportunities).

2) LTCCP/Annual Plan reference and long term financial impact

Project C586 was included with \$100k funding in the 2003/04 Annual Plan, but no funding was included in 2004/05. The changes indicated here, if approved, will lead to an increase in operating expenditure in 2005/06.

3) Treaty of Waitangi considerations

The Tenth Trust and other parties will be consulted with specifically as part of the special consultation procedure.

4) Decision-Making

This is not a significant decision. The report sets out a number of options and reflects the views and preferences of those with an interest in this matter that have been consulted.

5) Consultation

a) General Consultation

The Council's tax advisers have been consulted during the development of this report. More broadly, the Council is required under legislation (LGA 2002) to consult on this matter.

b) Consultation with Maori

Mana whenua will be consulted with as part of the special consultative procedure, and their comments will be noted and are covered in the report as appropriate.

6) Legal Implications

Council's lawyers have been consulted during the development of this report.

7) Consistency with existing policy

There is no policy relating to the establishment of CCO's. This report follows procedures required by legislation, and is consistent with current practise.

Statement of Proposal

Indoor Stadium Development Trust **Statement of Proposal to establish a new Council Controlled Organisation**

Introduction

This proposal seeks to establish a new council controlled organisation, in the form of a charitable trust to be known as the Indoor Stadium Development Trust. The purpose of the Trust will be to prepare a business case for the establishment of an Indoor Stadium and to undertake a fundraising programme.

Council officers have held discussions with representatives of various interest groups over the past five years about the proposal to establish a new indoor stadium. The Council has funded a feasibility study which identified a possible design and site that included up to 12 courts at a cost of \$35 million. The Council now proposes to establish a new trust to continue the project, with trustees appointed by Wellington City Council. The Trust will work closely with the principal users (netball, basketball and volleyball) and other key stakeholders.

Under the Local Government Act, before establishing a new council controlled organisation Wellington City Council is required to prepare a detailed statement of the proposal and consult on it in accordance with a special consultative procedure.

Reasons for the proposal

In recent years it has become apparent that Wellington is lacking adequate facilities for a number of sports. In particular, netball, basketball and volleyball users have highlighted the need for a large-scale indoor sports facility. Over the past three years the Council has completed feasibility studies and preliminary design work for an Indoor Stadium. The total construction costs, including fit-out, were estimated at \$35 million. It was further estimated that the annual net operating cost (i.e. excluding depreciation and interest) would be around \$50,000.

The proposed Indoor Stadium would feature up to 12 courts used principally by netball, basketball and volleyball. The facility would be used by many other sports groups such as badminton and gymnastics, by schools and for regional and national tournaments.

As part of the 2004/05 Draft Annual Plan the Council consulted on this proposal to gauge public support for the initiative. The indoor sports stadium proposal attracted a very high level of support with just under 80% of the submissions in favour of it progressing.

In September 2004 a proposal was received from representatives of basketball, netball and volleyball (the principal users). Following discussions with this group, Council

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officers have proposed that a separate entity be established to focus on developing a detailed business case for the Indoor Stadium. This development entity would work with key stakeholders, such as the principal users group, potential funding partners, and the Council, to establish a case that is robust and achievable, and to identify and obtain funding. This is similar to the process used for the establishment of the Westpac Stadium.

The objectives of the entity would include:

1. To act as a vehicle for the interim development of a proposed Indoor Stadium for Wellington.
2. To prepare a detailed business case for presentation to the Council and other key stakeholders; including
 - a. Site selection – confirm the preferred site for the proposed Indoor Stadium;
 - b. Design – work with the principal users group and other key stakeholders to finalise the concept design and configuration of the Indoor Stadium;
 - c. Cost – establish the likely capital cost of the Indoor Stadium from the concept design and configuration;
 - d. Capital funding – identify realistic funding structure and sources for all capital cost;
 - e. Operations – ascertain the preferred governance, management and operational structure and costs from the final design and configuration;
3. To identify and secure external funding through a fundraising campaign.
4. At a time stipulated by the Council, and as recommended by the proposed business case, to hand over responsibility for the development of the Indoor Stadium and any assets to either an existing entity or a new entity.

Options considered

In the preparation of this proposal Council officers have considered a number of options for management of the development project, and these can be distilled down to three reasonably practicable options. The following is a summary of these options including an assessment of the relevant benefits and costs of each option and other matters that are considered to be relevant.

Establish a new Council Controlled Organisation in the form of a charitable trust

This is the preferred option. The benefits include:

Benefits

- Provides the best prospects for fundraising
- Ensures that focus is retained on project outcomes

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- Is tax efficient, provided charitable status is approved
- Allows a broad range of interests and skills to be represented
- Does not unduly restrict future options

Disadvantages

- One-off establishment costs required (legal, tax and other consulting)
- On-going governance or compliance costs (e.g. for monitoring and reporting)
- Administratively more complex to set up and operate (public consultation is required; legal and IRD/Charities Commission¹ processes and approvals required)

Contribution to community outcomes

The Council has not yet established its community outcomes (as defined under section 91 of the LGA). Until these are established, it is considered appropriate to refer to the outcomes listed under relevant key achievement areas in the Council's Annual Plan.

The ultimate goal for the project is the establishment of an Indoor Stadium. This will contribute to increasing the level and quality of participation of Wellington residents in a number of sports. Through this, it will contribute to the following outcomes:

- Recreation opportunities (provision of quality infrastructure)
- Events and identity (contributing to economic prosperity)

This proposal is not about the operation of the Indoor Stadium, but is considering the most appropriate governance structure for fundraising and planning for the Indoor Stadium. It is assumed that the better the governance that can be applied, the greater will be the prospects of successfully achieving the goals and outcomes for the Indoor Stadium.

Each option is considered to offer broadly the same contribution to achieving these outcomes.

The impact on the Council

The impact on the Council is neutral, when compared to the other options. Support from the Council will be provided under each of the options up to an equivalent level. This level of funding and support will not have a material effect on Council's ability to meet its present and future needs.

¹ The Charities Bill establishing the Charities Commission is expected to be passed in early 2005. Preliminary provisions in relation to the Charities Commission will come into force the day after the Act receives Royal assent. The remainder of the Act, including provisions relating to registration, will come into force on a date to be appointed by the Governor-General by order in Council. The Select Committee has recommended that the Inland Revenue retain responsibility for the administration of the approved donee regime with the Commission being responsible for determining whether an entity qualifies for registration as a charitable entity.

Any other relevant matters

It is important to obtain buy-in from all key stakeholders. This is best achieved by having commitment and participation in the project. A CCO established in the form of a charitable trust will allow all users and stakeholders have an opportunity to participate and be heard.

The additional funds required for establishment and governance are not significant, and will be offset by funds raised from other sources by the new entity.

The proposal is subject to the proposed trust obtaining tax and donee exempt status from the IRD (or Charities Commission).

Wellington City Council to manage the project internally

This option has been considered but is not favoured. It would involve the Council establishing an internal project team to complete the work. There are variations on this theme, including the establishment of a working group or employing external consultants to assist with the research and fundraising.

Benefits

- Administratively the simplest to set up and operate (consultation not required; no establishment costs)
- Tax efficient (although no tax issues have been identified)
- Lowest cost: able to utilise existing Council resources; no additional governance or compliance costs (e.g. for monitoring and reporting)
- Does not restrict future options

Disadvantages

- Fundraising efforts will be hampered
 - External agencies reluctant to give funding to the Council
 - Creates an expectation that the Council will “foot the bill”
- Some difficulties in retaining focus due to diverse range of activities undertaken

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Any other relevant matters

The Council will expect to have a similar involvement in the project, regardless of its form.

Wellington Regional Stadium Trust (or another existing CCO) manage the project

This option has been considered but is not favoured. It would involve the Council negotiating a suitable arrangement with the Wellington Regional Stadium Trust (WRST) to undertake the project. Current court proceedings involving IRD and WRST, in regard to WRST's tax exempt status may have a significant impact on their fundraising ability for the Indoor Stadium. This creates uncertainty in the short term that is not desirable.

Benefits

- WRST is in a related business – understands the requirements and has some established relationships
- It is the preferred site for the proposed Indoor Stadium (although this could also be perceived as a potential conflict of interest)

Disadvantages

- Current court proceedings
- Some difficulties in retaining focus due to need to run the Stadium
- Insufficient resources (financial and personnel) and would need to incur additional cost if taking on the project
- Greater Wellington Regional Council would have to agree to this undertaking (in accordance with the Trust and funding deeds)
- ANZ Bank would have to agree to this undertaking (due to covenants)

Contribution to community outcomes

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Any other relevant matters

The establishment process is very similar to that which was used for the WRST, which means the WRST board and management would have some prior expertise.

The current IRD proceedings create uncertainty over WRST's ability to achieve the desired outcome, when compared to other options.

Funding of the proposed Development Trust

The operating cost is estimated to be \$166,000 in 2005/06, with this funding to be revisited in the following years. The Trust would be expected to source external funding for the operating expenses, through a mixture of grants, sponsorship and donations².

Funding would be provided for project management, marketing, communications and fundraising, governance and meeting expenses, support services, and specialist advice (architects, quantity surveyors).

² A Council contribution will be considered as part of the Draft Annual Plan deliberations. A grant of \$96,000 has been recommended, but is subject to approval by that process.

How Would the Development Trust operate?

- It is proposed that the new trust is established as a charitable trust. The Trust would work with key stakeholders, such as the Council and the principal users. Its objects are as noted in section 2 and include:
 - Prepare a detailed business case for presentation to the Council and other key stakeholders;
 - Identify and secure external funding through a fundraising campaign;
 - At a time stipulated by the Council, and as recommended in the business case prepared by the Trust, to hand over responsibility for the project and any assets to an existing entity or to a new entity.
- It is proposed to have up to eight trustees on the new Trust – all appointed by WCC. Candidates will be selected that offer appropriate skills and that broadly represent the key stakeholders.
- It is proposed that the appointed Trustees would not receive any remuneration.
- The proposed new Trust will be a Council-Controlled Organisation and subject to the establishment, governance and accountability provisions set out at Part 5 of the Local Government Act 2002. The trust would be required to report to the CCO Performance Subcommittee.
- Assuming the proposal is adopted and the documentation finalised in time the new Trust will become effective from 1 July 2005.

Process Required to Establish the Development Trust

The steps required to establish the new Trust are:

- A special consultative process must be completed and the Council must consider any submissions made on this proposal before making a decision to adopt this proposal.
- The Inland Revenue Department and the Charities Commission (in due course) will be required to approve the draft Trust deed to confirm the Trust's charitable status before the trust is established.
- Development of terms of engagement between the new trust and the Council.
- Recruitment and appointment of Trustees.

Conclusion

The proposed Indoor Stadium would be a major asset for Wellington, and would help to address a shortage of quality indoor facilities. However it will require a significant commitment of time and money from all the key stakeholders. The Council is proposing the establishment of the Wellington Indoor Stadium Development Trust (a charitable trust) to take the lead role in achieving this goal.