

Statement of Proposal

Arts Centre 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 Arts Centre Trust. The purpose of the Trust will be managing the Wellington Arts Centre.

Council officers have held discussions with representatives of various interest groups over the past three years about the proposal to establish a new Arts Centre. The Council has funded a feasibility study which identified sufficient demand for this facility to justify its establishment. The Council now proposes to establish a new trust to manage the facility, with trustees appointed by Wellington City Council. The Trust will work closely with the key stakeholders.

Under the Local Government Act (LGA), 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

As part of the 2004/05 Draft Annual Plan the Council consulted on the proposal to establish an Arts Centre, to gauge public support for the initiative. With the physical Arts Centre presence now being established, this proposal relates to governance options.

Council officers have proposed that a separate entity be established to focus on managing the Arts Centre. This entity would work with key stakeholders, such as the tenants, arts organisations and practitioners, potential funding partners, and the Council.

The objectives of the entity would include:

1. To manage, administer and operate the Wellington Arts Centre for the benefit of the people of Wellington and the public generally, with the aim of achieving key benefits:
 - a. To build on the strengths of Wellington's cultural infrastructure;
 - b. To materially assist arts organisations and individuals to develop their skills
 - c. To attract arts organisations and individuals
2. To promote and co-ordinate fundraising to assist the operation and further development of the Wellington Arts Centre.

Options considered

In the preparation of this proposal Council officers have considered a number of different management options and these can be distilled down to four 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 long term option. The benefits include:

Benefits

- Provides the best prospects for fundraising from other sources
- Ensures that focus is retained on meeting objectives and achieving outcomes
- Is tax efficient, provided charitable status is approved by IRD/Charities Commission¹
- 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 Commission 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 Arts Centre is to contribute to increasing the level and quality of participation of Wellington residents in the arts, and to attract artists to the city. Through this, it will contribute to the following outcomes:

- Arts and cultural capital (provision of strong and supportive infrastructure)
- Quality of life (access to the arts)

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.

APPENDIX A

This proposal is not about the operation of the Arts Centre, but is considering the most appropriate governance structure for managing and operating the Arts Centre. 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 Arts Centre.

This option is considered to offer broadly the same contribution to achieving these outcomes as each of the other options.

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.

Any other relevant matters

It is important to obtain buy-in from all key stakeholders. This is best achieved by having commitment to the concept which translates to high levels of use. An independent entity will ensure that all users and stakeholders have an opportunity to participate and be heard, and will help overcome any resistance to Council involvement.

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 entity internally

This option has been considered but is not the preferred long-term solution. It would involve the Council's Recreation business unit taking over responsibility for the daily operations.

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

- Artists may be reluctant to engage with the Council directly
- Fundraising efforts will be hampered
 - External agencies reluctant to give funding to the Council
 - Creates an expectation that the Council will "foot the bill"

APPENDIX A

- Some difficulties in retaining focus due to diverse range of activities undertaken (the arts sector is not core business for the Council)

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Any other relevant matters

The Council's Recreation business unit will manage the entity as an interim measure, while this consultation process is being undertaken.

Wellington Museums Trust (an existing CCO) manages the entity

This option has been considered but is not favoured. It would involve the Council negotiating a suitable arrangement with the Wellington Museums Trust (WMT) to manage the facility.

Benefits

- WMT is in a similar business and has a sound administrative and management structure
- Better fundraising prospects (as a charitable entity)

Disadvantages

- Some difficulties in retaining focus due to need to manage six existing facilities
- Insufficient resources (financial and personnel) and could need to incur additional cost if taking on the facility
- May not support the current objects of the Trust – more complex to amend the Trust deed

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Any other relevant matters

There are no other relevant matters.

Premises Management Trust (an existing CO) manages the entity

This option has been considered but is not favoured. It would involve the Council negotiating a suitable arrangement with the Premises Management Trust (PMT) to undertake the management of the facility.

Benefits

- PMT is in a related business – understands the requirements and has some established relationships
- Better fundraising prospects (as a charitable entity)

Disadvantages

- Some difficulties in retaining focus due to need to manage Te Whaea
- Insufficient resources (financial and personnel) and could need to incur additional cost if taking on the facility
- More complex to set up – requires changes to the Trust

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Any other relevant matters

There are no other relevant matters.

Funding of the Trust

The operating cost of the Arts Centre is estimated to be \$1.2 million in 2005/06, with this funding to be revisited in the following years. This includes a small allowance for governance costs such as trustee fees and expenses. The Council has previously resolved to

APPENDIX A

provide funds of \$606,000 with most of the remainder to be generated from tenants and other facilities users.

The Trust would be expected to source further external funding, whether to assist with operating expenses, or for expansion. This might be achieved through a mixture of grants, sponsorship and donations.

How Would the New Trust operate?

- It is proposed that the new trust is established as a charitable trust. Its objects are as noted in the background section:
 - To manage, administer and operate the Wellington Arts Centre
 - To promote and co-ordinate fundraising to assist the operation and further development of the Wellington Arts Centre.
- 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.
- 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 January 2006.

Process Required to Establish the 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 Council is proposing the establishment of the Wellington Arts Centre Trust (a Council Controlled Organisation in the form of a charitable trust) to manage, administer and operate the Wellington Arts Centre. This is considered to be the best option for ensuring the success of the new facility, which is envisaged as an important contributor to Wellington's continued identity as the arts capital.