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**REPORT 1**  
*(1215/11/IM)*

## **INDEPENDENT REVIEW OF CONCOURSE PROPOSAL FOR INDOOR COMMUNITY SPORTS CENTRE**

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### **1. Purpose of Report**

The purpose of this report is to seek Council approval for an independent review of the Indoor Community Sports Centre.

### **2. Executive Summary**

Council approved the Indoor Community Sports Centre project in June 2006. The resource consent was granted in January 2009 and appealed to the Environment Court in February 2009 by Councillor Foster.

In order to get a prompt resolution, the Mayor offered Councillor Foster an independent review on the condition that Councillor Foster agrees to withdraw his appeal and respect the findings of the review. Councillor Foster has agreed to a review and Council approval is now required.

The review will assess and make recommendations to Council on the proposal to build a 12 court indoor community sport centre, and to examine all matters relevant to this issue relating to Cobham Drive Park and the Westpac Stadium Concourse.

### **3. Recommendations**

Officers recommend that the Council:

1. *Receive the information.*
2. *Agree that Sir John Anderson will manage and take responsibility for a review of the issues relating to Cobham Drive Park and the Stadium Concourse proposal.*
3. *Agree that the Council will abide by the review recommendations.*
4. *Note the Terms of Reference for the review (attached at Appendix 1).*
5. *Note that Councillor Foster has stated he will withdraw from the appeal and will abide by the review recommendations if he agrees to the Terms of Reference.*

6. *Note that Council Officers will find compensatory savings to fund the cost of the review.*

## **4. Background**

Council approved the construction of a 12 court Indoor Community Sports Centre at Cobham Park in Kilbirnie on 27 June 2006 after consulting with Wellingtonians. Initial assessment of possible sites dates back to 2002 when six sites were considered by leisure planning company Global Leisure. These included the Westpac Stadium Concourse, Harbour Quays (CentrePort) land and Cobham Park. In addition to the evaluation of Cobham Park in June 2006, Council Officers have further reviewed and reported to Council on evaluations of Harbour Quays (CentrePort) and the Westpac Stadium Concourse sites.

Council reconfirmed Cobham Park was the best site in June 2007 and again in June 2008. Council Officers continued to develop the design and refining project costs which culminated in the granting of a resource consent in January 2009. The consent was subsequently appealed to the Environment Court in February by Councillor Foster and Mr Mellor.

In an attempt to avoid the inevitable delays and associated costs, as well as the cost of the appeal itself, the Mayor approached Councillor Foster to identify if there was anything Council could do to avoid the appeal.

She proposed an independent review of the costs of the Concourse proposal, conditional on Councillor Foster's withdrawal of his appeal. Councillor Foster advised he would agree to an independent review, led by Sir John Anderson, of the costs of the Concourse option. He agreed, subject to approval of the Terms of Reference, that he would withdraw from the appeal and accept the findings of the review. This review proposal now requires Council approval.

## **5. Discussion**

### **5.1 Terms of Reference**

Sir John Anderson has consulted with the Mayor and Councillor Foster and has produced the attached Terms of Reference. These are attached as Appendix I.

Sir John Anderson has agreed to manage and take responsibility for the conduct of this review. Accordingly the Terms of Reference are the basis upon which Sir John has agreed to undertake the review. Therefore Sir John is not seeking formal approval of the Terms of Reference by any of the parties.

The key elements are that Sir John will manage and take responsibility for the review, supported by advice and information from a series of independent experts. Sir John will provide the opportunity for Councillor Foster, Ian Maskell and their specialist consultants to present their proposal to the review.

The review will be supported and resourced where required, by Council Officers. Sir John believes it will take 4-6 weeks and intends to report to Council by 21 April 2009.

## **5.2 Budget**

Based on Sir John's requirements for independent expert advice, Council Officers have estimated that the direct cost of the review will be approximately \$150,000.

Compared to the cost of defending an appeal at approximately \$100,000, and the significant delay of 6-12 months which incurs escalation costs, this is still a fiscally prudent option.

Sir John Anderson has offered to conduct the review pro bono to ensure that he is completely independent.

## **5.3 Legal Issues**

Council has obtained legal advice that Councillor Foster can participate in the debate of this paper provided the debate doesn't move into matters relating to the conduct of the appeal.

Mr Mellor as the other appellant, has signalled his desire for mediation. In the capacity of applicant, Council's lawyers have written to him advising whilst we don't wish to formally mediate through the Environment Courts, we would like to meet with him and explore his concerns further with the view to finding a solution.

Sir John Anderson will write to Mr Mellor offering him the opportunity to meet with him to determine whether Mr Mellor's concerns could be addressed within the scope of the review.

## **5.4 LTCCP Implication**

The current draft LTCCP which will be presented to Council at the 9/10/11 March deliberations reflects the ICSC project as before, except with a 6 month delay. This is based on our current expected timeframes and a positive outcome in the appeal hearing. The LTCCP numbers will be updated in June when Officers have a clearer idea of the timeframes.

The costs for the review will be incurred in 08/09 so there are no LTCCP implications relating to those costs. Officers will find compensating savings (outside of CX499) to fund the review.

## **6. Conclusion**

The independent review provides Council with an opportunity to avoid a lengthy and costly Environment Court appeal process.

Contact Officer: *Karen Wallace, Chief Operating Officer*

## **Supporting Information**

**1) Strategic Fit / Strategic Outcome**

*Activity 6.4.3 Provider Recreation Centres.*

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

*This review relates to Project CX499 – Indoor Community Sports Centre.*

**3) Treaty of Waitangi considerations**

*There are no specific issues to consider*

**4) Decision-Making**

*This is not a significant decision.*

**5) Consultation**

**a) General Consultation**

*Council is not required under legislation to consult on this matter.*

**b) Consultation with Maori**

*There are no specific issues that require Mana whenua input.*

**6) Legal Implications**

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

**7) Consistency with existing policy**

*This report recommends an independent review of the choice of site for the Indoor Community Sports Centre which is consistent with existing WCC policy to build an ICSC at Kilbirnie.*