

Inquiry into the Government's decision to negotiate with SkyCity Entertainment Group Limited for an international convention centre

This is an independent assurance report about an inquiry carried out under sections 16 and 18(1) of the Public Audit Act 2001.

February 2013

ISBN 978-0-478-41007-5 (print)
ISBN 978-0-478-41008-2 (online)

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Deputy Auditor-General's overview

In June 2012, I announced that this Office would carry out an inquiry into the process that the Ministry of Economic Development (the Ministry) followed leading up to the Government's decision to negotiate with SKYCITY Entertainment Group Limited (SkyCity) about developing an international convention centre in Auckland.¹

The inquiry has considered both the adequacy of the process followed and whether anything substantively wrong has taken place. The main question underlying this inquiry was whether the Government's decision to negotiate with SkyCity had been influenced by inappropriate considerations, such as connections between political and business leaders.

We have seen no evidence to suggest that the final decision to negotiate with SkyCity was influenced by any inappropriate considerations.

However, we found a range of deficiencies in the advice that the Ministry provided and the steps that officials and Ministers took leading up to that decision. The quality of support that was provided fell short of what we would have expected from the lead government agency on commercial and procurement matters.

Why does the process matter?

We are frequently asked to scrutinise how public entities are providing funds to private sector parties through purchasing or grant funding arrangements. A substantial body of rules, principles, and guidelines set out what is recognised as good practice in New Zealand for public sector purchasing and grant funding. Much of our audit and inquiry work in this area is concerned with process, and whether public entities are following established good practice as they carry out their responsibilities.

But compliance with established process is not an end in itself. Procedural principles and guidance on how public funds are spent exist for a reason: the public sector adopts these disciplines to:

- help ensure that decisions are made carefully and for appropriate reasons;
- promote open and fair competition, domestically and internationally; and
- protect against the risk of corruption or inappropriate influence.

The good practice standards help achieve these goals by setting out steps to ensure that the processes followed are transparent and fair to all participants.

¹ The Auditor-General has a small shareholding in SkyCity so she has not been involved in this inquiry.

Was a good process followed in this case?

There are several reasons why progressing the idea of an international convention centre was always going to be difficult. The development of a centre is potentially economically significant and will have a high public profile. The matters to be negotiated if SkyCity was to be involved were controversial and politically sensitive because of the changes to gambling regulation that could be sought. And the discussions were unusual because they did not fit easily into any established category of procurement activity and so it has been unclear what procedural expectations should apply. The process for reaching a decision on the possibility of an arrangement with SkyCity needed to bring together some testing of the market, commercial negotiation, and difficult policy and political decisions. There is no “off the shelf” process for making such complex decisions.

Given this complexity, we were surprised to find that there was no documented analysis or advice on the process that needed to be followed from a procurement perspective, or any systematic consideration of the relevant principles and obligations that should guide the steps taken. In our view, those involved had a strong focus on the need to manage the difficult relationship between the commercial issues and the policy and political decisions that were needed, but too little focus on the disciplines that should govern commercial decision-making in the public sector.

We comment on these matters in more detail in our summary assessment in Part 1 of this report, and at the end of Parts 3, 4, and 5. For now, two examples illustrate the point.

The overall planning

The first example concerns the lack of overall planning. A specific weakness was that there is no evidence that any consideration was given to whether the Mandatory Rules on Procurement were relevant.

These Rules set out how government departments must carry out major procurements. They are the main way in which New Zealand gives effect to obligations contained in a number of international free trade treaties and have been in place since 2006. The main requirement is that major procurements should be carried out by open tender, unless the situation falls within one of the specified exceptions.

Given that early discussions were considering options like public sector ownership, public private partnerships, and other arrangements that were effectively procurements, we would have expected to see some careful consideration of how

the international treaty obligations summarised in the Mandatory Rules might need to shape the overall process.

The evaluation process

The second example relates to the way in which the responses to the Expressions of Interest (EOI) request were evaluated. Although decisions were made on the merits of the different proposals, we do not consider that the evaluation process was transparent or even-handed. The evaluation process lasted for more than a year. The meetings and discussion between the Government representatives and SkyCity were materially different in quantity and kind from those between the Government and the other parties that responded.

Ministers and officials told us that the SkyCity proposal was quite different from the others and needed to be understood in much more detail to establish whether it was commercially and politically viable. The other proposals were more straightforward to assess. Officials therefore engaged in extensive and detailed discussion with SkyCity. The practical effect was that officials worked closely with SkyCity as it put together a detailed proposal from the broad outline that was initially submitted in response to the EOI request. They did so under the auspices of the evaluation process for the EOI, while telling the other parties that decisions had been delayed.

The Government took this approach so that it could fully understand the policy and political consequences of the SkyCity proposal before deciding to proceed to full commercial negotiations, while still maintaining some competitive tension during those discussions by keeping the other responses “live”. However, the result was that SkyCity was treated very differently from the other parties that responded and the evaluation process effectively moved into a different phase with one party. In our view, the steps that were taken were not consistent with good practice principles of transparency and fairness.

If a purchaser wants to maintain competitive tension while it explores one or more responses in more detail, the usual approach is to proceed to a full Request for Proposals (RFP) process. This imposes costs on all those participating in the RFP, but is warranted because of the advantages that flow from the competitive process. If that additional cost and process is not justified, a purchaser can proceed to direct discussions with one party and adopt other mechanisms to manage the value-for-money aspect in the absence of a competitive process. There is a growing amount of guidance available on alternative negotiation techniques to manage price in this type of situation.

Overall comments

Internationally, financially constrained governments are looking for new and creative ways to collaborate with the private sector to achieve their goals. As a result, we should expect more initiatives that test the boundaries of established ways of working – including established procurement procedures.

Process should not stand in the way of such innovation. However, the underlying principles that established processes aim to protect do still need to be respected. New ways of working in the public sector still need to be able to show that public resources are being appropriately managed and spent. We will continue to discuss such developments with relevant officials and update our good practice publications from time to time to reflect latest developments.

I thank the staff of the Ministry who assisted us with this inquiry, and all those who we interviewed or sought information from during this inquiry.



Phillippa Smith
Deputy Controller and Auditor-General

18 February 2013

Part 1

Introduction

Background to the inquiry

- 1.1 On 19 May 2010, the Ministry of Economic Development (the Ministry)² sought expressions of interest (EOI), on behalf of the Government, for proposals to build an international convention centre.
- 1.2 On 12 June 2011, the Government announced that it was negotiating with SKYCITY Entertainment Group Limited (SkyCity), whose proposal it had selected as the best option.
- 1.3 Metiria Turei MP wrote to the Auditor-General on 24 April 2012, raising concerns about the fairness and adequacy of the process used to decide on SkyCity's proposal as the preferred option. Ms Turei was concerned that the EOI process did not comply with good procurement practice, and that SkyCity had an advantage in that process based on earlier contact with the Prime Minister. She also questioned whether all appropriate costs had been considered when choosing SkyCity's proposal, and referred to the economic costs of gambling harm that could result from increased gaming opportunities.
- 1.4 The underlying question was whether the decision to negotiate with SkyCity was made for good reason, or had been influenced by inappropriate matters or connections between business and political leaders. We gathered initial information from the Ministry to enable us to make a preliminary assessment of what had been done, but that work left us with questions about the process that had been followed. We regarded the significance of the negotiations and the nature of the concerns as justifying further careful review.
- 1.5 The Deputy Auditor-General, Phillippa Smith, decided on 13 June 2012 that an inquiry into the EOI process was warranted to provide the New Zealand public with assurance about what had taken place. Appendix 1 sets out the terms of reference for the inquiry.
- 1.6 On 29 June 2012, Hon David Cunliffe MP asked us to include the extent of central government funding of the convention centre proposal as part of our inquiry. We have done so.

How we carried out this inquiry

- 1.7 In carrying out this inquiry, we met with:
 - officials from the Ministry who were closely involved in the convention centre process;

² On 1 July 2012, the Ministry of Economic Development became part of the Ministry of Business, Innovation and Employment. References to "the Ministry" in this report are to the Ministry of Economic Development.

- the Prime Minister, Rt Hon John Key, who is also the Minister of Tourism,³ his Chief of Staff, and his then Deputy Chief of Staff;
- Hon Gerry Brownlee, the Minister for Economic Development in 2010 until late February 2011, and one of his advisors;
- Hon David Carter, Acting Minister for Economic Development from late February 2011 until the new Cabinet was sworn in after the 2011 general election;
- representatives of the industry body representing convention centres and related industries, Conventions & Incentives New Zealand (CINZ);
- the Chief Executive of Auckland Council and the Mayor of Auckland's Chief of Staff;
- executives from SkyCity; and
- three of the four other organisations that expressed interest in providing an international convention centre. (The other organisation commented by phone and in writing.)

1.8 We also reviewed Ministry information and files now held by the Ministry of Business, Innovation and Employment.

1.9 We sought comments on drafts or extracts of this report from the Ministry of Business, Innovation and Employment; Rt Hon John Key and his Chief of Staff; Hon Gerry Brownlee and his advisor; Hon David Carter; some individuals who had been involved as officials but no longer worked for the Ministry; and SkyCity.

Summary of our conclusions

Decisions were based on appropriate information

1.10 Overall, we were looking to establish whether decisions had been made for appropriate reasons. We have seen no evidence to suggest that the final decision to negotiate with SkyCity was influenced by any inappropriate considerations.

The quality of the process followed

1.11 However, we found a range of deficiencies in the advice provided and steps taken leading up to that decision. These procedural problems reflect some of the challenges of applying general procurement expectations to complex matters requiring political and policy decisions. In our view, better planning at the outset would have helped to identify and manage the risks.

1.12 The good practice advice that our Office has published identifies basic principles that help ensure that public funds are spent wisely and well: accountability, openness, value for money, lawfulness, fairness, and integrity. We expect public

³ Generally, we refer to Rt Hon John Key as Prime Minister rather than referring to both titles. However, we refer to him as Prime Minister/Minister of Tourism in relation to events that are specific to his responsibilities as Minister of Tourism.

sector organisations to be able to demonstrate how their work meets those basic principles. We set out practical information and advice on recognised good practices, but do not attempt to formulate procedural rules. We acknowledge that there are many ways of meeting these basic principles and that new situations will be likely to require new approaches. However, there are additional and stricter rules that apply to central government.

- 1.13 We considered carefully how we should assess the steps taken during the project to develop an international convention centre: what standards or expectations were appropriate? In particular, we considered the extent to which procurement rules and guidance were relevant. We decided that, for the purposes of this inquiry, the project had three distinct stages, with different principles governing each stage.

The early feasibility and exploratory work

- 1.14 Stage one was the early work looking at the feasibility of such a centre, and the initial exploratory discussions between central government and SkyCity. These included preparations to assess a firm proposal that was expected from SkyCity. We discuss these events, up to March 2010, in Parts 2 and 3 of this report. We assessed what was done against the high-level principles governing how central government should consider supporting private sector business initiatives and committing financial support towards a particular outcome, and the overall rules governing procurement by government departments.
- 1.15 We concluded that the feasibility and exploratory work in the first stage was carried out reasonably. However, by the time it was expected that SkyCity would put a firm proposal to the Government for support, officials should have been working to understand and advise on the procedural obligations and principles that would need to govern the next steps. We found no evidence that officials were doing so at this stage.

The EOI process

- 1.16 Stage two began with the Government's decision in March 2010 to explore the market through a formal and competitive process with a request for expressions of interest. We discuss, in Parts 4 and 5 of this report, how we assessed the steps taken to prepare the EOI document and to evaluate the responses. We based our assessment on established good practice principles for procurement approaches of this kind. Our assessment took account of the fact that this was an early and exploratory process rather than a full tender for detailed proposals.

- 1.17 Overall, we regard the EOI process in stage two as having been poorly planned and executed. Insufficient attention was given to planning and management of the process as a whole, so that risks were not adequately addressed and managed.
- 1.18 We understand the challenge that officials faced during this process and are satisfied that they worked in good faith to provide a careful and genuine evaluation of the options. However, we do not consider that the approach adopted was appropriate. The result was that one submitter was treated differently from the others during the evaluation process.

Commercial negotiations

- 1.19 Stage three is still continuing. It is the process of commercial negotiation with SkyCity to see whether agreement can be reached on terms for developing an international convention centre. We have assessed this stage against the normal principles governing how the public sector engages in commercial negotiations, and have not identified any matters of concern. We provide our assessment of this work in Part 6 and briefly discuss other related issues, including direct and indirect costs, in Part 7.
- 1.20 Overall, it is obvious that SkyCity's gambling facilities could give it a unique means of funding the capital costs of a convention centre, which could avoid the need for substantial central government funding. During this inquiry, we have not heard any comment to suggest that other submitters did not understand the reasons why the Government might prefer the SkyCity proposal. The Government is entitled to decide, as it has, to negotiate directly with SkyCity for a concessions-based agreement. The Government will be accountable in the usual way to Parliament and the public for those policy choices.

Part 2

Establishing the feasibility of an international convention centre

2.1 In this Part, we outline:

- early feasibility work carried out by various private and public sector parties;
- involvement by the Ministry of Tourism⁴ from 2007;
- the major feasibility study carried out in 2009; and
- our comment on this initial feasibility work.

Early feasibility work (2000-06)

- 2.2 The idea of an international convention centre for Auckland has been under consideration for more than a decade. CINZ markets New Zealand as a destination for international conferences and has a strategy to promote an international convention centre for Auckland. It considers that New Zealand could compete with convention venues in Asia and Australia for larger events of more than 1000 delegates with a large international-standard convention centre.
- 2.3 From 2000 to 2002, there were several studies done for industry and the former Auckland City Council on the benefits for Auckland of an international convention centre.
- 2.4 In 2005, a convention centre steering group was formed to work with local and central government to promote the case for an international convention centre in Auckland. In October 2005, some members of that group – Auckland City Council, CINZ (which was assisted by the Ministry of Tourism), and the Committee for Auckland⁵ – jointly funded a report by Horwath Asia Pacific Limited⁶ (Horwath) on the case for an international conference centre in Auckland.
- 2.5 In February 2006, Horwath issued a report entitled *New Zealand Convention Centre Business Case and Facility Recommendations* (the 2006 Horwath report). The report considered three scenarios – a small, medium, or large convention centre for Auckland located in the central business district (CBD). It did not consider the small option to be viable, but recommended that more research be carried out to further develop a business case for the other options.
- 2.6 The report identified the benefit-cost ratio of a new convention centre to the New Zealand economy as being 3.45:1, and estimated it would generate an additional \$72.5 million each year to New Zealand's gross domestic product (GDP) (in 2006

⁴ The Ministry of Tourism was a separate ministry within the Ministry of Economic Development until August 2010, when it became part of a branch of that Ministry.

⁵ The Committee for Auckland is a not-for-profit private sector organisation that seeks to influence the enhancement and development of Auckland. Members include corporate businesses, not-for-profit organisations, local and central government agencies, and tertiary institutions.

⁶ Horwath Asia Pacific Limited is the earlier company name of Horwath HTL (Hotel, Tourism and Leisure) Limited. It is a New Zealand company that provides consulting services to public sector stakeholders and private sector clients in the hotel, tourism, and leisure industry.

prices). The work assumed that 80% of the capital costs of a new convention centre would be funded from the public sector.

Ministry of Tourism interest (2007-08)

- 2.7 At this time, the Ministry of Tourism was the main government agency with an interest in the idea. The New Zealand Tourism Strategy 2015, issued by the Government in November 2007, recommended investigating the case for developing national facilities such as a convention centre and cruise-ship facilities.
- 2.8 On 22 December 2008, after the change in Government, the Ministry of Tourism briefed the new Prime Minister/Minister of Tourism on a proposal for a new convention centre in Auckland based on the findings of the 2006 Horwath report. As well as summarising the main points of that report, the briefing also discussed the benefits and drawbacks of two possible Auckland sites – above the Aotea Centre car park or a waterfront location. The briefing paper did not include recommendations, but included a timeline and process to further consider those sites.
- 2.9 The briefing to the Prime Minister/Minister of Tourism also noted:
- International experience shows that convention centres deliver significant economic benefits; however, they tend not to generate commercially viable returns to the owner/operator. Consequently, public sector leadership in funding is often critical in their development.*
- 2.10 This point was elaborated in our discussions with industry representatives and officials during our inquiry. We were told that convention centres can operate at a profit, but it is not possible to recover the capital investment (land and construction costs) from operating profits.

The 2009 feasibility study

- 2.11 As noted above, the former Auckland City Council had been involved in advocating for an international convention centre in Auckland from time to time and had participated in the steering group. However, at the time of the December 2008 briefing, Auckland City Council's formal plans did not include it providing funding for a convention centre.⁷

Funding application for a two-stage development process

- 2.12 On 3 April 2009, Auckland City Council applied to the Ministry of Tourism for funding to progress the development of an international convention and exhibition centre in Auckland. The application outlined two work stages: a

⁷ The importance of an international conference and convention facility to Auckland and New Zealand is now acknowledged by reference to such a facility in the Auckland Council's 2012-22 long-term plan and in its economic development strategy.

feasibility study to be completed by mid-May 2009, and, if the feasibility study were favourable, a subsequent full business case and establishment plan.

- 2.13 Funding for a feasibility study was available under the New Zealand Tourism Strategy 2015 and had Cabinet approval. The Minister of Tourism approved a grant of up to \$80,000 to go towards a feasibility study for a proposed Auckland international convention and exhibition centre. Auckland City Council also contributed funding and staff time for this work.

How the feasibility study was carried out

- 2.14 Auckland City Council engaged Horwath to do this work. Horwath completed the feasibility study in July 2009. The New Zealand Institute of Economic Research and WT Partnership (a quantity surveying company) also contributed to it. A steering group of representatives from Auckland City Council, the Ministry of Tourism, the Department of the Prime Minister and Cabinet, and CINZ oversaw the work. The Auckland-based Ministry officials worked with Auckland City Council officials to support the steering group and the project.
- 2.15 Horwath interviewed major conference industry representatives as part of its feasibility study, including CINZ, SkyCity, and The Edge (operator of the Aotea Centre). Horwath also looked at governance, funding, and ownership models for a convention centre based on overseas best practice. The feasibility study identified three broad ownership options:
- private ownership through a mechanism such as a build, own, operate, transfer (BOOT) scheme;
 - direct ownership by the public sector; and
 - creation of a special purpose entity accountable to the public sector but operating at arm's length – for example, a statutory body or council-controlled organisation.

The feasibility study's conclusions

- 2.16 The feasibility study noted that the third option was the most popular model. The benefits included that a special purpose entity is fully accountable to the public sector but can operate at arm's length to ensure that public sector objectives are met in the most efficient manner. The feasibility study noted that this model would fit with recommendations of the Royal Commission on Auckland Governance – that a council-controlled organisation be formed to own all regionally significant venues, which could include the proposed convention centre.
- 2.17 The feasibility study concluded that, when fully operational, an Auckland-based international convention and exhibition centre would generate an increase of

\$85.4 million in tourism-related expenditure each year (almost 22,000 additional international visitors who would not otherwise visit New Zealand, and more than 200,000 extra visitor days). The New Zealand Institute of Economic Research modelled the effects of this on GDP and estimated an additional \$40.3 million each year.

- 2.18 At the same time as the feasibility study was under way, officials from the Ministry of Tourism carried out some supplementary research. The supplementary work included interviews with convention centre operators in Asia and Australia, and with officials from federal and state governments in Australia. When completed, the summary report of that supplementary work cited the same benefits as the feasibility study.
- 2.19 From the 2009 feasibility study and the supplementary work, officials concluded there was enough evidence of the economic and wider benefits to justify proceeding to the second stage: developing a detailed business case and establishment plan.
- 2.20 The economic analysis in the feasibility study favoured an Auckland CBD site for an international convention and exhibition centre. The stated benefit-cost ratio of a “midtown” site was higher than for a waterfront or Wynyard Quarter site. This was mainly because of the existing mid-town hotel infrastructure.
- 2.21 We note that some of the parties we spoke with did not agree with the economic analysis about location. This was mainly because, in their view, co-located hotel infrastructure will follow the building of a convention centre. This is not a matter that we needed to resolve or form our own view on. From our perspective, the important point is that these issues were being analysed and debated.
- 2.22 Officials also noted that some overseas convention centres were developed with private sector funding as part of precinct developments (involving retail premises and hotels), but with government contributions of land or funding. They noted that public sector ownership could support wider economic, social, and environmental outcomes because a convention centre could operate in part as a community asset – for example, by having free concerts and events from time to time. If necessary, broader outcomes could be specified in key performance indicators for a convention centre, as well as economic objectives.

Next steps

- 2.23 The Ministry of Tourism gave the Prime Minister/Minister of Tourism a written briefing on the findings of the feasibility study and supplementary work on 24 August 2009. The briefing paper sought his agreement to proceed to the

planned second stage. This was to involve officials continuing to work closely with Auckland City Council to develop a business case and establishment plan. It required funding of \$170,000.

- 2.24 The briefing paper included a section on the benefits and costs of an international convention and exhibition centre from the feasibility study. It stated:

When fully operational, the centre could attract almost 22,000 additional international visitors and more than 200,000 extra visitor days. There would be an estimated increase of \$85.4 million in tourism-related expenditure annually. Furthermore, there would be non-quantifiable benefits such as improving shoulder and off-peak tourism, fostering commercial links between international and New Zealand businesses, and supporting innovation and knowledge transfer between international delegates and New Zealanders.

- 2.25 The Prime Minister/Minister of Tourism signed the briefing paper but did not agree to officials progressing to a business case and implementation plan. He annotated the briefing paper by hand, stating that “we should close off the SkyCity angle first”.

Our comments on the early feasibility work

- 2.26 In our view, the work through to August 2009 was a reasonable and careful exploration of the possibilities presented by an international convention centre. The processes for committing government funding to the work were orthodox and the work canvassed an appropriate range of issues and views.

Part 3

Discussions between the Government and SkyCity in 2009 and 2010

3.1 In this Part, we:

- explain what the reference to “the SkyCity angle” meant in August 2009;
- describe the discussions between the Government and SkyCity between August 2009 and March 2010;
- summarise the consideration being given to procedural questions during this time; and
- provide our comments on what took place during this period.

What was “the SkyCity angle” in August 2009?

3.2 The Prime Minister told us that his handwritten reference to “the SkyCity angle” on the Ministry of Tourism briefing paper on 24 August 2009 referred to his broad awareness that SkyCity had some development plans at that time.

3.3 Ministry officials were aware that SkyCity had expressed an interest in extending its existing convention centre across Federal Street or developing a new centre on land it owned in Hobson Street. This awareness arose from communications between Auckland-based Ministry officials and SkyCity during April and May 2009.

3.4 SkyCity executives told us that they had been working for some months on conceptual plans for extending their existing convention centre or building a new one, and met with officials on 12 May 2009 to tell them about their plans. After the May meeting, SkyCity provided officials with conceptual drawings of what an expanded convention centre might look like.

3.5 The Prime Minister’s diary includes a meeting with SkyCity’s Chief Executive on 14 May 2009, which was one of a series of meetings that day with Auckland business leaders. SkyCity confirmed that this meeting took place. Neither participant can recall the discussion, and think that it was probably just an opportunity for them to meet rather than for any particular purpose.

3.6 The Prime Minister received a note from officials on 17 June 2009 updating him on the feasibility study process. The note refers to interest from the private sector in the international convention centre, including from SkyCity.

3.7 On 22 July 2009, SkyCity executives had dinner with the Prime Minister’s Chief of Staff in Wellington. SkyCity’s executives told us that they discussed their development plans with the Chief of Staff, who suggested they follow up with options in writing. SkyCity did not follow up in writing at that time.

Initial discussions between the Government and SkyCity

August to October 2009

- 3.8 After the Prime Minister/Minister of Tourism annotated the Ministry of Tourism briefing paper on 24 August 2009, a Ministry official met with SkyCity on 28 August 2009 about its convention centre development plans. They also discussed the feasibility study findings and the option of a larger convention centre noted in the study.
- 3.9 SkyCity executives arranged other meetings in Wellington in September 2009. On 3 September 2009, they met the Prime Minister's Chief of Staff and Deputy Chief of Staff, and the Department of the Prime Minister and Cabinet's (DPMC's) Chief Executive to go over SkyCity's development plans.
- 3.10 SkyCity told us that, at that time, it was of the view that an extended or stand-alone convention centre project would require some government funding support because it would be a major strategic infrastructure project. SkyCity thought it might be attractive to the Government as a public-private partnership (PPP), and was preparing its proposal with a view to approaching the Government as a funding partner. However, it was not ready to be explicit about a request for government funding.
- 3.11 SkyCity also told us that it signalled at these meetings that its further investment on the scale required would depend on legislative changes being made to the Gambling Act 2003 and an extension to its casino licence.
- 3.12 SkyCity met with a senior official from the Ministry of Tourism on 23 September 2009, who told them that he had passed on information to the Prime Minister/Minister of Tourism and the Associate Minister of Tourism about the possibility of a gambling licence extension as a condition of SkyCity bearing the cost of an international convention centre.
- 3.13 On 29 September 2009, Auckland-based Ministry officials made a written request to SkyCity for information about its expansion proposal. They asked to receive the information by 30 October 2009 (later extended to 13 November), and made it clear that the Government was under no obligation to progress SkyCity's option.
- 3.14 SkyCity also met with the Minister of Finance (Hon Bill English) on 15 October 2009 to discuss its convention centre options. SkyCity initiated the meeting. SkyCity told us that the Minister of Finance told them that the Government had no money to fund the building of an international convention centre.

November to December 2009

- 3.15 On 4 November 2009, the Prime Minister and his Chief of Staff attended a dinner in Auckland with SkyCity Board members and executives. SkyCity told us that it had prepared a presentation for the dinner on convention centre options it was considering at that time and, at the dinner, discussed its plans for extending its existing facility. This was its preferred option at that time, although its second option was a bigger investment in a new convention centre. Its third option was to do both.
- 3.16 The Prime Minister told us that, at the dinner, he suggested that SkyCity think more broadly than simply expanding its existing conference facilities – in short, to “think outside the box” and come up with a larger world-class stand-alone centre. SkyCity has confirmed the same understanding of the meeting.
- 3.17 On 12 November 2009, a Ministry official emailed the Department of the Prime Minister and Cabinet (DPMC) summarising where the process with SkyCity had got to. This summary noted that officials had been expecting SkyCity to provide a design proposal on 13 November and had organised for a panel of experts from New Zealand and Australia to meet on 19 November 2009. This meeting was to hear a presentation from SkyCity and consider its design proposal from the perspective of urban design and industry users of the facility. The summary said that the intention had been to report the panel’s feedback to the Prime Minister before Christmas 2009, either with a recommendation to progress negotiations with SkyCity or to seek expressions of interest as part of an open process.
- 3.18 However, after the 4 November dinner meeting between the Prime Minister and SkyCity, SkyCity was now preparing designs for a 5000-seat centre (larger than it had previously planned), to be supplied directly to the Prime Minister’s office. The panel meeting planned for 19 November 2009 was deferred until further notice. The 12 November summary also indicated that the Treasury had advised that Ministry officials should seek advice from the Office of the Auditor-General to determine the probity of the current process with SkyCity.⁸
- 3.19 At this time, SkyCity was clear that it would seek regulatory changes from the Government and that its second option would depend on a range of legislative changes. SkyCity told us that the Prime Minister asked SkyCity to further consider what it sought from the Government, given that the Government had no funding to commit to the project and, therefore, a PPP was not a funding option.
- 3.20 SkyCity’s Board considered its position after the 4 November dinner with the Prime Minister. The Chairperson of the Board wrote to the Prime Minister on 23 December 2009, stating SkyCity’s support for an international convention centre and identifying broad areas in which regulatory reform could be of value to it in return

⁸ We have no record of any contact with Ministry officials on this topic at that time.

for SkyCity contributing to the cost of a convention centre. SkyCity said it expected to be able to present the Prime Minister with a full proposal by February 2010.

Interactions in early 2010

3.21 In early 2010, responsibility for the international convention centre discussions transferred from the Ministry of Tourism to the Ministry's major events team. The main Auckland-based officials remained the same.

3.22 This change meant that the Minister for Economic Development, Hon Gerry Brownlee, became the Minister with primary responsibility for the international convention centre project.

3.23 Given the global financial crisis, the Government at that time had a particularly strong focus on the need to generate new economic activity in New Zealand. Mr Brownlee told us that the convention centre project was seen as part of the Government's broader objective to attract major business events to New Zealand, and fitted better with the broader portfolio of economic development than with tourism.

3.24 SkyCity met with Mr Brownlee on 19 February 2010, had further meetings on 11 and 26 March 2010 with the Prime Minister's Chief of Staff, and with Mr Brownlee's Senior Advisor on 11 March 2010. SkyCity did not provide the detailed proposal for an expanded or a new convention centre despite having been invited by both officials and the Prime Minister to do so. SkyCity told us that its delay in providing the detail was a timing issue, in that it took longer than planned to prepare its proposal.

3.25 SkyCity told us that it was clear from a meeting with the Prime Minister's Chief of Staff on 11 March 2010 that the Government expected SkyCity to fully fund the convention centre, and the Chief of Staff asked SkyCity for details of the regulatory relief it would seek in return.

3.26 At another meeting also on 11 March 2010, Mr Brownlee's Senior Advisor told SkyCity that the Government intended to run an EOI process. We explain in Part 4 that officials had been working to prepare an EOI process after discussions with Ministers on 1 March 2010.

Discussions about procedural questions

3.27 In August 2009, the feasibility study and associated advice from officials had recommended that the next steps be the preparation of a full business case and project plan. This recommendation was based on the assumption that the Government would fund much of the capital cost of a new international

convention centre and possibly own it. These were normal and appropriate procedural steps in those circumstances.

- 3.28 We saw no evidence that officials considered the procedural consequences once the Prime Minister told them to find out about SkyCity's plans first. The only discussion of procedural issues that we saw during this period related to a 3 November 2009 meeting between Ministry officials and a Treasury official to discuss the types of funding options, including PPP arrangements, that might be available to develop a convention centre. At that time, although the officials did not know precisely what sort of arrangement SkyCity might be interested in, SkyCity had told them it was interested in PPPs and had commissioned some expert advice on this.
- 3.29 The Treasury official provided some initial and general comments, which were also recorded in an email dated 4 November 2009, on the understanding that a PPP of some sort was contemplated in which the Government would fund some or all of the construction of a convention centre on land owned by SkyCity. SkyCity would build and operate the centre.
- 3.30 The Treasury official noted that an important part of the standard PPP process was a market tender, which provided assurance that the taxpayer was receiving value for money. Without such a process, there would be questions about value for money and probity. If the Government wished to pursue a direct PPP arrangement with SkyCity it would need to satisfy itself (and the Office of the Auditor-General) that due process and probity were applied. In particular, the Government would need to be sure that this was the only viable option. This would require, at a minimum, an open and transparent assessment of other options. Overall, the Treasury comments suggested that officials should think about other, more conventional, procurement approaches.
- 3.31 We saw no evidence of the Ministry following up on these comments and giving further consideration to the Government's procedural options and obligations at this point. The Ministry did not provide any written advice to Ministers on this issue. The Treasury's comments were referred to in a 12 November 2009 email from a Ministry official to DPMC and included in a private DPMC briefing note to the Prime Minister on 3 December 2009. This is the only documented advice after the Treasury's comments.

Our comments on the initial discussions with SkyCity

- 3.32 We have no concern that the Government took steps to find out whether SkyCity's development plans might be relevant to the discussions about an international convention centre. Nor is it unusual for a company like SkyCity to

approach government officials and Ministers to explore whether there might be government interest in, and support for, its development ideas. Government and private business interests are free to talk to each other. It was sensible for both parties to explore whether they had a common interest. Our investigation confirmed that the discussions between August 2009 and March 2010 remained high level and preliminary in nature.

- 3.33 However, we do have concerns about the apparent readiness of officials to support those discussions developing into more substantive negotiations without preparing to give advice on the Government's procedural obligations and options. By November 2009, officials had been ready to give more detailed consideration to a formal proposal from SkyCity and possibly to recommend to Ministers that negotiations progress (see paragraph 3.17). This did not happen because SkyCity did not provide a proposal during this period.
- 3.34 In our view, officials involved at that time should have been ready to give advice to Ministers on procedural options if SkyCity had attempted to progress to discussions of a firm proposal. Even if the Government provided little or no up-front funding, SkyCity had made clear that it would need regulatory reform to create an enhanced revenue stream for the project to be viable. It was apparent that any further discussion would effectively be a commercial negotiation about an exchange of value to achieve the desired outcome. Therefore, we considered what principles and obligations would apply.

Summary of the relevant principles and procedural obligations

- 3.35 The main sources of guidance on these matters are:
- the *Mandatory Rules for Procurement by Departments* (the Mandatory Rules),⁹ which are a set of procedural requirements that reflect the commitments made in several international free trade agreements that Cabinet requires all government departments to apply;
 - the good practice guides and other reports we have published on funding arrangements and procurement;¹⁰

9 Endorsed by Cabinet on 18 April 2006, and available at www.business.govt.nz. The rules are administered by the Ministry.

10 See, in particular, *Public sector purchases, grants, and gifts: Managing funding arrangements with external parties and Procurement guidance for public entities*, both June 2008.

- advice and guidance provided by the Ministry, which is the Government's lead agency on procurement, recently summarised in *Mastering procurement: A structured approach to strategic procurement*.¹¹
- 3.36 The Mandatory Rules are the only binding rules with any legal status. They are also the most prescriptive and state that they must prevail if there is any conflict between the sources of guidance. The Mandatory Rules apply to all forms of procurement by government departments, including purchases, leasing, build-operate-transfer contracts, concessions contracts, and PPPs. They require that any contracts above a specified value must be put to tender unless an exception applies. Value must be calculated for the total duration of the contract and include all kinds of remuneration, including options, premiums, fees, interest, and revenue streams.
- 3.37 We concluded that the Mandatory Rules were relevant to the early discussions about an international convention centre. At this stage, the possible options included construction of a publicly owned centre, some kind of PPP, a concession-based arrangement such as that being suggested by SkyCity, or some combination of these. All of these options involve some kind of contract and exchange of value between government and a private sector party to procure an outcome. They all fall within the broad definitions of procurement and value covered by the Mandatory Rules.
- 3.38 The core of the Mandatory Rules is the requirement that procurement is conducted by way of an open tendering procedure unless an exception applies. The exceptions are set out in the appendices to the rules and are reasonably narrow. The most relevant exception is where there is an absence of competition for technical reasons and there is, effectively, only one possible supplier. When departments rely on an exception and do not use open tendering procedures, the Mandatory Rules require the department to prepare a written report providing specific justification for the approach and contract. This is intended to ensure that departures from the requirement to tender are justified and transparent.
- 3.39 The advice in the good practice guidance we and the Ministry have produced is to similar effect, although it is not as strict in its application. The general advice is that, for purchases of any kind, market-based processes are a well-established way of meeting the relevant principles – particularly value for money, openness, and fairness. If those processes are not used, and a direct approach to a single provider is being considered, then the expectation is that the public sector agency will find other ways to be assured that it is meeting these principles. The agency should also document the reasons for that decision, so that it can explain why the process chosen was more appropriate in the circumstances.

11 March 2011, available at www.business.govt.nz.

- 3.40 For example, the *Mastering procurement guide* that the Ministry has published discusses when competitive and direct approaches to the market and potential suppliers will be appropriate. It explains that, although both are possible, an open and competitive process is the preferred approach for government. High-value, high-risk, complex, or unique goods and services are likely to suit a multi-stage process, with an open invitation for interested suppliers to respond followed by shortlisted suppliers submitting full tenders. However, special circumstances might mean that it is better to go directly to a specific supplier.
- 3.41 Page 16 of the guide gives the examples of “highly complex specification, or only one source and this can be verified, or only one supplier has the capacity to deliver on time and this can be verified”. The overall advice is that the agency must be able to:
- demonstrate that price is consistent with market rates; and
 - justify the decision not to use the open, competitive process.

What should officials have been considering?

- 3.42 In our view, the Ministry should have been considering these procedural matters when it was preparing to assess a proposal from SkyCity and support any further discussions. It needed to be ready to provide advice to Ministers on the general principles that needed to underpin the process, the relevance of the Mandatory Rules, the limited exceptions in those rules, and the procedural steps that the Government would need to follow if it was considering proceeding to direct negotiations with SkyCity.
- 3.43 As already noted, we found no evidence that the Ministry was considering procedural matters at this stage or providing advice to Ministers on options and risks for next steps. A Treasury official raised concerns about procedural and probity questions if matters were to proceed to a PPP, but the Ministry did not pursue those concerns. The Ministry is responsible for administering the Mandatory Rules and providing advice on procurement matters; we are surprised that it did not follow up in any formal way.
- 3.44 However, the matter became moot because SkyCity did not produce a proposal at this time. Instead, the Minister directed officials to proceed to an EOI process as part of a broader discussion of economic development possibilities.

Part 4

Calling for expressions of interest

4.1 In this Part, we set out:

- the decision to run an EOI process;
- what an EOI process is;
- how the EOI document was prepared;
- the content of the final EOI document issued to the market; and
- our comment on the process and document.

The decision to call for expressions of interest

The decision by Ministers

- 4.2 Ministry officials told us that Mr Brownlee saw the international convention centre project as part of a broader government strategy to attract major business events. The Government wanted to seek ideas from the business and convention centre sector on how to do this. The Minister was also interested in the concept of a network of convention centres throughout the country, because some larger conventions start in one centre and then break into smaller interest groups and move to other venues. Mr Brownlee emphasised to us that this was part of the Government's efforts to help the New Zealand economy after the global financial crisis.
- 4.3 On 1 March 2010, Mr Brownlee directed Wellington-based Ministry officials to prepare a paper seeking Cabinet's approval to:
- seek comments from the convention centre sector about a network of convention centres and any barriers to attracting business events to New Zealand;
 - obtain a logo for the proposed convention centre; and
 - design an "EOI/request for proposals" process to gather alternative Auckland-based proposals.
- 4.4 Later that day, Mr Brownlee and Ministry officials met with the Prime Minister and discussed the convention centre project. Notes from that meeting record that the Prime Minister said that SkyCity had a good proposal. He also agreed that an open process would be a good way to get all the ideas out so that the public could see and assess the merits of potential sites. The Prime Minister noted that the public would be likely to have mixed views on the regulatory reform aspect of the SkyCity option when that became known. Mr Brownlee referred to "too many people talking to SkyCity", and the Prime Minister's Chief of Staff said he was happy to step back. Mr Brownlee also mentioned the need for an "open process" with "no holds barred".

The Cabinet decision

- 4.5 Mr Brownlee submitted a paper to the Cabinet Economic Growth and Infrastructure Committee meeting on 24 March 2010. The paper noted that:
- A joint group of MED, Ministry of Tourism and Auckland City Council officials have been looking at the feasibility of building a new, large ... international-standard convention centre in Auckland ...*
- Work on a proposal is proceeding, with a proposition likely to be presented to the government around the end of March [2010].*
- In my view that process needs to be broadened. We need to see what other possibilities there might be. We need to decide how best to promote New Zealand as a business events/conference destination – selling the advantages of not only building a new, international-standard convention and exhibition centre but also of enhancing the way we tell the world about all the business events centres and venues available throughout New Zealand.*
- 4.6 On 29 March 2010, Cabinet confirmed the Committee's direction that the Ministry:
- ... develop, by 31 March 2010, a request for high-level expressions of interest that could be publicised and sent to relevant territorial authorities and private sector organisations, seeking creative and innovative ideas about the construction and funding of an international-standard convention centre, and the development of an enhanced national network of convention centres (of which a new large international-standard convention centre would be a part).*
- 4.7 Cabinet confirmed that the Minister for Economic Development would have a series of meetings with major convention centre owners and managers, to set expectations for the EOI exercise and to promote a partnership approach with the private sector for enhancing New Zealand's potential as a business events and conference destination. Cabinet also confirmed that officials should reserve naming rights for the convention centre for the Crown through trademarks.
- 4.8 The paper was explicit that this new government-led process meant an end to the previous process with Auckland City Council, under which the feasibility study had been commissioned and under which it had been suggested proceeding to a business case and establishment plan. Auckland City Council was now free to submit a proposal into this government-led process.

What is an expressions of interest process?

- 4.9 An EOI process is a procurement approach used to explore a market. It is primarily used to identify suppliers interested in, and capable of, delivering required goods or services. The term EOI is used because suppliers are invited to provide an “expression of interest” in providing the goods or services. An EOI process can also be used to draw on the expertise of potential submitters and to see what ideas they might have for achieving the desired goal.
- 4.10 The request for expressions of interest is usually formulated in reasonably general terms, and the responses are equally broad-brush. EOI processes do not usually involve any detailed consideration of cost, because the ideas are still too high-level for costs to be meaningful.
- 4.11 For these reasons, an EOI process is usually the first stage of a multi-stage procurement process. Once expressions of interest have been received and assessed, the top few submitters are often asked to provide more fully developed proposals through a “request for proposal” process, with full information on such matters as design, capability to do the work, expected costs, and funding options. This enables competitive tension to be maintained while exploring options in more detail.

Good practice expectations for an EOI process

- 4.12 The main principles governing an EOI process are set out in paragraph 3.39. In particular, the principles of openness, fairness, and integrity create a set of procedural expectations and obligations. In summary, participants in an EOI process can expect:
- Good information on what is being sought and how the process will work: The organisation running the process should provide the market with as much information as is available on the background to the request, what is being sought, and the process that will be followed to assess responses and make decisions. The more information that is provided, the better the quality of responses is likely to be.
 - Equal access to information: The organisation should do its best to ensure that all potential participants have equal access to information from it about the EOI while they prepare their responses.
 - Equal treatment: The organisation should be careful to ensure that all participants are treated equally throughout the process of preparing, receiving, assessing, and deciding on the proposals. This does not mean identical treatment, but all participants should have the same broad opportunities to receive and provide information.

- 4.13 The need to ensure equal treatment and full and equal information generally means that the organisation needs to manage the process carefully. Our guidance and that produced by the Ministry emphasise the importance of thorough planning at the outset. Essentially, the advice is to work backwards from the outcome being sought to develop the basis for evaluating whether a proposal will help achieve that outcome, what information needs to be sought to enable that evaluation, and what process will be followed to get the information, assess it properly, and make decisions.
- 4.14 It is usual at this planning stage for the organisation to work out how it will manage the overall process internally, including deciding on roles, responsibilities, governance and decision-making processes, and how communications with the market and submitters will be managed. It is also standard for the organisation to systematically identify any possible risks and document how it will manage those risks.
- 4.15 A common risk is that there will be a challenge to the procedural fairness of the process, for example because submitters have not been provided with equal opportunities or consistent treatment. This risk is usually reduced by careful planning to ensure that the process will be even-handed (and seen to be so), and by ensuring that all communication with potential participants is carefully controlled and that good records are kept.
- 4.16 This type of planning helps ensure that there is good alignment between the information being asked for and the basis on which proposals will be evaluated, and that this reflects what the organisation is trying to achieve from the process. It also enables the organisation to make sure that potential participants understand the overall process and the steps that will be followed. If anything changes in the process, or new information becomes available, then the organisation will usually have a clear process for communicating that to all potential participants.
- 4.17 The level of detail involved in such planning will obviously vary depending on the nature of the process being followed. A full commercial tender for a high-value project will usually involve comprehensive project planning. A simpler approach can be taken for an early and exploratory EOI process such as this one. However, the same basic points need to be considered. The nature of the issues may also affect the level of risk and, therefore, the amount of planning and risk management that is appropriate.

Preparing the expressions of interest document

Discussions about the draft document

- 4.18 During April and May 2010, Ministry officials worked to prepare an EOI document. The official leading the work sought advice from project and legal colleagues and the Ministry's procurement advisor. Officials also met Mr Brownlee's Senior Advisor to understand the Minister's expectations.
- 4.19 The proposed document was in three parts:
- Part A sought "views on generally what needs to be done to increase the number of business events held in New Zealand";
 - Part B sought "to identify sites of suitable size in an appropriate location that could be developed into an international-standard convention and [national] exhibition centre"; and
 - Part C sought to "identify other locations in New Zealand that have existing centres with expansion plans that might be considering seeking government support (financial or otherwise)".
- 4.20 Part A did not seek expressions of interest but asked that people respond with ideas about increasing business events and strengthening existing events networks. Part A was effectively a consultation exercise, with the stated purpose of providing information to contribute to the first stage of a national business events strategy. The EOI document noted that the Ministry would consult more broadly with the convention and tourism industry during the ongoing development of the strategy.
- 4.21 Parts B and C sought expressions of interest from parties who wished to propose a site for an international convention centre (Part B) or from parties who already had plans to expand an existing convention centre and who might be considering seeking government support – financial or otherwise (Part C).
- 4.22 At first, the draft EOI document contained a section on who could respond to the part seeking proposals for an international convention centre – those owning a convention centre that could be expanded or a suitable piece of land that could be developed, or those (for example, councils) wishing to promote a particular site as suitable for a convention centre. This section was deleted because Mr Brownlee wanted the process to be open to anyone who wanted to give their views or opinion on possible sites.
- 4.23 The procurement and legal advisors questioned whether the mixed purposes of the EOI document were confusing – it sought consultation in one part and expressions of interest in two other parts. Suggestions included separating the

Parts into different documents with different processes for each or reworking the document as a Request for Information (RFI), which is a tool for researching the market rather than seeking and selecting specific proposals. There was also concern that having to answer the consultation questions might put people off expressing interest in the other parts. Some changes were made as a result of these and other comments, and the relevant advisors accepted that these concerns were not major ones.

- 4.24 The officials considered what the EOI document should say about funding. A draft version asked for suggestions on how the convention centre could be funded, and said “because central government does not intend to be more than a partner in this project”. One official noted that this wording was unclear and advised that, if central government did not intend to provide any funding, then this should be stated. However, the lead official responded that it was not clear at that time what funding would be available and so they could not clarify the wording.
- 4.25 The final version of the EOI document asked submitters to address “alternative and creative funding options” for the development and operation of an international convention centre, and asked submitters to consider funding options of central government, local government, and the private sector.
- 4.26 Although an EOI is usually followed by a tender process, in this instance officials were clear that they were proceeding one step at a time. The EOI would provide information on whether there were any viable options. The Government might not go to the next stage of a Request for Tenders or Request for Proposals (RFP). The next stage would depend on what responses were received.

Meetings with the sector

- 4.27 Before the EOI process began in 2010, the Prime Minister met other parties, in addition to SkyCity, interested in providing an international convention centre.
- 4.28 On 15 April 2010, the Minister for Economic Development wrote to a wide range of stakeholders (more than 20 organisations) including SkyCity, inviting them to informal meetings in Christchurch (30 April), Auckland (7 May), or Wellington (11 May). The purpose of the meetings was to hear stakeholders’ views and ideas for action on how New Zealand could become a destination of choice for significant conventions, conferences, and business events. The Minister’s letter noted that:

The government recognises that to become a destination of choice for business events, New Zealand requires a well-coordinated strategy to attract more and larger events, and an enhanced national network of business events facilities. An international-standard convention and exhibition centre is also required.

- 4.29 The speaking notes prepared by the Ministry for the Minister’s meetings included material alerting participants to the forthcoming EOI document:

In order to fully explore the best location for a convention and exhibition centre, we are going to release an “expression of interest” in mid May. This will request suggestions for the best location for an international convention and exhibition centre.

- 4.30 On the topic of funding, the speaking notes said:

In addition to location we are very interested in receiving ideas on how the construction and operation of a new large centre could be funded. At most the government would be a partner in any funding arrangement.

- 4.31 The speaking notes also contained a section of possible questions and suggested answers. The questions and suggested answers relevant to funding were:

What’s next after the EOI?

The Government will wait for this process to play out before deciding if there is a role for it in taking the concept forward. We want to see the private sector take the lead and will look at providing support if it is appropriate and necessary.

Will government put money into the building of a convention centre?

This will depend on ideas that come through the EOI process. Government could only play a partnering role in any case. For a new convention centre to be developed other partners would need to be found.

How much money is the government prepared to invest?

It is too early to say how much money the government might invest. At this stage we are concerned with identifying the best location for a national convention and exhibition centre and exploring the various funding models that could be used to build and manage a centre.

- 4.32 The notes from the Minister’s meeting with convention sector stakeholders in Auckland record the Minister promoting the network of convention centres concept and the logic of having an international convention centre in Auckland. On the topic of funding, the notes of the meeting are not comprehensive but record the Minister as saying:

- “cash strapped and constrained”;
- “put proposals forward so Government can decide what to do – know local government can’t just find the money”;
- “cost constrained as Auckland Council”; and
- “want others to pour money in as Government does”.

The final expressions of interest document

- 4.33 The Ministry issued the EOI document, *Request for Expressions of Interest for growing New Zealand's share of the International Business Events Market and Strengthening the National Network of Convention Venues*, on 19 May 2010. The closing date for providing expressions of interest was 18 June 2010. We set out the content of the EOI document in Appendix 2.
- 4.34 The document was available on the Government's electronic tenders site, was posted to major stakeholders¹²(with a copy of the 2009 feasibility study), and was publicised with a media statement issued by the Minister for Economic Development. The Minister's press release restated the benefits identified in the earlier feasibility study (that is, 22,000 extra international visitors generating an estimated \$85 million each year in tourism spending). The EOI document was also advertised in nine major newspapers.
- 4.35 Parts A and C of the EOI process were handled as follows:
- The Ministry's major events team used the Part A responses to inform the development of the July 2011 publication, *Growing New Zealand's share of the International Business Events Market*.
 - Part C responses – concerning expansion of existing convention and exhibition centres – have largely been put on hold until the international convention centre work is completed.
- 4.36 Part B is the part of the EOI process that is directly relevant to our inquiry. In background information for respondents, Part B summarised the major findings of the feasibility work that we described in Part 2. This included the importance of being close to hotels of an appropriate standard and therefore that a CBD location was the most likely option. The report that summarised the 2009 feasibility study and contained the additional research by officials was issued with the EOI document.
- 4.37 The EOI document said that the Ministry would compile a shortlist of respondents to Parts B and C from whom further information (such as an RFP) might be sought. The EOI document said that those not shortlisted would be advised of that fact.
- 4.38 The EOI document also reserved the right for the Ministry to enter into direct negotiations with a respondent to Part B (or one or more respondents to Part C) based solely on the information provided in responses to the EOI document.
- 4.39 Information was requested in Part B on the city involved, the convention centre size and building attributes, the convention centre site, legal, regulatory, or land

¹² Twenty-four organisations, including those that had attended meetings with the Minister in April and May 2010 (see paragraph 4.28).

ownership issues, funding of the convention centre, and the role the convention centre would play in the wider network of existing New Zealand convention centres.

- 4.40 Part B also asked for any cost-benefit analysis relevant to establishing an international-standard convention and exhibition centre.
- 4.41 The EOI document made reference to a centre capable of hosting conferences of 3500-5000 delegates, and, if not initially catering for 5000 participants, the ability to increase capacity at a later stage to this number.
- 4.42 The EOI document did not say how responses to Part B or C would be assessed. One of the five organisations that made a proposal in response to Part B of the EOI document commented that this was unusual.

Our comments on the preparation of the EOI document

The need to think through and plan the overall process

- 4.43 In our view, it was a good idea to test the market at that point, to see what options there might be for achieving an international convention centre. Some solid analysis of the potential market and elements of the business case had been done through the feasibility work, and the Government knew that there were several potential suppliers interested, including SkyCity. From a good practice perspective, an EOI process was a sensible next step to find out which suppliers, if any, were interested enough to put together an outline proposal. It was also a way of satisfying the obligation in the Mandatory Rules to establish whether there were genuinely competitive providers or whether it would be justifiable to begin direct negotiations with one party.
- 4.44 Earlier in this Part, we summarised the main good practice requirements for preparing and running an EOI process. Based on these, we expected the decision to proceed to an EOI process to be accompanied by systematic planning so that there was clarity about possible next steps, roles and responsibilities in the process, and what needed to be done to manage risks. The earlier feasibility work had covered much of the same ground as a business case, but no planning had been done about the detail of how to manage an interaction with the market.
- 4.45 We do not suggest that the entire process should have been mapped out through to a tender process and final decisions to construct a convention centre. It was reasonable for the Government to proceed one step at a time, and not commit to a full multi-stage process at this point. However, the Ministry still needed to think through the options for next steps so that it could be sure that the EOI process would properly support any later decision-making.

- 4.46 Once the EOI document had been issued, normal practice would be for the Government to evaluate the responses received, make a decision about next steps, inform the participants and the market about that decision, and implement it. There were three main options for the next steps, once the responses had been evaluated:
- Decide that there were no proposals worth exploring and stop the process. The Government would then advise all the participants of this decision and end this particular initiative.
 - Decide that there was only one proposal that justified any further exploration and that it was best explored through a direct procurement process. As already noted, good practice and the Mandatory Rules require clear documentation of the reasons for a decision to proceed to a direct procurement, as well as the ways in which basic principles such as value for money will be secured in the absence of the competitive tension that is usually provided by a tender process. If this was the decision, those who responded to the EOI should be notified of the decision to proceed directly to discussions with a possible preferred provider.
 - Decide that there was at least one proposal worth exploring and that it was still important to maintain competition. In this situation, the next step should be to proceed to a request for proposals with a selected shortlist of participants. Those who responded to the EOI would be notified, and the shortlisted proposals would be developed and explored further through a structured competitive process. This would require more detailed planning, detailed specifications, clarification of the budget and funding options, a full tender process, selection of a preferred provider, and contract negotiations.
- 4.47 We did not see any evidence of formal discussions or decisions on the evaluation process and criteria, or mapping out of the basic options for what might happen next, or advice to Ministers on how the process would be managed and their involvement in it. We do not regard this as adequate for a project of this potential scale, complexity, and risk.

The EOI document

- 4.48 We agree with the officials who initially advised that the EOI document was confusing. It was not helpful to have a single document, called an EOI, which was, in fact, trying to achieve a number of different purposes through different processes. In our view, it would have been better to run separate processes for the public consultation and procurement matters.
- 4.49 Other minor weaknesses in the final EOI document were that:
- it did not set out the evaluation process or any explicit evaluation criteria, but left responders to infer the evaluation criteria from the information being sought; and

- it included a clause reserving the right for the Government to decide to negotiate directly with one submitter but no explanation of the process that would sit behind such a decision.

Managing communication with potential submitters

- 4.50 We also had some procedural concerns about the steps taken after officials and senior Ministers had agreed to move to an EOI process on 1 March 2010. From this point on, we would have expected officials to be clear, and to be providing clear advice to Ministers, on the importance of managing communication with potential submitters. We saw no such advice, and note that ministerial office staff were still meeting and talking separately with SkyCity later that month about its proposed development plans and what it might ask in return.
- 4.51 In our view, these meetings were not appropriate. From the point at which a formal approach to the market was likely, communication with potential submitters needed to be managed carefully. Unequal access to information is one of the main risks in any procurement process, and the recognised way of managing that risk is to ensure that all communications are carefully controlled through a single channel. The Government should have told SkyCity that it was likely to be calling for expressions of interest and any discussions about its proposal would now have to be carried out through that process.
- 4.52 It was put to us that it is not realistic for politicians to insulate themselves from contact with people in this way: they cannot avoid encountering people in the course of carrying out their duties. We understand this point, but it is important that all those involved in a commercial process understand the risk that communication outside the formal process can lead to allegations of advantage, and therefore manage any such encounters to minimise this risk. The usual response would be to make clear to potential submitters that a market process is beginning, so it would not be appropriate to discuss that particular matter and to document any meetings that did take place.

Information on funding possibilities

- 4.53 When going to the market, the Government must do its best to ensure that all potential submitters have the same, full information on the Government's requirements. It was well known among officials that SkyCity had met with various senior Ministers in the previous months. In our view, there was an obvious risk that SkyCity would have a better understanding of the Government's thoughts than other participants. This was a risk that needed to be actively managed. We consider that the officials working on the EOI process should have taken steps to ensure that they knew what had been discussed with SkyCity by

Ministers and their staff, and that the same information was provided to the rest of the market in the EOI document.

- 4.54 This risk eventuated in relation to the question of government funding. The EOI document was vague and asked for “creative ideas and suggestions on how the construction and operation of an international-standard convention centre could be funded. Options can include central government, local government and private sector funding options.” The main background information accompanying the EOI document was a copy of the 2009 feasibility study, which included a conclusion that central government would need to meet some or all of the capital costs. This context, combined with the fact that the Government was using a procurement process to approach the market, all supported an impression that government funding was likely to be part of the eventual solution.
- 4.55 Yet SkyCity knew, from its earlier meetings with other Ministers, that the Government did not want to fund the construction of a convention centre at all and would look at alternative ways of making a centre viable, including regulatory reform to provide a potential provider with an enhanced revenue stream. Although the Prime Minister met with other business leaders and potential providers in the months before the EOI process, we have seen no evidence that this kind of discussion took place with any other potential submitter.
- 4.56 We note that a Ministry official did comment that the document was not clear enough about funding. However, we are concerned that the response from the lead officials was that the government position was unclear and therefore it was necessary to use general language that left the matter open. In our view, the lead officials should have worked with relevant government agencies and Ministers to establish a clearer government position on funding that could be explained to the market in the EOI document.
- 4.57 We are not suggesting that the EOI document should have specified a budget or particular figure, or provided information that would have prevented the competitive process from managing price effectively. Rather, the document could have made explicit that:
- the government had no firm view yet on the funding it might contribute;
 - it wanted to minimise central government’s contribution to the capital costs of construction, given the economic situation; and
 - it was looking for creative ways of funding the convention centre.
- 4.58 The Ministry put to us that it was self-evident that the Government would want the least cost option, given the state of the economy by 2010, and that Ministers made clear in meetings that central government was constrained in what it could

contribute. We have carefully considered all of the information and meeting notes associated with the release of the EOI document and remain of the view that it needed to be clearer.

4.59 In our view, the overall message conveyed was that the need for some type of government support to construct the centre was understood, but that the Government was financially constrained and wanted to minimise its contribution. However, SkyCity had been told that the Government would not contribute any funds to the capital cost but would be willing to consider lateral solutions such as regulatory changes.

4.60 SkyCity told us that it regarded the EOI process as competitive and put considerable effort into its proposal. SkyCity also told us that it considered that the Government's comments about funding were partly "positioning" statements and, at the time of responding to the EOI document, it remained hopeful of a PPP funding model. Its EOI response said that it could contribute significant funding to the project on agreement of suitable terms, but would welcome the chance to consider other potential funding structures.

4.61 In our view, the result was that one potential submitter had a clearer understanding of the actual position on a critical issue – that the Government did not want to fund any capital costs – than any other potential submitters. Although this is a flaw in the process, it might not have had significant consequences. The other submitters still understood that the Government's finances were constrained, and became more so as 2010 progressed. No other submitter appears to have been likely to be able to adapt their proposal to enable them to fund the full construction costs. We accept that it is unlikely that this flaw made a material difference to the outcome. However, we have spent some time discussing it because we regard it as symptomatic of the lack of attention to procedural risks, and therefore to the fairness and credibility of the process.

Our overall assessment of the preparation for the EOI process

4.62 Overall, we have concluded that the preparation for the EOI process and the EOI document, fell short of good practice in a number of respects. Insufficient attention was given to planning and management of the process as a whole, so that risks were not being identified and properly addressed. However, the practical consequences of the flaws at this stage remained relatively minor.

Part 5

Evaluating the proposals received

- 5.1 In this Part, we set out:
- good practice expectations for the evaluation of responses to EOIs;
 - the process that was initially proposed for evaluating the proposals;
 - the process that was actually used;
 - the process followed for getting more information from the submitters;
 - discussions with SkyCity through to December 2010;
 - contact with the other proposers to December 2010; and
 - our overall comment on the evaluation process.

Good practice expectations for evaluating EOI responses

- 5.2 As with the process for preparing an EOI document, the principles of fairness, integrity, and transparency have generated a set of well-established procedural expectations for the evaluation process. These are explained in the good practice material referred to in paragraph 3.35. In summary, those principles require the agency running the process to ensure that responses are evaluated objectively and in an even-handed way. In practice, that usually means that:
- potential participants all have the same amount of time and information when preparing and submitting their responses to the EOI document;
 - the evaluation process has been explained to participants in advance, and any changes to it are communicated to all the participants;
 - there is objective application of the evaluation criteria by a defined group of people through a controlled and documented process; and
 - any follow-up interaction with participants during the formal evaluation process is controlled and documented so that no individual submitter has a greater opportunity than others to improve their proposal after the deadline for submissions or based on feedback from those evaluating the responses.
- 5.3 The level of formality and detailed control may not need to be as strong in an exploratory EOI process as in a tender that is evaluating fully developed proposals. However, the basic principle is still important. Public sector agencies need to be able to demonstrate that decisions are being made on the merits of the proposals and that nobody is given an unfair advantage. These basic steps help protect against allegations of favouritism.

The proposed assessment process

- 5.4 As noted, the EOI document was released on 19 May 2010, with a deadline of 18 June for submissions. On 2 June 2010, Ministry officials provided a written briefing to the Minister for Economic Development on the proposed process for assessing responses. The advice proposed a two-stage process for assessing responses to Part B of the EOI:
- First officials will review each proposal against a set of criteria ... We will report to you how each one rates against these criteria and identify the top 3-4 proposals by 29 June 2010.*
- The second stage will involve taking the top 3-4 proposals and having these reviewed by a panel of experts. Three New Zealand-based and three internationally-based individuals will form the panel ... We believe they have the right mix of knowledge, skills and expertise required to assist us in identifying which proposals might warrant more detailed scrutiny by government.*
- 5.5 The written advice outlined the proposed criteria and the members of the panel of experts. Officials had devised evaluation criteria in five weighted categories:
- city information: closeness to airport, hotels, shops (weighting 25);
 - fit for purpose: centre size and building attributes (weighting 35);
 - legal, regulatory, and ownership: clean site or restrictions, construction ready (weighting 10);
 - funding: costs, central government versus other funding sources (weighting 25); and
 - other: experience in operating a convention centre and positioning in national network (weighting 5).
- 5.6 The detailed evaluation criteria used by officials for four of the categories were essentially the same as the specific information sought in the EOI document. For example, for “City information”, the evaluation criteria were the six matters stated in the EOI document under that heading and one matter not explicitly included in the EOI document: “fit with urban development context and/or plans for city”. Of the 26 evaluation criteria, 21 were clearly signalled in the EOI document as matters that respondents needed to address.
- 5.7 For the funding category, five evaluation criteria were proposed, which together had a weighting of 25:
- cost to develop;
 - central government funding versus other sources;
 - non-monetary central government support requirement;

- investment readiness (partners identified, funding secured); and
- cost-benefit ratio.

- 5.8 The EOI document simply asked for information on funding sources. Under the heading of “additional information”, submitters were also asked to provide a cost-benefit analysis if one had been undertaken.
- 5.9 Appendix 3 sets out the assessment table and weightings. The table also notes whether the evaluation criteria in the assessment table were included in the EOI document.

The actual process used for evaluation

The initial assessment by officials

- 5.10 When the request for expressions of interest closed at 5pm on 18 June 2010, eight respondents had addressed Part B of the request to some extent.
- 5.11 There were five responses that largely met the EOI requirements for Part B and were worth assessing.¹³ These proposals were from:
- SkyCity – a site located between Hobson and Nelson Streets across the street from the SkyCity hotel and casino;
 - The Edge – a rebuild and expansion of the Aotea Centre and refurbishment of the St James Theatre in Queen Street;
 - Ngati Whatua – using land at Quay Street near the old Auckland railway station;
 - Infratil – a site at Halsey Street in the Wynyard Quarter (waterfront); and
 - ASB Showgrounds – development of its Greenlane site.
- 5.12 These proposals were assessed by officials (three Auckland-based Ministry officials, one Wellington-based Ministry official, and an Auckland-based official from the Ministry for the Environment). The four Auckland officials scored each of the proposals against the assessment criteria advised to the Minister for Economic Development in early June 2010. The Wellington official assessed the proposals but did not score them, because it was difficult to do so without local physical knowledge of the city and sites.
- 5.13 The individual scores given by officials to each of the proposals differed. On 30 June 2010, the officials had a teleconference to compare ratings and agree an initial assessment. When the scores were combined, the proposals were ranked from one to four. Two were deemed to be third equal, and the scores were all reasonably close.

¹³ We refer to these five responses to the EOI process as “proposals” and to these five respondents as “proposers”. There were three other responses to Part B. One was purely on funding options, one was an evaluation by Auckland City Council of several sites, and one did not include enough detail to meet the EOI requirements.

- 5.14 However, none of the proposers had adequately addressed all of the funding elements that were part of the officials' evaluation criteria. Only one proposal was clear on the extent of funding required from the Government. This meant that the proposals could not be scored for the funding category and this stage of the intended assessment process could not be completed.
- 5.15 The Ministry provided written advice to the Minister for Economic Development on 2 July 2010. The advice provided a brief analysis of the positive and negative aspects of the five proposals.

Decision not to proceed with the expert panel review

- 5.16 The 2 July 2010 advice noted that a panel of experts was due to meet (by teleconference) later that month to review the proposals. It also noted that officials would meet with the proposers to gather further detail about matters not addressed in the proposals and to help officials to decide on the next steps.
- 5.17 By Monday 26 July, officials had arranged contracts with all of the panel members and distributed an initial package of information on the proposals and the assessment work to date. Officials prepared notes on the proposals for the panel of experts and specific questions about each proposal for the panel's consideration. These notes did not discuss how each proposal might be funded.
- 5.18 Officials told us that, when considering questions for the panel of experts to consider, it became apparent that the main distinguishing characteristics of the proposals were based on location. They thought that judgements about that could best be made by New Zealand-based people rather than international experts.
- 5.19 They discussed this matter with the Minister for Economic Development. The Minister did not think the panel would provide value for money at that point and asked officials to put the panel on hold. On 29 July 2010, the panel members were advised to stop their review of the proposals.
- 5.20 On 25 August 2010, officials told the panel of experts that work on a convention centre was still progressing and that the Ministry might call the panel together at some stage in the future to assess proposals and complete the evaluation process.

Obtaining more information from proposers

- 5.21 Ministry officials told us that, in considering the proposals, it became obvious that the information supplied by those who responded to Part B was incomplete or that the proposals did not address major contextual aspects. Some proposals did not include information on matters such as any consultation carried out with

major partners (for example, hotel owners or builders) whose involvement would be needed for the proposals to succeed. Some did not address significant matters such as planning requirements or transport issues.

- 5.22 After the initial evaluation of the proposals, officials met with each of the proposers to seek the additional information needed to compare the proposals and to understand the wider context of the proposals. These meetings occurred after the officials' evaluation on 30 June 2010.
- 5.23 Officials told us that each of the discussions was tailored to address the gaps in the proposal. However, each proposer was given an opportunity to:
- talk officials through its proposal in detail;
 - talk about funding options it had considered; and
 - provide more detail in areas where Ministry officials thought its proposal had gaps.
- 5.24 Other information sought by officials included the views of conference professionals about the proposed designs and locations, alternative ways of funding the construction (such as a PPP), hotel occupancy rates and traffic flows within the CBD, and how Auckland City Council officers viewed the proposals. Ministry officials also sought advice and talked to experts about other technical and analytical issues, including planning requirements for some of the sites.
- 5.25 On 5 July 2010, one of the proposers sought a meeting with the Associate Minister of Tourism (Hon Dr Jonathan Coleman) to discuss its proposal. The Ministry suggested that this would be inappropriate because the Government, under Minister Brownlee's leadership, was in the middle of an assessment process and it would be unwise for another Minister to become involved at that point.
- 5.26 Officials prepared a table summarising the proposals against their evaluation criteria and commenting on them. This went through several versions, and was later provided to the Acting Minister for Economic Development on 8 March 2011 to support the recommendation to choose SkyCity.
- 5.27 Officials told us that they considered that there were various issues with the other proposals that made them less suitable than SkyCity's proposal. These included:
- closeness to hotels and shops and public transport – one proposal was outside the CBD and two were on the CBD fringe;
 - one proposal required restoring another venue not related to the convention centre;
 - two of the proposals said hotels would be soon built in the area without providing enough support for this;

- one proposal involved retaining an existing auditorium/theatre, which was not big enough for a large convention and could not be extended;
- design aspects – one design involved long distances between parts of the convention centre;
- challenging sites, including closeness to existing transport uses and to the sea; and
- fit with urban development context or zoning requirements.

The progress of discussions with SkyCity

Initial discussions in July and August

- 5.28 On 21 July 2010, officials met with SkyCity to discuss its proposal. This was the first of a series of meetings throughout 2010 and in 2011, before the announcement in June 2011 that SkyCity was the Government's preferred option. From August 2010, there was considerably more contact with SkyCity than with the other proposers.
- 5.29 Officials were concerned that SkyCity's proposed site and design were not wholly suitable for the size of conventions that the centre was to attract. They were concerned that the proposed design was on too many levels and that the space for exhibitions was not big enough. The SkyCity proposal had been ranked last of the five proposals for this reason in the initial (June 2010) overall ranking by officials, despite scoring well in other areas (first for "City information", second for "Legal, regulatory, ownership", and first equal for "Other").
- 5.30 After the 21 July 2010 meeting with SkyCity, officials sent SkyCity some comments on its proposed site and design. The officials noted that the comments were "impressions only" and "not part of any formal assessment process". The comments were annotated on the images and plans that SkyCity had provided as part of its EOI response.
- 5.31 On 26 July 2010, SkyCity sent the Ministry information about the floor area of its existing convention centre and a proposed extension to that, and for an international convention centre.
- 5.32 SkyCity told us that, at the meeting with officials on 21 July 2010, it learned that the Government wanted a single-floor convention centre.
- 5.33 On 29 July 2010, the Ministry contacted SkyCity to set up a meeting with the Minister for Economic Development (Hon Gerry Brownlee) on 6 August 2010 to talk more about its convention centre proposal.

- 5.34 The Ministry prepared meeting notes for the Minister's meeting with SkyCity on 6 August 2010. The notes of 5 August indicated, among other things, that:
- I have already advised them that from a design and location perspective (alone) their proposal is running 4th in the competition. They need to do more to get over the line ...*
- A useful outcome from the meeting would be agreement from Sky to work with a group of expert users of conference venues to help Sky come up with a workable and feasible design (recognising that this will not be easily achieved on the site they are currently promoting).*
- 5.35 As part of the meeting notes, the Minister was provided with a diagram of the ownership of the land around the area of SkyCity's proposed convention centre and the annotated comments sent to SkyCity in late July 2010. It was noted that the surrounding land ownership would affect any proposal to expand the size of the centre.
- 5.36 SkyCity told us that the Minister asked (at the 6 August 2010 meeting) whether SkyCity could secure more land next to its proposed site to provide for a larger building, with the convention centre on a single floor. SkyCity recalls the Minister indicating at the meeting that the Government's willingness to consider regulatory reform depended on SkyCity meeting the requirements of a bigger convention centre on a larger site. (Later in the process, on 6 September 2010, SkyCity asked the Government to buy some of the land required – see paragraph 5.43.) On 20 August 2010, the Ministry followed up the 6 August meeting by asking SkyCity for a revised design and for details of SkyCity's proposal for funding this.
- 5.37 In late August 2010, officials noted that, if the panel of experts were to meet, the officials would need to send the panel members more information, including any updated or new designs from SkyCity. However, because the panel did not meet at that time, this did not happen. Around this time, the official working on a table summarising each proposal was asked to complete the information for SkyCity last. This was because updated information had been sought.
- 5.38 The Minister for Economic Development did not hold any scheduled meetings with other proposers about the EOI responses during this period, and officials did not give detailed feedback on site and design issues to the other respondents as they did for SkyCity.
- 5.39 On 10 August 2010, a Ministry official raised a concern about process. The official was concerned that:
- officials were not following the process that had been outlined in advice to the Minister for Economic Development in early July – that is, that the top three or four proposals would be referred to a panel for consideration; and

- one proposer (SkyCity) had been given a time extension after its meeting with the Minister; and
- the decision to progress SkyCity's proposal could not be based solely on its EOI response.

5.40 Another Ministry official also expressed concern about the potential risk of changing the process. The lead Ministry official responded by noting that:

- the Minister had been briefed on the process and had agreed that the panel of experts would not meet at the time that had been planned;
- no proposer had been granted a time extension, and various degrees of additional information had been sought from all proposers; and
- the deliberation by the panel of experts had been delayed rather than cancelled.

The shape of a possible deal emerges (August to December 2010)

5.41 SkyCity told us that officials told it, on 26 August 2010, that no government funding was available for a convention centre, to take account of this in preparing the revised proposal for a bigger convention centre, and to scale the proposal back if necessary.

5.42 SkyCity told us that, until that time, its preference was still for a PPP funding model, with the Government contributing some of the money required. As noted earlier (see paragraph 4.60), SkyCity told us that it considered the earlier comments from Ministers about the Government's inability to contribute funds to be partly "positioning" statements.

5.43 On 6 September 2010, SkyCity wrote to the Ministry with a revised concept plan for a larger convention centre to be located at 101 Hobson Street and an "aide memoire" about casino regulatory reform. There were two main messages in the letter. First, that SkyCity would be prepared to consider developing a convention centre at its cost, subject to being freed from some of the regulatory restraints imposed by the Gambling Act 2003. The aide memoire outlined the specific legislative amendments sought. Secondly, because the plans were for a revised design that was larger than earlier proposed, this required buying some additional adjoining land owned by Television New Zealand (TVNZ). SkyCity wanted the Government to contribute:

- the additional land required; and
- an annual payment for marketing and promoting the convention centre and associated business events.

- 5.44 The correspondence included updated concept plans for a convention centre on an expanded site.
- 5.45 In acknowledging SkyCity's 6 September 2010 letter, the Ministry noted the revised plans, the aide memoire, and the statements about the contribution sought from Government. The Ministry said that its task was now "to present that information to Ministers (along with an assessment of other National Convention Centre proposals) ...".
- 5.46 Officials explained to us that, by this stage, the revised SkyCity proposal was shaping up to be the one most likely to be recommended to Ministers. This was because of its combination of location, SkyCity's convention centre management expertise, and the fact that no immediate capital funding for building the centre was required from the Government. SkyCity's revised design for a larger convention centre better met the Government's needs than SkyCity's initial design.
- 5.47 However, before making a recommendation to Ministers to that effect, officials wanted to be sure that there would be no "show-stopping" barriers to the proposed convention centre being built on the Hobson Street site, and that the design met the international standards for a convention and exhibition centre that could take conferences of 3500 (and more) people. Therefore, officials began a range of detailed work to explore a full range of potential practical issues, including:
- a "walk-through" of planning and consent aspects for the centre and site (carried out by Auckland Council in April 2011);
 - being clear (with the Office of Treaty Settlements) about any Treaty of Waitangi claims on the TVNZ land needed for an expanded centre;
 - valuation of the TVNZ land;
 - testing other regulatory issues that might arise (with external legal advice);
 - estimating the likely build cost of the revised design for the centre (with expert advice); and
 - using a panel of New Zealand and overseas experts to assess SkyCity's revised design for suitability of hosting large conventions of 3500 (and more) people (in May 2011).

Considering the regulatory concessions sought by SkyCity

- 5.48 In late September 2010, the Ministry provided a written briefing to the Minister for Economic Development about SkyCity's proposal, including the "quid pro quo" being sought. The "quid pro quo" covered the gambling regulation concessions

that SkyCity wanted and other matters, such as the right to use the international convention centre brand, the need for the Government to provide three adjoining sites owned by TVNZ to allow for a larger convention centre, and the contribution sought for promotion and marketing.

- 5.49 The briefing had a more detailed section covering the regulatory concessions sought by SkyCity. This section included an assessment of whether the concessions would be controversial, and a comment on what would need to be done to make the change. The content was based on analysis by the Department of Internal Affairs. The briefing did not make recommendations.
- 5.50 On 10 December 2010, the Ministry responded to SkyCity's 6 September "aide memoire" by identifying those aspects of the "quid pro quo" that the Government was prepared to consider. SkyCity and Ministry officials met again on 14 December to discuss this further. The Ministry stated that this meeting "cleared the way for a proper negotiation" but noted that a deal was still a long way off and not inevitable.
- 5.51 On 22 December 2010, SkyCity wrote to the Ministry with a redrafted "aide memoire". The letter:
- noted those items that SkyCity had sought and on which the Government was prepared to negotiate;
 - provided additional supporting comments on the items that SkyCity still wanted and thought the Government should negotiate; and
 - stated those items that SkyCity was now prepared to take "off the table" in terms of gambling reforms. Also, the letter noted that the cost to develop the convention centre was "significantly greater" than first envisaged.
- 5.52 The Ministry updated Auckland Council's Chief Executive about developments with the convention centre project on 22 December 2010. Auckland Council's Chief Executive noted that Auckland Council's Mayor had discussed the need for an international convention centre with the Minister for Economic Development, and was keen for the project to proceed in 2011.

Further contact with the other proposers (August – December 2010)

- 5.53 On 23 August 2010, the Ministry emailed those who had submitted proposals, excluding SkyCity, indicating that the Ministry would be delighted to hear about any new information that might be material to the selection decision. This was to seek any new information since officials had met with individual proposers during the first week of July 2010.

- 5.54 The email indicated that, since the meetings in early July, officials had been consulting widely within the Auckland community, as well as with those connected with the events and conventions sector. Officials were working through the variety of issues that needed to be considered in the selection of the best overall proposition. It said they were still on track to report to Ministers by the end of September 2010.
- 5.55 One submitter replied seeking more information from the Ministry on the evaluation criteria and process and likely timing of a decision, and asking for a meeting. Another asked for a meeting. Ministry officials met with each of these proposers in early September 2010.
- 5.56 Another proposer told us that, after the 4 September 2010 earthquake in Christchurch, it did not hold out any hope of success for its proposal because it knew there would be even more pressure on government funds.
- 5.57 On 30 October 2010, the New Zealand Herald reported that the Government liked the SkyCity proposal but wanted more. The article quoted SkyCity's Chief Executive as saying that Ministry officials had asked SkyCity to expand its proposed design with a larger floor plate for the centre. The Chief Executive noted that SkyCity would need a property owned by TVNZ to meet the larger size requirements. The Chief Executive also noted that the Government had not yet decided on its preferred site, and speculated that the Government's focus was on the aftermath of the Christchurch earthquakes.
- 5.58 As a result, Ministry officials met with staff from the Prime Minister's Office on 9 November 2010 to update them on the EOI process for the international convention centre.
- 5.59 On 21 December 2010, the Ministry emailed all those who had submitted proposals for Parts B and C of the EOI document. The email noted:
- As the year draws to a close I thought it important to send you this quick note just to let you know that the idea of a National Convention and Exhibition Centre for NZ (most likely located in Auckland) is still alive. However for a variety of reasons, including the need to give priority to responding to the Canterbury earthquake and the Pike River incident, progress has been slower than our early, optimistic, forecasts.*
- To those of you who responded to the EOI for the National convention centre ... I want to reiterate that we do appreciate the time and effort it took to put your submissions together. As soon as we have something more concrete to convey about your proposals we will contact you.*

Our comments on the evaluation process

- 5.60 In our view, there were a number of flaws with the way the evaluation process unfolded during 2010. The planning work that was done was too little and too late. The detail of how the evaluation process would work was put together only after the EOI had been issued, and it did not suit the situation very well. In particular, the proposed process was for a relatively standard and uniform technical evaluation of the responses. Yet the EOI was seeking creative and innovative ideas rather than fully developed proposals that would lend themselves to technical evaluation by experts.
- 5.61 It was also likely that the responses would be of quite different kinds: it was foreseeable that SkyCity would submit its concessions-based proposal, others might propose PPPs, and others would be for more standard construction options. The proposed process was unlikely to be able to accommodate the range of responses that the EOI was aiming to generate.
- 5.62 The result was that neither the process nor the detailed evaluation criteria really worked. The financial aspects of the responses could not be properly assessed based on what had been submitted, because the EOI document had not specifically asked for that information. The panel of experts proved not to be needed because the main questions were not technical, and officials needed to go back to all submitters for more information about the proposals.
- 5.63 We are satisfied that the initial assessment of the responses by officials was a careful and genuine evaluation of the information that had been provided. However, we are concerned that decisions about the process were made in a relatively informal way as issues arose. The contact with proposers to get more information about their proposals was also relatively informal. Very little was documented during this period. This meant that it would be harder to explain and defend the process if it was challenged.
- 5.64 Most importantly, the proposed evaluation process could not accommodate the situation that eventuated, where one response proposed quite a different approach that would require some difficult political decisions. Officials immediately adapted the process and began a separate stream of discussions with SkyCity to flesh out its proposal into a developed option for Ministers to consider – within the overall evaluation process.
- 5.65 Although we understand the challenge that officials were faced with, we do not consider that the approach they adopted was appropriate. The result was that, from the start of the evaluation process, the contact with one proposer was of a wholly different nature from the contact with others. In our view, officials

effectively worked with SkyCity for some months, giving detailed feedback and engaging in some preliminary negotiations, while the other proposers were kept on hold and given very little information.

- 5.66 In our view, a properly planned and managed process would have guided officials and Ministers to a safer set of choices for next steps, that would have been consistent with the principles of fairness and openness. As explained in paragraph 4.46, the Government had two main options if it decided that one or more responses warranted more detailed exploration. It could either maintain competitive tension and move to a full request for proposals process, or it could decide that there was no effective competition and move immediately to negotiations for a direct procurement. Instead, the four other proposers were effectively kept in the dark for some months while the Government held detailed discussions with SkyCity.
- 5.67 Given the nature of the responses, it is likely that the SkyCity proposal was always going to be the most attractive from most perspectives. Indeed, in the course of this inquiry, we have not heard any comment to suggest that other proposers did not understand the reasons why the Government might prefer the SkyCity proposal. But, returning to the Government's procedural obligations under the Mandatory Rules and good practice guidance on procurement, the Ministry still needed to run a good process to demonstrate that it had properly explored the market and was satisfied that it was justified in beginning direct discussions with SkyCity to explore a unique proposition.
- 5.68 Although we regard the process as flawed, we should also make clear that the records show that a great deal of careful work was carried out to understand the market and the different possibilities. We accept that officials were acting in good faith to support decision-making by Ministers on some difficult and controversial matters. The fact that the process was unsatisfactory does not automatically mean that the conclusions reached were unsound.

Part 6

Detailed discussions with SkyCity about its proposal

- 6.1 In this Part, we :
- describe the Ministry's consideration of SkyCity's proposal from January to June 2011;
 - discuss the announcement of the Government's decision; and
 - set out our comment on the discussions leading up to the announcement.

Discussions from January to June 2011

- 6.2 The Ministry responded to SkyCity's December 2010 letter (see paragraph 5.50) on 17 January 2011, after further discussions with the Department of Internal Affairs. The response made it clear that there were some issues that the Government would be unlikely to support. These issues were outlined in the letter. The letter stated:

Put simply, Ministers will not authorise me to commence negotiations with you ... while you insist that we pursue issues on which there is minimal or no likelihood that the Government in 2011 would support a review of existing policy or regulatory frameworks ...

Finally, I would like to reiterate a point I made at our 14 December meeting. Any consideration of the issues raised... that pertain to the existing regulatory framework will be subject to the normal Cabinet and Parliamentary decision-making processes.

Engaging expert advice

- 6.3 In January 2011, the Ministry engaged a law firm to help with negotiations for the convention centre. The estimated cost of the legal services needed was in the range of \$250,000 to \$500,000. A closed tender process was used because of the commercial sensitivity of the project, the tight time frames, and the few firms having the necessary capability.
- 6.4 Also, on 18 January 2011, the Ministry engaged a financial analyst to help with advice on the financial and economic benefits of what SkyCity had proposed. The financial analyst provided the Ministry with several reports on these matters during the next five months. The reports contained detailed financial analysis to help inform the Government's negotiating position. The analyst obtained some information from SkyCity to help inform the analysis.
- 6.5 The analyst estimated a dollar value, in terms of benefit to SkyCity, of the various gambling concessions that SkyCity sought. The analyst advised the Ministry on the value of this benefit relative to the estimated cost to SkyCity of building a new

large-scale convention centre. The advice also considered whether any gambling harm minimisation measures would be necessary to balance the value of the concessions sought and the cost of building the centre.

Unfolding discussions with SkyCity

6.6 From February 2011 onwards, there was a steady stream of meetings, correspondence, and briefings between SkyCity and officials, and officials and Ministers. The main steps were:

- A meeting was held between officials and SkyCity on 8 February 2011 to resume discussions.
- SkyCity sent the Ministry a list of “agreed issues for negotiation”, so that the Ministry could include this in a briefing to the Minister for Economic Development.
- A 9 February 2011 briefing paper for the Minister for Economic Development covered the oversight arrangements proposed for the negotiations, the process required to get to the point of announcing SkyCity as the Government’s preferred option for providing an international convention centre, timing, risks, and comments on the various matters for negotiation. This paper was also given to the Ministers of Tourism, Finance, Internal Affairs, and Broadcasting for discussion, along with a preliminary assessment of the value to SkyCity of the major regulatory changes sought.
- Officials provided Ministers with an updated briefing paper on 8 March 2011.¹⁴ This briefing included the table comparing and assessing all five proposals for the international convention centre with updated information on the SkyCity proposal to reflect the independent specialist advice that the Government had received on the costs of what SkyCity had proposed, and to reflect the discussions with SkyCity on funding after the closing date of the EOI process.
- Cabinet discussed the international convention centre at a meeting in mid-March 2011.¹⁵
- Officials prepared a briefing paper for the Acting Minister for Economic Development and the Prime Minister, sent to the Prime Minister on 25 March 2011, to show what “the final outcome of the negotiation with SkyCity might look like” and to ensure that both Ministers were comfortable with instructing officials to “begin more formal negotiations”.
- There was a meeting between the Acting Minister and the Mayor of Auckland Council (Mr Len Brown) on 7 April 2011, to seek Mr Brown’s support for the SkyCity convention centre proposal and his agreement to be part of a later joint public announcement.

14 By this time, Hon David Carter was the responsible Minister, having taken over as Acting Minister for Economic Development after the Canterbury earthquakes in late February 2011.

15 An exact date cannot be provided because Cabinet did not issue any written communication about this oral item. It was referred to in the Ministry paper of 25 March 2011.

- Throughout April and May, there was more detailed work by officials and discussions with SkyCity on the various issues identified in paragraph 5.46.
- There were weekly progress reports to the Acting Minister throughout May and early June.
- Advice was received from international experts on the site and design.
- International research and advice from the Department of Internal Affairs were sought on the social effects of any gambling concessions.
- The New Zealand Institute of Economic Research provided an updated economic impact analysis.
- In late May 2011, officials prepared an early draft of the type of agreement the Government would need to make with SkyCity to implement the proposal, and to capture SkyCity's responsibilities to deliver an international-standard convention centre.

Announcing the Government's decision

- 6.7 On 9 June 2011, the Ministry provided written advice to the Acting Minister for his discussions with the unsuccessful proposers. These took place in Auckland on 12 June, ahead of the Government's announcement of its decision to enter into negotiations with SkyCity. One of the discussions was by telephone rather than face to face.
- 6.8 On 12 June 2011, the Government announced that it was negotiating with SkyCity, because its proposal had been selected as the best option for a large (3500 people capacity) international convention centre in Auckland. The announcement was at a media-only event at the offices of the law firm Kensington Swan in Auckland. The Prime Minister, Acting Minister for Economic Development (Hon David Carter), Mayor Brown, and the Chief Executive of SkyCity attended.
- 6.9 At the time of the announcement, the Acting Minister's press release noted that:
SkyCity's proposal is favoured because it offers by far the best level of benefit to taxpayers, the company has a good track record in the convention business and the location is good.
- 6.10 The press release also referred to the estimated increase in international visitor spending in New Zealand associated with having a large international convention centre in Auckland. An estimated \$90 million a year of extra spending was quoted. This was broadly consistent with the estimated increased spending identified in the 2009 feasibility study.

Our comments on the discussions leading up to the announcement in 2011

- 6.11 If this had been a normal commercial negotiation, then we would have little comment on it. Officials were canvassing an appropriate range of issues in negotiations, getting expert advice as needed through appropriate engagement processes, and maintaining regular contact with Ministers.
- 6.12 As explained in Part 5, our concerns are procedural rather than about the substance of what was being considered. The concerns we set out in paragraphs 5.60 to 5.68 apply to this period as well.

Part 7

Other matters

Continuing negotiations

- 7.1 When we carried out our inquiry, the Government had not completed its negotiations with SkyCity. Our main interest was the process leading up to the 12 June 2011 announcement, so we have not inquired into negotiations after that date.
- 7.2 The Government is entitled to carry out commercial negotiations with a private sector party such as SkyCity to see whether agreement can be reached. It is clear that any regulatory reforms will have to be brought to Parliament in the usual way, and the Government will be accountable to the public for the policy choices it makes. We have no mandate to comment on those choices.

Considering the social costs of gambling

- 7.3 In the previous Parts, we briefly mentioned that officials have researched the costs of increased gambling and provided advice to Ministers on this. It is not appropriate for us to detail the content of that advice in this report, but we can confirm that we are satisfied that the issues have received adequate attention during the evaluation and negotiation process. As already noted, any reforms of this kind will also be debated publicly and by Parliament before they can be implemented.

Costs to the Government

- 7.4 As noted in Part 1, Hon David Cunliffe MP asked us to consider costs to the Government as part of our inquiry. Mr Cunliffe commented that Ministers have rationalised their choice of SkyCity on the basis that SkyCity, rather than taxpayers, would meet the cost. However, he identified an estimated Government contribution of \$2.1 million towards the convention centre project during the next few financial years.¹⁶
- 7.5 The Government met some of the costs of the 2009 feasibility study, the costs of the EOI process, and expert advice to support the due diligence process for the SkyCity site and design. This expenditure was incurred in 2009/10 and 2010/11, the main periods covered by our inquiry. There were further costs to support the negotiation process in 2011/12, and there will be more in 2012/13.
- 7.6 We have been given some information about the costs of the expert advice to support the due diligence process. The Ministry has made this information available in answers to financial review questions for the relevant financial years.

¹⁶ From a Cabinet Minute (Annex to CAB Min(12) 13/3 (7)) released under the Official Information Act 1982.

- 7.7 The Government expects further spending on advice about the international convention centre. Cabinet agreed departmental output expenses of \$2.1 million for Vote Economic Development for this purpose for the period from 1 July 2011 to 30 June 2015. These costs are to be met through reprioritisation of savings in Vote Economic Development. The estimated costs were highest in 2011/12 (\$1.014 million) then decrease during the next three years.
- 7.8 The Ministry told us that the actual costs of expert advice (construction consultants, legal fees, a financial analyst, valuation of concessions, and land valuation) from September 2010 to August 2012 was \$1.092 million. Most of this expenditure (\$1.036 million) was in the 2011/12 financial year.
- 7.9 In our view, it is inevitable that there will be costs involved in properly negotiating a complex commercial agreement of the kind contemplated here. The reasonableness of those costs will have to be assessed against the value of any final agreement reached. As noted in paragraph 2.6, the feasibility study estimated that a new international convention centre would generate an additional \$72.5 million each year to New Zealand's GDP.
- 7.10 We are unable to comment on the value of any contribution the Government might make as part of any eventual agreement with SkyCity, because negotiations have not yet been concluded.

Appendix 1

Terms of reference for our inquiry

Inquiry into the Ministry of Economic Development's expressions of interest process for proposals to establish an international convention centre

13 June 2012

The Deputy Auditor-General, Phillippa Smith,¹⁷ has decided to carry out an inquiry into the expressions of interest (EOI) process for proposals to establish an international convention centre. This document sets out the terms of reference for the inquiry.

Background

In 2010, the Ministry of Economic Development carried out an EOI process, on behalf of the Government, seeking proposals to build an international convention centre. On 12 June 2011, the Government announced that it was negotiating with SkyCity Entertainment Group Limited, whose proposal had been selected as the best option.

Metiria Turei MP, Co-Leader of the Green Party, wrote to the Auditor-General on 24 April 2012 to ask for an investigation, in light of concerns raised about the fairness and adequacy of the process.

The inquiry

The inquiry will examine:

- the overall process for seeking and assessing proposals for an international convention centre;
- the adequacy of the assessment of the likely costs and benefits of each proposal; and
- any other matters the Deputy Auditor-General considers it desirable to report on.

The inquiry is being carried out under sections 16 and 18(1) of the Public Audit Act 2001.

¹⁷ The Auditor-General, Lyn Provost, has a small shareholding in SkyCity and so is not involved in any matters relating to this inquiry.

Appendix 2

Text of the document requesting expressions of interest

Request for Expressions of Interest for Growing New Zealand's share of the International Business Events Market and Strengthening the National Network of Convention Venues

ISSUE DATE 19 May 2010

CLOSING DATE 18 June 2010

This Expression of Interest (EOI) has three parts:

- **Part A** relates to:
 - growing New Zealand's share of the international business events market
 - strengthening the national network of convention venues

This part of the EOI seeks your views on generally what needs to be done to increase the number of business events held in New Zealand.

- **Part B** relates to the establishment of an international-standard national convention and exhibition centre.

This part of the EOI is to identify sites of suitable size in an appropriate location that could be developed into an international-standard convention and exhibition centre.

- **Part C** relates to the expansion of existing convention and exhibition centre(s).

The purpose of Part C of this EOI is to identify other locations in New Zealand that have existing centres with expansion plans that might be considering seeking government support (financial or otherwise).

Background

New Zealand has a low share of the international conference market. There are approximately 15,000 non-government international association conferences that are held in a variety of venues around the world on a regular basis. Over 7,400 of these conferences were held in 2008. Only 38 of them occurred in New Zealand. This market is growing considerably – particularly in Asia.

New Zealand's current weakness arises from a combination of venue scale, quality and functionality as well as sub-optimal international marketing and promotion of ourselves overseas as a conference destination.

New Zealand does however, have strengths such as a strong national brand and we are seen as a safe and unique destination. Therefore the government believes that New Zealand should be able to hold more business events than it does currently.

Business events, which include meetings, incentives, conferences, conventions and exhibitions, bring more dollars to New Zealand. It is estimated that a conference delegate will spend five times more than the average visitor to New Zealand. Their visits often include pre and post conference travel to all parts of the country, they will also often bring their partners with them, and some return at a later date for additional leisure travel. Business events have the potential to deliver a number of other benefits to the economy, such as increased knowledge transfer, increased inward investment and the fostering of commercial linkages between international and New Zealand companies, and increasing shoulder and off-season visitor arrivals.

Therefore Ministry of Economic Development (MED) is very interested in hearing a wide range of views about how to increase the number and size of business events that take place in New Zealand, including what elements of current arrangements need to improve in order for the country to be more competitive on the world stage.

Instructions

Respondents may choose to address:

- Part A only *or*
- Part A and Part B *or*
- Part A and Part C.

Part A

All responses to Part A can be submitted via email to: majorevents@med.govt.nz

Please have the following in the subject line of the email "Feedback on Growing New Zealand's share of the international business events market and strengthening the national network if conventions venues."

Please ensure that your comments are emailed on or before 5pm on the 18 June 2010

Parts B & C

Information supplied in Parts B and C of the EOI may be used to compile a short-list of respondents from whom further information (such as a Request for Proposal) may be sought. Those who are not included on the short-list will be advised of that fact. MED also reserves the right to enter into direct negotiations with a respondent to PART B and/or one or more respondents to PART C based solely on the information provided in their EOI.

Two hard copies and one electronic copy of the completed responses to Part B or Part C are to be enclosed in a sealed envelope marked “Expression of Interest – Growing New Zealand’s share of the international business events market and strengthening the national network of convention venues” and is to be delivered to:

*[name],
Ministry of Economic Development
Level 6, Tower Building,
45 Queen St
Auckland*

by 5pm on the closing date of Friday 18 June 2010. EOIs received after the closing time may not be considered.

Please provide with your EOI a nominated contact person, with phone, postal and email contact details.

Responses are to be in the English language and are to be signed by your duly authorised representative. As a guide your EOI should not be more than 10 A4 pages plus relevant appendices.

Please note that the documents attached to this request for EOI are confidential and are covered by copyright, but may be copied to the extent necessary to prepare a response to this request for EOI. The information contained in your response will be treated similarly.

The issue of and response to this EOI does not create any obligation on MED to enter into any commitment to purchase any particular goods or services or enter into any other process or arrangement with any respondent.

Any questions on this EOI are to be in writing and sent to [name] either by facsimile (09) 985 4849, Attention: [name] or e-mail [name]@med.govt.nz

Questions of interest and importance will be documented, together with a reply on the GETS web-site. This will include notification of any errors and omissions identified and any new information provided.

[signature]

[name]

Director

Attachment: Appendix 1: International Convention and Exhibition Centre: Feasibility study summary and supplementary research report

PART A –

Growing New Zealand's share of the international business events market and strengthening the national network of convention venues

MED recognises that significantly increasing New Zealand's reputation as a destination of choice for business events means doing more than building additional physical infrastructure. This part of the EOI seeks your views on generally what needs to be done to increase the number of business events held in New Zealand. MED are particularly interested in the effectiveness and collaborative nature of the existing network(s).

Your responses should address at least, the questions below. We would welcome also any other views you wish to express that may not be covered by the following questions.

Increasing Business Events

1. What in your view is currently working well in the business events sector?
2. What in your view are the main barriers to growing the business events sector in New Zealand now?
3. What, in priority order, are the changes you consider are needed to enhance New Zealand's attractiveness as a destination for business events? For each proposed change please indicate who should take the lead.

Strengthening Existing Events Networks

1. How well does the current network of convention venues in New Zealand operate collaboratively to attract international events to New Zealand?
2. How might the current or any future network of convention venues enhance and grow the industry and increase the number of business events being attracted to New Zealand?
3. What national and international venue and marketing networks are you a member of currently?

The purpose of Part A is to inform the first stage of development of a national business events strategy. This strategy would clearly articulate a vision for growing business events in New Zealand and would include an agreed set of actions that can be taken on collaboratively by industry, local and central government and others in the sector. As this is only the first stage, MED will be consulting more broadly with industry during the ongoing development of the strategy.

Please email your responses to Part A to majorevents@med.govt.nz with the following in the subject line: "Feedback on Growing New Zealand's share of the international business events market and strengthening the national network of conventions venues" on or before 5pm on the 18 June 2010.

PART B - Specifications

Establishment of an International- Standard National Convention and Exhibition Centre for New Zealand

Request for Expressions of Interest

Overview

MED is seeking EOIs from interested parties for establishing an international-standard national convention and exhibition centre for New Zealand. As well as providing high-level descriptions of locations suitable for such a centre, the EOI should address alternative and creative funding options for the development and operation of the centre and how such a centre could enhance, and fit into, the national network of convention centres.

Intellectual Property

The Ministry of Economic Development has reserved a number of potential domain names for “New Zealand’s national convention and exhibition centre”. We have also taken steps to trademark a logo for use by such a venue.

2009 Feasibility Study

In 2009 a feasibility study was commissioned for the development of a new international-standard convention and exhibition centre by the Government and Auckland City Council. The general findings of that study (which assumed an Auckland location for the Centre) are relevant for locations throughout New Zealand, and are enclosed with this document (Appendix 1).

The feasibility study established that the international meetings market is large and growing and that New Zealand is losing valuable international conferences – and hence economic benefits –because of a lack of suitable facilities.

Conferences and conventions (and other business events) are also a source of high-yield shoulder and off-season visitor demand.

New Zealand has some capability for hosting small to medium sized international conferences. However, New Zealand faces increasingly significant constraints and disadvantages when compared to international facilities and locations, especially when compared to our closest competitor – Australia.

New Zealand is not currently competitive in international conferences of over 1000 delegates, which was the area of strongest growth in this market over the last 10 years. So, while organisers are eager to bring their conference to Australasia and the Asia-Pacific region, New Zealand is often passed by because it lacks an international standard facility of an appropriate scale.

An international-standard convention and exhibition centre is one that is purpose-built to provide high-class facilities for conferences, exhibitions and events. In order for the convention centre to maximise its economic impact and be competitive with the expanding capacities and capabilities of Australian and Asian venues, it must be capable of hosting conferences of 3500-5000 delegates, including associated activities such as exhibitions.

The feasibility study is clear about the factors that are needed to ensure such a venue is successful. Proximity to a critical mass of appropriate standard hotel rooms (predominantly four and five star) is the single most important attribute because of the convenience this provides conference organisers and delegates. Other success factors include the ease and frequency of international flight connections with the location, site access/egress, proximity to car parking, public transport and entertainment facilities (retail, hospitality). The report suggests that a CBD location is the most likely option for an international-standard convention centre.

When fully operational the feasibility study estimated a convention centre could attract almost 22,000 additional international visitors and more than 200,000 extra visitor days annually. This is likely to generate tourism-related expenditure of over \$80 million per annum. There will also be other benefits such as improving shoulder and off-peak tourism, fostering commercial links between international and New Zealand businesses, and supporting innovation and knowledge transfer between international delegates and New Zealanders.

As a consequence of the positive results from the feasibility study process, the Government has decided to see what possibilities exist to establish an international convention and exhibition centre in New Zealand.

Information Required

Expressions of interest must address the following.

1. City information

Why you are recommending your suggested city as the best location for New Zealand's international-standard convention and exhibition centre. Included with this should be information regarding the international reputation of the city and contextual information on what the city has to offer for business events attendees and international tourists, e.g. restaurants, retail and entertainment options plus other amenities and activities on offer.

Please provide specific information on the following:

- A list of hotels (3 to 5 star) and the number of hotel rooms within 10 minutes walk to the proposed site/location of a Centre.

- The retail, entertainment and restaurants that are within a 10 minute walk from any proposed site.
- The number of international airlines servicing the city's airport. Plus the number of destinations these fly to and from and some information on the frequency of flights to international destinations.
- The number and frequency of domestic flights from around New Zealand to the city's airport.
- Transport available from the nearest airport.
- The public transport options at the location.

2. Centre size and building attributes

To cater for large-scale conferences and events, the Centre must have a gross floor area (GFA) of approximately 27,000m².

The Centre will need to meet current international expectations regarding structure, layout and technical facilities. Minimum approximate requirements relating to space include:

- Flexible flat floor exhibition space (6000m²)
- Plenary auditorium (4,500m²)
- Pre-function space (3,500m²)
- Additional flat floor space (6000m²)
- Break out rooms (2,600m²)
- Back of house (4,400m²)

To future proof a new Centre it would be ideal to have a site that can expand up to a GFA of approximately 33,000m² as this would increase capacity to cater for conferences of up to 5000 delegates. The EOI must show whether or not the site suggested has this capacity.

3. Site information

Specific information on the proposed site for the Centre:

- Footprint – the size of the land available (if this is not same or bigger than the GFA above please include an explanation of how a new Centre could be accommodated within the footprint)
- Accessibility to the site, e.g. access for trucks for packing in and out of exhibitions; pedestrian access; disabled access, taxi / bus access etc.

4. Legal, regulatory, ownership

Please specify any legal, regulatory or ownership issues associated with the site that may affect feasibility of any future development. For example

- Is it an existing centre that can be expanded?
- Is the site clean i.e. ready for construction? If not what is required to clean the site?
- Are there any restrictions on using the land for a convention and exhibition centre?
- Who is the current owner of the site(s)?

5. Funding

Please provide creative ideas and suggestions on how the construction and operation of an international-standard national convention and exhibition centre could be funded. Options can include central government, local government and private sector funding options.

6. Additional information

As any new international convention and exhibition centre would be an addition to existing conference infrastructure in New Zealand, please provide your view on what role a new centre would play in the wider network of convention venues already operating in New Zealand, and how the existing network could be strengthened.

If you have undertaken any cost-benefit analysis relevant to the establishment of an international-standard convention and exhibition centre, please include that information.

Instruction

Two hard copies and one electronic copy of the completed responses to Part B are to be enclosed in a sealed envelope marked “Expression of Interest – Growing New Zealand’s share of the International business events market and strengthening the national network of convention venues” and is to be delivered to:

*[name],
Ministry of Economic Development
Level 6, Tower Building,
45 Queen St
Auckland*

by 5pm on the closing date of **Friday 18 June 2010**. EOIs received after the closing time may not be considered.

PART C - Specifications

Expansion of existing Convention and Exhibition Centre(s)

Request for Expressions of Interest

Overview

MED is seeking EOIs from parties who already have plans to expand their existing convention and exhibition facilities and who might be considering seeking government support (financial or otherwise). Specifically MED is interested in centres that do not propose to be New Zealand's international-standard convention and exhibition centre but are significant venues in their own right with plans to expand in order to meet current and future demand.

Parties responding to Part C will also find the information contained in Appendix 1 useful.

Information Required

Expressions of interest must address the following.

1. Background

Information on the existing facilities and why the expansion is proposed. Please include any cost-benefit analysis that has been completed for the expanded facilities.

2. City information

Information regarding the international reputation of the city and contextual information on what the city has to offer for business events attendees and international tourists, e.g. restaurants, retail and entertainment options plus other amenities and activities on offer.

Please provide specific information on the following:

- A list of hotels (3 to 5 star) and the number of hotel rooms within 10 minutes walk to the proposed site/location of a Centre.
- The retail, and entertainment and restaurants that are within a 10 minute walk from any proposed site.
- The number of international airlines servicing the city's airport. Plus the number of destinations these fly to and from and some information on the frequency of flights to international destinations.
- The number and frequency of domestic flights from around New Zealand to the city's airport
- Transport available from the nearest airport

3. Outline of expansion plans

Information on the size, layout and building attributes of the expanded facilities, including Gross Floor Area (GFA) and size in metres squared of:

- Flexible flat floor exhibition space
- Plenary auditorium
- Pre-function space
- Any additional flat floor space
- Break out rooms
- Back of house

If plans have been developed for the expansion please include these. Please include the number of delegates the expanded facilities will be able to accommodate.

4. Legal, regulatory, ownership

Please specify any legal, regulatory or ownership issues associated with the site that may affect feasibility of any future expansion. For example

- Has the additional land required been secured?
- Are there any current restrictions on land use e.g. building height etc?

5. Funding

Please provide information on how the expansion will be funded. Include with this information if funding is likely to be requested from government.

6. Additional information

Include an explanation of how the expanded facilities will complement and enhance the national network of convention centres that already exist in New Zealand. Include with this how the expanded facility could complement an international-standard national convention and exhibition centre if it were to be developed.

Instruction

Two hard copies and one electronic copy of the completed responses to Part C are to be enclosed in a sealed envelope marked “Expression of Interest – Growing New Zealand’s share of the International business events market and strengthening the national network of convention venues” and is to be delivered to:

*[name],
Ministry of Economic Development
Level 6, Tower Building,
45 Queen St
Auckland*

by 5pm on the closing date of Friday 18 June 2010. EOIs received after the closing time may not be considered.

Appendix 3

Evaluation criteria for expressions of interest

Evaluation criteria	Referred to in EOI	Weight
<i>City Information</i>		25
Number of 3 to 5 star hotel rooms within 10 minutes walk to proposed site/location	✓	
Level of retail, entertainment and restaurants within 10 minutes walk to site	✓	
Number and frequency of international flight connections	✓	
Number and frequency of domestic flights	✓	
Transport options from nearest airport	✓	
Public transport options to location	✓	
Fit with urban development context and/or plans for city	X	
<i>Fit for purpose</i>		35
Total gross floor area (GFA) of 27,000m ²	✓	
Flexible flat floor exhibition space (6,000m ²)	✓	
Plenary auditorium (4,500m ²) (flat floor vs. theatre style)	✓	
Pre-function space (3,500m ²)	✓	
Additional flat floor space (6,000m ²)	✓	
Break out rooms (2,600m ²)	✓	
Back of house (4,400m ²)	✓	
Future growth/capacity to expand GFA to 33,000m ²	✓	
Ease of access to site e.g. pedestrian/disabled/bus/taxi/truck	✓	
<i>Legal, regulatory, ownership</i>		10
Clean site/construction ready	✓	
Restrictions on site	✓	
Owner readiness	✓	
<i>Funding</i>		25
Cost to develop	X	
Central government funding vs. other funding sources	✓	
Non-monetary central government support requirement	X	
Investment readiness (partners identified, funding secured)	X	
Cost-benefit ratio	✓	
<i>Other information</i>		5
Experience of proposers in developing and managing centres	X	
Positioning in national network	✓	