

# Public - Private Partnerships

1. In accordance with Sections 201(1) and 107 of the Local Government Act 2002 (Act), Papakura District Council has adopted and shall comply with this policy in relation to the partnerships with the private sector.
2. For the sake of clarity, partnership with the private sector means any arrangement or agreement that is entered into between the Papakura District Council and one or more persons or entities engaged in business; but does not include:
  - (a) any such arrangement or agreement to which the only parties are:
    - (i) local authorities or
    - (ii) one or more local authorities and one or more council-controlled organisations or
  - (b) a contract for the supply of any goods or services to, by, or on behalf of, a local authority.

In addition to the statutory definition, a contract for the supply of goods or services to, or on behalf of, Council, will be deemed to be a partnership with the private sector for the purposes of this policy, if it involves infrastructure and the collection of revenues by the private sector party.
3. Council recognises the value of forming partnerships with private sector entities and the assistance that these partnerships can provide in enhancing community well-being and achieving Community Outcomes.
4. Council will consider partnership arrangements with the private sector for the provision of infrastructure and/or services where such a partnership is likely to deliver on Council's strategic direction and the LTCCP with better value for money or enhanced community well-being based on cost, time, customer service, alignment with community desires and financial arrangements.
5. Without limiting the scope of Council commitment and by way of example, commitment of Council resources to partnerships will generally be in the form of a grant, loan, investment, or guarantee. The resources committed may be financial, or they may be non-financial including but not limited to staff time, human capital, intellectual property, accommodation, office equipment or other Council assets.
6. The circumstances in which Council will provide funding or other resources to any form of partnership with the private sector will generally be some or all of the following:
  - (a) The core function or functions of the partnership are identified as satisfying a community need
  - (b) the partnership is structured so as to efficiently and effectively deliver enhanced service levels
  - (c) the partnership will be assessed against the public interest in terms of effectiveness, accountability and transparency, together with a consideration of equity for disadvantaged groups, public access, consumer law, and security and privacy rights.
7. Council will not be required, but may elect, to consult with the community in respect of any proposal to provide funding or other resources to any form of partnership with the private sector unless the partnership or the services provided related to a matter that is determined to be "significant" in terms of Council's policy on significance, in which case

Council will consider the level and nature of consultation required to comply with that policy.

8. Council may impose conditions before providing funding or other resources to any form of partnership with the private sector and these will generally include:
  - (a) An emphasis on transparency and disclosure of processes and outcomes, acknowledging the need to protect commercial confidentiality where appropriate
  - (b) risk allocation between the partners being clear and enforceable, with consequential financial outcomes. Council may require the partner to provide guarantees or other forms of financial security when loans or grants have been made to the partner
  - (c) clearly specified outputs including measurable performance standards
  - (d) responsibilities for the monitoring of outcomes to remain with Council
  - (e) mechanisms for delivering on-going value for money
  - (f) all private sector parties being fully accountable to Council for the delivery of their agreed contribution to the partnership.
9. Any risks associated with any such provision of funding or other resources shall be assessed and managed in the following manner:
  - (a) There will be a process of risk identification between the parties to the partnership
  - (b) Council may wish to transfer risk to whoever is best able to manage it taking into account public interest considerations
  - (c) the party allocated risk shall have the freedom to choose how to handle and minimise any risk, with materiality being considered.
10. Reporting on the progress of the partnership with regards to the Community Outcomes and attainment of required performance standards will be required. The private sector partner will provide any required information for that purpose. The frequency of reporting will vary but will in no case be less than once a year. Transparency and disclosure of the processes and outcomes will be key elements in the design and operation of partnership arrangements
11. The application of clauses 8 to 10 of this policy will be to a level of detail and certainty, as determined by Council, commensurate with the resources committed by Council to the partnership and the likely costs and benefits of further detail and certainty.

## Appendix 1

### Local Government Act 2002 S.107 Policy on partnerships with private sector

1. A policy adopted under section 102(4)(e) -
  - (a) must state the local authority's policies in respect of the commitment of local authority resources to partnerships between the local authority and the private sector; and
  - (b) must include -
    - (i) the circumstances (if any) in which the local authority will provide funding or other resources to any form of partnership with the private sector, whether by way of grant, loan, or investment, or by way of acting as a guarantor for any such partnership; and
    - (ii) what consultation the local authority will undertake in respect of any proposal to provide funding or other resources to any form of partnership with the private sector; and
    - (iii) what conditions, if any, the local authority will impose before providing funding or other resources to any form of partnership with the private sector; and
    - (iv) an outline of how risks associated with any such provision of funding or other resources are assessed and managed; and
    - (v) an outline of the procedures by which any such provision of funding or other resources will be monitored and reported on to the local authority; and
    - (vi) an outline of how the local authority will assess, monitor, and report on the extent to which community outcomes are furthered by any provision of funding or other resources or a partnership with the private sector.
2. In this section, partnership with the private sector means any arrangement or agreement that is entered into between 1 or more local authorities and 1 or more persons engaged in business; but does not include -
  - (a) any such arrangement or agreement to which the only parties are -
    - (i) local authorities; or
    - (ii) 1 or more local authorities and 1 or more council-controlled organisations; or
  - (b) a contract for the supply of any goods or services to, by, or on behalf of, a local authority.