

**AGENDA FOR A SPECIAL MEETING OF THE COUNCIL TO BE HELD IN THE
CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON WEDNESDAY, 16 APRIL 2003 COMMENCING AT 9.30 AM.**

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1 APOLOGIES



2 DRAFT POLICY ON PARTNERSHIPS WITH THE PRIVATE SECTOR

PURPOSE OF THE REPORT

The purpose of this report is to request that Council adopt the revised draft Policy on Partnerships with the Private Sector as a result of an internal legal review.

BACKGROUND

A1 - A3

Council, at its special meeting on 25 March 2003, adopted a draft Policy on Partnerships with the Private Sector to be included in the Long Term Council Community Plan for consultation, subject to an internal legal review. The draft Policy has now been reviewed and a revised Policy is attached at pages A1 to A3.

REVISION OF DRAFT POLICY

A review of the draft Policy has been undertaken by the Legal Services Manager. This review was undertaken in conjunction with the examination of policies prepared by other local authorities. This review has resulted in some changes to the Policy which are more than minor, so it is desirable that it be reported back to Council for confirmation. The changes include:

- A new section has been inserted for circumstances where a partnership with the private sector might be considered.
- The sections on Risk Assessment, Management, and Monitoring Reporting have also been reworded, based upon an examination of other council's policies.
- The clauses relating to Goods and Services have been removed where they confuse Council's legislative obligations and can be dealt with by other provisions of the Policy.

CONCLUSION

The draft Policy on Partnerships with the Private Sector has been reviewed by the Legal Services Manager and changes as a result of that review are recommended to be made. The changes are considered to improve the clarity and robustness of Council's processes and compliance with legislative requirements.

RECOMMENDATIONS

1. That the information be received.
2. That the revised draft Policy on Partnerships with the Private Sector, as attached at pages A1 to A3, be adopted for inclusion in the Long Term Council Community Plan for consultation.

Report prepared by: Andrew Pollock, Director: Finance.



3 WHENUAPAI AIRBASE

This item will be considered in the Confidential Supplement of the agenda, and has been circulated to members separately with this agenda.

PROCEDURAL MOTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following part of the proceedings of this meeting, namely Whenuapai Airbase.

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation of the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of the matter to be considered.	Reason for passing this resolution in relation to the matter.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
<ul style="list-style-type: none"> • Whenuapai Airbase 	<p>The withholding of information is necessary in order to:</p> <ul style="list-style-type: none"> • Enable any local authority holding the information to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) 	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p>

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 7(2) (i) of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public as follows:

- *The report contains information which if released would affect the Council's negotiations.*



4 THE UPDATE TO COUNCIL ON NUISANCE INVESTIGATION, MAF, AERIAL SPRAYING

This item is no longer on the order paper as Council received an update on this matter at the Environmental Management Committee meeting held on Tuesday, 8 April 2003.



DRAFT POLICY ON PARTNERSHIPS WITH THE PRIVATE SECTOR

1. In accordance with Section 107 of the Local Government Act 2002 (Act) (see Appendix A), Waitakere City Council has adopted and shall comply with this policy in relation to the partnerships with the private sector.
2. 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.
3. 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 Long Term Council Community Plan with better value for money or enhanced community well-being based on cost, time, customer service, alignment with community desires and financial arrangements.
4. 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 grant, loan, investment, or guarantee. The resources committed may be financial, or they may non-financial including but not limited to staff time, human capital, intellectual property, accommodation, office equipment or other Council assets.
5. **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:
 - (i) the core function or functions of the partnership are identified as satisfying a community need;
 - (ii) the partnership is structured so as to efficiently and effectively deliver enhanced service levels;
 - (iii) 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.
6. **The circumstances where a Private Sector Partnership may be considered is where:**
 - Council is unwilling or unable to bear all of the risk (in a broader sense, not limited to financial risk) of a particular project or service;
 - The particular project or service will deliver significant community benefit, the achievement of the Long Term Council Community Plan objectives or the achievement of community outcomes but the delivery of that project or services is outside the scope of the Council's core activities;
 - The particular project or service are of such a scale that they would not otherwise be able to be provided by the Council without entering into a partnership with the private sector;
 - Benefits will be achieved as a consequence of the private sector partnership, which benefits are greater than any costs of the partnership to the community.

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 "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:
 - (i) an emphasis on transparency and disclosure of processes and outcomes, acknowledging the need to protect commercial confidentiality where appropriate;
 - (ii) risk allocation between the partners being clear and enforceable, with consequential financial outcomes and an agreed exit/termination strategy;
 - (iii) clearly specified outputs including measurable performance standards;
 - (iv) responsibilities for the monitoring of outcomes to remain with Council;
 - (v) Mechanisms for delivering ongoing value for money;
 - (vi) All private sector parties being fully accountable to Council for the delivery of their agreed contribution to the partnership.
9. **Risks Assessment and Management**
 - (i) A comprehensive risk assessment will be carried out before a partnership proposal is promoted or entered into;
 - (ii) Where the partnership proposal is "significant" the subsequent public consultation procedure may identify further risks and/or assist the Council's understanding of the community's perception of risk;
 - (iii) Appropriate risk management mechanisms will be incorporated into partnership agreements;
 - (iv) A partnership agreement will require regular reporting to the Council reporting sufficient to enable the Council to determine the partnership's overall process and success in achieving predetermined and specified objectives.
10. **Monitoring and Reporting**
 - (i) A partnership agreement will incorporate performance objectives and a report on progress in achieving those objectives will be required on a regular (not less than annual) basis;
 - (ii) Specific reporting requirements will be appropriate to the significance of the partnership;
 - (iii) Reports on partnership performance will be provided to the Council and or/incorporated in the Council's Annual Report and/or in the Council's triennial report on the achievement of community outcomes, as appropriate.
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 A

Local Government Act 2002

S107 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 organisations; or
 - (b) a contract for the supply of any goods or services to, or on behalf of, a local authority.