

PURPOSE

To provide a consistent framework that enables Council and the private sector to work together to improve public service delivery through private sector provision of public infrastructure and related services.

OBJECTIVE

A Public Private Partnership (PPP) is a long-term contract between the public and private sectors where Council and the private sector deliver infrastructure and related services on behalf, or in support, of Council's broader service delivery responsibilities

The objectives of this policy are to:

- a) encourage private sector investment in public infrastructure and related services where value for money for Council can be clearly demonstrated;
- b) encourage innovation in the provision of infrastructure and related service delivery;
- c) ensure rigorous governance over the selection of projects for PPPs and the competition for and awarding of contracts;
- d) provide a framework and streamlined procedures for applying PPPs; and
- e) clearly articulate accountability for outcomes.

SCOPE

This policy applies to all business units within Council. It is to be applied wherever the private sector provides public infrastructure and any related services; and there is private investment or financing.

DEFINITIONS

For the purposes of this Policy, the term 'public infrastructure' refers to physical assets and related services.

Physical assets cover (but are not limited to) economic infrastructure such as roads and drains, and services and social infrastructure such as community centres, child health care facilities, preschools, office buildings, libraries, and civic centres.

Services are those where Council has particular responsibilities to people using the service and the community.

KEY PRINCIPLES

1. Value for money

Value for money is paramount and achieving the best value for money outcome should be the key consideration at all stages of a project. Value for money is a combination of the

service outcome to be delivered by the private sector, together with the degree of risk transfer and financial implications for Council.

2. **Public Interest**

Consideration of public interest requires:

- a. ensuring that procuring the project as a PPP is not contrary to the public interest; and
- b. after a decision has been made to procure a project as a PPP, ensuring that the procurement process is structured to ensure that the project continues to be in the public interest.

3. **Risk Allocation**

The principle governing risk transfer is one of optimal risk allocation. Risk will be allocated to whoever is best able to manage it, taking into account public interest considerations.

4. **Output Oriented**

Projects should focus on the specification of what services are to be delivered rather than how they should be delivered in order to maximise the opportunity for innovation. Performance measures should be established to ensure that the required services are delivered in accordance with the output specification.

5. **Transparency**

Transparency and openness are important requirements of all Council procurement. There should be an emphasis on transparency and disclosure of the processes and outcomes, acknowledging the need to protect commercial confidentiality where appropriate.

6. **Accountability**

Council is responsible for the delivery of its outputs including where PPPs are used to deliver those outputs. Council cannot transfer this accountability to the private sector.

7. **Engaging the market**

Bids will be invited only when it is clear that there is scope for a private proponent to deliver value for money. Implementation of the policy will be in a professional, fair, equitable and open manner, ensuring probity and minimising of tendering costs.

POLICY

Procurement Strategy

All procurement alternatives should be analysed thoroughly to determine preferred procurement method to ensure that the best procurement method providing best value for money outcomes, whether a PPP or an alternative, is pursued.

Determining PPP delivery

In choosing the most appropriate method of delivery, the following key issues must be considered:

1. **determining core versus non-core services.**

2. **value for money.** Whether private sector involvement is likely to deliver value for money.
3. **analysis of market capability and appetite.** Reliable data is needed to base a decision on whether to offer a project to the market as a PPP project, or to deliver it by traditional means.
4. **public interest.** Consideration should be given as to whether the proposed procurement approach is in the public interest.

Value for money drivers and PPP suitability

PPPs may be a suitable procurement option if the following value for money drivers are present:

1. **sufficient scale and long-term nature.** The project represents a major capital investment with long-term requirements. In determining whether the scale of a project is sufficient, the size of transaction costs of procuring the project as a PPP should be considered.
2. **complex risk profile and opportunity for risk transfer.** More rigorous risk evaluation and transfer to the private sector of those risks it is best able to manage, including those associated with providing the specified services, asset ownership and whole-of life asset management;
3. **whole-of-life costing.** Full integration, under the responsibility of one party, of up-front design and construction costs with ongoing service delivery, operational, maintenance and refurbishment costs. This delivers improved efficiency through whole-of-life costing as design and construction become fully integrated up-front with operations and asset management;
4. **innovation.** As the PPP approach focuses on output specifications, this provides a wider opportunity to use competition as an incentive for private parties to develop innovative solutions in meeting these service specifications;
5. **measurable outputs.** The nature of the services enables output specifications and a performance-based contract;
6. **asset utilisation.** Reducing costs through potential third-party utilisation and through more efficient design to meet performance (e.g. service delivery) specifications;
7. **better integration of design, construction and operational requirements.** Ongoing operational, maintenance and refurbishment requirements become a single private party's responsibility for the length of the contract period; and
8. **competitive process.** A competitive market exists and the use of a competitive process helps to encourage the private party to develop innovative means of service delivery while meeting government cost objectives.

ATTACHMENTS

Nil.

RELATED POLICIES

Procurement Policy, CEO Directive, and Guidelines
Council code of conduct

RELATED LEGISLATION

The Local Government Act 1989
Local Government Procurement Best Practice Guidelines;
MAV Procurement, Model Procurement Policy (August 2011); and,

Other relevant legislative requirements such as but not limited to Competition and Consumers Act, Goods Act and the Environmental Protection Act.

REFERENCES

National Public Private Partnership Policy Framework, Infrastructure Australia, Australian Government.

REVIEW

Council may review this policy at any time but unless otherwise requested at least every four years from date of adoption. Minor amendments to the policy may be authorised by the CEO at any time where such changes do not alter the substance of the policy eg: typographical errors, a change to the name of a related policy, or a change to the name of legislation

Title:	Public private partnership policy
Reference No:	00318
Business Unit:	Business Services
Category:	Policy
Version:	One
Approved By:	Council at its meeting of July 15, 2013
Next Review:	July 15, 2017