



**BYRON
SHIRE
COUNCIL**

Policy

Strategic Partnerships

2023

Information about this document

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Further Document Information and Relationships

Related Legislation	The Local Government Act 1993 (The Act) Parts 6 and 13 The Local Government (General) Regulation 2021 (the Regulation)
Related Policies	Byron Shire Council Procurement and Purchasing Policy Code of Conduct
Related Standards, Procedures, Statements, documents	<i>Unsolicited Proposals Guidelines</i> – Byron Shire Council Unsolicited Proposal Guide for Submission and Assessment – NSW Government (May 2022) Social Impact Investment Policy 2.0: Growing our impact , NSW Office of Social Impact Investment(July 2012) Public Private Partnership (PPP) Guidelines , Office of Local

	Government (January 2022) <i>Investment Policy Guidelines</i> , Division of Local Government, (May 2010) <i>Capital Expenditure Guidelines</i> , Division of Local Government, (December 2010) <i>Integrated Planning and Reporting Guidelines</i> and <i>Handbook</i> , Office of Local Government, (September 2021)
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Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.

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1. Policy Statement

This policy aims to stimulate and encourage investment and innovation in the Byron Shire for the benefit of the community, while establishing a robust and transparent framework to assist in appropriately managing partnerships.

Delivering better services and results for the community is a key priority for Byron Shire Council. When it comes to tackling our most pressing issues, we recognise that Council may not be able to solve them alone. The Byron Shire Community Strategic Plan, which sets the community's main priorities and aspirations, aims for its outcomes to be delivered in partnership with individuals, community groups, state agencies and Council. The opportunity exists for Council to harness the innovation and capital of the non-government sectors to deliver better outcomes for the community.

2. Purpose

The purpose of this policy is to set out the framework for the establishment, management, and governance of partnerships entered into by Byron Shire Council with third parties, and provide clear pathways that assist parties in determining whether Council will consider partnerships ensuring Council is compliant with all relevant legislation and statutory requirements.

3. Objectives

- a) To ensure partnerships demonstrate transparency, probity, accountability, and consistency, and encourage competitive open market processes to achieve best value for money for the community.
- b) To protect Council's reputation and minimise risk of corruption.
- c) To enable the development of partnerships that can achieve quadruple bottom line outcomes (economic, social, environmental, civic leadership) and deliver recurrent revenue to Council.
- d) To commit to improving Council's capacity to identify and engage with social impact investment opportunities for the market to bring forward innovative proposals and engage with potential investors.
- e) To assist Council, retain and manage public land in a financially sustainable way delivering quantifiable and demonstrable benefit of the Community, where it is in the best interest of the community to do so.

4. Scope

This policy applies to all forms of partnership with the private and non-government sector. Council may enter into different types of partnerships with third parties, depending on the nature and scope of the project or initiative. Some examples include:

Joint venture partnership: In this type of partnership, Council and a third party agree to work together to establish a new venture or project. They both contribute resources, expertise, and capital to the partnership, and share the profits and risks.

Service provision partnership: Council can enter into a partnership with a third party to provide a service or deliver a project on behalf of the council. This type of partnership is common in areas such as waste management, transport, and social services.

Collective impact: The commitment of a group of actors from different sectors to a common agenda for solving a specific social problem, using a structured form of collaboration. This type of partnership is often used in community development projects, where the council and community groups work together to deliver services or programs.

Public Private Partnership: A PPP can broadly be defined as a long-term arrangement between the public and private sector for the development, delivery, operations, maintenance, and financing of service enabling public infrastructure.

Other types of partnerships may arise from lease and sale agreements, tendered services, Council in-kind and land donation, philanthropic opportunities, among others. The type of partnership a council enters into with a third party will depend on the specific project or initiative, and the goals and objectives that they are trying to achieve.

Exclusions

Council may enter sponsorship agreements subject to the [Sponsorship Received by Council Policy](#).

5. Principles

Any model can be considered that delivers on the objectives and meets the principles of this Policy, along with statutory requirements.

1. **Shared goals and vision:** Partnerships should have a shared understanding of the goals and vision of the partnership, and work collaboratively towards achieving them.
2. **Mutual benefit:** Partnerships usually benefit all parties involved, and each partner should have a clear understanding of the benefits they will receive from the partnership.
3. **Clear communication:** Partnerships should have clear communication channels, including regular meetings and reporting, to ensure effective collaboration and decision-making.
4. **Defined roles and responsibilities:** Partnerships should clearly define the roles and responsibilities of each partner, to avoid confusion and ensure accountability.
5. **Trust and respect:** Partnerships should be based on mutual trust and respect, and partners should be committed to working together in good faith.
6. **Continuous evaluation:** Partnerships should be regularly evaluated to ensure that they are meeting their objectives, and to identify opportunities for improvement.

The primary focuses of proposals should be to:

1. Deliver infrastructure and/or services that may not otherwise be possible ;
2. Provide accelerated delivery of priority projects that may not otherwise be achievable within an acceptable timeframe;
3. Deliver projects with quadruple bottom line outcomes and that offer the best value for money to the community.

4. Accept innovative approaches and paying only if they achieve their outcomes.

The outcomes of a proposal must be to generate recurrent revenue, reduce recurrent expenditure or otherwise deliver quantifiable, demonstrable and recurrent benefit to the Council and the community.

Generally, preference will be given to retention of land and assets in public ownership and avoidance of sale or extremely long periods of exclusive use (eg long leases).

6. Strategic framework

Integrated Planning and Reporting

The Act provides that Integrated Planning and Reporting must be at the centre of all council plans, activities, resourcing decisions and improvement strategies. The [Integrated Planning and Reporting Guidelines](#) set out the requirements for councils across NSW to undertake their planning and reporting activities in accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*. The Guidelines state that "...partners, such as State agencies and community groups may also be engaged in delivering the long-term objectives of the [Community Strategic] Plan" and includes Essential Element 1.1 which states:

"The Community Strategic Plan should be developed and delivered as a partnership between the council, state agencies, business and industry groups, community groups and individuals..."

Any partnership considered by Council must undergo a clear planning process that links it to Council's Local Strategic Planning Statement made under s. 3.9 of the *Environmental Planning and Assessment Act 1979*, and the Community Strategic Plan, Resourcing Strategy, Delivery Program, and Operational Plan.

Council must carefully weigh up the risks associated with taking advantage of any partnerships, especially where it will involve expenditure or commitments that impact on Council's ability to deliver on existing and adopted long-term plans.

7. Processes

The process to be followed is determined depending on the nature of the partnership. Where required, Council will follow the legislative requirements and existing guidelines to determine the appropriate process prior to entering into a partnership arrangement.

Public Private Partnerships

If the partnership relates to the provision of public infrastructure or facilities, there is potential that it may be considered a public-private partnership (PPP).

Sections 400B and defines a PPP as:

1. An arrangement:

(a) *between a council and a private person to provide public infrastructure or facilities (being infrastructure or facilities in respect of which the council has an interest, liability or responsibility under the arrangement), and*

(b) in which the public infrastructure or facilities are provided in part or in whole through private sector financing, ownership or control

1A. For the purposes of subsection (1), the provision of public infrastructure or facilities includes the delivery of services during the carrying out of any project under the public private partnership.

All PPP proposals, regardless of whether they originate from within council or from an unsolicited proposal, are required to comply with the [Public Private Partnership \(PPP\) Guidelines](#) in accordance with s400C of the Act.

Unsolicited Proposals

Council may, from time to time, receive unsolicited proposals. Such proposals can provide a great opportunity for Council to enter into partnerships that may otherwise not have been considered. Any potential project evolving from an unsolicited proposal must meet legislative requirements and undergo rigorous testing against Council's strategic planning documents to ensure consistency with Council's and the community's long-term strategic direction.

Council will generally only consider proposals where both the proposal and its proponent have unique attributes such that others could not deliver a similar proposal with the same value-for-money outcome.

The process for making and evaluating an unsolicited proposal is defined in the *Unsolicited Proposals Guidelines*.

If an unsolicited proposal relates to the provision of public infrastructure or facilities, Council will, as soon as practicable, determine if the proposed arrangement is required to be treated as a PPP and the process will proceed to follow the PPP Guidelines accordingly.

Memorandum of Understanding

There are no legislative requirements that regulate the negotiation of an MOU, but it must be consistent with the requirements, principles, and approaches as outlined in this Policy.

Impact investment

Byron Shire Council is interested in supporting innovative forms of finance that address social or environmental challenges while generating financial benefit. This may be where investors actively seek to place capital in businesses and funds that can harness the positive power of enterprise.

Impact investment is an approach which brings together capital and expertise from across the public, private and non-profit sectors. It is driven by measurable outcomes, innovation, prevention and partnerships. Investors may include:

- Philanthropic foundations, including public ancillary funds
- Financial institutions, including banks, credit unions and development finance institutions
- Superannuation funds
- Retail funds or trusts
- Wealthy individuals and families

Council will prepare for future transactions by improving our capacity to identify and engage with impact investors or innovative financing arrangements opportunities.

8. Definitions

Policy acronym	Definition
Capital Expenditure Guidelines	Guidelines to assist Councils with capital expenditure for projects outside of the Public Private Partnership definition.
Impact Investment	Investment which aims to solve social or environmental challenges while generating financial profit. Impact investors actively seek to place capital in businesses and funds that can harness the positive power of enterprise.
Eoi	Expressions of Interest
MoU	A memorandum of understanding (MOU) is a voluntary agreement between two or more parties, that can formalise the terms of a relationship, or set an agreed way of operating between the parties, but is not legally binding.
OLG	The Office of Local Government
Policy	A course or principle of action adopted or proposed by an organisation or individual.
PPP	A Public Private Partnership is an arrangement between a Council and a private person for the purposes of providing public infrastructure or facilities in which the Council has an interest, liability or responsibility under the arrangement, and/or, delivering services in accordance with the arrangement.
The Act	The Local Government Act 1993
The Guidelines	Public Private Partnership (PPP) Guidelines (January 2022)
Unsolicited Proposal	Approach to Council from a Proponent with a proposal to deal directly with Council over a commercial proposition, where Council has not requested the proposal. This may include proposals to build and/or finance infrastructure, provide goods or services, or undertake a major commercial transaction.