

POLICY: **PARTNERSHIPS WITH THE PRIVATE SECTOR**

GROUP RESPONSIBLE: Customer and Financial Services

DATE APPROVED: 26/6/03

DATE AMENDED: 30/6/04, 28/6/06, 30/6/09

FILE NO: 8/0/1/5, 8/0/1/7, 120/10/1, 140/15/4/3

POLICY DETAIL:

OBJECTIVE

This policy sets out the Southland District Council's approach to partnerships with the private sector. This policy is a requirement of the Local Government Act 2002.

Background

The Local Government Act 2002 requires the Southland District Council to adopt a policy setting out:

- The circumstances (if any) in which the Council will provide funding or other resources in a partnership arrangement with the private sector whether by way of grant, loan, investment or guarantee.
- What consultation Council will undertake in respect of any proposal to provide funding or resources.
- The conditions (if any) that Council would impose before providing funding or resources.
- An outline of how risks associated with the provision of any funds or resources would be assessed and managed.
- An outline of the procedures by which any funding or resources provided would be monitored and reported on to Council.
- An outline of how Council would assess, monitor and report on the extent that Council's community outcomes are furthered by any partnership with the private sector.

Circumstances

The Southland District Council (Council) may consider entering into a partnership with a private sector partner where Council is satisfied that:

1. The proposed partnership:
 - (a) Will contribute to achieving the community outcomes identified in the LTCCP in an integrated and efficient manner.
 - (b) Will promote the social, economic, cultural or environmental wellbeing of the district, in the present and for the future.
 - (c) Will be a prudent, efficient and effective use of the Council's resources in the interests of the district.

2. Where Council may be unwilling or unable to bear all of the risk (usually, though not always defined in terms of financial risks) of a particular project itself.
3. Where neither Council nor a private provider would otherwise provide the services or activity without the partnership.
4. Where there are identifiable advantages in the project or activity being undertaken as a public private sector partnership rather than by either of the parties separately.
5. The objective of the partnership is desirable in the interests of the communities, but the private sector is unwilling or reluctant to provide sufficient resources for the achievement of the objective of the partnership without Council support.
6. The benefits of the proposed partnership (in terms of achievement of community outcomes and promotion of the four aspects of wellbeing now and in the future) will exceed the costs.

Types of Involvement

Council may consider the following methods of involvement:

- **Grants**, where there is a justified benefit to the communities, it is a Council priority, and funds are available for the activity.
- **Loans**, where the benefit to the communities is significant, but it is assessed that income or other funding can in time be accessed.
- **Investments**, where there are deemed to be significant public benefits, and the communities has been consulted, either during an LTCCP or Annual Plan consultation or separately using the special consultative procedure.
- **Acting as a guarantor** for assets being constructed on Council owned land.
- **Acting as a guarantor** in extraordinary circumstances may be considered by Council following community consultation, and where there are appropriate safeguards in place to ensure budgets are not exceeded and where limitations are specified as to the total amount Council is guarantor for.

Nothing in this policy commits Council to entering into such a partnership even if it will help achieve community outcomes or objectives.

Conditions to be Imposed

The Council will require, as condition of providing funding or other resources to any form of partnership with the private sector, that the private sector partner enter into a written agreement recording the terms of the arrangement or agreement, stating clearly:

1. The objectives of the partnership.
2. The parties' respective roles, responsibilities and obligations under the agreement, including responsibility for obtaining any necessary consents, licences or other approvals, or to undertake any matter or do anything.
3. Details of the Council's agreement to provide funding or other resources to the partnership.
4. The Council's expectations in relation to the private sector partner's contribution to the achievement of the community outcomes or promotion of the aspects of community wellbeing, current and future including, where possible, target performance measures.
5. The Council's requirements in relation to monitoring and reporting of performance.

6. Consequences of non-performance by the private sector party.

The Council may impose any other conditions it considers appropriate in the circumstances.

Council will not enter into a Public Private Partnership where:

- The activity is primarily speculative in nature.
- Insurance cover cannot be obtained that is considered adequate to meet foreseeable risks.
- The cost or risk of the partnership is judged to be greater to the communities than the benefits that would accrue from the partnership.

Where appropriate, Council reserves the right to apply competitive tendering processes, in accordance with Council policy. Other conditions may be imposed as considered appropriate by Council.

Consultation

Council will consult on individual partnerships where:

- The partnership is assessed as being greatly beneficial, but falls outside the conditions or circumstances identified in the policy.
- An investment is proposed.
- It is proposed to act as guarantor in extraordinary circumstances.
- The partnership would result in significant positive or negative changes in service levels, as defined in Council's Significance Policy.
- The proposal would have a material impact on Council's projected budgets, performance measures, outcomes or other objectives.
- Ownership or control of a significant asset (as defined in Council's Significance Policy) is to be transferred to or from Council.
- There is expected to be considerable public interest in whether or not the partnership should proceed and/or it meets the test of significance as set out in Council's Significance Policy.

Where practicable, consultation on partnerships with the private sector under the above criteria will take place under the Long Term Council Community Plan or Annual Plan process. Alternatively, a separate special consultative procedure may be undertaken.

Risk Management

In assessing every partnership proposal, the potential risks to the Council will be carefully outlined and considered. Risk will be assessed in terms of the probability of an adverse outcome, the cost/impact of that adverse outcome and the ability to, and cost of, mitigating that risk.

Potential risks include:

1. Financial risk.
2. Risk to the reputation of Council and the Southland District.
3. Risk to the capacity of the Council to carry out its activities, now and in the future.
4. Safety of persons and property.
5. Protection of any intellectual property.
6. Any other potential loss.

If the risks are considered significant, in terms of probability and potential effect, the Council will decide whether the partnership should proceed at all, and if it decides it should proceed, a risk management strategy will be developed to minimise or provide cover for that risk to the satisfaction of Council. The strategy may include requiring contractual assurances from the private sector partner, such as indemnities and guarantees, and may require closer monitoring and control over the conduct of the partnership.

Monitoring and Reporting

A private sector partner will be expected to report using GAAP (generally accepted accounting principles) appropriate to their type of financial entity, and to allow auditing of financial and non-financial records as and when reasonably requested by Council or a representative appointed by Council.

Monitoring and reporting requirements will vary depending on the level of resources Council is expending/investing/protecting, and the nature of the partnership.

The following points may be considered:

- Proposals for partnerships with the private sector should state how they might contribute to outcomes or objectives in the LTCCP.
- Measurable and auditable performance standards should be included where appropriate in partnership documents.
- Progress on agreed outcomes and objectives should be reported on to Council's Activities Performance Audit Committee on a six-monthly basis.
- Quarterly or annual financial reports may be required.
- Transparency in the conduct and reporting of partnership activities should be emphasised, acknowledging the need to protect commercial confidentiality where appropriate.
- The performance of the partnership will be reported on in Council's Annual Report.

Assessing, Monitoring and Reporting on Achievement of Community Outcomes

Council's monitoring and reporting requirements in relation to any particular partnership will be tailored to reflect the significance of the proposal and the significance of resources allocated to the partnership.

The Council's monitoring and reporting requirements will be included in the written agreement with the private sector partner, and may include the following, as appropriate:

1. A requirement for regular financial reports on the partnership project.
2. A requirement for regular performance reports on the achievement by the partnership of the relevant community outcomes, and any impacts on the social, economic, cultural and environmental wellbeing of the community.
3. A requirement to report on specifically agreed outcomes and objectives.