



Draft Policy:

Supporting Partnerships

2017

INFORMATION ABOUT THIS DOCUMENT

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E2017/34665	N/a	New Policy

Further Document Information and Relationships

List here the related strategies, procedures, references, policy or other documents that have a bearing on this Policy and that may be useful reference material for users of this Policy.

Related Legislation*	The Local Government Amendment (Public Private Partnerships) Act 2004 (The Act). The Local Government (General) Regulation 2005 (the Regulation). The Local Government Act 1993 , Section 625 The Local Government Act 1993, Investment Order (relating to investments by Council)
Related Policies	Byron Shire Council Financial Sustainability Plan #E2016/26998 Byron Shire Council Policy No 2.6 Procurement and Purchasing #1049387
Related Procedures/ Protocols, Statements, documents	NSW Office of Social Impact Investment, <i>Social Impact Investment Policy</i> (2016) Impact Investing Australia (refer website: https://impactinvestingaustralia.com/useful-links/) <i>Guidelines on the Procedures and Processes to be followed by Local Government in Public Private Partnerships</i> , Department of Local Government (1 September 2005) <i>Investment Policy Guidelines</i> , Division of Local Government, Department of Premier and Cabinet (May 2010) <i>Capital Expenditure Guidelines</i> , Division of Local Government, Department of Premier and Cabinet (December 2010) <i>Integrated Planning and Reporting Guidelines for local government in NSW</i> , Division of Local Government, Department of Premier and Cabinet (March 2013)

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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A POLICY TO SUPPORT 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 opportunity exists for Council to harness the innovation and capital of the non-government sectors to deliver better outcomes for the Community.

1. PURPOSE

This policy establishes a framework to assess if a partnership approach is the best project delivery mechanism to achieve economic, social, environmental and cultural/governance outcomes.

It will assist project (internal and external) proponents in determining when Council will consider partnerships with Council and will seek to ensure that Council is compliant with all relevant legislation and statutory requirements.

2. OBJECTIVES

- a) To develop partnerships that demonstrate transparency, probity, accountability and consistency from their inception.
- b) To ensure projects achieve complete transparency and encourage open process through competitive open market processes to achieve best value for money for the Community.
- 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.

3. SCOPE

This policy applies to:

- a) All Council operations
- b) Operational or Community Land owned by Council
- c) Public land managed by Council, to the extent that partnerships on that land may be legally possible
- d) New areas of service that will positively affect Council operations and the community
- e) All forms of partnership with the private and non-government sector that includes but is not limited to PPPs (as defined by The Act) and captures all other types of partnerships including lease and sale agreements, tendered services, Build Own Operate Transfer arrangements, Council in-kind and land donation, Philanthropic / Volunteering and others.

This policy does not apply to land that has been identified in Council's Financial Sustainability Plan for a particular use/purpose.

4. STATEMENT

Byron Shire Council is committed to considering partnerships as a means of:

- a) Delivering infrastructure and services that may not otherwise be possible
- b) Providing accelerated delivery of priority infrastructure projects
- c) Retaining valuable land in community ownership
- d) Delivering projects with quadruple bottom line outcomes and that offer the best value for money to the Community.
- e) Accepting innovative approaches and paying only if they achieve their outcomes.

5. PARTNERSHIP PRINCIPLES

There are many different types of partnership arrangements and innovative models emerging in Australia. Any model can be considered that delivers on the objectives and meetings the principles of this policy, along with statutory requirements (Refer Appendix A for case studies and examples).

- a) Partnership arrangements can only arise through an open, market-based process, where everyone is given the opportunity to compete for the partnership opportunity.
- b) The primary focuses of partnerships should be to:
 - i) fund services and projects that would not otherwise be able to be delivered or delivered within an acceptable timeframe; and
 - ii) improve the financial sustainability of the Council and deliver positive quadruple bottom line outcomes for Community.
- c) The outcomes of partnerships must be to generate recurrent revenue, reduce recurrent expenditure or otherwise deliver quantifiable, demonstrable and recurrent benefit to the Council and the community.
- d) 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 99yr leases).

6. STRATEGIC FRAMEWORK

Refer to **BSC Financial Sustainability Plan**

Since 2013 Council has had a Financial Sustainability Plan, the objectives of which include to:

- improve the financial sustainability of Council
- identify and realise viable and sustainable commercial opportunities
- identify opportunities for and achieve cost and waste reductions in operating and/or cost activities of Council
- identify opportunities for sustainable increases to existing recurrent revenues, and to research, investigate and evaluate opportunities for deriving new, recurrent and sustainable sources of

revenue identify and pursue new and recurrent revenue sources including opportunities arising from the strong tourism/visitor market

- increase resource sharing through collaboration with government agencies and community stakeholders
- improve the overall financial performance of Council.

The plan has a Chapter dedicated to “Collaborations and Partnerships”. It notes:

“Council cannot achieve the outcomes of its Community Strategic Plan on its own. Undertaking strategic partnerships and sector collaboration increases the transparency and accountability of Council, strengthen the capacity of projects and services and achieve shared objectives. The benefits of partnerships include:

- More effective service delivery
- More efficient resourcing
- More effective policy development and decision making
- Promoting innovation
- Decreasing duplication”

This Policy, with its quadruple-bottom line sustainability objectives, has been developed as an action under the Financial Sustainability Plan.

Refer to Policy No 2.6, Procurement and Purchasing.

Council's adopted Key Procurement Principles are:

- a) Value for Money and Sustainability
- b) Fair, Honest and Consistent Dealings
- c) Local and Australian Content
- d) Ethical Behaviour
- e) Risk Management
- f) Competitiveness

Refer to Integrated Planning & Reporting Guidelines:

<https://www.olg.nsw.gov.au/sites/default/files/Intergrated-Planning-and-Reporting-Guidelines-March-2013.pdf>

These 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 2005*. The guidelines aim to assist with Councils:

- a) Community Strategic Plan
- b) Resourcing Strategy
- c) Delivery Program and Operational Plan
- d) Annual Report

7. SUSTAINABILITY & INNOVATION

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 one emerging approach which brings together capital and expertise from across the public, private and non-profit sectors. It is driven by measureable 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

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

The UN Sustainability Development Goals provide useful examples to contextualise, communicate, and align impact objectives amongst a broad group of stakeholders, including governments, development finance institutions, investors, and non-profits. The SDGs provide context for impact investors to see how their strategies and objectives fit into broader sustainable development efforts. By using these examples and actively pursuing their impact objectives, long-term positive impact on society and the environment can be created alongside commercial returns. The examples include:

Social

- Poverty reduction, food security
- Good health and wellbeing
- Quality education
- Gender equality

Environmental

- Clean water and sanitation
- Affordable and clean energy
- Sustainable cities and communities
- Life on land
- Life below water
- Climate action

Economic

- Decent work and economic growth
- Industry, innovation and infrastructure
- Responsible consumption and production

Governance

- Compliance with relevant legislation and Council's policies

- Peace, Justice and strong institutions
- Partnerships for the objectives

8. DEFINITIONS

List here all the terms and acronyms used in the Policy, and their definitions.

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 Amendment (Public Private Partnerships) Act 2004.
The Guidelines	Guidelines on the Procedures and Processes to be followed by Local Government in Public Private Partnerships, Department of Local Government (1 September 2005).
Eoi	Expressions of Interest.
OLG	The Office of Local Government.
PRC	The Project Review Committee's charter is to review council processes for significant or high risk projects before Council can enter into a PPP.
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.

9. APPENDIX 1 - LEGISLATIVE FRAMEWORK

In June 2004, the NSW Government introduced legislation by way of amendment of the Local Government Act 1993. The Act brings into effect the recommendations of the Emeritus Professor Maurice Daly, Commissioner of the Liverpool City Council Public Inquiry, in relation to Public Private Partnerships.

The Act is aimed at providing a framework within which local governments can successfully negotiate and implement PPP arrangements in NSW. This framework is outlined in a Department of Local Government (DLG) document Office of Local Government's Guidelines on the Procedures and Processes to be followed by Local Government in Public-Private Partnerships.

To assist NSW Councils, the Department of Local Government published its Guidelines on the Procedures and Processes to be followed by Local Government in Public-Private Partnerships. These guidelines provide comprehensive and explicit information to assist Councils in meeting their legal requirements. The guidelines establish procedures to be followed for the various stages of a PPP project.

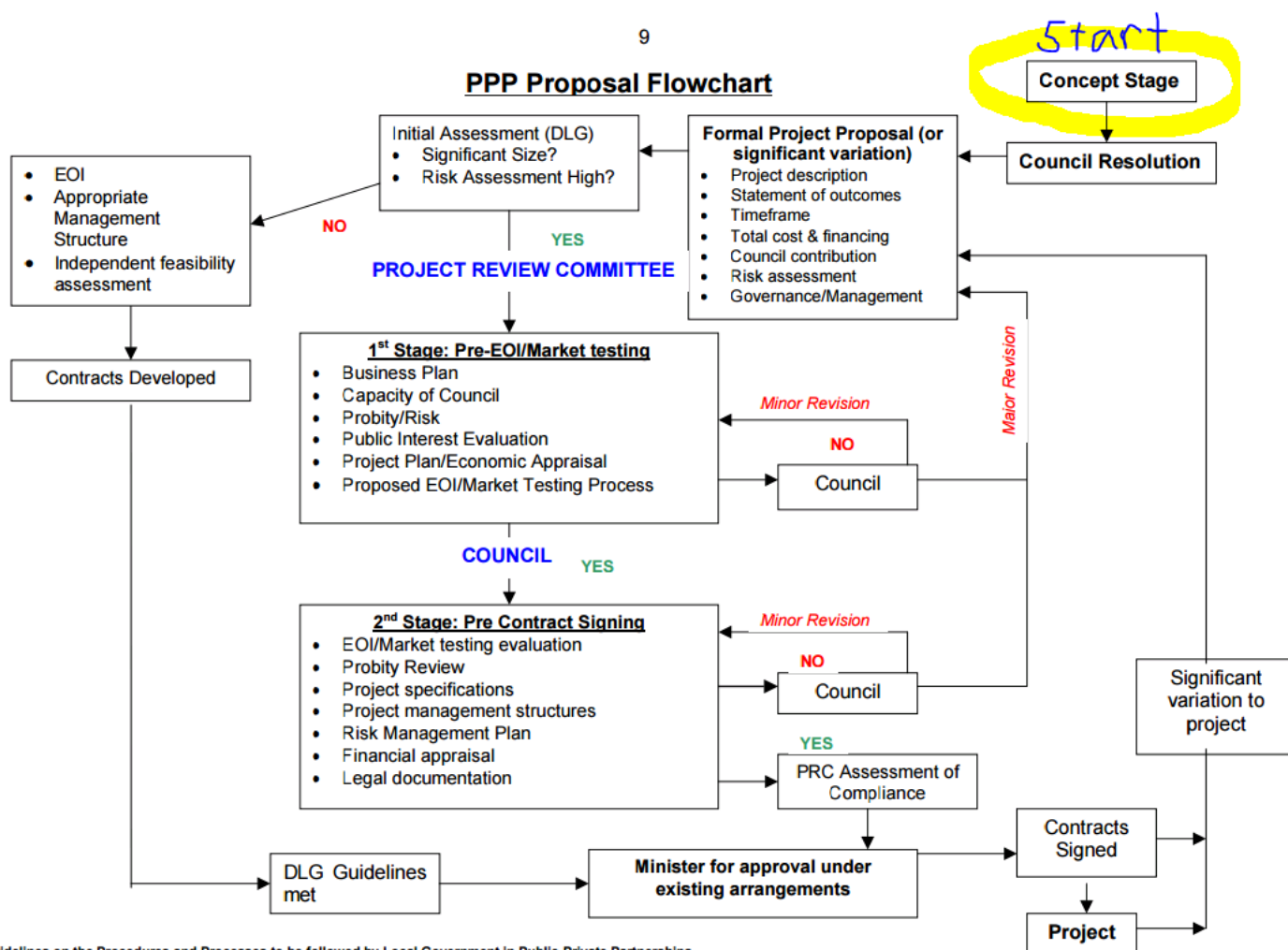
See the guidelines -

<https://www.olg.nsw.gov.au/sites/default/files/05-51.pdf>

The PPP Proposal Flowchart proscribed by the OLG Guidelines is copied below:

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PPP Proposal Flowchart



Guidelines on the Procedures and Processes to be followed by Local Government in Public-Private Partnerships

Guidelines on the Procedures and Processes to be followed by Local Government in Public-Private Partnerships, can be accessed online at:

<https://www.olg.nsw.gov.au/content/public-private-partnerships-guidelines-and-legislation>

10. APPENDIX 2 – CASE STUDIES / EXAMPLES OF PARTNERSHIPS

It is intended that this Appendix is updated and refreshed with relevant case studies and examples of partnerships.

The OLG provides the following case study from Woollahra Council:



CASE STUDY 1: Cross Street, Double Bay (currently car park)

Council EOI selected Palace Cinemas in a consortium with Built and Axiom Properties in July 2016.

The project is a rebuild on car-park side with mixed use development (residential; public parking, retail and 10 theatre cinema complex.)

Proponent selected from both a planning and financial perspective, driven by placemaking principles and street activation.

Woollahra Council has undertaken a number of earlier PPPs:

The Cosmopolitan Centre (Double Bay) - 2006

PPP with Gloxinia Investments Pty Ltd to redevelop the Cosmopolitan Centre. The PPP involves a 99 year lease to Gloxinia Investments Pty Ltd for the ground level retail stratum and the upper residential stratum with Council owning the middle carpark stratum containing 78 car spaces, function room and office space.

Kiaora Lands Redevelopment (Double Bay) - 2011

PPP with Woolworths Ltd for the redevelopment of various parcels of land owned by Woolworths and Council around Kiaora Lane and Kiaora Road in Double Bay.

CASE STUDY 2: An alternative model Lismore Community Solar Project (Farming the Sun).

Lismore City Council's Community Solar Project is now up and running with the first solar farm installed and generating energy on the roof of the Goonellabah Sports & Aquatic Centre.

Lismore Community Solar is a collaboration with Farming the Sun, a not-for-profit renewable energy facilitator, to build two 99kW solar farms in Lismore, the second being a solar farm at the East Lismore STP using innovative floating technology.

They are believed to be Australia's first ever council/community solar farms and they are funded by a financial model that is unique in Australia.

ABOUT THE BUSINESS MODEL

<http://farmingthesun.net/lismore/business-model/>

It is intended for each of the two solarfarms to be funded by up to 20 impact investors (i.e. 40 investors in total) by way of two \$180,000 loans to Lismore City Council.

Council has approved the loan subject to full subscription of the Investment share offers by the community companies. Each loan will be used to procure and construct the solarfarm, with any surplus funds (noting that the actual cost for each project is still subject to a public tender process) can be applied to other projects under Council's 2023 Renewable Energy Master Plan.

Council will repay the investors with interest to the community companies for a period of seven years followed by a 'bullet' repayment of capital in full.

Two proprietary companies have been established as investment vehicles, one for each 100kW solarfarm. Each community company will raise the capital for the loans through a private impact investment share offer.

Simplicity is the key to this business model and loan-based structure being used. So too is transparency of the financial and legal arrangements: for both the prospective investors and for Lismore City Council.

The financial backing of Lismore City Council, the use of Class A solar power equipment with long-term maintenance agreements, make these impact investments sound and low risk.

Disclaimer: *Lismore City Council (Council) is not in a financial partnership or joint venture with Starfish Initiatives, the Farming the Sun collaboration, or any other associated entity or organisation. Council's role in this initiative is as borrower of funds and as the entity that owns and constructs the solar farms. Council does not guarantee the appropriateness of any investment in this initiative. The material provided by Council about the initiative is general in nature and does not constitute financial advice. If you are considering investing in this initiative, you should obtain advice from a suitably qualified advisor. You should obtain and review a Product Disclosure Statement or Prospectus before making any decision to invest.*