

# Policy on Partnerships with the Private Sector

## 1. Introduction

Taupo District Council is required to adopt a policy on partnerships between Council and the private sector (Partnerships Policy) under section 102 of the Local Government Act 2002 (LGA 2002). This policy must be adopted after using the special consultative procedure and must be included in the Council's Long-Term Council Community Plan (LTCCP).

The Partnerships Policy was initially adopted as part of the 2003/04 Annual Plan.

It should be noted that the policy can only be amended as an amendment to the LTCCP.

## 2. Content and Purpose of Policy

The Partnerships Policy is linked to the statutory principle that a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of its resources. It states Council's position in respect of the commitment of its resources to partnerships between itself and the private sector.

## 3. Policy Application

This policy only applies to partnerships with the private sector. 'Partnership with the private sector' is defined in the LGA 2002 to mean any arrangement or agreement that is entered into between one or more local authorities and one or more persons engaged in business; but does not include:

- (a) arrangements or agreements to which the only parties are local authorities or one or more local authorities and one or more council controlled organisations; or
- (b) a contract for the supply of goods or services to, by or on behalf of a local authority.

### **As a consequence, this policy applies to:**

- (i) arrangements or agreements for provision of grants, loans, guarantees, or investments between Council and persons engaged in business; or
- (ii) arrangements or agreements for a venture where Council participates with a person engaged in business with some joint objective, whether or not that venture also involves the supply of goods or services by the joint venturer to or on behalf of Council; or
- (iii) any agreement with a person engaged in business to form a Council organisation, or any agreement to sell shares in a Council organisation to a person engaged in business (this will be in addition to the requirements of section 56 of the LGA 2002 if applicable).

1. Consultation using the special consultative procedure is required before a council-controlled organisation is established.

**But does NOT apply to:**

- (iv) contracts between Council and its ordinary suppliers of goods and services (for example of office supplies or legal services); or
- (v) contracts for the supply of goods and services between Council and its agents for undertaking activities of Council (such as building or maintaining roads); or
- (vi) borrowing by Council and the investment of Council funds purely for financial gain as these transactions will be addressed in the liability management and investment policies respectively; or
- (vii) agreements with or grants to community organisations, charitable trusts and other community groups, government departments, not-for-profit-organisations, other local authorities and council controlled organisations.

## 4. Circumstances in which Council will Consider a Partnership

Council will consider entering into a partnership with a private sector partner where it is satisfied that the partnership complies with all of part (a) and may consider the objectives and benefits raised in (b) and (c).

- (a) The proposed partnership will:
  - (i) contribute to achieving the Community Outcomes identified in the LTCCP in an integrated and efficient manner; and
  - (ii) promote the social, economic, cultural or environmental well-being of the district, in the present and for the future; and
  - (iii) be a prudent, efficient and effective use of Council's resources in the interests of the district.
- (b) The objective of the partnership is desirable in the interests of the community but the private sector is unwilling or reluctant to provide sufficient resources without Council support or where it would be mutually beneficial for Council to be in the partnership.
- (c) The benefits of the proposed partnership (in terms of achievement of Community Outcomes and promotion of the four aspects of well-being now and in the future) will exceed the costs.

A decision to enter into a partnership with the private sector must also comply with the decision making provisions set out in section 76 (and sections 77, 78, 79, 80, 81 and 82 to the extent applicable) of the LGA 2002.

## 5. Consultation

Given that this policy was adopted as part of the LTCCP, no further consultation on a specific partnership proposal will be undertaken, unless:

- (a) the proposal involves a departure from this policy; or
- (b) the proposal amounts to a decision which is not provided for in Council's LTCCP; or
- (c) Council determines that public consultation should occur having regard to the significance of the partnership proposal.

## 6. Conditions to be Imposed

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

- (a) the objectives of the partnership
- (b) the parties' respective 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. The partnership and its proposed business must be lawful.
- (c) details of Council's agreement to provide funding or other resources to the partnership
- (d) details of the private sector party's agreement to provide funding or other resources to the partnership
- (e) 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 well-being, current and future including, where possible, target performance measures
- (f) Council's requirements in relation to monitoring and reporting of performance
- (g) consequences of non-performance by the private sector party including a clear exit strategy, and dispute resolution process.

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

## 7. Risk Assessment and Management

In assessing every partnership proposal, the potential risks to Council will be 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:

- (a) financial risk
- (b) risk to the reputation of Council and Taupo District
- (c) risk to the capacity of Council to carry out its activities, now and in the future
- (d) safety of persons and property
- (e) protection of any intellectual property.

If the risks are considered significant, in terms of probability and potential effect, 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, (e.g third party insurance) such as indemnities and guarantees, and may require closer monitoring and control over the conduct of the partnership.

## 8. Monitoring and Reporting to Council on Provision of Funding

At the end of every quarter (or otherwise as specified in agreements), a report will be prepared and submitted to Council outlining:

- (a) the value of funds or resources allocated to partnerships in total during that reporting period
- (b) in relation to each partnership, the amount of funds or resources allocated, the private sector partner/s involved, the objectives of the partnership and link to the Community Outcomes.

## 9. 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.

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:

- (a) a requirement for quarterly financial reports on the partnership project or in accordance with requirements set out in agreements. In general, a report on progress in achieving performance objectives will be required on a regular (not less than annual) basis.
- (b) a requirement for quarterly performance reports on the achievement by the partnership of the relevant Community Outcomes and any impacts on the social, economic, cultural and environmental well-being of the community
- (c) a requirement to report on specifically agreed outcomes and objectives.

Review: It is anticipated that this policy will be reviewed as part of the next LTCCP process, three years from adoption of this policy.