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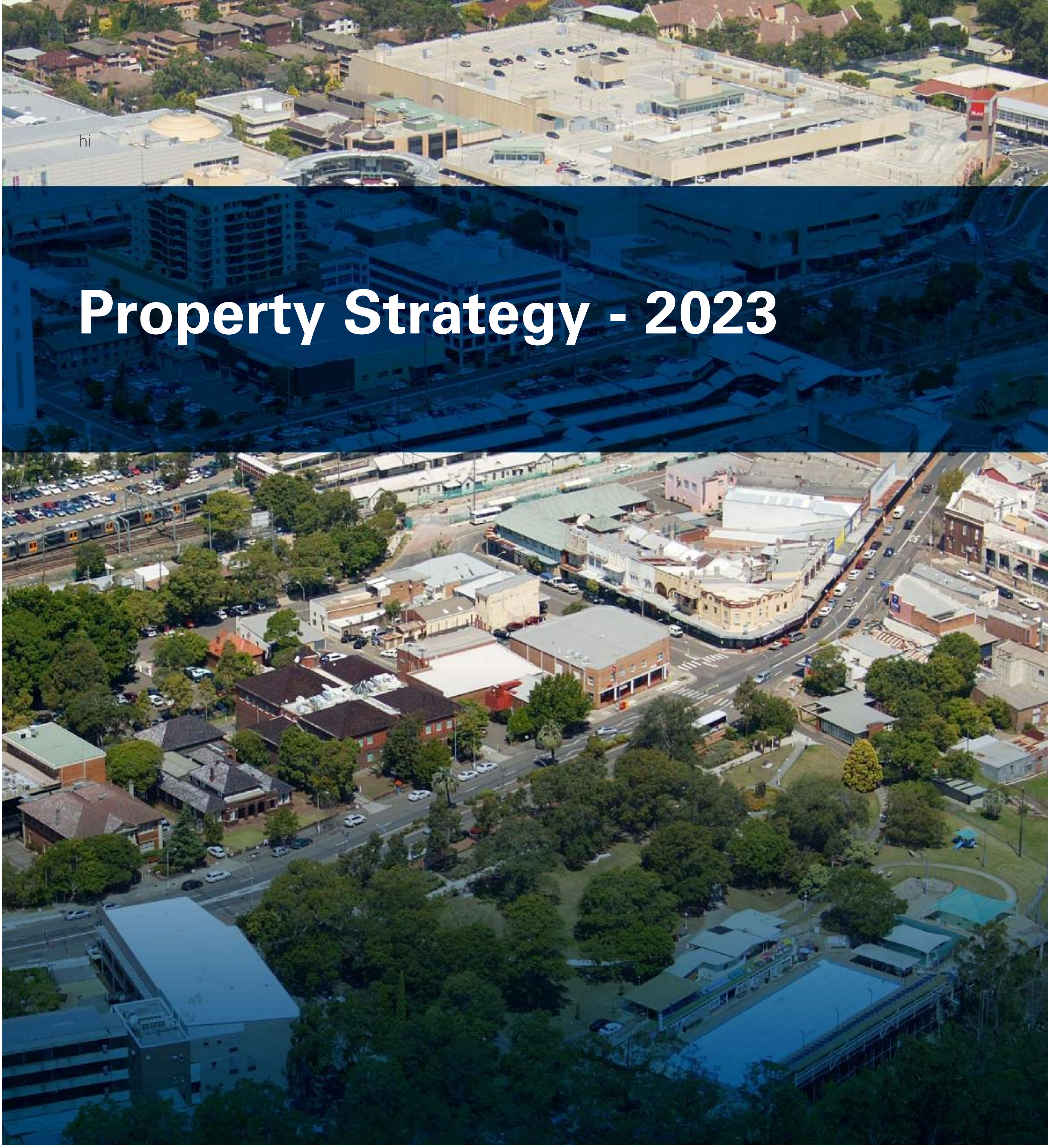


Property Strategy - 2023

HORNSBY
SHIRE COUNCIL

Contents

Introduction

Hornsby Shire Council was incorporated in 1906 and since that time has built a substantial portfolio of property holdings across its Local Government Area. The Local Government Area is approximately 460km² in area and is located on the lands of the traditional owners, the Darug and GuriNgai Peoples.

Hornsby Shire Council currently delivers a broad range of services to its community, many being provided directly or indirectly from Council’s Property Portfolio.

Traditionally local government has funded it activities and operations from revenue gained through property rates, charges and user fees for services provided, contributions from developers and grants from Government.

With the existence of rate pegging and cost shifting from various levels of government and the continued expectations of the community on Council to provide additional and improved assets and services, it is recognised that both properties owned and under management need to not only be self-sustainable but also contribute to revenue and investment reserves to support Council's substantial operations and activities.

Hornsby Shire Council has not previously adopted a comprehensive integrated Property Strategy. This document is a foundation document which will be further developed over time and through implementation of the areas of focus identified within this draft. Those areas are Manage, Transact and Invest.

This Property Strategy document provides both a short - medium term (up to 5 years) and long term (greater than 5 years) recommendations for dealing with Hornsby Shire Council's Operational Property Portfolio which includes property owned by Council and property under management.

The intention of the Strategy is to identify opportunities to optimise the value and use of Council’s operational property portfolio, through improved commercial arrangements and by realising development opportunities. Consideration toward divestment, development and consolidation of Council property to optimise use and return will assist with contributing to Council’s long term financial sustainability.

The Property Strategy is a document that supports Council's organisational strategic directions as identified within the Community Strategic Plan, Your Vision, Your Future 2032 document.

Your Vision, Your Future 2032 was adopted by Council in June 2022 following extensive consultation and involvement from the local community and provides broad directions to guide Council in its operations for the next 10 years.

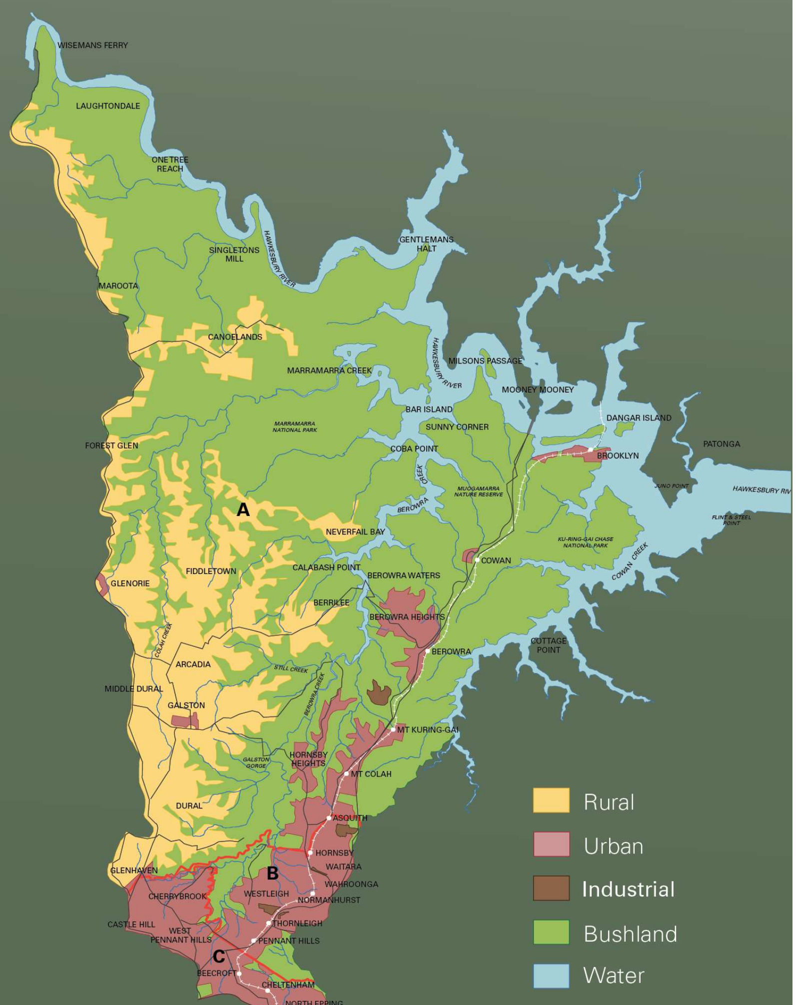
70%
of land area
is bushland

10%
of land area
is urban

15%
of land area
is rural

5%
of land area
is open space

1,328km
of rivers and creeks



1 Purpose, Scope and Objectives

1.1 Purpose

The purpose of this strategy is to ensure that Hornsby Shire Council's property portfolio is strategically aligned with its service delivery objectives and community expectations and importantly delivers optimum commercial value from the management and development of Council property. This Strategy covers Council's entire Property Portfolio and while the focus is on Operational Land, there will be properties that are used by the community also being reviewed where improvements can be made and better outcomes achieved.

1.2 Scope

The scope of this strategy covers Council-owned freehold land and improvements, Council managed Crown land, leases, licences, other tenancies and statutory dealings.

1.3 Objectives

The main objectives of the Property Strategy are as follows:

- To align the Property Portfolio with the long-term vision of Council and the community within Your Vision, Your Future 2032 and other relevant adopted strategic documents.
- To optimise the value of the Property Portfolio for the benefit of the community and Council,
- To assist with achieving Councils Long Term Financial Plan goals and objectives by investing proceeds from property divestment and creating new opportunities for additional recurring income streams
- To achieve highest and best use from the existing Operational property within the Portfolio to maximise return and minimise all related costs to Council,
- To identify key operational properties within the Property Portfolio and set short and long-term recommendations for future use,
- To identify underutilised/underperforming Operational property assets within the existing Property Portfolio and consider them for potential divestment or further investment opportunities,
- To consider acquisition of other strategically located property for future development and investment purposes or to assist in the achievement of community and Council priorities,

2 Legislative Framework and Existing Organisational Strategic Plans

2.1 Legislative Framework

Management of Council's Property Portfolio is controlled by legislative framework which includes:

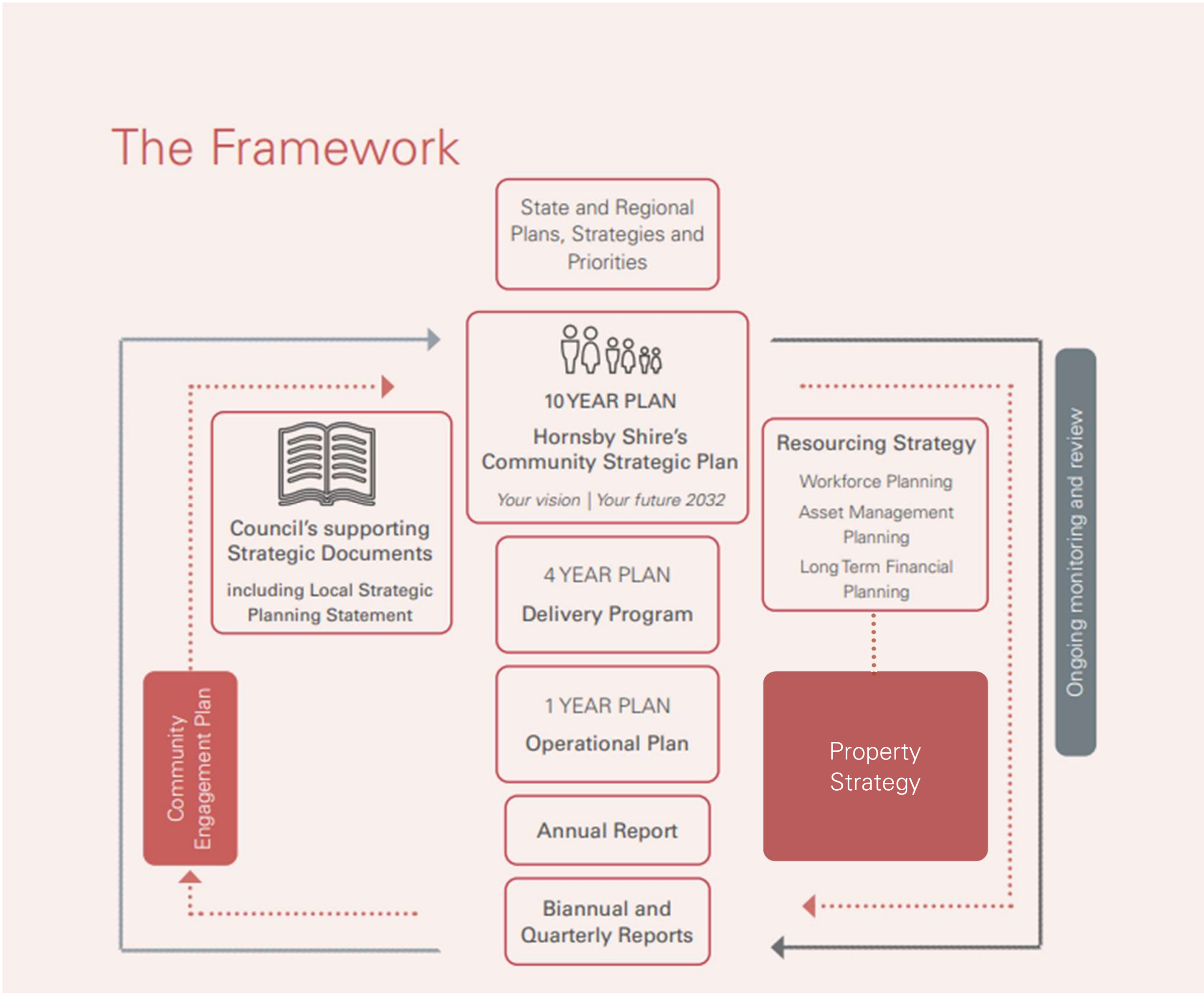
- Local Government Act (NSW), 1993
- Environmental Planning and Assessment Act (NSW), 1979
- Environmental Planning and Assessment Amendment Act (NSW), 2017
- Roads Act (NSW), 1993
- Residential Tenancies Act (NSW), 2010
- Retail Leases Act (NSW), 1994
- Crown Land Management Act (NSW), 2016
- Land Acquisition (Just Terms Compensation) Act (NSW), 1991
- Strata Schemes Management Act (NSW), 2015
- Real Property Act (NSW), 1900
- Conveyancing Act (NSW) 1919
- Heritage Act (NSW) 1977
- Work Health and Safety Act 2010

2.2 Existing Organisational Strategic Plans

The Community Strategic Plan identifies the community’s main priorities and aspirations for the future and sets the broad strategic direction for Council’s operations. Guiding the Plan is the community vision that has been developed through community engagement and describes the kind of place the community desires for Hornsby Shire by 2032.

2.3 Your Vision, Your Future 2032

Council's main organisational strategic document is Your Vision, Your Future 2032. It covers the period from 2022 to 2032 and is reviewed every four years in line with the local government elections. The vision was developed following engagement and feedback provided by the community and therefore outlines the priorities and aspirations for what Hornsby Shire should look like in ten years. In order to reach that vision the document sets broad strategic directions for Council’s long term planning.



Your Vision, Your Future 2032 has four key themes. They are

LIVEABLE

SUSTAINABLE

PRODUCTIVE

COLLABORATIVE

The purpose of, and outcomes from the Property Strategy, fit within all four of the above themes, however it relates most closely to the Collaborative theme, under the 'Smart and Innovative' section.

G8.1 Integrated and sustainable long-term planning for the community's future

"Ensure the financial sustainability of Council through strategic management of assets and short, medium and long term financial planning"

Within the four (4) year Delivery Plan (2022-26) Council's activities relating to the Property Strategy are:

8A.K12 *"Evaluate strategic property holdings for highest and best use"*

8A.K37 " *Progress priority actions of the Property Strategy"*

The resourcing strategies that support Your Vision, Your Future 2032 are the Long Term Financial Plan, the Workforce Management Strategy, and the Asset Management Plan. All are strategic documents that underpin the future vision and have considerable impact on the Property Strategy and its objectives.

2.4 **Long Term Financial Plan 2023**

The Long Term Financial Plan (LTFP) is a ten year plan that projects financial forecasts and is updated as part of Council's Operating Plan. It allows Council to make informed financial decisions with the aim of being financially sustainable while continuing to deliver quality services to the community.

The document was first produced for the 2010/11 financial year. The current version (2023/24) highlights Council's current financial capacity and the need for a Special Rate Variation (SRV) to continue to deliver services to the community and to maintain and renew assets at an appropriate level.

The need and cost to maintain Council's assets to a satisfactory level and continue to undertake large capital community projects is a highly important function of local government. With continued rate pegging the funding to provide those functions of Council has become extremely difficult.

Management of Council's property portfolio plays an important role in supplementing rate income.

Within the section 'Action to Improve Future Direction' of the LTFP there is a recommendation to:

" *Consider whether there is a case to rationalise underutilised assets to reduce ongoing cost requirements and/or provide one off capital funding from sale proceeds towards other capital investment decisions*" .

The Property Strategy aims to assist with this recommendation and identify underutilised property for potential divestment or development to assist with funding future investment activities and provide additional recurrent income streams.

2.5 **Asset Management Plans**

Asset Management Plans (AMPs) are prepared to ensure the organisation can manage its assets appropriately and to an agreed standard of service.

This is achieved by undertaking condition reports on the various asset classes (Roads & Stormwater, Buildings and Open Space) and identifying the level of service desired. This level of service is determined partially through engagement with the community and also through Council's expertise and ability to fund.

Condition reports provide information on the current condition of the asset along with its remaining useful life and allow planning for specific asset operations and lifecycle to occur.

Asset Management Plans for Council's built assets within the property portfolio play an important role in ensuring that the building structures are maintained to a reasonable state of repair. They mean that any required renewal or capital works are identified so that they can be budgeted and funded accordingly, and to ensure that returns on assets, either through community use or revenue are optimised.

Recent condition reports for Council's various building assets identify them to be in an overall 'fair' condition. Council's community use buildings including library's, community centres and recreational facilities are identified as being in a better condition that commercial and investment properties and Council's administration and depot buildings. All are considered to be in Fair condition with some repairs required (mid range).

2.6 Related Strategic Plans

There are many other existing strategic documents and plans that have been adopted by Council that relate to the Property Strategy. They are:

- Your Vision, Your Future 2032
- Long Term Financial Plan
- Local Strategic Planning Statement 2020
- Local Housing Strategy 2020
- Draft Hornsby Town Centre Masterplan 2022
- Community and Cultural Facilities Strategic Plan 2021
- Economic Development and Tourism Strategy 2021-2026
- Car Parking Management Study 2020
- Employment Land Use Study 2021
- s.7.11 Development Contributions Plan 2020
- Draft Brooklyn Place Plan 2021

3 Current Status of Council's Property Portfolio

Hornsby Shire Council has a diverse portfolio of property under its ownership and management.

The most recent valuation of Council's Portfolio of Operational Land (land only) was undertaken for June, 2022. The portfolio was valued (for Fair Value purposes) at $172 mil by Scott Fullarton Valuations Pty Ltd.

Valuations of Council land for Fair Value have been required by the Office of Local Government since 2008. Fair value of Operational Land requires land to be valued for its Highest and Best Use, essentially its market value. Separate valuations for Fair Value were undertaken for Buildings ($237 mil) and Community Land ($341 mil) in June 2022.

Under the Local Government Act, 1993 all land owned by Council must be classified, Operational Land or Community Land:

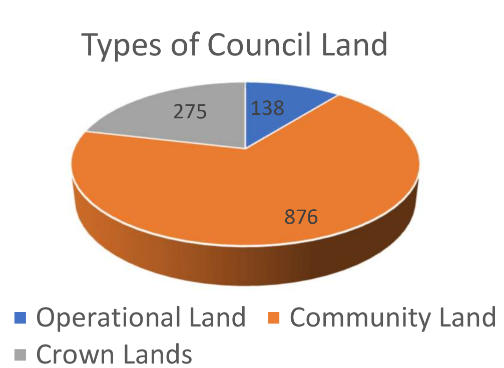
Operational Land - refers to land owned by Council which is held generally for operational, commercial or investment purposes. There is more flexibility to deal with this type of land under the legislation, i.e. it can be sold or leased without any time restriction.

Community Land - refers to land owned by Council which is held generally for community or conservation purposes. It is therefore more restricted than operational land in the way it can be dealt with, i.e. it cannot be sold (while it is classified as community land), can only be leased for a period up to 5 years without first going through a public offer process and then can be leased for a maximum of 21 years only (following a public offer process).

Crown Land - apart from land owned directly by Council, Council also has responsibilities as Land Manager for a significant amount of Crown Land within the Local Government Area (LGA). Following enactment of the recent Crown Land Management Act 2016, Council as Land Manager for Crown Land is now required to manage Crown Land under the same classifications and categorisations as are required in the Local Government Act 1993. This has placed greater restriction on how Council, as Land Manager, is able to manage and deal with Crown lands. A small number of Crown Land parcels have been classified as Operational Land with the majority being classified as Community Land.

Council's Land Register lists the following number of land parcels for each type of land holding:

- Operational Land - 138 land parcels
- Community Land – 876 land parcels
- Crown Lands - 275 land parcels



4 Principles for Developing and Managing Council Property

In managing Council's existing property portfolio and in reviewing potential property acquisitions or divestment, certain matters should be considered to protect Council's best interests financially as well as those of the community.

Below are four fundamental principles that should be considered while undertaking all Council property related actions:

- Best Value for Money – Achieving "best value" may include financial, social and environmental benefits.
- Transparency – processes are open to scrutiny, provide full information and the reasons decisions are made.
- Accountability – demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails.
- Impartiality – address perceived or actual conflicts of interests, ensuring fairness and equity.

Other specific matters for consideration when dealing with Council's Property Portfolio or potential property investments are:

4.1 Divestment of Property

The objective of this strategy is to maximise community value from the property portfolio and is not focused on divestment of Council property assets. There are situations where the best value to the community is facilitated by divestment of an asset and re-investment in property assets that either provide a greater return or deliver against higher priorities of the community.

Where Council decides to dispose of property assets (Operational Land) it should always be undertaken in an open and transparent method, that is equitable to all. Sale by public auction is the preferred method to achieve the required transparency and equity, where more than a single interested purchaser exists. An alternative method of sale that also achieves transparency and equity is through an Expression of Interest or Tender process.

Where only a single purchaser exists a market valuation should be obtained and negotiations held with the potential purchaser based on the values determined from each party's valuation. Direct dealings are required to follow the guidelines provided by the ICAC (2018), ensuring probity principles are appropriately considered along with associated risks to any direct dealing.

Where no market value is determinable for a Council property advice should be sought from Councils legal advisers on how to achieve the most favourable outcome possible.

Refer to 'Disposal of Land Policy' for further guidance.

4.2 Acquisition of Property

Where Council decides to acquire property it may be for community use, commercial use, redevelopment/investment purposes or a statutory requirement.

When acquiring property Council will ideally obtain a market valuation from Council's valuer to guide the acquisition price of the property and take advice from its legal advisers, where appropriate.

Acquisitions vary in nature depending on the type of property being acquired and the method of sale being used (where it is on the open market). Regardless of the method of sale being used property acquisitions by nature usually involve a dynamic process which means Council staff need to obtain the necessary endorsement from Council, or the General Manager as delegated by Council, to an amount or range of values in which an offer, or offers, can be made to acquire a property.

Examples of reasons why Council may acquire property might be:

- Provision of community facilities
- Road widening or opening
- Investment and redevelopment
- Provision of additional open space or car parking
- Environmental conservation or bushland care

Where an acquisition is covered by the relevant legislation regarding compulsory acquisition the requirements of the Land Acquisitions (Just Terms) Compensation Act '91 must be addressed. In this circumstance Council must negotiate in good faith to acquire the property in the first instance before proceeding to follow the required steps as part of the legislation for compulsory acquisition, which includes gaining the approval of the relevant Minister.

4.3 Leases/Licences of Council and Crown Land

Operational Land

Council has an existing Policy relating to leases and licences of land, 'Land – Lease/Licence by Council Policy'.

With a view to taking a more commercial approach to managing its operational land, Council should consider the following prescriptive principles when undertaking future review of its Policy to maximise returns from third party use of its land:

- To achieve the maximum return possible for the property
- Lessee to pay all costs associated with the occupation of the property (including supply of all services and utilities) and be responsible for the majority of maintenance associated with the premises, except for structural and base building components which are usually considered the responsibility of the Lessor (i.e. Council)
- Rent reviews within a Lease or Licence of Operational Land should be increased annually to CPI or an industry standardised fixed amount per annum with reviews to market rental values at least every five years.
- The term of a lease should generally not exceed a maximum of five years, except in the case where significant capital investment in Council's property is proposed, where a reasonable period to amortise initial expenditure can be agreed between the parties.

- Where Council has responsibility for maintenance works, priority should be given to those properties where the occupant is paying a commercial, market rent.
- Lessee's (and licensee's) are responsible for obtaining consent/s from any statutory authority (Council or other Government agency). Where this involves Council any application for approval is not to conflict with Councils role as local consent authority.

Community Land

The following principles have been identified for leases and licences of Community Land. At present a review is taking place regarding community groups occupying Council land and buildings and once formalised will be reported to Council. Following the review of the Policy and adoption of any amendments the following principles may need reconsideration.

- A Plan of Management for the land must authorise and permit the purpose for leasing or licensing of the land,
- To achieve market rent for the property, where possible, or be the basis for determining a subsidised rent
- Where an organisation qualifies for assessment under the Lease/License of Council Land and Buildings to Community Groups Policy, rent, increases to rent and maintenance responsibilities for the term of the agreement are to be determined in accordance with the requirements of that Policy.
- Lessee (where occupying exclusively) to pay all costs associated with occupation of the property (including supply of all services and utilities) and be responsible for maintenance associated within the premises, except for structural and base building elements.
- Rent reviews within a Lease or Licence of Community Land should be increased annually to CPI or an industry standardised fixed amount per annum with reviews to market rental values (or other reasonable increase) preferably every five years.
- The term of a lease should generally not exceed a maximum of five years, except in the case where significant capital investment in Council's property is proposed, where a reasonable period to re-capitalise that expenditure can be agreed between the parties.

Leases and other agreements over Council property for the purposes of advertising (large and small format) should be considered where impact on local resident's amenity is minimal. Commercial advertising can only be considered where planning instruments permit such uses and subject to relevant approvals.

Leases of Council property for the purposes of telecommunications sites should be carefully considered due to the potential impacts resulting from the proposed location of facilities (eg visual impact, amenity), particularly those within open space areas. While there is potential benefit to Council for colocation of infrastructure, and to the community for enhanced telecommunications coverage across the Local Government Area, these uses by nature are potentially sensitive.

Refer to 'Land – Lease/Licence by Council Policy' and 'Lease/Licence of Council Land and Buildings to Community Groups Policy' for further information.

4.4 Road Closures

Public Road closures may be considered where the road is unused and has no or little value to Council and the community for retention as a public road asset.

In this instance determination is required whether the section of public road proposed for closure has any future operational purposes or value. Where a road closure is not possible a lease of the section of public road may be offered, in accordance with s.153-157 of the Roads Act 1993.

Permanent road closures can only be considered where the section of road reserve proposed for closure is or has been a 'made road', and if that is the case then Council would receive the proceeds of any completed divestment process. Where the section of road reserve proposed for closure is or has not ever been a 'made road' then prior to agreeing to proceed with any formal road closure process, Council may consult with the NSW Trade and Investment – Crown Lands and endeavour to negotiate a percentage of proceeds from divestment. Where agreement cannot be reached for a portion of the divestment proceeds from the proposed divestment then Council should reconsider the matter. It may be that a lease under the Roads Acts is a more appropriate approach of achieving the intended outcome.

Where Council determines a formal process of closing a public road is required and intends on disposing of the resulting parcel of land, market value should be achieved on divestment based on independent market valuation.

In considering applications from adjoining owners to close a road, consultation with the adjoining neighbours needs to be undertaken by the applicant to support their application to Council. The applicant should be required to bear all costs in relation to the proposal, even if it is ultimately successful, including but not limited to survey fees, any application costs, legal costs, lodgement costs etc.

4.5 **Easements and Right of Ways**

Where Council provides in principle support to grant an easement or right of way over Council land whether as a result of a development consent condition or by other means (i.e. direct approach), market values should be achieved from any agreement reached with the applicant paying all of Council's costs to consider, assess, prepare and lodge any documents or plans.

Council should only consider a request to grant an easement or right of way over Council land where the proposed easement would not detrimentally affect the operation, intended use or potential future use of Council’s property.

4.6 **Development and Investment Activities**

Where Council is considering development of its own land or land under its management it should approach the proposal like any other developer and consider the following important elements:

- Return on investment
- Locality and market trends/patterns
- Risk analysis for the proposal including demand and supply for type of property, security of income
- Up front and ongoing costs relating to the property, where applicable

To determine permissible uses (with consent) for a parcel of land the relevant zoning needs to be identified for the site. Analysis should be undertaken on each potential use to establish the best return to Council and most appropriate use for the site. Where a development is proposed on Council property for commercial purposes the Highest and Best Use of the site should first be identified.

Suitable independent valuation or property economic (feasibility) advice should be obtained to confirm the net revenue potential of the proposal.

To continue Council's strong commitment and leadership in sustainability, where redevelopment of Council property is being considered, it should apply the principles of Ecologically Sustainable Development (ESD). Broadly it should endeavour to use renewable energy sources where possible and design future buildings to be water sensitive. Not only will this reduce the lifecycle costs of any new development it will help Council achieve its target of net zero emissions by 2050.

Developments on Council land should consider inclusion of community facilities where required, options for providing housing affordability where residential development is being considered and ensure that recurrent income streams to Council are generated as an outcome. Similarly, Council should consider the potential of commercial use or returns from development of community land where possible and it helps to offset the cost of the provision of facilities to the community.

Refer to the ‘Proposed Council Developments Policy’ for further guidance regarding independent assessment of development applications lodged on behalf of Council where it involves Council property.

4.7 Asset Management and Maintenance

As part of the Asset Management Plan all of Council’s buildings have been inspected with the majority having an asset management plan. The condition and performance information gathered is used to determine future maintenance and improvement works programming to meet the required condition level and maintain and preserve each asset to the desired standard.

Detailed Asset Management Plans allow Council to understand the lifecycle costs involved in maintaining and preserving building assets, so along with understanding community expectations, a desired condition can be identified and the required funding can be allocated to the asset.

5 Core Focus Areas

Focus Area	Activity	Frequency
Manage - the Property Portfolio in accordance with legislative policy and contractual requirements	1. Ensure occupied properties are fit for purpose, well maintained, regularly inspected and any risks are identified and managed	Annually
	2. Leases and licences over Council property are formal, current and monitored for compliance	Ongoing
	3. Terms of Lease and licences are documented and acted on when required (ie options, rent reviews)	Ongoing
	4. Policy's for leasing and licencing of Council land and buildings are reviewed with a view to maximising the return to Council	Annually
	5. Council's Land, Lease and Crown Lands Registers are managed and updated and are available for public viewing where required	Ongoing
Transact – for Council and public benefit	1. Property identified for public benefit is acquired using best practice principles	As required
	2. Property acquisitions are pursued where strategic benefits exist	As required
	3. Agreements for occupation of property are consistent with the principles contained within the Property Strategy	Ongoing
Invest – for financial sustainability	1. Underutilised/underperforming property is divested or rationalised and used to generate recurring income	As required
	2. Prioritised actions are implemented from the Property Strategy following resolution of Council with the aim to achieve new recurrent revenue streams	Ongoing
	3. Highest & Best use is identified for each commercial/investment property	As required
	4. Provide funding for maintenance, renewal and capital works for Council properties is to appropriate levels which ensures assets are desirable to users	Annually

6 Property Selection, Prioritisation and Recommendations

A separate section of the strategy will require development for the inclusion with this document in which individual properties have been selected for further review and investigation.

Properties to be selected for inclusion within the adopted Property Strategy are to be based on the following criteria:

- Considered to be an underperforming or underutilised asset,
- Has development potential and/or is yet to achieve its Highest & Best Use,
- Has an existing high value,
- Contained or noted within an existing Strategic plan or document (eg Community & Cultural Facilities Strategic Plan 2021)
- Resulting from a Council resolution

Each of the properties included within the strategy will have both a short and long term recommendations with associated actions to achieve the recommendations.

Recommendations for properties could include hold and continue the current arrangement and use, consider for redevelopment and in some cases consider for divestment and re-investment within the broader portfolio of property assets.

Following the establishment of the list of properties to be included within the Property Strategy, each property will be prioritised. The prioritisation relates to when the property is likely to be dealt with in detail and provides an indicative timeframe for commencement of initiating the relevant recommendation contained with the strategy. The priorities and timeframes associated are as follows:

HIGH priority = 0-3 years

Medium priority = 3-10 years

Low priority = 10+ years

Once a property (or project it relates to) reaches substantial completion the next prioritised property will then come into consideration.

Prioritisation was determined based on the selection criteria (listed above) used for selecting the properties for inclusion in the Strategy. Where more than one of the criteria used relates to a property it was determined to be a higher prioritisation.

7 Project Approval Process

Each property included within this strategy will have a recommendation prepared with guidance on what is proposed for the property in the Short and/or Long term. Prior to commencing to implement a recommendation for a property, Council will be provided with the recommendation and any supporting background documentation. Recommendations and actions associated with each property shall not commence until Council has provided it's in principle support.

The process will include transparency with the community, acknowledging that some aspects of this Property Strategy require commercial in confidence consideration, consistent with the requirements of the Local Government Act.

A recommendation could be to divest of a property, develop a property or properties, or to hold property for the long term.

The below table provides the steps involved in gaining Council endorsement to commence a project contained within this Property Strategy.

:

Approval Process

	Step	Project Phase	Approver
Development Projects	1	Preliminary Project Endorsement	Council
	2	Preliminary Feasibility	Executive Committee
	3	Business Case - Funding	CFO/Dir. Corporate Support
	4	Business Case	Executive Committee
	5	Councillor Workshop	For Information/Discussion
	6	Business Case (final)	Council

The governance body is currently the Executive Committee. At various steps within the approval process (Preliminary Feasibility stage (#2) and then the Business Case stage (#4)), the Executive Committee will have an opportunity for input and to give direction. Where projects are endorsed to progress past the Business Case stage (steps #3-6) a Project Governance Framework will be prepared for that specific project. At this stage a Project Control Group is to be formed for the project and that group will become the governance body for the project.

Some projects may require third party endorsement to progress, for example capital projects where expenditure exceeds certain amounts require Office of Local Government approval (under the Capital Expenditure Guidelines). Another example is where Council is intending to enter into an agreement with a private entity to procure construction services on Council land, it may be a Public Private Partnership (PPP) and require a Business Case be provided outlining the project and where risk exposure lies between the parties.

As part of the process of seeking endorsement from the Executive Committee and Council for a Property Strategy project, a business case should be prepared that details the project, the financial implications and indicative project timeframes, to justify undertaking the project and to support the recommendation of the Property Strategy.

A Business Case should include the following information:

a. Executive summary outlining the project and financial goals (ie recurrent income/capital growth/disposal proceeds),
b. Preliminary feasibility analysis or valuation report to support the current financial viability of the project
c. Anticipated project timeframe (GANTT),
d. Market analysis, SWOT, 'Go To Market' strategy
e. Delivery Method, background to options considered and preferred method chosen,
f. List of detailed studies/reports/designs required to gain approvals to commence and complete the project,
g. Financial projections (for income & expenditure), Return on Investment
h. Identify available funding sources with preferred source nominated, with repayment terms (where required) including amounts, applicable interest rate, commencement and anticipated conclusion dates,
i. Project management and resourcing details,
j. Project completion tasks, ie leasing, divestment or contract finalisation requirements

The above is mainly focused on development projects, a Business Case for a proposed acquisition or divestment may not require the same amount of information that is outlined above, however the same or similar process for approval should be followed, where possible, to justify the recommendation from the Property Strategy and seek endorsement to proceed with the proposed acquisition or disposal.

8 Delivery Methods

There are various methods a landowner can consider when undertaking a development of its land.

Below are three common approaches to developing land for local government organisations wishing to maximise use of their property assets.

8.1 Tender for Construction

A traditional method used to develop land is by tendering for a builder to undertake construct works. This method requires Council to gain the necessary approval for the development, allowing it to tender the project works to a builder. The builder then constructs the development in accordance with the consent and returns to the developed property to Council as landowner to use, dispose or lease the property as it wishes.

The benefits of this method are that Council as landowner maintains full control of the design and built outcome and full control to use, dispose or lease the developed land as it chooses.

The limitations to this method are that Council is required to fully fund the cost of constructing the development and assumes majority of risk for the project regarding cost and time overruns.

8.2 Development Agreements

A development agreement or project development agreement is a type of agreement used for undertaking developments between a landowner and a developer which governs the development of a parcel of land.

The most common type of development agreement used by government agencies where they are the landowner requires the land to be transferred to the developer in the first instance. Under the agreement the developer is required to construct the development to the agreed design and under the conditions of the development agreement while the landowner maintains control over the development and receives payment and/or an interest in the developed property at completion of the development.

A development agreement could commence through an Expression of Interest or Tender where a developer is sought to construct a development based on the terms of a development agreement consent.

Benefits for the landowner are that development and funding risk are minimised, while maintaining development certainty, both financially and built form. The benefit to the developer is that they defer payment of the land purchase and therefore minimise initial funding requirements. Further it minimises the chance of environmental and other land based liabilities for the developer along with minimising taxes and duties to coincide with development income.

For Council to achieve the best financial outcome possible for a development using a development agreement it should endeavour to reduce as many risks as possible that relate to site conditions and project specifications for the development prior to the initial EOI/Tender to find the developer. In doing this it will provide the greatest certainty for the developer regarding the project and therefore ensure the best possible financial offer is submitted to the landowner for the development project.

8.3 **Joint Venture (JV)**

A joint venture is an arrangement where two or more organisation's form an agreement to work together for their mutual benefit on a project for a certain period of time.

With regard to property development, a JV may be formed between adjoining landowners to undertake a development of their land where consolidation of the parcels would produce a superior outcome to each of the owners developing their land in isolation.

The benefits to this method relate to the shared nature of the arrangement. Funding, risk and control are all shared.

Limitations to this method are that it requires both parties to reach agreement on all matters concerning the development, as neither party has absolute control.

8.4 **Public Private Partnerships (PPP's)**

One implication of partnering with the private sector in development projects for local government is the potential for the relationship with the developer/partner to be considered a Public Private Partnership (PPP) by the Local Government Act 1993. If a project is considered a PPP by the Office of Local Government (OLG) there are various requirements that Council need to comply with including preparing and submitting a business case for the project and if acceptable to OLG, considerable ongoing reporting as the project progresses.

The Local Government At 1993 (s.400 b) refers to Public Private Partnerships and describes them as follows:

"Public Private Partnerships"

means 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,

but does not include any such arrangement if it is of a class that has been excluded from the operation of this Part by the regulations.

Where required, all Councils (in NSW) must comply with the OLG PPP Guidelines (Jan 2022).

"The Act and these Guidelines seek to ensure that complex and/or risky projects are understood and well managed so that project delivery occurs in line with expectations and risks are minimised through a rigorous process adopted by council."

The use of development agreements is advantageous to Council as they allow development of land while transferring majority of development and funding risk to the developer. They are reasonably complex agreements in nature and are in use for the life of a project (which could be up to 10 years). The PPP hurdles bring greater complexity to a project using a development agreement however the transfer of development and funding risks may outweigh the extra complexities, depending on the specific circumstances of the project.

9 Funding Options

Funding is a critical component of the Property Strategy being able to achieve its objectives. The amount of funding required will differ between projects and various funding options, both internal and external options, should be considered as potential funding sources initially.

The options available to fund Property Strategy projects include:

- Loan from Internal reserve/s
- Property Investment Fund (PIF)
- Loans from external sources including government (eg T-Corp) and private financial lending institutions

The preferred funding option should be the option that best suits the requirements of the project in the economic environment in which it is being considered.

The type of funding source used will depend on many variables, including the type of project being considered, the scale, estimated cost and risk profile, along with Council's current financial situation and general economic conditions at the time the project is being considered.

At the time funding sources are being considered for a project, Council's current funding commitments for its capital works program needs to be considered. The number of existing, large projects that are reliant on Council's capital funds at the time of assessment will impact on the availability of funds from internal reserves.

An internal loan from reserves or an external loan will require the preparation and subsequent endorsement by the Executive Committee based on a Business Case, as outlined above. An alternative to direct funding for a project is to use a development agreement which is a method of alleviating Council of the requirement to fund project costs and should be considered in circumstances where funding is not readily available, or loan terms are not acceptable or feasible.

The details of any internal loan from reserves are to be agreed with Council's Chief Financial Officer & Director of Corporate Support prior to the business case being finalised and considered by the Executive Committee.

The Business Case should include financial details of the loan including interest rate, repayment plan with timeframe for the life of the loan. Repayment of a reserve should be the focus for any net income proceeds from the project until the loan amount is fully repaid. Once the internal loan is repaid in full, ongoing net income would revert to the PIF or as provided within the Business Case. This may be varied only where it has been previously agreed with the Chief Financial Officer or the Director Corporate Support during preparation of the business case.

Development projects that use internal funding (either PIF or internal reserves) need to be prioritised with those that achieve the best possible return on funds and that assist the growth of the fund for future use ranking highest. Consideration of size of the investment (in dollars), expected rate of return, duration of funds required (i.e. payback period) and project risks are all matters that need to be assessed when reviewing each proposal for use of internal funds.

Project feasibility should be proven through the preparation of a financial model with the proposed investment required to achieve a return of a minimum 2% higher than Council's10 year average investment portfolio return (calculated annually) at the time of a project preliminary feasibility assessment.

Where internal funds (either the PIF or a reserve) have been used to fund a project regular monitoring and reporting (quarterly) is required to ensure that the repayment plan and any other terms of the loan as approved by the Chief Financial Officer & Director of Corporate Support are being met and are able to be met into the future.

9.1 **Internal Reserves**

Hornsby Shire Council is fortunate to possess internal reserves which are held for many purposes. Council uses its internal reserves to fund other activities with approval for use of funds being achieved through quarterly budget review reporting to Council.

Internal loans from reserves should be considered a potential source of project funds where the estimated total project cost does not exceed $2 million.

Where the estimated total project costs exceed $2 million, or where internal loans are restricted due to existing capital commitments, other delivery methods need to be considered that manage risk including consideration of the transfer of risk and capital requirements to other entities.

In this circumstance development agreements that require capital investment to be provided by another entity other than Council (ie developer/builder) should be closely considered.

Where risk and capital requirements are transferred to another entity as part of a project development agreement return on investment from the project will be less than if Council were responsible for project risk and funding.

9.2 **Property Investment Fund (PIF)**

The Property Investment Fund (PIF) is a strategic internal reserve designed to fund investment in Council property assets, with the specific objective of generating additional recurrent income streams through use of the fund.

The intention of the PIF is to fund property investment activities where it can be proven through financial analysis that investment in an existing property asset (development or refurbishment/improvement) or a property acquisition, would provide a net positive return to Council greater than Council's 10 year average investment portfolio return (calculated annually) at the time of a project preliminary feasibility assessment.

The establishment of a PIF will be investigated with a view to ensure the proceeds of any underutilised or underperforming property assets and the proceeds from net rental income from developed properties are restricted to be for use in further developing the overall assets owned by the community. Net rental income is gross rental less outgoings which include maintenance costs and management fees.

Prior to the PIF reaching an amount where it is capable of funding considerable size property investment projects and acquisitions, internal loans from reserves or external loans will be required to assist with funding where it is required

Principles to be considered for the operation of the Property Investment Fund:

When the PIF reaches a balance of $10 million consideration should be given to a split in annual net income generated, with 75% being retained by the PIF and 25% being distributed to Unrestricted Working Funds. Any projects being considered in the short term (ie within a period of 1-2 years) that may require use of the PIF and which may reduce that balance below $10 mil should be prioritised over payment of the annual distribution to Unrestricted Working Funds.

9.3 **Project Costs**

Funding will be required for the various costs associated with the different projects outlined within Property Strategy. For some projects the amount of funds required may be considerable (eg where Council funds construction of the development), in other cases they may be minor (eg where a developer funds construction of the development) and depends on the approach decided for the specific development.

Project costs should be separated depending on whether they are costs incurred in undertaking feasibility analysis to determine whether a project should proceed or not, or costs incurred following endorsement by the Executive Committee or Council of the project.

Costs relating to preliminary project feasibility should be derived from operating budgets, until the point where a project is approved to proceed where this cost should be considered a cost of delivering the project. Costs relating to a project following approval to proceed should be derived from the specific project cost account.

Project costs include consultants fees associated with the preparation of detailed plans needed to achieve statutory approvals (eg architectural designs, heritage advice, traffic report for DA), costs of construction (where required) and other costs associated with implementing and completion of the project (including project management, sales/leasing agents etc).

10 **Reclassification of Land**

A large portion of Council's land is classified currently as Community Land. Some of that land may need to be considered for reclassification where it is identified as having minimal or no community value and is therefore identified for reclassification to Operational Land to be able to action or manage it more appropriately.

Correctly classifying land allows for greater flexibility in managing and dealing with the land, providing for the ability to lease it for longer periods of time, or if underutilised/underperforming be considered for divestment.

There may also be properties within the reclassification list that are included for consideration to amend their zoning. In many cases rezoning the land will allow for a preferred or highest and best use of the property to be achieved.

11 Periodic Review

Property holdings within local government have a vital role in supplementing traditional incomes sources.

Councils who can balance the provision of property for their community as well as generate recurring income streams from those assets will continue to be able to provide for their community long term.

To continue to be relevant in a dynamic property market and with changing community demands this Property Strategy is relevant at the time of writing but should be reviewed periodically and updated where necessary to reflect any change in Council's position, amendments to various relevant legislation, economic changes into the future as well as acquisition and divestment of assets within the Property Portfolio.

It is recommended that this strategy be reviewed and updated every five years at a minimum, with the first review to be undertaken by 2028.

HORNSBY
SHIRE COUNCIL