



CUMBERLAND  
CITY COUNCIL

# Property Policy

## AUTHORISATION & VERSION CONTROL

<b>Policy Number</b>	POL-042
<b>Policy Owner</b>	Director Governance & Risk
<b>Date Adopted</b>	2 September 2020
<b>Version No</b>	2
<b>Document ID Number:</b>	3184819
<b>Review Date</b>	2 September 2024

## PURPOSE

This Policy provides the framework for Council to review its existing property portfolio and plan for its future direction. It also establishes a consistent approach to the principles guiding the use and management of Council's property assets in accordance with the Legislative Framework.

It also supports Council's *Community Strategic Plan* by identifying how Council's property assets will be managed by Council to deliver the best possible outcomes to the community in alignment with Council's *Community Strategic Plan* and *Long Term Financial Plan*.

## SCOPE

The Policy:

- Establishes a strategic framework for the management of Council's property assets and related decisions to achieve a high performing property portfolio.
- Defines the requirements for decisions about the use and management (including lease and licence agreements), acquisition, retention, redevelopment and disposal of a property asset.
- Guides the creation and implementation of a Property Strategy to plan for the management of Council's property assets into the future with alignment to the Community Strategic Plan.

## DEFINITIONS

**Community Land** is Community Land under the *Local Government Act 1993* and *Crown Lands Management Act 2016*.

**Crown Land** is Land that is vested in the *Crown as per the Crown Lands Management Act 2016*.

**Legislative Framework** is the Related Legislation included in this Policy which may change or update from time to time.

**Property** includes Council owned buildings, Operational Land and Community Land. It also considers property that may be Crown Land vested in the Council to manage.

**Surplus** is property or land identified as no longer required by Council for community, operational, strategic or commercial purposes.

**Triple Bottom Line** is an approach which seeks to consider the social, environmental and economic value or benefits and is related to the concept of sustainable development.

## POLICY STATEMENT

Councils decision making in relation to its property assets will be managed in accordance with the *Community Strategic Plan*, which recognises that property assets contribute to Cumberland being a great place to live.

Council is committed to:

- Maximised utilisation of its property assets.
- The provision of high quality property assets that are fit for purpose and in line with community expectations.
- Best practice in property asset management, including continuous review of Council's property assets to enhance its strategic property holdings or to reposition Council's property portfolio to better align with community benefits.

## PRINCIPLES:

**A triple bottom line** approach will underpin all of Council's property transactions.

**Surplus property** will be identified and be presented to Council prior to being sold. Any income generated from the sale of surplus property will be recorded in the Property Reserve, and will be utilised to fund the expansion or consolidation of Council's property portfolio or property development projects in accordance with this Policy.

**Property reserve** to withdraw funds from this reserve it must be by Council resolution in the adopted annual budget or at an ordinary meeting of Council. The balance of the property reserve will be reported in the annual financial statements.

**Property development projects** will be identified and presented to Council for review prior to proceeding on each project. **Property development projects** will be included in Council's Delivery Program and Operational Plan.

**Property portfolio performance** the principles of managing the property portfolio are contained in the Property Strategy. The strategy is procedure that will be monitored and reported to Council as part of Council's corporate planning framework.

**Strategic Property Holding** will be identified and presented to Council for consideration for purchase and will include an analysis on feasibility, growth potential and community benefit.

## REQUIREMENTS

This Policy will be applied to all property transactions in accordance with the following requirements:

1. **Community Land** will be managed as provided under the *Local Government Act 1993* and *Local Government (General) Regulation 2005*. Community land classification reflects the importance of the land to the community because of its use or special features. Community land:
  - Cannot be sold;
  - Cannot be leased, licenced or any other estate granted over the land for more than 30 years; and

- Must have a plan of management prepared for it.
2. **Crown Land** will be managed as provided under the *Crown Lands Management Act 2016* and *Local Government Act 1993*.
  3. **Operational Land** Generally will be utilised by Council to achieve commercial revenue outcomes for the benefit of the community, through active management in accordance with proven land management principles.
  4. **Licenses** are preferred by Council, particularly on Community Land, where the value of an asset can be shared between community stakeholder groups for the broadest possible community engagement and benefit and maximum utilisation. Licences will be prepared, publicly notified and be entered into in accordance with the *Local Government Act 1993*.
  5. **Leases** will be provided where it is ascertained that an occupant can have exclusive use of an asset for a predetermined term to provide security of tenure for the lessee and lessor. Leases will be prepared, publicly notified and be entered into in accordance with the *Local Government Act 1993*. Council officers will undertake a desktop lease valuation where possible, or will seek independent lease valuations for commercial leases as required.
  6. **Acquisitions** will be undertaken in accordance with the *Local Government Act 1993*. Acquisition of property or land cannot be delegated and, as required by the *Local Government Act 1993*, must be effected by a resolution of Council. Where a property is listed for sale on the open market, Council can negotiate the terms of purchase to achieve the best possible commercial outcome. Where a property is not listed for sale on the open market, the acquisition must be undertaken in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*, where it can be demonstrated that the acquisition provides Council with a clear strategic solution for expanding or consolidating its property portfolio and supports Council's *Community Strategic Plan*.
  7. **Property and Land Sales** will be undertaken where the property/land is identified as surplus to Council's requirements and is approved by Council. The disposal of Council's property assets, cannot be delegated and, as required by the *Local Government Act 1993*, must be effected by a resolution of Council. The Act provides that only operational land can be sold. If the surplus land is classified as community land it must be reclassified as operational land before Council can consider selling it. Independent valuation advice must be obtained to ensure market value is realised and the reserve price must be based on a recommendation from an independent valuer.

Council will use competitive processes either by public auction, tender or expression of interest for the sale of surplus land unless it can be clearly demonstrated that this process will not result in the best outcome for Council.

Where it may not be possible or practical to use a competitive process, a sale by direct negotiation may be supported. For these instances, a report to Council outlining the reasons for a direct sale process is required and the process should follow the NSW Independent Commission Against Corruption - *Direct Negotiations: Guidelines for Managing Risks* (August 2018).

8. **Property Development Projects** will be carried out in accordance with the *Local*

*Government Act 1993* and in alignment with the Community Strategic Plan whereby it can be determined that the asset can be repositioned within both the community and property market to provide a higher return in terms of benefit to Council and the community prior to the development commencing.

9. **Renewal** of Council's property assets will be done in accordance with proven asset management strategies and in accordance with the annual Asset Management Plan of Council.
10. **Property Dealings** includes all other property transactions other than those identified above. These property transactions will be undertaken with broad consultation with both Council and community stakeholders with a view to aligning with Council's triple bottom line approach and demonstrating clear community benefit.
11. A **Property Register** will be maintained and continually updated where ownership changes relating to Council's property assets occur.
12. **Unsolicited Proposals** will be assessed in strict accordance with the *NSW Government Unsolicited Proposals – Guide for Submission and Assessment* (August 2017). The Guide sets out how unsolicited proposals will be assessed within a transparent framework. An unsolicited proposal cannot be formally accepted until Council has considered a report authorising the transaction.
13. **Investment Properties** will be assessed in accordance with the AASB 140 Investment Property and be reported in Annual Financial statements as Non-Current Assets. The accounting standard AASB 140 sets out in paragraph 57 how a change in use of property can be recognised as an investment. Management will need to complete annual valuations and review of the use to ensure all properties comply with this standard.

The purpose of changing the classification of Property is to recognise its most accurate use, and to record the most accurate valuation of the property. Any changes in value of investment will be recorded as an income in the financial statement. A property held that is not used as an owner occupied property is considered an investment property. Council will only recognise an investment property when it is not used or not intended to be used for commercial purposes.

## RELATED LEGISLATION

- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*
- *Crown Lands Act 1989*
- *Crown Land Management Act 2016*
- *Roads Act 1993*
- *Real Property Act 1900*
- *Residential Tenancies Act 2010*
- *Retail Leases Act 1994*
- *Land Acquisitions (Just Terms Compensation) Act 1991*
- AASB 140 'Investment Property'

## **RELATED DOCUMENTS AND COUNCIL POLICY**

- Community Strategic Plan
- Long Term Financial Plan
- Delivery Program and Operational Plan
- Development Contribution Plan
- Open Space and Recreation Strategy
- Town Centre Strategies
- Asset Management Plan
- NSW Independent Commission Against Corruption – Direct Negotiations: Guidelines for Managing Risks (August 2018)
- NSW Government Unsolicited Proposals – Guide for Submission and Assessment (August 2017)