1 STRATEGIC PROPERTY PORTFOLIO PLAN AND PROPERTY PORTFOLIO POLICY

FILE NO: **C-140-2**

Attachments: **Draft Property Portfolio Policy**
Quigg Street Carparks - Investigations and Recommendation

REPORT BY: **GENERAL MANAGER**

Summary:

- A draft Property Portfolio Policy has been developed which will review each parcel of property Council owns to determine its highest and best use and is included in the Attachments. It is recommended that this policy be adopted.
- An initial review has been undertaken of some of Council's properties with the intention of identifying surplus non-income producing properties that have the potential to be sold and replaced with better-performing, local, income-generating commercial property. It is recommended that Council authorises a process to prepare the properties identified in the body of this report for sale.
- A review has also been undertaken for the Quigg Street Car Park site, Lakemba; the Campsie Civic Centre Precinct Site and the Terminus Site at Earlwood and details are set out in this report, together with a recommendation for effecting the Quigg Street carpark site's redevelopment.

Council Delivery Program and Budget Implications:

Should the recommendation be supported there will be implications for the budget. Ultimately Council could extract significant value from these underperforming assets and invest the funds into better-performing, local income-producing commercial property. This report supports our Community Strategic Plan long term goal of Healthy Finances.

Report:

Background

The 2011-12 Operating Plan for Governance includes the following initiatives:

> "Review the use of all Council-owned land and develop strategies to achieve the maximum community and organizational benefit from these properties"; and
> "Prepare a Strategic Property Portfolio Plan"

The draft policy included in the Attachments, addresses the requirements of these initiatives.

The purpose of the draft policy is to develop an income-producing commercial portfolio by:

- Undertaking a gradual and ongoing review of our portfolio's assets and local markets; and
- disposing of underperforming assets (both in terms of their financial benefit and their civic usefulness) and using the funds from their sale to acquire better-performing, local income-producing commercial property.

Section 186(1) of the LG Act states that "A council may acquire land (including an interest in land) for the purpose of exercising any of its functions." Advice received from the Division of Local Government is that Councils can own property in their LGA for the purpose of performing their functions, and many Councils do own such property and have them leased to tenants. Sutherland Shire Council has a property portfolio valued at $80m.

When seeking to purchase property we will be mindful of the investment potential of the properties, where this is relevant to the purpose we seek to achieve by owning them. We will aim to make a commercial return on any property purchased for operational (as distinct from community) purposes. In addition, during periods when Council does not have the need for all or part of a property it can offer the property (in whole or part) to the market for lease.

Property Strategy

Should the draft policy be adopted, each parcel of land owned by Council would be reviewed in terms of both its financial benefit and civic usefulness. In reviewing each parcel, we would take into account its ability to support Council's functions, and any potential to be improved or altered to further contribute to our functions.

Properties that are judged to have potential for improvement would have possible upgrade/alteration works assessed, designed and costed. Properties deemed to not be supporting Council's functions would be considered for disposal. Properties that are found to have reached their functional limits would be considered on a case-by-case basis for retention or disposal.

Funds received from disposals would then be placed in an internally restricted account, to be used solely for the purpose of purchasing new commercial property that would meet our functional requirements and provide a financial return to Council. We would be guided in making recommendations to Council in purchasing commercial property by advice from agents and other property experts in Canterbury LGA in order to comprehend local market conditions. It should be noted that section 377 of the Local Government Act 1993 requires that the purchase or sale of land can only be approved by the Council. All properties that are identified for possible sale or purchase will be reported to Council for its determination.

Properties that are considered surplus to our needs

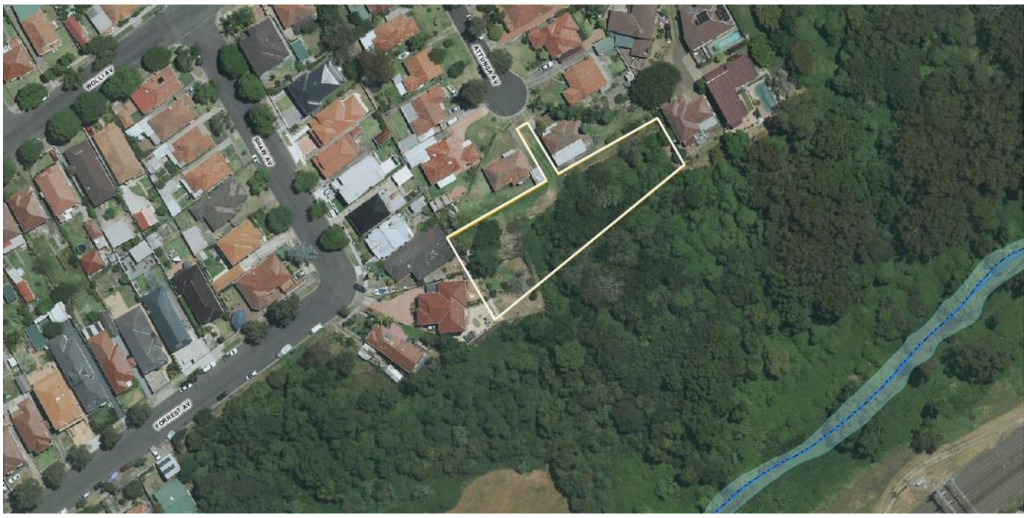
We have completed an initial investigation to identify properties that are surplus to our requirements. We have identified the following properties that have the potential to be sold. It should be noted that the property strategy does not include drainage reserve land. The sale of this land is being undertaken as part of another project.

- **Land Classified as Operational**

  The following properties are classified as "Operational". They can be sold without the need for reclassification.

<u>15 Attunga Avenue, Earlwood</u>
Classification: Operational Land
Land Size: 2318m2
Zoning: R2 Low Density Residential

Vacant land in a battle axe configuration with views south over Wolli Creek. The site falls away to the south. It has one access that would need to be shared if subdivided. The driveway is situated over a stormwater drain. The land is shown below.



<u>2 Narani Crescent, Earlwood</u>
Classification: Operational Land
Land Size: 708m2
Zoning: R3 Medium Density Residential

A triangular block on the corner of Narani Crescent and Northcote Street. The land is bounded by a drainage canal to the north. A sub-station sits on the western side, owned by Ausgrid. Our GIS mapping shows the boundaries as taking in part of the drainage canal and part of Northcote Street. Subdivision would be required to annex the road, drainage canal and substation. The remaining land appears to be saleable to the open market, with access off Narani Crescent near the boundary to 4 Narani Crescent. The land is shown below.

<u>115 Kingsgrove Road, Kingsgrove</u>
Classification: Operational Land
Land Size: 626m2
Zoning: R3 Medium Density Residential

Vacant land located on the south-western corner of Moorefields Road and Kingsgrove Road. The site includes parts of both roads and the corner turning lane. The net land area is probably closer to 400m2. The land is shown below.

<u>86-92 Kingsgrove Road, Kingsgrove</u>
Classification: Operational Land
Land Size: 708m2
Zoning: B1 Neighbourhood Business

The land is used as passive open space. It adjoins a veterinary clinic and tends to be used as a waiting area for pet owners visiting the clinic. It has a street frontage of 17.5m and its zoning would suit small business operators. The land comprises lots 84-87 in DP19605. The property is shown below.

<u>31A Burlington Avenue, Earlwood</u>
Classification: Operational Land
Land Size: 392m2
Zoning: R2 Low Density Residential

Situated on the north-west corner of Burlington and Karool Avenues, a busy local intersection. Approximately half is a vacant block, with no major trees, the other half forms part of Karool Avenue. The land is shown below.

<u>1B Bell Street, Riverwood</u>
Classification: Operational Land
Land Size: 286m2
Zoning: R3 Medium Density Residential

Vacant Land with dimensions of approximately 5m wide by 57m deep. The land is relatively flat and is possibly an ex-drainage line. There are seven adjoining lots. Subject to no other hindrances it seems a sale in the same manner as a drainage reserve sale could be undertaken. The land is shown below.

<u>30A Belemba Avenue, Roselands</u>
Classification: Operational Land
Land Size: 111m2
Zoning: R3 Medium Density Residential

A vacant strip of land between 30 and 32 Belemba Avenue, which appears to be used by 30 Belemba Avenue. The lot sits in a slight valley, so it may have been a drainage line previously. It seems that a sale as per the method employed for drainage reserves may be possible. The land is shown below.

- **Community Classified Land**

The following land is classified as community land. Therefore, before we could sell the land we would need to reclassify the land in accordance with the provisions of the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979. As this process will take some time to complete, it is recommended that the proposed sale of the following land be stage 2 of the program to dispose of surplus land.

<u>2 Whitfield Ave, Ashbury</u>
Classification: Community Land
Land Size: 562.7m2
Zoning: R2 Low Density Residential

A fenced block with an unsealed tree-lined driveway connecting to Wagener Oval. The oval abuts a playground between 12 and 16 Whitfield Avenue, but a fence separates the two areas. We would need to assess access needs to Wagener Oval when investigating the possible sale of this land. The land is shown below.

<u>79 Viking Street, Campsie</u>
Classification: Community Land
Land Size: 645m2
Zoning: R3 Medium Density Residential

A vacant level building block, fenced with no major flora apparent. It adjoins the former Sunbeam site. A potential sale to the open market. The property is shown below.

<u>49 Jeffrey Street, Canterbury</u>
Classification: Community Land
Land Size: 385.7m2
Zoning: R4 High Density Residential

A vacant lot on the corner of a 5-way intersection where Jeffrey Street meets King Street. The land has a narrow frontage (9.14m wide according to Eview) and is shown below.

Property redevelopment projects

- **Quigg Street Car Park site, Lakemba**

The document, Quigg Street Carparks – Investigations and Recommendation, included in the Attachments, contains details of investigations undertaken about the potential of this site and makes recommendations about the manner of proceeding to bring about its redevelopment, in a manner which attempts to balance the interests of all stakeholders with an interest in the property and its use.

It is recommended that the recommendations made in the documents be adopted for the purposes of progressing the site's possible redevelopment.

- **Campsie Civic Centre Precinct Site**
  Progression of this project has been deferred. This decision was taken because of the high degree of uncertainty created regarding the future Division of Local Government jurisdictional areas in the Sydney Metropolitan area as a result of the release of the most recent publication from the Independent Local Government Review Panel.

- **Terminus Site, Earlwood**
  Progression of this project has also been deferred. This decision was taken as a result of the estimated extent of costs involved in establishing the geotechnical and (possible) soil contamination profile of the site.

Conclusion
It is recommended that the draft Property Portfolio policy be adopted. Should the policy be adopted, we will then continue to review our assets to identify opportunities for improved functionality and potential financial gain. Those properties that are surplus to our needs would be recommended for sale, with the proceeds of the sale being paid into an internally restricted account and used for the purpose of purchasing new property that would meet our functional requirements and provide a financial return to Council. Income received from the new properties as net rental will provide an income stream for council and will be paid into the general fund account.

Should the draft Property Portfolio policy be adopted, it is recommended that stage one of the proposed project be the comprehensive investigation of sale of those properties listed above that are classified as “operational land,” as we do not need to reclassify these properties. Stage two of the project would be to investigate the reclassification of those properties classified as “community land.”

Detailed below is the order in which we would like to investigate the sale of those properties.
1. 2 Narani Crescent, Earlwood
2. 15 Attunga Avenue, Earlwood
3. 115 Kingsgrove Road, Kingsgrove
4. 86-92 Kingsgrove Road, Kingsgrove
5. 31A Burlington Avenue, Earlwood
6. 1B Bell Street, Riverwood
7. 30A Belemba Avenue, Roselands.

In addition, recommended below is what is considered to be the optimal manner of progressing the Quigg Street carparks site’s redevelopment.

RECOMMENDATION:
THAT
1. The draft Property Portfolio Policy be adopted by Council.
2. Stage 1 of the project be undertaken to investigate and progress the following properties for sale:
    1. 2 Narani Crescent, Earlwood
    2. 15 Attunga Avenue, Earlwood
    3. 115 Kingsgrove Road, Kingsgrove
    4. 86-92 Kingsgrove Road, Kingsgrove

    5. 31A Burlington Avenue, Earlwood
    6. 1B Bell Street, Riverwood
    7. 30A Belemba Avenue, Roselands
3. Stage 2 of the project be undertaken following completion of Stage 1 to investigate the reclassification from community land to operational land and possible sale of the following properties:
    1. 2 Whitfield Ave, Ashbury
    2. 79 Viking Street, Campsie
    3. 49 Jeffrey Street, Canterbury
4. We continue to review our assets to identify opportunities for improved functionality and potential financial gain in accordance with the Property Portfolio Policy.
5. The manner of progressing the Quigg Street Carparks site's redevelopment, as set out in the Quigg Street Carparks – Investigation and Recommendations document included in the Attachments, be endorsed, with progress reports to be presented to Council at significant milestones throughout the process, and in any event no less frequently than on a quarterly basis.

CLOSED COUNCIL
RECOMMENDATION - 23 MAY 2013

1 STRATEGIC PROPERTY PORTFOLIO PLAN AND PROPERTY PORTFOLIO POLICY

FILE NO: C-140-2

RECOMMENDATION: (Councillors Saleh/Kebbe)

THAT
1. The draft Property Portfolio Policy be adopted by Council.
2. Stage 1 of the project be undertaken to investigate and progress the following properties for sale:
    1. 2 Narani Crescent, Earlwood
    2. 15 Attunga Avenue, Earlwood
    3. 115 Kingsgrove Road, Kingsgrove
    4. 86-92 Kingsgrove Road, Kingsgrove
    5. 31A Burlington Avenue, Earlwood
    6. 1B Bell Street, Riverwood
    7. 30A Belemba Avenue, Roselands
3. Stage 2 of the project be undertaken following completion of Stage 1 to investigate the reclassification from community land to operational land and possible sale of the following properties:
    1. 2 Whitfield Ave, Ashbury
    2. 79 Viking Street, Campsie
    3. 49 Jeffrey Street, Canterbury
4. We continue to review our assets to identify opportunities for improved functionality and potential financial gain in accordance with the Property Portfolio Policy.
5. The manner of progressing the Quigg Street Carparks site's redevelopment, as set out in the Quigg Street Carparks – Investigation and Recommendations document included in the Attachments, be endorsed, with progress reports to be presented to Council at significant milestones throughout the process, and in any event no less

frequently than on a quarterly basis.

6. A report be presented to the Council meeting on 27 June 2013 outlining current policy in relation to the disposal of drainage reserves across the City of Canterbury. The report is to give advice on measures that could be implemented to provide greater flexibility in dealing with drainage reserves so that the interests of all parties seeking to purchase/occupy drainage reserves be considered before ownership or occupation rights are determined; and that any amended policy determined by Council be implemented in conjunction with Council's Strategic Property Portfolio objectives.

ADOPTED BY COUNCIL 23 MAY 2013

MIN. NO. 181

Policy Register *City of Canterbury* 23-413

City of Cultural Diversity

Title: Property Portfolio Policy

Category:	Strategic - Governance
Key words:	Assets, Capital Return, Property Portfolio
File number:	C-140-2
Policy owner:	Director Corporate Services (Governance)
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Related legislation:	Local Government Act 1993

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1. Purpose

To establish parameters for commercial and residential property investment to ensure Council's Assets achieve optimum Total Returns while providing effective platforms for Council functions and to provide an alternative income source for Council.

Background

Council owns numerous Assets, including properties, acquired over many years for different purposes. As a result of this ad hoc approach Council's Property Portfolio comprises a relatively narrow range of Assets and types of properties. The portfolio is therefore lacking diversity.

Rationale

The Assets in Council's Property Portfolio aim to serve Council's functions detailed in Chapter 5 of the Local Government Act 1993. However, these assets are not always income-producing or experiencing capital growth. The policy aims to restructure the portfolio to maintain overall functionality while improving Total Returns. Under the provisions of the policy, each Asset will be reviewed to ensure that it not only serves as an efficient platform for Council's functions but it also achieves total returns commensurate with an Asset of comparable quality in a similar location.

2. Objectives

- To establish parameters for commercial property investment that Council can apply to existing Assets and future acquisitions to ensure Council's Property Portfolio provides optimal Total Returns while efficiently performing Council functions;
- To achieve maximum possible Total Returns and enhance Council's long-term financial sustainability;
- To own Assets that enable Council to efficiently perform its functions;
- To ensure that as far as is practically possible the Assets of the Property Portfolio are diversified by type and location and are positioned in established local markets of good renown for their respective
- To continually review the Property Portfolio to identify opportunities for acquisition, disposal and/or development to achieve the desired mix of appropriately performing Assets;
- To acquire Assets, to dispose of Assets, and to develop and improve Assets to maintain diversity and achieve Total Returns equivalent to the passing returns for each Property Type in its respective market;
- To acquire and dispose of Assets at optimum stages of the relevant market cycle for the particular Asset and to buy and sell for the best possible price;
- To pro-actively manage the Property Portfolio to maximise Total Return; and
- To ensure built structures on each Asset are of appropriate condition to perform their proper function, provide a suitable level of accommodation for occupants, are safe, and to ensure that condition is maintained.

3. Scope

This policy will apply to Councillors, General Manager, Director Corporate Services, Group Manager Governance and Governance staff.

4. Definitions

Assets – properties or other assets, including, for example, buildings, vacant land, roads, parks, drainage easements, that are owned by Council and contained within its Property Portfolio.

Asset Plan – a report on an Asset detailing its physical condition and its economic and/or civic role and assessing its ongoing ability to perform that role, recommending actions required to improve performance or dispose of the Asset.

Capital Return – the change in capital value of an Asset over a period, quoted on either a per annum basis or in relation to the period of ownership, by dollar value or in percentage terms.

Commercial property – collectively office, industrial, retail, hospitality and miscellaneous property.

Income Return – the net income return generated by an Asset, quoted on a per annum basis by dollar value or in percentage terms. The percentage income return is also known as the Yield.

Property Portfolio – Council's Assets.

Property Type – broadly separated into: office; retail (shopping centres, standalone shops, bulky goods and discount outlets); industrial (warehouses and factories); residential (houses and apartments); hospitality (pubs, motels, hotels, caravan parks); miscellaneous (e.g. bowling clubs, childcare centres, funeral parlours etc).

Residential property – house, unit, flat, villa, town house, vacant land.

Total Return – the sum of a property's income return and capital return usually quoted in percentage terms for a particular per annum period.

5. Principles

We will endeavour to achieve a Property Portfolio that provides for Council's operations while representing the most efficient use of funds.

6. Responsibilities

Councillors – ultimate responsibility for acquisition and disposal of Assets.

General Manager and Director Corporate Services –responsibility for portfolio management for ensuring ongoing review of the portfolio assets and recommending acquisitions and disposals for Council.

Group Manager Governance and Coordinator City Property – responsible for the asset management of the portfolio, including property management and leasing of any vacant tenancies.

7. Procedures

1. Review the Property Portfolio to determine the usefulness of each Asset in performing its intended Council or public function
2. .Identify inefficient or inappropriate Assets and develop an Asset Plan for each
3. Implement measures to Improve underperforming Assets where identified and where possible.
4. Develop an understanding of the market fundamentals and passing market conditions for commercial property in Canterbury LGA.
5. Continually monitor local markets for acquisition and disposal opportunities.
6. Governance to recommend Asset sales and acquisitions as required in accordance with Asset Plan assessments and market conditions to ensure the Assets of the Property Portfolio maintain the desired Property Portfolio diversity as described in the Broad Objective.
7. Governance to continually review the Assets of the Property Portfolio for functionality and economic suitability by comparison with alternative investment opportunities in Canterbury LGA.
8. Proceeds from any sale of property are to be put into a property fund.
9. Money invested in the property fund is to be used to purchase new properties.
10. Income received from rental of the new properties will be paid into Council's general fund account.

QUIGG STREET CARPARKS – INVESTIGATIONS AND RECOMMENDATIONS

Quigg Street Carparks

1.0 Summary

This report provides an update on the Quigg Street Lakemba carpark redevelopment site ("the Site").

2.0 Background

Council owns a Site comprising 11 contiguous lots on the western side of Quigg Street, Lakemba extending through to Gillies Lane. The Site contains properties known as 33 Quigg Street to 53 Quigg Street inclusive. This block accommodates two public on-grade bitumen-sealed carparks separated by three houses. The details are:

Address	Lot	DP	Area (m2)	Frontage	Use
33-39 Quigg	A	373976	221.30	4.57	Central Carpark
	B	373976	752.50	15.54	Central Carpark
	1	956735	442.60	9.14	Central Carpark
	B	956434	532.70	10.97	Central Carpark
41 Quigg	1	177490	486.90	10.05	Central Carpark
43 Quigg	1	124832	486.90	10.05	Central Carpark
45 Quigg	9 Sec 1	4784	973.70	20.12	House
47 Quigg	2	324167	486.90	10.06	House
49 Quigg	1	324167	486.90	10.06	House
51-53 Quigg	2	307229	457.88	10.05	South Carpark
	11 Sec 1	4784	973.70	20.11	South Carpark

Council has determined that the Site is underutilised and, that by intensifying the use, two major benefits will be gained. Firstly, and predominantly, the intensification should provide an economic stimulus for the Lakemba town centre. Secondly, the opportunity may be available for Council to gain a financial benefit from the Site, preferably by way of an income stream.

Council wishes to investigate the feasibility of the Site being developed for a commercial use. The preference is for a new development including a supermarket component, which is considered by Council to be a suitable use for the Site and an ideal economic stimulant for the local market. Council also favours a ground-lease tenure as it is felt it would provide an ongoing cash flow throughout, while permitting the freehold of the properties to remain in public ownership.

It would be a requirement of any development agreement or planning agreement to bring about the Site's redevelopment to include a provision that the public car parking accommodation provided currently by the site be retained and on this basis the existing spaces be reinstated in any new development – provided most likely either underground or on a podium or upper level.

3.0 Valuation Reports

To determine the value of the Site and a related ground lease rental, two valuers were separately engaged. Each valuer used a different approach to the valuation although they both treated the public car spaces in the same manner – by offsetting the cost to construct the car spaces against the land value.

In January 2012 *Brett, Nelson and Associates* provided an "estimate of value" using comparable local residential property sales evidence. From that value estimate the cost to provide public car parking spaces was directly deducted. The ground rental was then determined by applying a market-derived capitalisation rate (yield). The calculations were as follows:

Land value:	6,394.50 m2	@ $700 /m2 =	$4,476,150
Less car park cost:	162 spaces	@ $25,000 / space =	$4,050,000
Residual Value:			$426,150
Ground Lease Estimate, 8% of Residual Value:			$34,092
		Say,	$35,000

In April 2012 *Egan National Valuers* completed a formal valuation of the Site based on comparable sales evidence of commercial properties in the Sydney metropolitan area that are considered to be in similar locations and markets to the Quigg Street Site. The comparisons were made by value per square metre of potential floorspace rather than value per square metre of site area. A floorspace ratio of 2.5:1 was applied to 33-53 Quigg Street, based on the potential floorspace estimated by Annand Alcock Architects in 2008 and verified by council investigations in 2012. Egan's resulting calculations were:

Land value:	5,830 m2	@ $450 /m2 =	$7,123,500
Less car park cost:	130 spaces	@ $30,000 / space =	$3,900,000
Residual Value:			$3,223,500
		Say,	$3,200,000

Egan National Valuers deducted a lower quantity of car parking spaces (130) than Brett, Nelson and Associates (162) because we instructed them to assume that 32 spaces could be relocated to 59 Quigg Street, the ex-Police Station site on the corner of Quigg and Gillies Streets, subsequent to the Brett Nelson report being commissioned. Regardless of the precise quantity of spaces to be returned to the Site either report can be adjusted pro rata as they have each provided their valuation formulae.

To determine a suitable ground rental Egan National Valuers could not simply apply a capitalisation rate (yield) to the land value because after discussions with financiers and one potential tenant they resolved that a ground lease would preclude development of the Site beyond a supermarket and public carpark. Residential development over the supermarket could not be offered successfully to the market if the residential development component's underlying tenure was a leasehold. Additionally, the risk to construct more than a supermarket and carpark under a ground lease tenure was deemed by Egans to be too great for the market to bear. Therefore, to estimate ground rental, Egan completed a simple residual value feasibility study of a supermarket development, which, in summary, resulted in the following figures:

Supermarket value:	$16,900,000
Construction Costs:	$16,180,000
Land value:	$720,000
Ground Lease Estimate, 6% of Residual Value:	$42,993
Say,	$43,000

Geoff McGuirk of Egan National Valuers explained that this basic feasibility excluded risk and profit factors. It assumed development by a supermarket operator with a predominant interest in retailing rather than developing the property. In reality, a profit and risk factor would apply. Such risk factors generally range from 20%-30% of total development costs, depending on the level of speculation involved. It can be seen that applying a profit and risk factor of only 5% to Egan's construction cost annuls the ground lease value entirely.

From our discussions with the valuers it has become apparent that the extent of interest in the Site from supermarket operators and developers will very much be gauged by the dynamics of the local retail market, which are in turn driven by local demographics. The interest will depend upon the local community's economic characteristics (demand-side) and the number and type of supermarkets and other retail outlets currently serving that same community (supply-side). If a particular supermarket chain already operates a store within the perceived catchment of the Site their interest is likely to be diminished somewhat. If there are few competing establishments, their interest will be heightened.

Related specifically to this site's location and potential customer catchment area, there are existing supermarkets at:

- Lakemba itself (Aldi and IGA)
- Roselands (Coles and Food for Less)
- Belmore
- Campsie (Woolworths)
- Chullora (Woolworths and Aldi)
- Croydon Park (IGA)
- Enfield (IGA)
- Greenacre (Coles and IGA)
- Bankstown (Woolworths)
- Kingsgrove (Woolworths)
- Riverwood (Coles and Woolworths)
- and
- Earlwood (Coles)

New supermarket offerings by Woolworths are also under construction at Punchbowl and mooted for Lakemba at the former Palms site.

In summary, the Brett Nelson and Associates report was an informal estimate of value based on a limited assessment of mainly local sales evidence with no consideration of the broader market or of commercial sites. For that reason it was not deemed to be a formal valuation but rather an indication of value. The Egan National Valuers analysis was a much more comprehensive report using a considerably broader catalogue of sales data, particularly retail and development site evidence. The Egan model seems a more appropriately worked approach than the Brett, Nelson calculations. We therefore consider the Egan assessment to be the more accurate estimate of value for the Site and for the ground rental.

4.0 Development Agreement Structures

While completing the estimate of value, David Nelson, of Brett, Nelson and Associates, carried out confidential investigations of the market for both supermarket operators and developers. As part of these investigations Council staff received advice on supermarket development parameters from Tony Isaac, an experienced developer of some 70+ retail centres. Further advice was obtained by David Nelson through his industry contacts. Initial feedback from Tony and David in relation to the Site was positive.

In April 2013, Council officers met with Mr Peter Mokas, State Manager – Property, of Coles. Basic details of the site were disclosed and, in a very initial discussion, the potential interest of Coles was gleaned. Mr Mokas was aware of the dynamics of the local market and the locations and nature of existing supermarkets in Lakemba and surrounding districts. He expressed the opinion that, due to the existence of Coles' competitor outlets within the local district, Coles would be the sole potential supermarket occupant for the Site. Mr Mokas also confirmed the supermarket industry's dislike for ground lease tenure. If offered that tenure alone, Mr Mokas, stated that Coles would be seeking a 99-year lease. Specific rents were not discussed, but his inference was that the rent would be low, if not nominal. If Mr Mokas' claims regarding the state of the local market are correct, and Coles are the only supermarket operator to have any interest in the Quigg Street carpark site, Council's chances of obtaining a reasonable return for a supermarket-only development are not favourable.

From comments received from the valuers and supermarket developers it has become apparent that ground leases are not common in the retail centre market. Their unpopularity prompted Council officers to investigate alternative tenures. We found that possible arrangements were many and complex, and so it was decided that advice on potential structures was required, commencing with a summary of all possible deal structures.

Rider Levett Bucknall ("RLB") was contracted in January 2012 to provide advice on development agreement structures for the Quigg Street Site via a two-stage consultancy. Step 1 required RLB to consider the fundamentals of the Site and local market and to list all possible deal arrangements with a brief description of their basic workings. Subsequently RLB identified and described six possible structures:

- ground lease
- Council to develop and lease a building to multiple tenants
- Council to develop and lease to a head building tenant
- joint venture development
- stratum subdivision – development by others
- sale of the Site

Following this first step, Council, by way of a meeting and discussion with RLB, reduced these options to a shortlist of two preferred structures, which were:

A. Ground Lease
B. Stratum subdivision – development by others

Step 3 then required RLB to explain these two preferred agreements in greater detail. In addition, and following further consideration of the matter by Council staff, it was agreed that a third option should also be considered – the sale of the Site. Our findings in regard to each of these three structures are described below:

Ground Lease
A ground lease offers a property owner a simple means of unlocking the property's value while requiring minimal ongoing property management and totally avoiding the need to develop, construct or maintain buildings. The terms of the lease are generally established by way of negotiation between landlord and tenant rather than by following market trends because this form of tenure is not common. The needs of each party will determine many of the terms, in particular the length of the lease. The landlord will be parting with possession for a relatively long period and will need to carefully consider the balance of lease terms, particularly the rental, outgoings and rent review clauses. In the case of Quigg Street, Council would need to be particularly vigilant when negotiating to ensure the tenant constructs a centre that contains an appropriate supermarket conducive to stimulating the local economy and to make sure the location, design and layout of the public car parking spaces to be reinstated are not compromised.

In providing his valuation, Geoff McGuirk, of Egan National Valuers, relayed opinion from the market on the tenure of a ground lease. The nature of the tenure is such that it precludes residential development due to the lack of a leasehold residential market in Lakemba. And Geoff advised that he found supermarket operators would be reluctant to consider constructing even commercial or retail space beyond any premises they were to occupy themselves. In short, they would only tolerate developing a complex comprising their own premises and a public carpark. And when the issue of financing becomes involved, in a situation where financiers are unable to obtain a mortgage over a freehold title, a further level of complication compounds the negatives to the point where the tenure holds almost no attraction to the market.

This negativity is reflected in Egan's ground lease estimate. In addition to this relatively low return, tenure is given over to the tenant for a considerable period, probably 40 years as a minimum, likely to be over 60 years and possibly up to 99 years, as confirmed by Coles. Geoff McGuirk questioned the worth of parting with possession for this length of time for a return of only $43,000pa and thereby denying the local market's enjoyment of the benefit of realizing the full development potential of the Site.

A ground lease, by precluding any development beyond a supermarket and public carpark, is effectively limiting the owner's ability to generate a reasonable return on total equity. In the Quigg Street case, where some 60 units could be constructed over, and in addition to, the supermarket, the rental return achievable, by comparison, would not be proportionate to the highest and best use value of the Site. And by entering a ground lease, the owner would also be suspending the ability to gain the benefit of that equity for at least the term of the lease – 40+ years.

In summary, a ground lease presents a simple means of a landlord permitting a tenant to provide a supermarket and public carpark, with the landlord avoiding the need to build or maintain structures. However, it offers no prospect of an income reflective of the property's optimal value and no possibility of unlocking the highest and best use value of the Site or of developing the Site's potential as envisaged by LEP 178 and the Town Centres DCP 54. The degree of potential stimulation to the local economy of Lakemba by the adoption of this approach will be sub-optimal and is not favoured on this basis.

Stratum Subdivision – Development by others
Stratum subdivision permits Council to subdivide in three dimensions. It would allow the Site to be developed to its potential and Council could retain title to any or all of the lots, as required, in Torrens title. As a minimum at Quigg Street, we anticipate Council would seek to hold the public carpark component.

The tenure is more complicated than a ground lease. It can be applied to a site based on height datum, or applied retrospectively to a completed building. Complications arise with easements for support and shelter, and it is imperative that means of access and egress for people and vehicles are confirmed and described by legal documentation.

There would be a requirement for Council to undertake preliminary master planning of the Site so that an understanding of the desired size, use, layout and composition of building structures can be obtained before a stratum subdivision is effected. Stratum lot boundaries are fixed and difficult to vary once established so Council will need to be assured that the design is suitable, particularly for the carpark. The design will also impact on the value of each stratum, so the subdivision layout needs to be practical, flexible and commercial in nature wherever possible. Council may also seek to limit the number of lots and the number of co-owners on the Site.

Council will need to understand the construction sequencing, and may seek to have the development completed in one-line, which is a simpler procedure than a staged construction. Issues arise with performance – the capability of the developer/neighbour to construct the buildings as legally required – and to complete the construction in line with Council's expectations. A development agreement will be required to run parallel with the sales contract, and will need to include terms to cover performance, along with associated conditions such as sunset clauses, break clauses and performance guarantees. Council may also want to include put and/or call options for the sale or purchase of their lot or other lots.

If Council chooses to retain the public carpark it will take on the obligation to manage that lot, to maintain and repair, to keep it clean, pay for services specifically for that lot, and to insure the space. The building management agreement will need to be drafted so as to provide sufficient comfort to Council that the operation of the carpark will not be compromised at a future point. Council will need to live with neighbouring tenancies adjoining Council's lot boundaries both laterally and vertically.

As with a ground lease the cost to construct the public carpark spaces will be directly offset against the value of the Site. However, in this case, unlike a ground lease, the tenure will not impede the Site's value, which will be based on its full development potential. In the event that the co-owner develops the Site the simplest agreement would have the developer supply the public carpark simultaneously with the balance of the complex. A development profit will be added to the construction cost, making this acquisition more expensive than if Council was to construct the carpark using a builder; however the developer will take on the development management and project management roles and will bear the development risk. And by having one developer on Site the construction will be streamlined. So, a single-developer structure would seem to suit Council, and would provide the best opportunity for the Site to be developed in one-line and for the construction period to be minimised.

Sale of the Site

Sale of the entire site

After further discussion we have determined that along with the ground lease and stratum holding Council should consider an outright sale of the Site *provided that* there is an obligation on future owners to retain the public carpark spaces – and to reinstate them in a timely manner in any re-development – and to maintain the spaces in an appropriate condition at all times. One means of enforcing such obligations is via a covenant, placed on the land's title before sale obligating the owner to comply with certain conditions. It would be imperative that these conditions reflect Council's future requirements accurately and comprehensively.

A sale would have many advantages over the other options. It permits the full value of the Site to be realised, less any diminution in value resulting from the need to provide public parking spaces, as opposed to a ground lease where the value is restricted to the extent to which a developer would construct on a leasehold site. Unlike a stratum lot, a sale transfers the responsibility for management, maintenance, repair and insurance of the public carpark spaces to the purchaser. It also allows Council to liquidate any residual value in the public carpark spaces above and beyond the cost to construct the carpark, however small. And as they are to remain as public spaces, Council may elect to retain the right to police their use and generate revenue from parking fees.

From the purchaser's perspective, be they a developer or supermarket operator, they may be able to combine the public spaces with the private spaces and obtain a joint and complementary use discount on the quantity of private spaces required for a new building, which should have a positive impact on the value that may translate in a sale price. They also could have the option to either mix the public and private spaces and not have them defined, or to separate them and define them – by time restrictions probably. Also, as the site is free of stratum lots the developer can construct the complex without concern for easements across and through neighbouring lots.

The main benefit in Council considering a sale is to allow the value of the Site to be liquidated and the funds directed to an income-producing asset while leaving the obligations to reinstate and operate the public car spaces with the purchaser.

Sale of part of the site

An alternative to outright sale of the entire site is to seek to retain (in Council's continuing ownership) so much of the site as is required to accommodate Council's on-going public carparking spaces, albeit in a much more compact and efficient configuration than that provided currently by the on-grade lay-out. What then would be sold would be only that part of the current site not then required for continuing public carpark purposes.

The holding Council sought to retain could take one of two forms, either:

1. a stratum lot (part of the potential building envelope); or
2. a subdivided part of the land

The alternative of retaining part of the land in Torrens title freehold over retention of a stratum subterranean or podium lot offers two major benefits for. Firstly, the need for Council to be involved in a design process for the development of the site is avoided. Secondly, the delivery risk for the reinstatement of the public car parking spaces, and their delivery in suitable form, is reduced, as Council would not be reliant on the performance (and co-operation) of a developer for supply of these spaces.

The planning controls over these Quigg Street sites permit structures of up to 21 metres (7 storeys), providing the opportunity for Council to accommodate its public carparking spaces in a multi-storey structure. In order to determine the proportion of the approx. 6400 square metre site which would need to be retained to accommodate the site's current carparking provision in a multi-decked configuration, we would need to engage the services of an architect (working in conjunction with a geotechnical adviser) to prepare concept designs for accommodating this number of vehicles over 2, 3, 4 or more levels, either wholly or partially above ground. These concepts would then need to be cost-estimated and assessed by a suitable independent town planner for their translation into a development application which is both compliant and likely to receive consent.

An initial review of the planning controls and typical carpark designs indicates that the dimensions required for a site to deliver an efficient carpark floorplate could result in the retained land having the capacity to provide for more than 130 public carparking spaces. The excess floorspace could be used for additional parking or for other civic uses, such as ground floor office or community facilities, or it could be transferred as development rights to the purchaser of the neighbouring land (subject to the consent of Council as planning authority). Or it may be that all three of these additional benefits can be yielded.

Once the subdivision design is confirmed, Council could then call for offers for the sale of the balance of the site by way of an open market campaign, which will determine whether or not the proceeds would be sufficient to justify the expenditure we would need to incur in constructing the alternative means of accommodation for the public carparking the site currently provides. By offering a development site to the market without the need to have the developer work around a stratum lot and be involved with Council in a lengthy design process, the chances of receiving unconditional offers are greatly enhanced, leading to Council receiving sale proceeds in a much more timely manner.

5.0 Conclusion
From our limited and confidential discussions with valuers, developers and others it appears that there is a level of support for the Site. This will not be truly confirmed until such time as the particulars of the Site are put before the market. However early indications are positive.

While a ground lease is an easy means of gaining a return from the land, while retaining a public car park, the return is negligible. Stratum subdivision permits more equity to be liquidated but is a complicated title and Council would remain involved with ongoing management of the public carpark as an in-building neighbour to other owners. A sale of the site seems a viable alternative (either the whole or majority of it), provided either:

- (in the context of selling the entire site) the public carpark can be retained through a covenant, offering Council as it does, an opportunity to unlock the full equity of the Site, to direct the funds to alternative income-producing investments, and to be relieved of nearly all management responsibility, or
- (in the context of a partial sale) the proceeds from sale, plus the intangible economic development benefits delivered by the site's activation of the portion able to be sold are sufficient to warrant the expenditure Council would incur in providing the multi-

decked carpark within which public parking requirements would continue to be accommodated

6.0 Actions required following decision on preferred manner of proceeding

The local business Chamber and/or individual business property owners/operators are likely to be vitally interested in being engaged by Council to review and endorse any strategy we may propose for the future treatment of this land before it's put into effect. Amongst other things, interested parties are likely to seek comfort that the critical role the current carparks play (in providing accommodation for customers/clients of its members' town centre businesses) is not lost altogether or otherwise unduly impacted by Council's strategy. An element of particular significance to those potentially affected will be being satisfied that adequate measures are in place to minimise the period of time between when the carparks become no longer available for public car parking and when the replicated spaces, following re-construction, become publicly available again. They will also want reassurance that any temporary loss of carparking spaces will involve a minimal number of spaces. The sale of part of the site and development of a new carpark by Council may not necessarily require all 130 spaces to be lost while the re-development takes place. Council may also be able to mitigate any loss by use of other sites for temporary parking during construction, such as the ex-police station land at 59 Quigg Street. This potential benefit will depend on many factors, not least of which will be: terms of the sale, Council's cashflow, the design processes for each site, the development approval timeline and the buyer's use of the carpark while development consent is obtained.

Before seeking to engage interested stakeholders if the sale option is preferred, legal advice will need to be obtained about the form of suitable legal provisions, to be included in any tendered contract for sale of the land which may include ensuring

- Council can reclaim title to the land if not developed by the purchaser in a timely manner or in a manner consistent with Council's other expectations
- a legal obligation on subsequent owners to continue to provide those publicly available spaces
- Clarity concerning ongoing respective rights and obligations as between Council and the owner concerning public carpark management and upkeep

Additionally suitable wording will need to be developed for a legally efficacious public covenant, to be registered on the land's various component titles, regarding clear specifications of the standards we seek to have provided by the replicated carpark (eg its size, location within any redeveloped form, lighting, circulation space, time restriction/s and regulatory method).

If the partial sale outlined above is the preferred option, we would need to first carry out the necessary geotechnical, architectural, costing and town planning investigations regarding the prospect of Council providing a multi-decked carpark structure on part of the site, coupled with a registered valuer's valuation of the residue, in order for Council then to be in a position to properly assess the implications of proceeding with this course of action.

In addition, Council needs to be satisfied it has the proper legal capacity to deal with the land in the manner proposed. This will entail obtaining certainty that the classification of the land is operational for the purposes of the Local Government Act, which involves the need for there to be a Local Environmental Plan exhibited and adopted with respect to the land before it can be dealt with in the manner proposed by the strategy.

7.0 Recommended Actions

1. The strategy to propose the sale of the land at 33-53 Quigg Street Lakemba, as distinct from either the ground lease option or the stratum subdivision option, be endorsed.
2. The sale alternative involving sale of that part of the site not required for continuing public carparking purposes be further investigated