



## *Express law* *fast track information for clients*

5 August 2005

### **Australian Government Property Ownership Framework: to own or not to own?**

**The Australian Government's core business excludes property ownership unless specific government objectives require it.**

**From 1 July 2005 proposals to own or divest property (other than surplus property) must be prepared in accordance with the Australian Government Property Ownership Framework (the framework).**

#### ***Australian Government Property Ownership Framework***

---

The framework replaces the Australian Government Property Principles and applies to all government agencies, but not government business enterprises.

A proposal to own or divest property, other than property that has no alternative efficient use, must be developed in accordance with the Budget Process Operation Rules and apply the framework.

The Commonwealth Disposals Policy (disposals policy) will still apply where property has no alternative efficient use. Such property must still be sold on the open market at full market value. Exceptions to the disposals policy are priority sales and concessional sales.

#### ***Factors to be considered in the proposal***

---

A proposal to own or divest property must consider the following criteria:

- any symbolic, national heritage or environmental reasons to own
- whether the property is of a highly specialised nature
- any national security or other strategic considerations in support of ownership
- whether to own or divest provides value for money to the Australian Government over the longer term after consideration of all risks.

The Department of Finance and Administration (Finance) will assess proposals against the criteria and based on a rate of return commensurate with the exposure to risks associated with the nature of the property (financial assessment).

When demonstrating value for money, an agency must consider risks including:

- planning, design, development and construction risks
- capital risk
- market risk
- environmental risk

- residual value risks
- change of strategic requirement risk.

Risks may be identified through risk workshops that include discussions with users, advisors, project managers and stakeholders.

The agency must then assess whether the likelihood of an identified risk occurring is low, medium or high and if the risk does eventuate, whether the impact on the government will be low, medium or high. Finance suggests that preparing this risk profile may involve considering:

- events that can occur at each stage of ownership and their likely impact on the Australian Government
- factors contributing to an increase/decrease in the chance of each risk occurring
- whether the risk will result in the crystallisation of other risks
- whether the risks have eventuated with other property and any similarities with this property
- how these risks have been managed in the past and whether that management strategy was successful.

It is the responsibility of the agency to clearly demonstrate the characteristics of the property (including value for money) that warrant government ownership or divestment, including whether the identified risks make the proposal low, medium or high risk. The latter is important as it has a direct impact on the discount rate used during the financial assessment of the proposal undertaken by Finance.

The financial assessment will be based on a discounted cash flow model using an appropriate discount rate. Finance will publish discount rates annually to accommodate different property asset types and levels of risk.

### ***Implications***

---

While value for money (and risk) may not be the sole criterion to consider when developing a proposal, the agency must carefully assess the nature of a property and the risk associated with a proposal of that kind. Reference should be made to the agency's prior experiences with similar property and where appropriate, the views of those outside the agency, including stakeholders.

*For further information please contact:*

Josephine Ziino  
Senior Executive Lawyer  
T 03 9242 1312 F 03 9242 1481  
josephine.ziino@ags.gov.au

Andrew Whiteside  
Lawyer  
T 02 6253 7137 F 02 6253 7306  
andrew.whiteside@ags.gov.au

---

**Important: The material in *Express law* is provided to clients as an early, interim view for general information only, and further analysis on the matter may be prepared by AGS. The material should not be relied upon for the purpose of a particular matter. Please contact AGS before any action or decision is taken on the basis of any of the material in this message.**

This message may contain confidential or legally privileged information. Only the addressee has the right to use or disseminate this information. If you think it was sent to you by mistake, please delete all copies and advise the sender. For the purposes of the *Spam Act 2003*, this email is authorised by AGS. Find out more about AGS at <http://www.ags.gov.au>.

If you do not wish to receive similar messages in the future, please reply to:  
<mailto:unsubscribe@ags.gov.au>