

## State Property Authority *(...or whose building is it anyway?)*

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### **Abstract:**

*Since 2006, the State Property Authority (SPA) has implemented significant changes in government property legislation and policy. SPA's vesting program has seen a large proportion of government generic property transferred to SPA ownership for management by SPA, providing the catalyst for better asset management practices. SPA's aim is to generate significant economic, social and environmental benefits while providing more efficient management of property and helping agencies focus on their core service delivery functions. Some agencies are now seeking additional services to help them manage their property portfolio. SPA is attempting to explore these additional service requests and develop the necessary delivery models and/or seek the necessary legislative or policy reviews and approvals to implement even better management of agency property portfolios.*

*So how did SPA come about? What is its operational mandate? How does SPA acquire and hold land and interests in land? How do agencies occupy the land or the generic accommodation? And where does SPA see itself moving into the future? This paper attempts to answer these questions.*

## **Part 1- Introduction**

The State Property Authority (SPA) was established under the State Property Authority Act (SPA Act) which was assented to on 8 June 2006 and commenced on 1 September 2006. SPA was established to improve operational efficiencies in the use of government properties to better support the service delivery functions of government agencies by adopting a strategic approach to maintaining, acquiring, disposing and developing government property.

Staff from the former Department of Commerce's State Property Branch and those staff managing the Police Property Portfolio from the Ministry for Police were transferred to the new Authority on 1 September 2006 to commence the task of implementing the government's new property principles as outlined in the Act.

SPA's initial role was to manage the NSW Treasury's Crown Property Portfolio which was a collection of owned and leased government office buildings and other miscellaneous properties. Transfer of these properties to SPA was carried out by publication of the State Property Authority Order 2007 (Government Gazette 2.2.2007). This Order was the forerunner of some 12 further Orders vesting well over one thousand government land titles and lease interests under the State Property Authority Act for management by SPA.

Following a period of procedural development and consultations with agencies and the NSW Treasury the government released Premier's Memorandum 2008-06, a new property policy framework, particularly aimed at generic properties, to assist the State Property Authority achieve its legislated objectives. The framework outlines the relationship between agencies and the State Property Authority in the acquisition, management, maintenance and disposal of property.

SPA's work then commenced in earnest with agency consultation and agreements firstly being negotiated with agencies holding large owned or leased generic property portfolios, to vest (ie transfer by statute) properties to SPA for ongoing management.

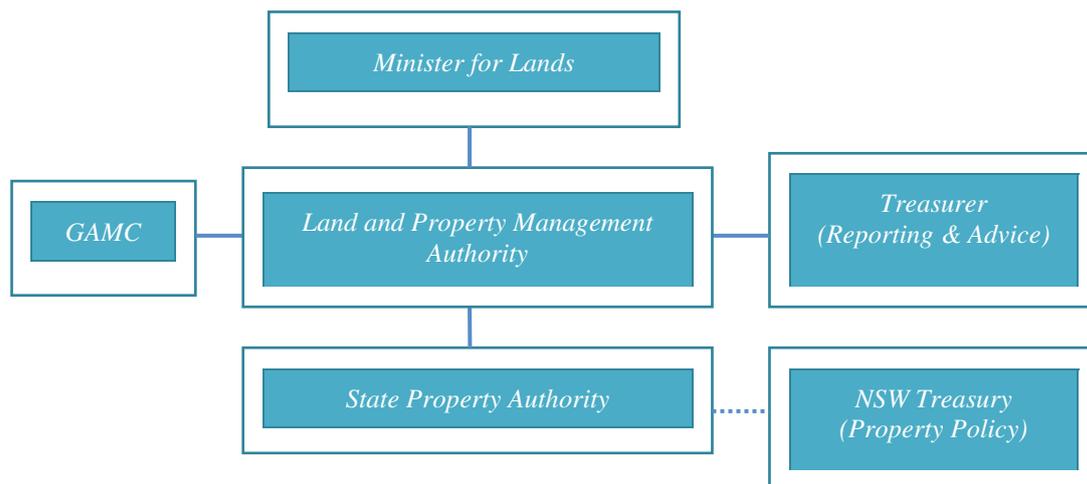
SPA is achieving accelerated outcomes in the government office accommodation sector by now having direct control over both owned and leased office accommodation previously managed by agencies. Gains are realised through the economies of scale from managing a larger portfolio (maintenance and day to day property management), more experienced and professional resources and capacity to coordinate the rationalisation of underutilised accommodation.

On 1 July 2009 as part of the administrative changes to create 13 new super Departments, the State Property Authority was amalgamated into the Land and Property Management Authority (LPMA) and continues its work under the State Property Authority Act as a Division of LPMA.



*Meeting rooms at the Parramatta Justice Precinct use natural ventilation and other methods to reduce energy usage.*

## Part 2 - Organisational Structure



The CEO of SPA is appointed under the SPA Act and is currently Warwick Watkins AM who also holds the position of Chief Executive of LPMA. The General Manager of SPA, Barry Douse, reports to the CEO. Together with a small corporate management team, the State Property Authority comprises three Groups which between them carry out the property functions under the SPA Act and Premier's Memorandum 2008-06. The Groups are:

- Portfolio Management Group
- Planning and Strategy Group
- Divestment Acquisition and Developments Group

The **Portfolio Management Group** is responsible for the efficient and cost effective management and maintenance of government-owned and leased property, including capital works, lease negotiation and management, portfolio services, engineering and facility management and contract administration.

The work performed by this Group includes:

- Vesting and integration of the management of government-owned and leased properties
- Negotiating government office accommodation leasing matters
- Coordinating a minor capital works program of upgrades, refurbishments and sustainability initiatives throughout the government property portfolio.

The **Planning and Strategy Group** identifies opportunities and develops strategies to improve the use of and management of government properties. The Group provides whole-of-government advice and advice and support to agencies on office accommodation and generic property asset management.

The work performed by this Group includes:

- Analysis of portfolio property asset performance
- Review of agency property holdings against service delivery needs
- Analysis of Government's regional property holdings to assess appropriateness for future service delivery
- Total asset management planning for the Government property portfolio.

The Group's Clients include the Government Asset Management Committee (GAMC), NSW Treasury and other government agencies. The Group's Stakeholders include the Minister for Lands, the Treasurer, NSW Treasury, GAMC, government agencies and the people of NSW.

Through its **Divestments Acquisitions and Development Group**, SPA provides strategic advice, research and analysis on property transactions. SPA is the NSW Government's preferred acquisition and disposal agency.

The Group undertakes a range of property transactions and development activities on behalf of government agencies, with a particular focus on multi agency capital works. It implements strategies to dispose of surplus property and acquires land and properties for the construction of facilities and infrastructure to support the delivery of government services.

The work performed by this Group includes:

- providing expert advice to government agencies on property acquisitions and sales
- acquiring land and property to support improvements to government services
- preparing for and disposing of surplus government properties
- lead all multi-agency property development proposals linked by timing, location or use.

### ***Part 3 - Government Property Principles***

On 10 April 2008 the NSW Premier, Morris Iemma, issued Premier's Memorandum 2008-06 titled "State Property Authority and Government Property Principles".

The requirements outlined in the Memorandum and the attached Government Property Principles applied immediately to all General Government Sector agencies and Public Trading Enterprises (excluding State Owned Corporations). Shareholding Ministers and Boards of State Owned Corporations were to note the establishment of the SPA and where their organisations did not have the necessary in-house expertise, they were encouraged to use the services of SPA.

The SPA's objectives as stated in the *State Property Authority Act 2006* are to:

- improve operational efficiencies in the use of properties of government agencies, particularly generic properties (such as offices, warehouses, depots and car parks);
- manage properties of government agencies in a way that supports the service delivery functions of those agencies;
- provide advice and support within government on property matters; and
- operate at least as efficiently as any comparable business, consistently with the principles of ecologically sustainable development and social responsibility for the community (including the indigenous community).

The Memorandum states that SPA is the Government's real estate services provider and is responsible for acquiring and managing Government's generic assets (and, by agreement, other property assets) and at the appropriate time will then arrange for the disposal of surplus assets.

To assist SPA to achieve its legislated objectives, the Government approved a new property policy framework. The framework outlines the relationship between agencies and the State Property Authority in the acquisition, management, maintenance and disposal of property.

The key initiatives of the framework are:

- the vesting (from 1 July 2008) to SPA of the ownership of all government owned office accommodation;

- the implementation of a commercial rental charge for all office accommodation vested in the SPA;
- the transfer to the SPA of management responsibility of all government leased office accommodation;
- the extension of the Government Leasing Service within SPA to include all lease renewals and new and existing lease negotiations for generic property in the Greater Sydney Metropolitan Area (as defined by the Department of Planning);
- regular and ongoing reviews by SPA of agency property portfolios to identify efficiencies to improve service delivery which will be monitored by the GAMC and reported to Government;
- the provision of information by all agencies for the generic property database, including the participation in surveys;
- review and endorsement of all proposed property acquisitions and disposals by the GAMC;
- SPA is Government's preferred acquisition and disposal agency;
- SPA will be the lead agency for all multi-faceted property proposals that are interlinked by timing, location or use; and
- the Department of Premier and Cabinet, SPA and NSW Treasury will work cooperatively with Government agencies and relevant unions to address any staffing and funding implications which may arise from implementation of the policy framework.

Attached to Premier's Memorandum 2008-06 are a number of Operating and Guiding Property Principles outlining the details of the property policy framework as well as other considerations relating to property title, preferred office locations, provision of car parking, lease pre-commitments, sale and lease back proposals and fitout amortisation.

Of particular interest to those involved in government property transactions will be the following summarised Principles. A full list of Operating and Guiding Property Principles can be found in the copy of Premier's Memorandum 2008-06 at Appendix A to this paper.

- Operating Principle 1 – All owned office buildings will be vested in SPA. Agencies will not be compensated for the vesting of assets in SPA, but will receive budget funding for net rental payments.
- Operating Principle 2 – Agencies may vest in SPA any or all of their non-generic assets subject to agreement with the Authority.
- Operating Principle 3 – SPA will assume management responsibility for all leased office space and other leased property assets.
- Operating Principle 4 – SPA will conduct all lease negotiations for property assets required by government Agencies, except where GAMC determines otherwise.
- Operating Principle 7 - All proposed property acquisitions must be referred to the GAMC to consider the proposed acquisition strategy and determine the appropriate agency to complete the transaction.
- Guiding Principle 2 - The title for all new property acquisitions where the responsible Minister does not have the legislative power to deal in property transactions is to be placed in the name of the State Property Authority. All property related leases (including office accommodation) will also be in the name of the State Property Authority.
- Guiding Principle 5 - The preferred location for agencies in the Sydney CBD is in the southern sector or other sector where equivalent terms can be negotiated. No agency, however, will be provided with accommodation in the Sydney CBD Core unless approval has been obtained from the GAMC.

## **Part 4 - What Property and Assets are transferred to SPA?**

The types of property being transferred to SPA are governed by the SPA Act and Premier's Memorandum 2008-06. Property is only transferred to SPA with the written certification and approval of the owner Agency.

One of the principle functions of SPA, amongst others, is "to hold, manage, maintain, acquire or dispose of **property** for the government and **government agencies**".

So what are the definitions of "property" and "government agency" under the Act?

**"property"** of a government agency means:

- (a) land that is vested in the government agency, or land that is vested in the Crown or Her Majesty and that is controlled and used by the government agency, or
- (b) an interest in land, being an interest that is vested in or held by the government agency.

**government agency** means any of the following:

- (a) a public authority constituted by or under an Act,
- (b) a statutory body representing the Crown,
- (c) a Department of the Public Service,

but does not include a State owned corporation, a local authority or any person or body exempted by the regulations from this definition.

Property is categorised into two types – generic and non-generic (or specialised).

### **Generic Property**



*Dept of Justice and Attorney General,  
Parramatta Justice Precinct*

Generic property can be broadly defined as those properties that, with only minor redevelopment or refit could be utilised by any number of Government Agencies at any given time or over time. Assets such as offices, depots, warehouses and car parking areas are generally taken to be examples of generic property.

To date the majority of property transferred or vested in SPA has been generic in nature and SPA's concentration to date has centred on government office accommodation. At the present time the majority of office accommodation for government agencies as defined is now owned or leased by SPA.

Initially in 2007 the NSW Treasury's Crown Property Portfolio consisting of multi-tenanted government office accommodation was the first to be vested in SPA for ongoing management. Examples are the Governor Macquarie Tower leased accommodation and the Regional Government Office Blocks across NSW.

Since that initial vesting 168 owned assets have been vested for an estate in fee simple to SPA and 893 leased and licensed assets have been transferred to SPA.

## Non-generic (or Specialised) Property



Sydney Fish Markets

Premier's Memorandum 2008-06 focuses the government's property principles on generic assets. Operating Principle 2 however does provide that "Agencies may vest in the Authority any or all of their non-generic owned property assets subject to agreement with the Authority and Treasury on resource and funding transfers associated with those properties. In some instances Government may direct that certain properties or agency portfolios be vested in the Authority."

Examples of non-generic (or specialised) properties would be laboratories, gaols, hospitals and sites for utility infrastructure.

## Holding Title

Most agencies that have large land holdings have statutory power to hold land in their own right. For example the Minister for Disability Services when acquiring land or buildings for Group Homes can specifically hold that land under the Community Welfare Act 1987, viz,

### ***13A Acquisition and disposal of land***

- (1) *The Minister may, for the purposes of the community welfare legislation, acquire land (including an interest in land) by agreement or by compulsory process in accordance with the [Land Acquisition \(Just Terms Compensation\) Act 1991](#).*

Several agencies, however, with large land "holdings" are not empowered under any Act to acquire or hold land and their land parcels are held in a variety of names on Title with most either being in the name of the former Minister for Public Works, the Crown (Her Most Gracious Majesty Queen Elizabeth II) or the State of NSW as reserved or dedicated Crown land under the Crown Lands Act, sometimes with a Reserve Trust appointed. Bar the first mentioned category all others can provide some administrative challenges when proposed for disposal, being potentially subject to claims under the Aboriginal Land Rights Act.

Examples of agencies unable to hold land in their own right are NSW Police, Attorney General's, Corrective Services and Juvenile Justice.

Premier's Memorandum 2008-06, Guiding Principle 2 provides that "The title for all new property acquisitions where the responsible Minister does not have the legislative power to deal in property transactions is to be placed in the name of the State Property Authority....". This principle is underpinned by the SPA Act which provides,

### ***12 Agreements for management of property by Authority***

- (1) *A government agency may enter into an agreement with the Authority for the Authority:*
- (a) *to hold property for the agency or to manage, maintain or dispose of property of the agency, or*
  - (b) *.....*
  - (c) *to acquire any property on behalf of, or for the purposes of, the agency.....*

While SPA is mandated to hold all land and leases for generic property assets, under Sec 12 SPA Act, SPA has now entered into Memorandums of Understanding to acquire, hold title for and (when appropriate) to dispose of land for non-generic assets with several agencies that are unable to hold land in their own right. Current agencies with executed MOUs to acquire and hold non-generic assets are NSW Police, Attorney General's and Corrective Services. Title to the land is placed in the name of the "State Property Authority" with the agency having all operational responsibility and retaining all associated risk for the property asset.

## **Part 5 - Agency Occupation of SPA Generic Assets**

### **Administration of current assets**

Once State Property Authority becomes the owner of the generic office accommodation (either by outright land ownership or as lessor of a lease from the private sector) then SPA enters into several agreements with agencies to occupy the premises.

- A Memorandum of Understanding is signed to provide a high level understanding of the business relationship between the SPA as the provider and manager of the agencies office accommodation.
- An Occupation Agreement is negotiated which authorises the agency's occupation of SPA premises for its office accommodation or other generic purposes.
- A Service Level Agreement is negotiated which outlines the day to day responsibilities of both parties as owner and occupier of the premises.
- The agency is encouraged to enter into direct debit arrangements for payment of rent to SPA together with a management fee on leased assets only of 2% (CBD) and 2.5%



*A central service desk in Parramatta Justice Precinct office is a welcome entry for the public who use government services.*



*The rooftop garden at the NSW Government Office, Penrith, is a popular breakout space.*

(elsewhere).

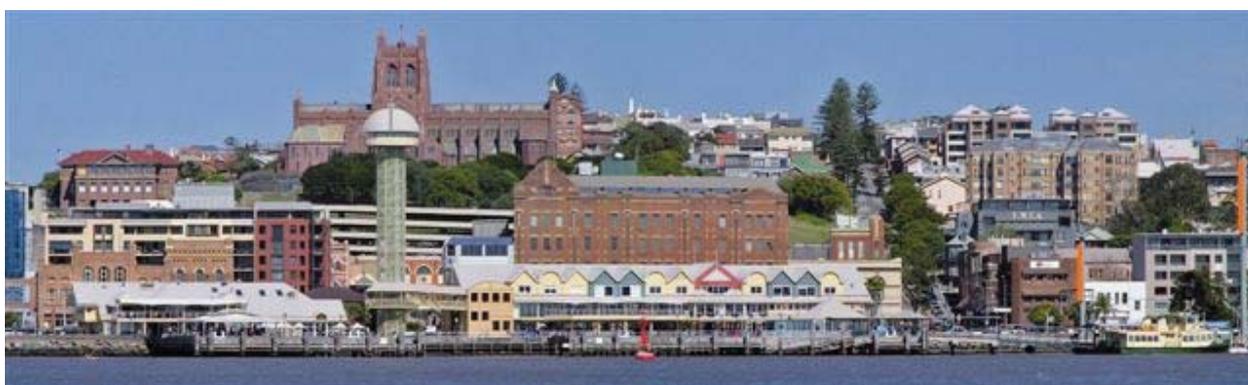
### **Review for future asset needs**

By being owner and manager of all of government's generic property assets SPA is in a position to advise government on its property needs now and into the future. SPA develops strategies which look at the whole of government property needs and identifies opportunities to improve efficiencies in property management.

SPA, through its Planning and Strategy Group will research agency service delivery needs, property market trends and demographics to advise government on property risks and risk management strategies. These reviews help SPA to develop an overall strategy for government's future property needs.

*Agency Property Portfolio Reviews* are a key government initiative to improve service delivery and identify inefficient property use. The reviews look at an agency's current assets as well as future property needs state-wide. They often reveal unused or surplus properties which might be sold to help fund the agency's core service delivery activities. The reviews also identify opportunities for agencies to improve service delivery through better building design.

*Centre Studies* focus on regions and review all the agencies within a regional centre to determine whether their existing properties and facilities are adequate to meet the needs of government and the community. The studies involve multiple agencies and examine government assets, service delivery requirements, funding priorities, demographics and the government's future property needs. In 2009-10, SPA completed centre studies for Liverpool/Campbelltown, Newcastle and Parramatta. Work also continued on the implementation of the Sydney CBD Asset Strategy and development of the Far West Strategy for the delivery of human services.



*Newcastle has been the focus of a Centre Study to review the office accommodation needs of all agencies within a regional centre.*

## **Part 6 - Dealings in Land under the State Property Authority Act**

As a statutory corporation SPA has power to deal in property to exercise its functions by virtue of S50(1)(d) Interpretation Act, viz,

### **50 Statutory corporations**

*(1) A statutory corporation:*

*(a)...*

*(b)...*

*(c)...*

*(d) may, for the purpose of enabling it to exercise its functions, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property,*

SPA may also deal in land by direct provision in the State Property Authority Act 2006, viz,

### **13 Land dealings**

*(1) The Authority may, with the consent of the Minister, sell, lease, exchange or otherwise dispose of or deal with any land vested in the Authority and grant easements or rights-of-way over such land or any part of it.*

More specific provisions for acquisition of land by SPA are also included in the SPA Act by:

- S.15 Acquisition of property by gift devise or bequest,
- S.18 Transfer of property described in Schedule 1 to Authority, and
- S.19 Transfer of additional property to the Authority – amendment of Schedule 1

## **Gift Devise or Bequest**

SPA is provided with a power to acquire under Sec. 15, viz,

### ***15 Acquisition of property by gift, devise or bequest***

*(1) The Authority may acquire by gift, devise or bequest any property for the purposes of this Act and may agree to carry out the conditions of any such gift, devise or bequest.*

A “gift” could be described as bestowing something voluntarily and without compensation. To “Devise” would be to transmit or give (real property) by will. Similarly “Bequest” is the act of giving, leaving by will, or passing on to another.

Clearly, the power to acquire by gift, devise or bequest was not intended to be the primary mechanism for SPA to acquire property.

## **Transfer by Vesting**

By far the most used method to date by which SPA has acquired land has been by transfer or vesting of the land or the interest in land (such as a lease) under Sec. 18 and Sec 19. State Property Authority Act 2006. All land (or interests on land) included in Schedule 1 State Property Authority Act are vested in SPA for an estate in fee simple (or such other interest as is specified in the Schedule).

### ***18 Transfer of property described in Schedule 1 to Authority***

*(1) On the transfer date relating to property described in Schedule 1, the property vests in the Authority for an estate in fee simple (or such other interest as is specified in the Schedule):*

- (a) without the need for any further conveyance, transfer, assignment or assurance, and*
- (b) subject to any trusts, estates, interests, dedications, conditions, restrictions and covenants to which the land was subject immediately before the transfer date.*

Section 19 of the Act provides further that additional property may be added to Schedule 1 and thereby vested in SPA for an estate in fee simple.

### ***19 Transfer of additional property to Authority—amendment of Schedule 1***

*(1) The Governor may, by order published on the NSW legislation website, amend Schedule 1 by inserting the description of any property.*

*(2) Property is authorised to be included in Schedule 1 by order under this section only if it is property of a government agency (including vacant Crown land). Subject to section 18 (1) (b), this section does not prevent land, the fee simple in which is vested in Her Majesty, the Crown or a government agency, from being transferred by order under this section even if the land is subject to other interests.*

- (3) Property is not authorised to be included in Schedule 1 by order under this section if it comprises, wholly or in part, any of the following:
- (a) land that is reserved under the [National Parks and Wildlife Act 1974](#) as a national park, historic site, state conservation area, regional park, nature reserve or karst conservation reserve or land that is acquired under Part 11 of the [National Parks and Wildlife Act 1974](#),
  - (b) any area that is declared as a marine park under the [Marine Parks Act 1997](#),
  - (c) any land that is reserved or dedicated under an Act for any purpose, being a reservation or dedication that can only be revoked by an Act,
  - (d) land reserved under Part 5 of the [Crown Lands Act 1989](#) unless the Minister for Lands has given concurrence to the transfer of the particular land identified by the Minister administering this Act.

When the Act commenced there was **no** property included in Schedule 1. All property now shown in Schedule 1 has arrived there by virtue of the transfer process outlined in Sec. 19 i.e. by order of the Governor. To date over 1000 parcels of land and interests in land (leases, licences and easements) have been vested from government agencies to SPA.

## Process of Vesting

The statutory process of transfer by vesting under Sec 18 and 19 SPA Act is as follows:

- **Developing a schedule of land and/or interests in land to be vested.**

This process involves consultations and agreements with agencies, title search and due diligence investigations, loading data into SPA's databases, check that transfer is not barred under Sec 19(3) SPA Act and apply where necessary for the Minister for Lands approval to vest under Sec 19(3)(d) SPA Act.

- **Drafting a new State Property Authority Amendment Order.**

This process includes preparing a draft State Property Authority Amendment Order which details all land and interests in land to be transfer by vesting into the State Property Authority. The draft is reviewed by the Parliamentary Counsel and an Opinion is obtained that the Order may be legally made.

- **Gaining the approval of the Governor.**

A Ministerial Briefing Note and Executive Council Minute are prepared to accompany the draft State Property Authority Amendment Order seeking approval of the CEO, the Minister and the Governor to the publication of the Order.

- **Publication of the State Property Authority Amendment Order.**

On receipt of the Governor's approval the Parliamentary Counsel is requested to notify the approved Order on the NSW Legislation Website at which date the land or interest in land transfers to SPA (or on such later date as specified in the Order). NB: the Legislation Website has replaced notifications in the Government Gazette in many cases.



*The front cover of a State Property Authority Order signed by the Governor authorising the transfer of land or interests to SPA.*

- **Recording the new Registered Proprietor.**

AN “APPLICATION TO RECORD NEW REGISTERED PROPRIETOR” IS PREPARED AND LODGED AT LAND AND PROPERTY INFORMATION NSW TO RECORD SPA AS NEW OWNER OF THE INTEREST AND TO OBTAIN NEW CERTIFICATES OF TITLE WHERE LAND HAS BEEN TRANSFERRED.

## **Part 7 - Land and Asset Information Management**

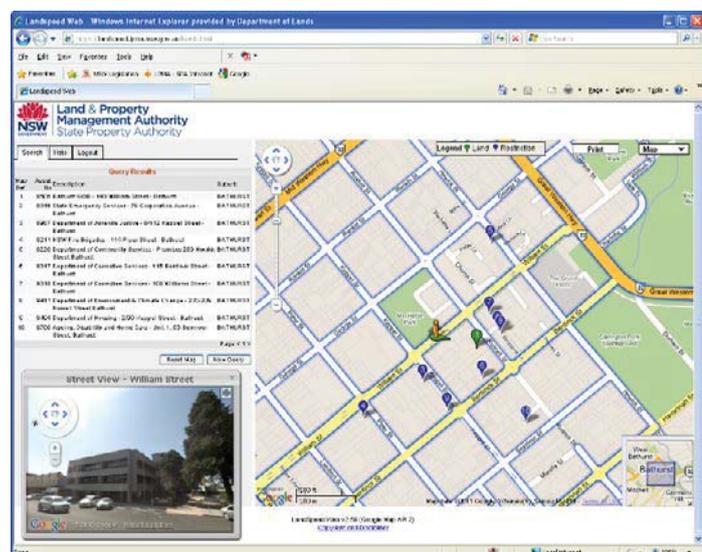
SPA has two core database systems – *LandSpeed*, a multi parcel transaction management tool and MRI, a commercial property management software tool. *LandSpeed* can be compared to bookends around MRI. *LandSpeed* acquires and disposes of the land or interest in land (e.g. lease) while MRI manages the property asset on the land or interest while held.

### **LandSpeed**

*LandSpeed* is an application developed in-house specifically for land information management and the management of transactional processes for land and interests in land. *LandSpeed* was developed by the former Department of Commerce and won the Sir Thomas Mitchell Award at the 2001 Excellence in Surveying and Spatial Information Awards. The *LandSpeed* application transferred to SPA in 2006 and development proceeded to suit the business needs of SPA. *LandSpeed* is written in OpenInsight, a windows-based application development tool, which contains a post-relational or [MultiValue database](#).

*LandSpeed* was developed as a project management aid for controlling transactional processes for projects and portfolios. That remains its primary function but by virtue of the sum of all settled or completed transactions *LandSpeed* also becomes a land database satisfying the requirements under the SPA Act for SPA to “establish and maintain a register of all land that is, from time to time, vested in or managed by the Authority”.

All land and interests in land transferred to SPA by vesting tranches under S.19 SPA Act are managed and controlled within the *LandSpeed* database. *LandSpeed* is not only suitable for single transactions but for multiple transactions that settle concurrently - the largest so far being over 300 land and leases that transferred in the one transaction. *LandSpeed* starts with LPI and other data and coordinates that data on a project or portfolio basis for use throughout the transaction processes. In building up an acquisition or vesting project there’s a lot of land information and documentation collected and stored in the database which is then used in generating and completing letters, forms and reports.



A *LandSpeed Web* screen shot centred on the Bathurst Government Office Building showing owned assets by green marker and leased assets by blue marker.

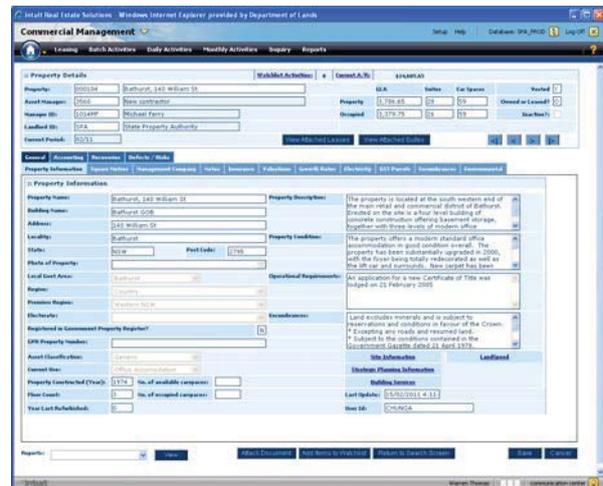
*LandSpeed Web* provides a web interface for secure remote access by staff to asset, portfolio and project land data and related documents held in the *LandSpeed* database with map and aerial photo links to land parcels via Google Maps (including Google Street View).

## MRI

MRI is a standalone financial and property management real estate solution which is modular in design and fully customisable. MRI provides a web-based solution to allow remote access to real estate data anywhere, anytime. Amongst others, SPA utilises the following MRI modules:

- Commercial Management
- LeaseFlow
- General Ledger
- Accounts Payable
- JobCost
- Purchase Order

MRI has a direct asset link from its Commercial Management module via *LandSpeed Web* to view GoogleMaps, Google Street View and the relevant land related data held in the *LandSpeed* database.



An screen shot of an MRI Commercial Management module asset screen. This screen includes a link to *LandSpeed Web* to spatially reference the asset.

## Part 8 – Where to from here?

SPA has now largely completed the transfers of generic government property accommodation and is looking to explore better ways to manage the properties and projects entrusted to its care. Many clients have indicated that they would be receptive to SPA providing additional property services or building upon existing services to help improve government performance and provide a commercial profit to government. While implementation of new services will depend on outcomes from the 2011 review of the SPA Act and associated policy, some of the improvements and new services being considered by SPA are described below.

## Data Exchange

SPA is currently exploring the opportunities for data exchange that have arisen through amalgamation into the Land and Property Management Authority. The potential is being explored for SPA to access titling and other spatial data by direct data transfer into its MRI and *LandSpeed* databases utilising the “source of truth” of the particular data set required. In return LPI is exploring the possibilities for direct data transfer from SPA of real time transaction settlement data that could lead to an interim notation being placed on affected Titles indicating that the Title is subject of a statutory transfer under a SPA Order (pending lodgement of a “Change of Registered Proprietor” Form). The Government Property Register is also exploring the transfer of data from SPA to source authoritative information on agencies that occupy government property assets owned by SPA.

## **Car Parks**

SPA currently manages the Domain Car Park on behalf of the Royal Botanic Gardens and Domain Trust and has a long term ground lease for the Opera House Car Park. SPA has discussed with some larger government agencies the potential to vest, develop and centralise ownership and management of car parks. This would meet a growing need identified by agencies themselves and could also provide a commercial opportunity to government, delivering more cost efficiencies and community facilities.

## **Depots and Warehouse**

Currently, some generic government properties such as depots and warehouses are owned and managed by agencies. SPA's experience from the vesting of government offices demonstrates that if these other generic properties were vested and managed by SPA then potential exists to improve the efficient use of that property, for example, by consolidating multiple government warehouse facilities in a region to a single warehouse or depot. SPA would also be in a position to better identify agency warehouse or depot needs and sell or redevelop surplus assets.

## **Consolidating Government Facilities**

Many NSW Government agencies manage their own specialist facilities such as training facilities, data centres, serviced offices and dispute centres. There are opportunities to provide shared government services by centralising management of these facilities in SPA. This could drive more efficiencies and savings to government and ensure better utilisation of these assets.

## **Fitouts**

Currently SPA owns and manages base buildings and agencies own their office fitouts, similar to a commercial leasing model. However, unlike commercial arrangements, government has an interest in the efficient and effective use of all tenancies and this presents opportunities to generate greater cost efficiencies and sustainable outcomes.

## ***Part 9 – Conclusion***

So...who's building is it anyway? Well maybe there's a hint in the NSW Government's *Strategic Management Framework* which states that "Ministers and agencies are accountable to the citizens of NSW for the planning and delivery of government services". Maybe that says it all. At the end of the day it's the citizens of NSW that "own" the assets no matter which government agency's name appears on the Certificate of Title.

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## **APPENDIX A**

### **M2008-06 STATE PROPERTY AUTHORITY AND GOVERNMENT PROPERTY PRINCIPLES**

#### **Status: current**

The State Property Authority has been established by the NSW Government as a corporation with functions relating to the acquisition, management and disposal of Government owned property.

The requirements outlined in this Memorandum and the attached Government Property Principles apply immediately to all General Government Sector agencies and Public Trading Enterprises (excluding State Owned Corporations). Shareholding Ministers and Boards of State Owned Corporations are to note the establishment of the Authority and where their organisations do not have the necessary in house expertise, they are encouraged to use the services of the Authority.

The Authority's objectives as stated in the *State Property Authority Act 2006* are to:

- improve operational efficiencies in the use of properties of government agencies, particularly generic properties (such as offices, warehouses, depots and car parks);
- manage properties of government agencies in a way that supports the service delivery functions of those agencies;
- provide advice and support within government on property matters; and
- operate at least as efficiently as any comparable business, consistently with the principles of ecologically sustainable development and social responsibility for the community (including the indigenous community).

The Authority is the Government's real estate services provider and is responsible for acquiring and managing Government's generic and, by agreement, other property assets.

To assist the State Property Authority to achieve its legislated objectives, the Government has approved a new property policy framework. The framework outlines the relationship between agencies and the State Property Authority in the acquisition, management, maintenance and disposal of property.

The key initiatives of the framework are:

- the immediate vesting (from 1 July 2008) to the State Property Authority of the ownership of all government owned office accommodation;
- the implementation of a commercial rental charge for all office accommodation vested in the State Property Authority;
- the transfer to the State Property Authority of management responsibility of all government leased office accommodation;
- the extension of the Government Leasing Service within the State Property Authority to include all lease renewals and new and existing lease negotiations for generic property in the Greater Sydney Metropolitan Area (as defined by the Department of Planning);
- regular and ongoing reviews by the State Property Authority of agency property portfolios to identify efficiencies to improve service delivery which will be monitored by the Government Asset Management Committee and reported to Government;

- the provision of information by all agencies for the generic property database, including the participation in surveys;
- review and endorsement of all proposed property acquisitions and disposals by the Government Asset Management Committee;
- the State Property Authority is Government's preferred acquisition and disposal agency;
- the State Property Authority will be the lead agency for all multi-faceted property proposals that are interlinked by timing, location or use; and
- the Department of Premier and Cabinet, State Property Authority and NSW Treasury will work cooperatively with Government agencies and relevant unions to address any staffing and funding implications which may arise from implementation of the policy framework.

The attached Government Property Principles outline details of the property policy framework as well as other considerations relating to property title, preferred office locations, provision of car parking, lease precommitments, sale and lease back proposals and fitout amortisation.

This Memorandum supersedes [Premier's Memorandum 2008-02](#).

Morris Iemma  
Premier

Issued:	Property Policy Implementation Lindsay Haraldson General Manager, Planning and Strategy State Property Authority (02) 9338 7084	Property Policy Framework Budget and Financial Implications Colin Campbell Principal Adviser, Property NSW Treasury (02) 9228 4115
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Date: 10 April 2008

## **OPERATING PRINCIPLES**

### **Principle 1**

All owned office buildings will be vested in the State Property Authority and lease arrangements will be entered into with tenant agencies through a Memorandum of Understanding. Agencies will not be compensated for the vesting of assets, but will receive budget funding for net rental payments. Normal operating costs will be funded by agencies from existing resources. The vesting of all owned office buildings will occur from 1 July 2008.

### **Principle 2**

Agencies may vest in the Authority any or all of their non-generic owned property assets subject to agreement with the Authority and Treasury on resource and funding transfers associated with those properties. In some instances Government may direct that certain properties or agency portfolios be vested in the Authority.

### **Principle 3**

The Authority will assume management responsibility for all leased office space and other leased property assets and sublease arrangements will be entered into with tenant agencies through a Memorandum of Understanding. Agencies will pay a management fee to the Authority in addition to the rent payable under the head lease.

A program will be established to transfer management of existing head lease responsibilities to the Authority.

**Principle 4**

The State Property Authority will conduct all lease negotiations (new leases, renewals and rent reviews) for property assets required by government agencies except where the Government Asset Management Committee determines otherwise.

**Principle 5**

Consistent with Operating Principle 4, negotiations for all proposed lease pre-commitments must be conducted by the Authority and in accordance with existing approval processes. All pre-commitments to acquire property or office space must be assessed and approved in accordance with the Working with Government Policy and Guidelines.

**Principle 6**

Any request to the Authority to acquire new property assets must be consistent with the agency's Asset Strategy, supported by a business case and certification of funding availability for acquisition, rental and fitout, as appropriate. Where an office accommodation requirement exceeds 1,000m<sup>2</sup>, agencies must provide the Authority with a facility plan for approval before the Authority can approach the market.

**Principle 7**

All proposed property acquisitions must be referred to the Government Asset Management Committee to consider the proposed acquisition strategy and determine the appropriate agency to complete the transaction. Normal Treasury requirements for acquisitions continue to apply. All proposed property disposals will continue to be referred to the Government Asset Management Committee for approval.

**Principle 8**

No General Government Sector agency will approach the market to acquire property assets, either by lease or ownership, other than through the State Property Authority, unless the Government Asset Management Committee determines otherwise.

**Principle 9**

All proposals that involve either sale and leaseback arrangements or amortisation of fitouts as part of lease arrangements must be referred to the Authority and will require Treasury's specific approval.

**Principle 10**

All government agencies must immediately advise the Authority of any vacant, underutilised or no longer required office space or other property.

**Principle 11**

Car parking spaces that incur a cost to an agency should only be provided for official Government vehicles including vehicles supplied under salary sacrifice arrangements used for official business. There are circumstances where approval has been given by CEOs for the parking of private motor vehicles in official car spaces. These approvals have been given on the basis of the particular needs of the agencies concerned. Pending finalisation of a sector-wide policy in respect to these motor vehicles, existing approvals are to remain in force.

**Principle 12**

All agencies will enter into an agreed Memorandum of Understanding with the Authority for office space or other property assets it provides. If an agency fails to execute a Memorandum within a reasonable time, the Authority, subject to Treasury approval, may deem its execution and the terms of the Memorandum will be binding on the agency. For leased premises the term is to be consistent with the head lease. For government owned accommodation the term may be negotiated between the parties, but subject to a certain minimum term.

### **Principle 13**

The Authority will enter into Service Level Agreements with agencies in relation to the provision and maintenance of owned or leased non-generic property assets that meet their service delivery requirements and deliver best value for Government.

### **Principle 14**

Agencies are responsible for the provision of fitout, changes to existing fitouts and the makegood of premises provided by the Authority and no fitout, makegood or other alterations are to be undertaken without the Authority's prior approval.

### **Principle 15**

The Authority will conduct regular and ongoing reviews of agencies' property portfolios, working with agencies to identify efficiencies to improve service delivery. The outcome of these reviews will be reported to the Government Asset Management Committee, which will monitor implementation.

## **GUIDING PRINCIPLES**

### **Principle 1**

The Government Asset Management Committee remains Government's peak Chief Executive body for considering all strategic asset management issues. The Committee's terms of reference are broadened to include all assets including assets other than real property.

### **Principle 2**

The title for all new property acquisitions where the responsible Minister does not have the legislative power to deal in property transactions is to be placed in the name of the State Property Authority. All property related leases (including office accommodation) will also be in the name of the State Property Authority.

### **Principle 3**

Government agencies are to achieve the office space use targets determined by Government. Currently these are an average of 17m<sup>2</sup> per person across an agency's office portfolio and 15m<sup>2</sup> per person for all new office space.

### **Principle 4**

Government agencies are to actively pursue opportunities to share common resources or services consistent with Government policy or directives.

### **Principle 5**

The preferred location for agencies in the Sydney CBD is in the southern sector or other sector where equivalent terms can be negotiated. No agency, however, will be provided with accommodation in the Sydney CBD Core unless approval has been obtained from the Government Asset Management Committee. Subject to individual agency service delivery requirements, the preferred locations for government agencies in the Sydney Metropolitan Area are those centres consistent with the Department of Planning's Sydney Metropolitan Strategy.

Government agencies will ensure that decisions on the location and fitout of office accommodation are consistent with planning for active living principles and sustainable travel options as referred to in the Premier's 'Why Active Living' Statement, including the necessary infrastructure such as showers, lockers and secure bicycle parking.

### **Principle 6**

All government agencies are to ensure that office accommodation complies with Government policy in relation to sustainability and energy conservation. The current policy is outlined in Premier's Memorandum 2004/04.