Property management and governance guideline

Procedural framework for public sector health entities considering the acquisition, divestment and leasing of land
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Introduction

This *Property management and governance guideline* outlines the basic legislative, policy and procedural framework for the acquisition, divestment, leasing and licensing of land by or on behalf of the Minister for Health, the Secretary to the Department of Health and Human Services (the department) and/or public health services and cemetery trusts.

It aims to assist public entities in the health portfolio to understand how to undertake real estate services (public construction, leasing, sale, acquisition and management of land).

Part 1 guides officers through the accountability and administration requirements when transacting real property.

The process for acquiring and divesting land is set out in Parts 2 and 3.

Land tenures for occupying and using land for delivering government-funded services and the requirements for leasing and licensing are set out in Parts 4 and 5.

Part 6 outlines maintenance obligations, including where property is obsolete or surplus to requirements.

This manual provides general guidance, and officers should consult and comply with the requirements of all relevant legislation, ministerial directions and government policy and practices to ensure that proper procedures are followed for each project or task.

The manual describes the transactional process for acquiring, divesting and leasing land. Any acquisition, divestment and leasing of land should align with service planning and master planning processes, and must only occur once the project has been approved.

Cemetery trusts should use the manual once a full business case has been endorsed by the department’s Cemeteries and Crematoria Unit.

Where specific or more comprehensive advice is required, refer the matter to the Manager Property within the department’s Property team at capital@dhhs.vic.gov.au, or call 03 9096 2061.

Supporting and related documents

Table 1: Key policies underpinning property transactional processes

<table>
<thead>
<tr>
<th>Policy</th>
<th>Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victorian Government land transactions policy and guidelines</td>
<td>Administered by the Department of Environment, Land, Water and Planning</td>
</tr>
<tr>
<td>Victorian Government landholding policy and guidelines</td>
<td>Administered by the Department of Treasury and Finance</td>
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<tr>
<td>Policy</td>
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<tr>
<td>Leasing policy for Crown land in Victoria 2010</td>
<td>Administered by the Department of Environment, Land, Water and Planning</td>
</tr>
<tr>
<td>Committees of management responsibilities and good practice guidelines, 1 November 2015</td>
<td>Administered by the Department of Environment, Land, Water and Planning</td>
</tr>
<tr>
<td>Victorian Government asset management accountability framework, February 2016</td>
<td>Administered by the Department of Treasury and Finance</td>
</tr>
<tr>
<td>Victorian health policy and funding guidelines</td>
<td>Administered by the Department of Health and Human Services and updated annually</td>
</tr>
</tbody>
</table>

Policies and guidelines can be accessed on the responsible departments’ websites. The Property team can provide further information and support to ensure property activities are well planned, executed and follow proper processes.

For assistance, please contact the Manager Property, at capital@dhhs.vic.gov.au or call 9096 2061.

A list of key legislation is provided at Appendix 1, with a brief description of its relevance.

This guideline and all associated forms and links are available on the [Department of Health and Human Services website](http://www.capital.health.vic.gov.au/Property_Management).
Part 1: Accountability and administration

All boards, chief executives, trusts and secretaries responsible for health portfolio public entities must ensure that all property transactions in which they are involved are carried out in accordance with whole-of-Victorian Government and Victorian Department of Health and Human Services policies, procedures and guidelines.

Health portfolio public entities

The department funds public health services under annual Statements of Priorities or health service agreements to deliver services from property owned or controlled by either the department or by the entity. The department also supports the administration of non-funded public entities, such as cemetery trusts, to meet legislative requirements and to deliver services expected of the health portfolio.

The public entities in the health portfolio comprise corporate bodies established under the following Victorian legislation:

- Secretary to the Department of Health and Human Services established under the Public Health and Wellbeing Act 2008
- public health services established under the Health Services Act 1988
- Ambulance Victoria established under the Ambulance Services Act 1986
- Forensicare (Victorian Institute of Forensic Mental Health) established under the Mental Health Act 2014
- cemetery trusts established under the Cemeteries and Crematoria Act 2003.

As corporate bodies, health portfolio public entities may occupy and manage Crown land and may purchase, lease/license and sell freehold land subject to any restrictions in their enabling legislation, procedural guidelines and government funding.

Role of the Property team

The Property team is a business unit within the Victorian Health and Human Services Building Authority reporting to the Assistant Director, Asset Strategy. The Property team provides expertise in the areas of property acquisitions, divestments, leasing, licensing, town planning, strategic advice, project facilitation, property management and advisory services.

Professional services

A number of professional service providers, including other government departments and private sector providers, are required in order to successfully deliver property-related services. A list of relevant services is at Appendix 2.

A whole-of-government legal services panel has been established by the Department of Justice and Regulation to provide legal services to government agencies and public entities. Use of the panel is a mandatory requirement for government departments. It is strongly encouraged that public entities use this panel, or legal services firms with specialist property experience within the health sector.

Visit the legal service panel website <http://www.procurement.vic.gov.au/State-Purchase-Contracts/Legal-Services-Panel> to view a list of panel members.

Where specific or more comprehensive legal advice is required, refer the matter to the department’s Legal Services Branch.
Asset register and landholding dataset

Health portfolio public entity boards are accountable for the planning, management and performance of assets under their control and must develop an appropriate asset register, if it does not already exist. Property assets must be identified and classified in accordance with the Victorian Government landholding policy and guidelines minimum property dataset and accounted in the annual financial statements in accordance with Financial Reporting Direction 103E.


Figure 1 outlines the key stages of the asset lifecycle, together with the considerations public health entities should make to realise the full value of assets when delivering services.

Figure 1: Key stages of the asset lifecycle

Source: Department of Treasury and Finance’s asset management website
Part 2: Land acquisition process


Process requirements

In accordance with the Victorian Government landholding policy, property asset management decisions and activities must be fully integrated with corporate business plans and service needs.

This section details the transactional process and should be used once service planning and masterplanning processes have been completed and the project approved.

Cemetery trusts should use this section once a full business case has been endorsed by the department’s Cemeteries and Crematoria Unit.

Where state budget or departmental funding is allocated for acquisition of land, the purchase will be managed by the Property team and owned by the Secretary. Occupation of the land will be formalised through a lease. Refer to Part 5.

The process is tailored for each individual project depending on its requirements, and is broadly covered by the following steps:

1. Identify the property asset or land parcel required to meet service delivery outcomes.
2. Undertake due diligence investigations: legal, contamination, environmental, heritage, town planning, site services, traffic management, geotechnical and site survey.
3. Obtain in-principle approval and commitment of funds from relevant financial delegate.
4. Where properties are listed for sale on the open market, register interest and commence negotiations (refer to points 6 and 7).
5. Complete Valuer-General instruction form and submit to Property Manager at capital@dhhs.vic.gov.au to facilitate valuation advice. If the expected value of the property is $750,000 or more, the Valuer-General will seek an independent check valuation. (Refer to the Victorian Government land transactions policy and guidelines.) Download the Valuer-General form <http://www.propertyandlandtitles.vic.gov.au/valuation/government-valuations>.
6. The department will request valuation advice in accordance with the provisions of the Valuation of Land Act 1960 as the responsible line agency.
7. If the transaction is $750,000 or more, Government Land Monitor approval must be obtained before submitting an offer or negotiating a purchase price. Download the Government Land Monitor approval request form <http://delwp.vic.gov.au/property-and-land-titles/vglm>.
8. Once necessary approvals have been obtained, officers can negotiate a purchase price up to the value determined by the Valuer-General and approved by the Government Land Monitor. Land must not be acquired at a price that is greater than the current market value of the land as determined by the Valuer-General Victoria.
9. Upon acceptance of the offer, the Vendor’s solicitor will prepare the contract of sale. Seek legal advice regarding contract documentation from either Corporate Counsel or a lawyer from the government’s legal panel to identify and minimise exposure to risk.
10. Financial delegate executes contract of sale and settles acquisition.
11. Asset register updated.

Appendix 3 contains a checklist to ensure the proper processes are applied to the acquisition of land. The checklist is for general guidance, as the actual process is tailored for each individual project depending on its requirements. It is not mandatory and is provided as a good practice guide to assist officers undertaking acquisition projects.


**Zoning**

Upon settlement of an acquisition, it is desirable that the land is rezoned Public Use Zone 3 (Health). A public use zone ensures the land’s use and public ownership are reflected in the relevant planning scheme, and will provide flexibility in carrying out service delivery operations and reduce administrative burden.

The process for rezoning land is set down in the *Planning and Environment Act 1987*, and is generally managed by the local council. The steps include:

- requesting an amendment by the local council
- authorisation by the Minister for Planning to prepare an amendment to the planning scheme
- preparation of the documentation
- public exhibition
- submissions, panels and advisory committees
- adoption of the amendment by the council
- approval by the Minister for Planning.


**Land purchased or acquired for the purposes of a public cemetery**

In accordance with the Cemeteries and Crematoria Act, cemetery trusts must obtain the Minister for Health’s approval to purchase or acquire land. The Minister must not approve the purchase or acquisition unless satisfied that it is necessary or desirable that the land be purchased or acquired for the purposes of a public cemetery, and that the cemetery trust has sufficient funds available to purchase or acquire the land.

Where freehold land is acquired for cemetery/crematorium purposes, ss. 33 and 34 of the Cemeteries and Crematoria Act require that the land vests in the Crown as unalienated Crown land, and is deemed to be permanently reserved under s. 4 of the *Crown Land (Reserves) Act 1978* for cemetery and crematorium purposes. Cemetery trusts should include a special condition in the contract of sale reserving the right to take transfer of the acquired land at settlement in favour of ‘Her Majesty, Queen Elizabeth the Second’. The transfer form must provide the relevant provisions of the Cemeteries and Crematoria Act under which the land is to be reserved and held.

The Property team will ensure that Land Victoria and the Department of Environment, Land, Water and Planning are advised on each occasion so that records on the Crown estate can be updated.
Following settlement, the department’s Legal Services Branch will seek the approval of the Governor in Council to establish the acquired land as a cemetery or include the additional acquired land as part of an existing cemetery in accordance with s. 4 of the Cemeteries and Crematoria Act.
Part 3: Land divestment process

Different divestment methods will be needed for different types of property assets. Before deciding on a particular divestment method, health portfolio public entities should consider the nature of the asset (specialist or common), the potential market value, in continuing or alternative use, and opportunities for uplift (including demolition of improvements/rezoning amendments), as well as other intrinsic values (cultural/heritage aspects).

The sale of land is governed by various legislative provisions and can depend on the enabling Act of the entity as well as the land tenure (Crown or freehold).


Process requirements

A relatively standard process is followed for disposing of surplus freehold land held by the Department of Health and Human Services, or a health portfolio public entity.

The process is tailored for each individual project depending on the project requirements and is broadly covered by the following steps:

1. Land is declared surplus to operational requirements by health portfolio public entity, and/or the department.
2. Undertake due diligence investigations and preparation of land for sale: legal, environmental issues, town planning (public-use zoned land must be rezoned to an appropriate zoning), heritage overlays, flora and fauna, cultural heritage, site services, traffic management, engineering, survey and value uplift opportunities.
3. The department facilitates the first right of refusal process with Land Use Victoria. The health portfolio public entity completes the first right of refusal request form (see Appendix 3) and emails it to capital@dhhs.vic.gov.au.
4. Prior to divestment, land must be offered for a period of 60 days to other state, Commonwealth and local government agencies for acquisition in compliance with the Victorian Government landholding policy. If no expressions of interest are received, the land may then be offered for sale using a public process.
5. Private treaty sales are only to be conducted if an exemption is granted in accordance with clause 2(d) of the Victorian Government land transactions policy and guidelines.
6. Appoint a real estate agent through a competitive tender process.
7. Appoint a panel lawyer (in consultation with Corporate Counsel) and prepare contract of sale and Section 32.
8. Complete the Valuer-General instruction form [http://www.propertyandlandtitles.vic.gov.au/valuation/government-valuations] and submit to Property Manager at capital@dhhs.vic.gov.au to facilitate valuation advice. Where it is anticipated the value of the property is $750,000 or more, the Valuer-General will seek an independent check valuation. (Refer to the Victorian Government land transactions policy and guidelines). The department will request valuation advice in accordance with the provisions of the Valuation of Land Act as the responsible line agency.
9. Plan for the sales process to allow for six weeks to complete the valuation.

11. Hold auction or undertake tender.

12. If the reserve price is not met at the auction or following the tender, the reserve price is not met, officers may negotiate with the highest bidder/s to reach the reserve price. The reserve price must not be less than the current market value of the land as determined by the Valuer-General Victoria and approved by the Government Land Monitor (if required). If the reserve price is not reached, the property is ‘passed in’ and on the market for private sale.

13. Valuations generally have a currency of three months. If an offer is received after this time, the Valuer-General’s Office must revise the currency of the valuation advice and endorse acceptance of the offer before accepting an offer and finalising the sale, including Government Land Monitor approval (if required). See ‘Part 5: Valuation Requirements’ in the Victorian Government land transactions policy and guidelines for further advice.

14. Update the asset register upon settlement.

Visit the Property Management website <http://www.capital.health.vic.gov.au/Property_Management> to download forms and a checklist to ensure the proper processes are applied to the disposal of land. The checklist is for general guidance as the actual process is tailored for each individual project depending on project requirements. It is not mandatory and is provided as a good practice guide to assist officers undertaking acquisition projects.

**Crown land divestment process**

Pursuant to the Administration of Acts General Order 58 authorised by the Premier of Victoria, responsibility for the divestment of surplus Crown land rests exclusively with the Minister for Finance.

Where a Crown land property is no longer required by a health portfolio public entity, the land must be declared surplus and referred to the department. The department may arrange for it to be reallocated to another funded agency or referred to the Department of Treasury and Finance for sale.

The health portfolio entity is responsible for day-to-day site management and associated costs until the property is sold and settled.

Contact the Manager Property, at capital@dhhs.vic.gov.au or call 03 9096 2061 to discuss the process for divestment of Crown land properties.
Part 5: Leasing/licensing process

Formal tenure agreements provide legal certainty and ensure that the responsibilities and obligations of both the owner and the occupant are clearly identified and managed.

Tenure agreements can provide for exclusive occupation (lease) or shared occupation (licence) of premises.

Health portfolio public entities may enter tenure agreements for purposes related to both health and non-health services. At a public hospital, purposes related to health service would include medical imaging, pathology and pharmacy services, and non-health purposes would include a food and beverage outlet, card and florist shop, and hairdresser.

Crown land

Leases and licences on Crown land operate under the provisions of the Crown Land (Reserves) Act and must be approved by the responsible minister, principally, the Minister for Energy, Environment and Climate Change. Visit the Crown land leasing, licenses and permits page for more information.

The Minister for Health is the responsible Minister for approving tenures on Crown land at:

- Bendigo Hospital
- the Victorian Comprehensive Cancer Centre
- Box Hill Hospital.

A licence may be issued for a term of up to 10 years (s. 17B), and a lease for a term of up to 21 years (s. 17D). In some specific circumstances, longer terms up to 21 years (s.17BAA – Licence) and 65 years (s. 17CA – Lease) may be granted.

The Department of Environment, Land, Water and Planning mandates the use of precedent lease and licence documents, which is intended to save time and expense for committees of management and trustees and to ensure that the requirements of the Crown are correctly documented to facilitate ministerial approval.

A department-funded entity in possession of departmental Crown property involving nominal rent may not charge market rent to a subtenant that is also a department-funded entity. In these cases, the subtenant is required to pay its share of property outgoings comprising utility charges, cleaning, security and maintenance.

Freehold land: Retail Tenancies Act

The department’s tenure agreements take a commercial form in terms of documenting the respective roles and responsibilities of the department as landlord and the health portfolio public entity as tenant, but they do not require the payment of rent or licence fee. They are drafted on the basis that occupation of departmental premises for delivering department-funded services is not subject to the provisions of the Retail Leases Act 2003 or the Residential Tenancies Act 1997.

In this regard, reference should be made to the ministerial determination made under s. 5 of the Retail Leases Act, which provides that premises do not constitute retail premises for the purposes of the Act where they are used predominantly for public, municipal or charitable purposes, and the rent payable is not greater than $10,000 a year, as well as the provision at s. 23 of the Residential Tenancies Act that excludes health and residential services from the operation of the Act.
A department-funded entity in possession of departmental freehold property under a lease involving nominal rental may not charge market rent to a subtenant that is also a department-funded entity. In these cases, the subtenant is required to pay its share of property outgoings comprising utility charges, cleaning, security and maintenance.

**Process requirements**

A relatively standard process is followed for leasing transactions. The actual process will be tailored for each individual project depending on the project requirements.

When leasing, public health entities must consider the following points:

**Purpose of occupation**

Is the occupancy for a health service related purpose or a non-health service related purpose for which the provision of either the Retail Leases Act or the Residential Tenancies Act applies?

**Land tenure approval and consents**

The proposed tenure of the land must be complementary, and not in conflict with or detrimental to the service delivery obligations of the public entity, the permitted use under any head lease, or, in the case of Crown land, the reservation purpose. Table 2 outlines the roles regarding approval and consent in relation to different land types

**Table 2: Approval and consent responsibilities for different land types**

<table>
<thead>
<tr>
<th>Land status</th>
<th>Public health entity role</th>
<th>Department of Health and Human Services role</th>
<th>Minister for Energy, Environment and Climate Change role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Freehold land owned by public health entity</td>
<td>Commercial lease agreement approved by board</td>
<td>No role</td>
<td>No role</td>
</tr>
<tr>
<td>Freehold land owned by department and leased to public health entity</td>
<td>Negotiate terms Commercial sublease agreement</td>
<td>Secretory/delegate approval</td>
<td>No role</td>
</tr>
<tr>
<td>Crown land under control of department as committee of management and leased to public health entity</td>
<td>Negotiate terms DELWP Crown Land sublease engrossing head lease</td>
<td>Secretary/delegate approval</td>
<td>Minister/delegate approval</td>
</tr>
<tr>
<td>Crown land under control of public health entity as committee of management</td>
<td>Negotiate terms DELWP Crown land lease (or sublease as required)</td>
<td>Secretary/delegate approval</td>
<td>Minister/delegate approval</td>
</tr>
</tbody>
</table>

**Establish market rental value**

Complete [Valuer-General instruction form](http://www.propertyandlandtitles.vic.gov.au/valuation/government-valuations) and submit to Property Manager at capital@dhhs.vic.gov.au to facilitate valuation advice.

In accordance with the [Victorian Government land transactions policy and guidelines](http://www.delwp.vic.gov.au/property-and-land-titles/vglm), leasing transactions must be at a price that is not less than the current market rental value as determined by the [Valuer-General](http://www.delwp.vic.gov.au/property-and-land-titles/vglm) unless an exemption applies (see Part 9 of the policy). Table 3 outlines Victorian Government land transaction policy and guidelines leasing exemptions.

**Table 3: Leasing exemptions**

<table>
<thead>
<tr>
<th>Agency</th>
<th>Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Health and Human Services</td>
<td>Land that is leased to service providers, where the service provided is related to the core functions of Department of Health and Human Services. Land that is leased as part of a public–private partnership project.</td>
</tr>
<tr>
<td>Department of Health and Human Services</td>
<td>Land that is leased to service providers, where the service provided is related to the core functions of Department of Health and Human Services health services. Land that is leased as part of a public–private partnership project.</td>
</tr>
<tr>
<td>health services as defined in Schedules 1 to 6 in the <em>Health Services Act</em></td>
<td></td>
</tr>
</tbody>
</table>

Any consideration less than full market rent must be approved by the financial delegate, having regard to the estimated loss of revenue and the community benefit arising from the non-commercial lease.

**Lease agreement components**

- Sub-tenures must be consistent with the head lease, and the *Retail Leases Act* where retail services are provided.
- **Essential terms** must be capable of determination beyond doubt.
- **Assignment, subletting or transfer** clauses should be subject to the consent of the health portfolio public entity.
- **Public liability** and other appropriate insurance must be held and maintained, including an indemnity in favour of the landlord and head landlord and Crown, as appropriate.
- The term should not exceed 10 years and ideally should be shorter so that the market can be regularly tested for alternative service providers (except where the tenant proposes significant capital works, in which case the term should be the lesser of a period considered sufficient for the tenant to amortise the cost and the balance of the term remaining under the head lease).
- Negotiations are expected to be consistent and fair with prospective tenants. In cases where subtenants providing health services are also department-funded public entities, the financial provisions of the tenure agreement are to reflect those of the head lease.
Management

The management of established leases, including collection of rent and rent reviews, is the responsibility of the public health entity.

Lease and licences by cemetery trusts

Cemetery trusts have power to grant leases and licences in accordance with their enabling legislation. Sections 36(1) and 37(1) of the Cemeteries and Crematoria Act provide that a cemetery trust may grant a licence or lease to anyone to enter and use any part of the land for which it is responsible provided that the purpose has been approved by the Minister for Health.

In accordance with the Victorian Government land transactions policy and guidelines, leasing transactions must be at a price which is not less than the current market rental value as determined by the Valuer-General. To establish market rental, Cemetery Trusts must complete the Valuer-General instruction form <http://www.propertyandlandtitles.vic.gov.au/valuation/government-valuations> and submit it to the Property Manager at the department to facilitate valuation advice.

Any consideration less than full market rent must be approved by the Minister for Health with regard to the estimated loss of revenue and the community benefit arising from the non-commercial lease.

The department has developed precedent lease and licence documents for cemetery trusts to use. These are intended to save time and expense, and to ensure that the requirements of the Minister are correctly documented.

A copy of the executed document must be forwarded to the department’s Cemeteries and Crematoria Unit for placement on the trust’s file.

A licence must not exceed a term of three years, and a lease must not exceed a term of 21 years but ideally should not exceed 10 years so that the market can be regularly tested for alternative service providers (except where the tenant proposes significant capital works).
Part 6: Maintenance obligations

Operational maintenance

Health portfolio public entities are responsible for the management, operations and maintenance of buildings and/or infrastructure under their control. In compliance with the current Victorian health policy and funding guidelines, maintenance, management processes and reporting should include:

- internal information on the condition, suitability and capacity of property assets
- reporting on asset-related risks and strategies in place to mitigate them
- establishing annual and long-term maintenance plans for all key sites.

An effective maintenance plan forms part of the asset management responsibilities of health portfolio public entities, and sustains the ability to support delivery of government-funded services including structural integrity, useful life, and life safety.

In regard to departmental property, the department’s precedent documents for the lease of Crown land and freehold land require the tenant to maintain the premises in the same condition as at commencement date with the exception of ‘wear and tear’.

Repairs and maintenance are ‘defined terms’ in the lease, but they are generally understood by the legal profession and property managers to require the tenant at its cost:

- to fix anything that is broken (repairs)
- to have contracts in place for ongoing activities such as grounds, interior cleaning, exterior cleaning (exterior windows and gutters) and essential services (air-conditioning and life safety systems).

Maintenance – surplus assets

Where a property is deemed obsolete or surplus to health portfolio requirements, the health service or department’s program/region is responsible for day-to-day site management and associated costs until the property is sold and settled.

The Property team can assist to determine the scope of property management activities required during this period including:

- grounds maintenance
- site and building security
- disconnection of water/sewerage services
- disconnection of electricity/gas/telephone services
- maintenance of fire services
- building maintenance.

In preparation for divestment, some hospital facilities/assets require particular considerations, as detailed below.

Buildings

Where buildings have been decommissioned and are not occupied, they need to be made safe and secure. High-value buildings and, in particular, buildings with a heritage value should have intruder alarms installed.
Lifts
Lifts should be parked at the ground floor. One lift should be maintained in a fully serviceable condition to enable upper level access for building inspection purposes.

Boilers (hospitals)
If there are no services required to be provided from the boiler plant, then the boiler should be decommissioned and stored either wet (if the boiler is likely to be recommissioned in the short term) or dry (if the boiler is likely to be recommissioned in the long term or not at all). A maintenance engineer should be engaged for this purpose.

Fire systems
The fire ring main, fire detection systems, hydrants, and so on, must continue to be maintained in accordance with Victorian Building Code requirements.
Appendix 1: Key Legislation

*Ambulance Services Act 1986* – head of power to purchase, sell and lease real property

*Cemeteries and Crematoria Act 2003* – purchase or compulsory acquisition of land for cemeteries and crematoria purposes

*Crown Land (Reserves) Act 1978* – processes involving instituting or revoking permanent or temporary reservation of Crown land and leasing and licensing of Crown land; and for the appointment of committees of management to manage the land in accordance with the reserve purpose

*Environment Protection Act 1970* – issues relating to public health and safety arising from contamination, land, air, noise and water

*Financial Management Act 1994* – acquisition, leasing and licensing of land and premises

*Health Services Act 1988* – head of power to purchase, sell and lease real property

*Heritage Act 1995* – limits actions in order to protect heritage-listed assets

*Land Act 1958* – sale and leasing of Crown land

*Land Acquisition and Compensation Act 1986* – compulsory acquisition and related compensation

*Native Title Act 1993 (Cwlth)* – issues relating to claims over land in relation to native title rights in respect of Crown land; and procedural rights following determinations

*Planning and Environment Act 1987* – planning for the use, development and protection of land including regulations covering the ‘permitted clearing of native vegetation’

*Property Law Act 1958* – transactions relating to freehold land

*Project Development and Construction Management Act 1994* – to facilitate certain development projects

*Public Health and Wellbeing Act 2008* – establishes the Secretary body corporate (Secretary of the Department of Health and Human Services) with powers to transact real property

*Residential Tenancies Act 1997* – security bonds, notices, tenant right to sublet

*Retail Leases Act 2003* – minimum terms, notices, renewals, statement of outgoings, landlord obligations for certain maintenance

*Sale of Land Act 1962* – the primary Act governing sales of land within Victoria. The Act governs much of the conveyancing process and requires vendors to provide certain statements to prospective purchasers. The Act is administered by the Minister for Consumer Affairs

*Traditional Owners Settlement Act 2010 and Native Title Act 1993 (Cwlth)* – issues relating to claims over land in relation to Traditional Owner/native title rights in respect of Crown land, and procedural rights following determinations

*Transfer of Land Act 1958* – deals with registration of estates (the extent of the real property held by the registered proprietor) and interests (registration of easements, rights or way and a financial interest via a ‘mortgage’ or ‘charge’) in freehold land. The Act is administered by the Minister for Environment and Climate Change insofar as it relates to the management and administration of the Office of the Registrar-General and the Office of Titles. The Act is otherwise administered by the Attorney-General

*Valuation of Land Act 1960* – establishes Office of the Valuer-General Victoria; standards for valuation of land for the purpose of sale, acquisition or financial accounting
Appendix 2: Key service providers

Office of the Government Land Monitor – oversees land transactions to ensure compliance with government policy for property transactions and endorsement where the value of the relevant real estate assets exceeds $750,000

Office of Surveyor-General Victoria – investigates the land status and conducts a boundary check, feature or field survey of the land, including preparation of a title plan to enable the issue of a Crown grant title and lease plans

Office of Valuer-General Victoria – provides real estate valuation advice

Land Victoria – registers transfers of land titles

Department of Environment, Land, Water and Planning (DELWP) – manages provision of ministerial consents for tenures on Crown land, and provides an assessment of any public/community values and native title implications for Crown land. DELWP also undertakes the removal of temporary and permanent reservations (the latter by way of an Act of Parliament) attached to Crown land to enable sale. DELWP facilitates closure of unused government roads where necessary to enable the sale of Crown land

Department of Treasury and Finance (DTF) – lists surplus sites on the First right of refusal notification to allow for the first right of refusal process, responsible for administration and sale of all Crown land

Environmental consultants – investigate asbestos issues, air monitoring, assess land contamination impediments and devise remediation strategies

Town planning consultants – provide advice in relation to land rezoning issues, planning overlays and the built-form requirements (includes council planners and planners within the DELWP)

Architectural consultants – prepare concept plans for high-value land sites

Quantity surveying consultants – assess costs of redevelopment options

Real estate professionals – assess financial feasibilities to determine the marketability of surplus land, including advice regarding the removal of existing structures, acquiring and selling land, and tenancy issues

Probity auditor – scrutinises high-value, complex and/or potentially controversial property transactions

Heritage Victoria – provides advice in relation to land and associated assets that are listed on the Victorian Heritage Register

Cultural heritage consultants – investigates indigenous matters and other matters of cultural significance that may be relevant to the site

Flora and fauna consultants – investigate sites that may have issues associated with rare and endangered species

Engineering consultants – determine existing building and site conditions and costings associated with redevelopment of the site

Traffic management consultants – assist with complex traffic management issues including site ingress and egress

Property maintenance contractors including gardeners, plumbers, electricians, painters, cleaners, fencers, arborists, and so on – maintain or prepare property for disposal
Aerial photography contractors – to assist with marketing the property for sale

Utility service providers – including gas, electricity and water

Fire service / building surveyor – assesses the adequacy of existing fire services and work required to ensure the services are compliant with fire regulations

Security firms – patrol and secure sites
Appendix 3: Checklists and forms

Visit the Property Management website <http://www.capital.health.vic.gov.au/Property_Management/> for checklists, forms and links, including:

- Department of Health and Human Services property acquisition checklist
- Department of Health and Human Services divestment checklist
- Department of Health and Human Services first right of refusal request form