

Premier and Cabinet Circular 114
Government Real Property Management
October 2010

This Circular came into operation as of 11 October 2010 and does not apply retrospectively to properties for which a contract of sale has been entered into as of this date. For such properties the provisions of the July 2006 Circular will apply, including 'Availability and Application of Proceeds' clauses.

Summary

Describes Cabinet policy on the utilisation, purchase and disposal of government real property (including Crown lands).

(This circular replaces Circular 114 dated July 2006)

Contact:

Christine Bierbaum
Executive Director, Government Relations and Reform Office
Department for Transport, Energy and Infrastructure
Telephone: 8463 6239

Matthew Loader
A/Director, Strategic Policy
Department of Planning and Local Government
Telephone: 8204 8394

I, Kevin Owen Foley MP hereby direct, pursuant to s7(2) of the *Public Finance and Audit Act 1987(SA)* that all instrumentalities of the Crown comply with clause 78 of Circular 114 – “**Government Real Property Management**” dated 11 October 2010.

This direction applies to all instrumentalities of the Crown except those instrumentalities that I have approved referred to in section 3 of Schedule B of Circular 114 and those instrumentalities which I exempt from the operation of this direction from time to time.

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Introduction

1. Cabinet has adopted the following policies and processes for the:
 - a. purchase and disposal of real property by South Australian Government agencies (as defined in Schedule A); and
 - b. strategic assessment of real property held by South Australian Government agencies.

These policies and procedures replace those set out in Department of the Premier and Cabinet Circular 114, dated July 2006.

2. These guidelines are designed to assist agencies in:
 - a. Maintaining information on real property holdings (within the broader Strategic Asset Management Framework) to enable ready identification of underutilised or surplus property from an agency perspective.
 - b. Assessing, from an agency, whole-of-government and state strategic perspective, the merits of retaining or disposing of property identified as surplus to agency needs.
 - c. Purchasing and disposing of real property in accordance with government policy and treasury guidelines.

Overview

3. Government's objectives from its ongoing use of government real property are as follows:
 - a. Providing new infrastructure of clear benefit to the interests of the state's development and optimising use of existing infrastructure, as currently described in the *Strategic Infrastructure Plan for South Australia*.(SIPSA)
 - b. Meeting the core service obligations of the Government of South Australia to the South Australian community in the most efficient and sustainable manner.
 - c. Contributing to the desired future pattern of urban and regional development in South Australia, as described in the various volumes of the *South Australian Planning Strategy (the Planning Strategy)*.
4. Government agencies are required to regularly evaluate their ownership and/or occupation of real property. As a result they should identify property that does not meet these objectives (as per the principles set out in Clauses 10-12) with respect to their core business.

Accordingly, surplus and underutilised property should be made available to:

- a. Enable other agencies or local government to meet their objectives as described in Clause 3 above through transfer of ownership or occupation rights to those agencies.
- b. Generate funds to the State Government for providing improved or new assets of clear benefit to the state, as currently described in *SIPSA, South Australia's Strategic Plan and the Planning Strategy*.

5. Within the government's real property portfolio there will be surplus or under-utilised properties that have strategic significance to government and the state.

This circular provides the following three mechanisms to ensure that any sites of strategic significance are efficiently identified and assessed to ensure maximum community benefit from government tenure and use of its property holdings.

- i) Initial Test for Strategic Significance (agencies to undertake for all surplus real property).
 - ii) Site Strategic Land Use Assessments (Department of Planning and Local Government (DPLG) to undertake, in consultation with other agencies and the relevant local council, for surplus real property meeting criteria set out in Clause 30).
 - iii) Geographical Area Land Use Assessments (DPLG to manage, in consultation with other relevant agencies, targeted reviews of government real property in selected geographic areas).
6. Where land parcels surplus to government needs have no strategic benefit to government as a whole they should be disposed of efficiently with the view to maximising financial return for reinvestment to meet service delivery and policy objectives.

This circular prescribes the process through which this disposal can occur efficiently while maintaining the opportunity for other government agencies and local government to register an interest prior to any sale on the open market.

7. These policies and procedures apply in conjunction with relevant Cabinet procedures, Treasurer's Instructions and other Department of the Premier and Cabinet Circulars. Particular attention is drawn to Treasurer's Instruction 8, which requires Cabinet approval for land purchases that exceed \$4.4 million including GST.
8. Definitions of terms used in this Circular are provided in Schedule A.

Scope of Application

9. These policies and procedures apply to all government agencies, except where:
 - Cabinet specifically authorises an exemption to an agency or a specific real property transaction; or
 - A specific statutory provision exists (in which case the statutory provision prevails).

Agencies with full or partial exemption from the operation of this circular and/or exemption from the operation of the Treasurer's Direction are listed in Schedule B.

Principles of Ownership of Real Property

10. The following principles are intended to provide specific decision triggers when agencies are evaluating the continued ownership of property (i.e. determining whether a property is surplus to agency requirements or if additional land may need to be purchased).
 - a. Only hold property where it contributes directly to an agency's existing core business or identified future core business:
 - i. Core business is defined as activities that contribute to the achievement of the outcomes an agency is tasked to deliver on behalf of government.
 - ii. Future core business is defined as activities foreseen in the agency's business plan, intended to deliver on government plans or policies.
 - b. Otherwise, ongoing ownership of property should be dependent on substantially satisfying either or both of the following tests:
 - i. Where a property is primarily held for commercial purposes, property financial performance should meet or exceed industry measures such as the long-term yield on property investment (expected rate of return from the cash flow generated from the property over a specified time), compared with the benchmark rate.

The benchmark rate used should be developed (and subject to annual review) in consultation with DTF, and be based on:

 - cost of funds (South Australian Treasury long term borrowing rate)
 - plus a premium to allow for risk.
 - ii. Public interest considerations for retention can be demonstrated e.g.
 - where a property has significance to the state, such as heritage status or strategic significance for future infrastructure or urban development, or
 - where market failure is likely, or
 - where market conditions would not support realisation of the optimal return from sale.
11. Where property is not fully utilised but retention of the property is essential to core functions or to facilitate future expansion of the activities, spare capacity should be considered for sharing with other government agencies or leasing.
12. Unless principles (a) and (b) of clause 10 can be substantially met, then property should be considered for disposal, including instances such as the following:
 - a. Where vacant land is held by an agency, unless specific strategic reasons for retention outweigh the long-term cost of holding vacant land;
 - b. Where an improved property has land that is not fully utilised or required now or in the future, excision and disposal of that portion of the surplus property should be considered;

- c. Where conflict exists between property use and the current or intended zoning, as determined from planning documents prepared or endorsed by DPLG and/or the Minister for Urban Development and Planning (e.g. *the Planning Strategy, Housing and Employment Land Supply Program, Development Plans*);
- d. Where property is leased to the private sector, unless it can be clearly demonstrated that ongoing government ownership is required to provide services or cash flow to government to facilitate economic growth or such other valid business purpose that the relevant agency is charged with delivering;
- e. Where the net market property value (existing or future) is higher for an alternate use and the occupant can be relocated to other government owned property of a lower market value and relocation has the potential to yield net proceeds to government on the basis of a robust financial assessment.

Real Property Information to be Held by Agencies

Roles and Responsibilities

13. To ensure government real property holdings meet the objectives set out in Clause 3, agencies are required to:
 - a) maintain data on their property holdings.
 - b) prepare and annually review an Agency Land and Built Asset Strategy which describes how the agency plans to align its property holdings with agency service delivery needs and the strategic directions of government.
 - c) maintain and make available to DPLG and Land Management Corporation (LMC) on request information on the utilisation of their property assets.

These requirements are consistent with government policies set out in:

- a) Strategic Asset Management Framework
- b) Strategic Infrastructure Plan for SA
- c) Treasurer's Instruction 2 Financial Management
- d) Treasurer's Instruction 28 Financial Management Compliance Program
- e) Treasurer's Instruction 17 Guidelines for the Evaluation of Public Sector Initiatives
- f) Premier and Cabinet Circular 013 Annual Reporting Requirements.

Minimum Property Dataset

14. Agencies are required to establish and maintain a regularly updated Minimum Property Dataset for all of their physical property assets, with the exception of Crown land held under the *Crown Land Management Act 2009* by the Department of Environment and Natural Resources (DENR) or dedicated to the care, control and management of local government. Land managed under the *National Parks and Wildlife Act 1972* and the *Wilderness Protection Act 1992* is also exempt from the minimum property dataset requirement.

Note that Crown land under the care, control and management of state government agencies, other than DENR and those agencies exempted under Schedule B, is not exempt from this requirement.

There are additional requirements under the *Adelaide Park Lands Act 2005* for government land within the Adelaide Park Lands. This land may be Crown land or freehold land.

15. Where not immediately available, agencies should develop and implement a program to accumulate the required data according to the following priorities:
 - a. Sites in areas declared for Geographical Area Land Use Assessments and of a value greater than the 'threshold of value' (as defined at Schedule A).
 - b. Other sites in the metropolitan area and regional centres of a value greater than the 'threshold of value',
 - c. Other sites in non-metropolitan South Australia of a value greater than the 'threshold of value',
 - d. Remaining property.

16. Agencies are required to update this data regularly with no data being more than 5 years old. Change in ownership or utilisation status should be recorded as soon as possible after transactions occur.
17. The Minimum Property Dataset for each applicable facility or network element shall comprise:
- Facility/network element identification
 - Infrastructure description
 - Land title/s identification (access through Department for Transport, Energy and Infrastructure (DTEI) Land Services Group)
 - Site area (square metres) and dimensions (access through DTEI Land Services Group)
 - Aerial photography (access through DPLG)
 - Ownership (consistent with DTEI Land Services Group records)
 - Basic infrastructure inventory- gross floor area of building, age of all major improvements
 - Valuation of site (fair value) and improvements (fair value and modern equivalent replacement cost)
 - Current use(s) of site and alignment with service delivery need (e.g. 'Business Context Statement' in SAMIS)
 - Basic performance:
 - Property (site & building) utilisation data classified in accordance with Table 1
 - Suitability of location for current function
 - Overall suitability of infrastructure for current function
 - Overall condition of infrastructure
 - Overall compliance with relevant legislative / regulatory requirements and safety standards
 - Useful life and forecast renewal date for existing infrastructure.

Table 1: Property Utilisation Status

RATING	DEFINITION
5	Fully occupied (no portion available for other agency or compatible uses)
4	Partly occupied (full utilisation included in agency future planning)
3	Available for shared occupation (significant portion available for compatible use)
2	Vacant with agency utilisation planned (utilisation included in agency future planning)
1	Vacant with no agency utilisation planned (no longer required for agency business)
S	Declared Surplus

18. The DTEI Building Management Division operated Strategic Asset Management Information System (SAMIS) shall be the preferred repository for this information for agencies with significant non-residential built asset portfolios. Other repositories for the data may be considered provided they provide equivalent functionality to meet the requirements of the minimum dataset and can be accessed electronically.

Agency Land and Built Asset Strategy

19. Agencies are to prepare and annually review an Agency Land and Built Asset Strategy which describes how the agency plans to align its real property asset base with its service delivery needs.

The Strategy should demonstrate alignment with *South Australia's Strategic Plan*, the *Planning Strategy* and *SIPSA*.

20. The Agency Land and Built Asset Strategy should describe how the agency aims to achieve the following requirements:

- ensure the asset portfolio is appropriate to the needs of the agency;
- optimise use of an agency's existing asset portfolio;
- ensure asset maintenance is appropriately managed to enable assets to reach their estimated useful lives;
- ensure assets are managed on a whole-of-life cycle basis;
- manage the risks of asset ownership and operation to ensure continuity of service;

21. The Agency Land and Built Asset Strategy will incorporate an:

- Agency Land and Built Asset Capital Investment Plan
- Agency Land and Built Asset Maintenance Plan
- Agency Land and Built Asset Utilisation Plan.

22. Based on their Agency Land and Built Asset Strategy, agencies shall make available to DPLG on request the information on the utilisation of their property assets to inform policy and planning, including:

- Land and buildings that are, or will become, surplus, vacant or available for shared occupation (as per ratings S,1 or 3 in Table 1) in the next 12 months.

All information provided by agencies to DPLG on agency current and projected utilisation of property assets will be treated as confidential and for internal government use only.

Identification of Surplus and Under-utilised Property

23. Individual agencies are responsible for reviewing their property holdings as part of the annual budget cycle, in the light of their legislative responsibilities and approved programs.

This review should be based on the Principles of Ownership of Real Property described in Clauses 10-12 and be demonstrated through the maintenance of the Minimum Property Dataset and the annual review of the Agency Land and Built Asset Strategy.

24. Agencies considering properties under their occupation or custodianship for disposal are required to confirm ownership details. If clear attribution of ownership to the agency and the Minister responsible cannot be determined, advice and guidance should be sought from relevant agencies, including DTEI Land Services Group and the Crown Solicitor, prior to proceeding with the disposal process.

Identification of Property for Purchase or Shared Utilisation

25. Use of surplus or underutilised property shall be considered in the development of any project requiring additional asset capacity.
26. Agencies shall assess the need to purchase, or obtain shared access to, property to meet the asset procurement needs identified in their Agency Land and Built Asset Strategy.
27. Agencies shall separately define the essential and desirable characteristics of properties required. These characteristics shall be assessed in terms of the risk to the desired service delivery improvement expected from the new property, and any infrastructure to be located on it, if these characteristics are not met.

Strategic Land Use Assessments (Initial Test, SSLUA and GALUA)

28. DPLG is responsible for managing all types of strategic land use assessments described in this circular. Strategic land use assessment processes aim to identify the best use, from a whole-of-government perspective in accordance with the Principles of Ownership of Real Property (clauses 10 – 12), of properties declared surplus to an agency's requirements.

Strategic assessments seek to optimise benefit to government and the community, and will determine if a property should be disposed of (either as is or subject to preparatory works), transferred to another agency to meet business needs, or retained for longer term use or development to meet government objectives.

Initial Test for Strategic Significance

29. Agencies are required to apply an 'initial test for strategic significance' (Initial Test) to all real property identified as surplus to agency requirements or underutilised.

Agencies are required to submit a report (in accordance with the DPLG Strategic Assessment Template at Schedule E) on the findings of the Initial Test to DPLG for review and advice on whether a Site Strategic Land Use Assessment (SSLUA) will be required.

30. The Initial Test requires agencies to determine if the following factors apply to the surplus or underutilised real property:
- a. the market value of the real property including improvements is in excess of the 'threshold of value' (for the purposes of the initial test, fair value may be used as an indication of market value subject to the agency obtaining confirmation of validity from the Valuer-General), or
 - b. the land adjoins or has potential to be amalgamated with other land in government ownership, whether Australian, other state agency or local.
 - c. there is a declared project in the approved Capital Investment Program or the SIPSA for which this property may be suited
 - d. other factors exist, including implementation of the *Planning Strategy or demand for infrastructure and services*, which may give the property strategic significance in relation to the implementation of state or local government policy or the efficient conduct of state or local government business.
31. DPLG will review the agency's report on the Initial Test and determine a property to require a SSLUA if the following factors apply:
- a. If none or insufficient of the above factors exist, the property shall be deemed not to have strategic significance and DPLG will advise the owning agency to proceed with the disposal process.
 - b. If sufficient of the above factors exist to indicate likely opportunities for government to benefit from actions other than selling the property on the open market, DPLG will initiate a SSLUA of the property.
32. DPLG will advise the owning agency as to whether an SSLUA is or is not required within 7 working days of DPLG receiving a request from an agency which is accompanied by a correctly completed Strategic Assessment Template (Schedule E) for the property.

Site Strategic Land Use Assessment (SSLUA)

33. A SSLUA is a process where a specific government property is assessed against the Principles of Ownership of Real Property (clauses 10 – 12) from a whole-of-government perspective.
34. Within 30 working days of initiating the SSLUA, DPLG will advise the owning agency of the findings of the SSLUA and recommended action/s to be taken by the agency.
35. An SSLUA shall consider:
 - a. the state's strategic directions (currently described in *South Australia's Strategic Plan*)
 - b. the state's infrastructure development strategy (currently described in the *Strategic Infrastructure Plan for South Australia*)
 - c. the relevant volume of the *Planning Strategy*, as amended from time to time, and related studies (i.e. Structure Plans, *Housing and Employment Land Supply Program*)
 - d. other relevant portfolio plans or state plans
 - e. the relevant Development Plan
 - f. specific legislative issues in relation to the land
 - g. the policies and plans of the relevant local government authority
 - h. endorsed South Australian Government policies and budget priorities
 - i. the market value of the real property including improvements
 - j. the opportunity cost of land disposal
 - k. any development proposals which may change or influence the pattern of development in the locality.
36. Where property has significantly capitalised buildings, DPLG will seek the advice of DTEI Building Management Division on:
 - a. risk management issues and life cycle costing (especially where significant capital funds are required to refurbish/redevelop the facility)
 - b. suitability of accommodation
 - c. financial costs and benefits of ownership versus leasing options.
37. In appropriate circumstances DPLG will seek advice from the responsible agencies on the:
 - a. identified need for affordable housing and associated community infrastructure in the area.
 - b. identified need for industrial land in the area.
 - c. appropriateness and suitability of the site to meet either of those needs under its current zoning or through changed planning incentives or controls.
 - d. use of land within the Adelaide Park Lands.
38. DPLG will consult with the owner agency, DTEI, LMC, DENR in the case of Crown land, and all other relevant government agencies (including the relevant local council or the Outback Communities Authority) to undertake the strategic land use assessment of the property.

39. DPLG will circulate their initial assessment of the property to government agencies and the relevant local council and invite comments and registrations of interest in purchasing the property. The Outback Communities Authority will also be invited to make comments on properties located in outback areas, as defined under the *Outback Communities Act 2009*.

If a response is not received within 7 working days, DPLG will consider that the agency, Council or Outback Communities Authority does not wish to comment and/or register an interest in the property and proceed with finalising the SSLUA. No extensions of time will be granted.

Agencies and councils should advise DPLG if they are considering further whether to register an interest in the property with LMC (or DENR in the case of Crown land) prior to disposal, as provided for under Clauses 64 - 67.

Actions arising from a SSLUA

40. If the SSLUA determines the property to be not of strategic significance, DPLG will advise the owning agency:

- to proceed with the disposal process
- of any rezoning required prior to disposal to reflect strategic directions for future land use
- of any works (e.g. remediation, demolition) identified during the assessment that may be necessary to prepare the property for sale
- of any registration of interest received from local government.

41. If the SSLUA determines the property to be of strategic significance, DPLG will advise the owning agency why the property has been deemed to be of strategic significance and, where relevant, of interest in the property by other agencies.

A property determined to be of strategic significance cannot be disposed of without Cabinet approval.

42. Where a property is deemed to be of strategic significance and:

- a. another agency has registered interest in acquiring the property:

- The property should be transferred at current market value to the agency with the primary interest in retaining the property in government ownership.
- If such a transfer cannot be achieved within a reasonable time, or the owning agency and the agency registering interest in the property are unable to reach an agreement, the owning agency will submit the matter to Cabinet to determine the best whole of government outcome. Cabinet may direct the owning agency to retain the property for an agreed period with the decision to be reviewed at least after five years.
- Where more than one agency registers interest in the property and the owning agency and bidding agencies are unable to reach a resolution within a reasonable time, the owning agency will submit the matter to Cabinet to determine the best whole of government outcome.

- b. another agency has not registered interest in acquiring the property:
- DPLG will prepare advice to the Government Planning and Coordination Committee (GPCC) to recommend which agency should hold the property and an agreed timeframe for reviewing the decision (at least after five years).
 - If such a transfer cannot be achieved within a reasonable time, or the owning agency and the agency recommended by GPCC are unable to reach an agreement, the owning agency will submit the matter to Cabinet to determine the best whole of government outcome. Cabinet may direct the owning agency to retain the property for an agreed period with the decision to be reviewed at least after five years.
43. Actions recommended from the SSLUA should be included in relevant Agency Land and Built Asset Strategies.

Geographical Area Land Use Assessment (GALUA)

44. A GALUA is a process where all government properties in a geographic area are assessed against the Principles of Ownership of Real Property (clauses 10 – 12) from a whole-of-government perspective and strategic directions for land use, urban form and infrastructure in the location (as described in the relevant volume of the *Planning Strategy* and *SIPSA*).

A GALUA will seek to identify:

- opportunities for optimising use of government real property
- surplus properties available for disposal
- opportunities to strengthen the contribution of government property holdings to the strategic directions for urban form and/or optimise use of existing and planned infrastructure.

A GALUA shall consider the matters listed in Clause 37.

45. DPLG may initiate a GALUA in locations where information available indicates the likelihood that significant government land and built assets may be under-utilised and potentially disposed of or used for other government purposes.

Specific triggers/strategic drivers for a GALUA include:

- A major infrastructure project (based on advice from DTEI).
 - Revising or implementing the *Planning Strategy* and associated structure plans.
 - A government initiative that will result in substantial change in utilisation of government real property (e.g. major land disposal or purchase).
 - A DPLG review of agency property utilisation status data.
46. DPLG will lead the GALUA process with input from land holder agencies, LMC, DENR in the case of Crown land, all other relevant government agencies (including public non-financial corporations) and the relevant local council/s or the Outback Communities Authority in the defined area. All state agencies holding land in the geographic area to be assessed are required to contribute resources to the GALUA.

47. In undertaking a GALUA, DPLG will:

- Prepare an initiation project brief for the GPCC outlining project drivers, how the analysis will be completed and the required resource contributions from State Government land holders.
- The GALUA will be completed within 6 months of initiation, or in a timeframe consistent with other strategic land use and planning initiatives intended to implement the *Planning Strategy*.
- Use preliminary Geographical Information System (GIS) analysis and other analysis to identify target locations within the geographical area for further investigation; identify land owned by all three spheres of government within the target location; and assess redevelopment potential of government and private land in the target location to meet government objectives.
- Facilitate meetings/workshops with relevant agencies and, where appropriate, local councils to determine strategic directions for agency/council land holdings and identify/assess implementation options.
- Prepare a draft report on the assessment and recommendations and circulate to relevant agencies/council for comment.
- Prepare a final report for the GPCC consideration.

These assessments may require the establishment or updating of the minimum data set for government properties (including Crown land otherwise exempt from the minimum data set provisions of this circular) within the target locations, at the cost of the owning agencies.

48. The final GALUA report will detail:

- Strategic drivers for undertaking a GALUA (land use planning, infrastructure, policy initiative)
- Strategic properties in target locations and the analysis/rationale justifying targeting of the location
- Findings of agency/council consultation, including agency/council future intentions for land holdings in target/strategic locations.
- Opportunities for redevelopment or changed use of properties to realise government objectives.
- Recommended actions to deliver identified potential redevelopment or changed use, including lead agency, timeframes, resources, cost/benefit analysis.
- SSLUA of land identified as surplus to whole-of-government requirements.

Actions arising from a GALUA

49. DPLG will, within 6 months of initiation, or in a timeframe consistent with other strategic land use and planning initiatives intended to implement the *Planning Strategy*, provide the final report to the GPCC to:

- determine cross-government actions and/or advice to Cabinet
- note land identified for disposal or further investigation by individual agencies.

50. In accordance with GPCC decisions:
- DPLG will prepare a Cabinet Submission outlining proposed cross-government actions for the Minister for Urban Development and Planning and other Ministers with affected land holdings.
 - Individual agencies will proceed with disposal of land identified as surplus and initiate projects identified to realise opportunities to optimise use of government real property.
51. All information provided by agencies and councils to DPLG for the purpose of a GALUA will be treated as confidential to government for the purpose of informing future government policy and protecting commercial decisions.

Responsibilities for Purchase and Disposal of Real Property

Purchase and Disposal Agencies

52. The Land Management Corporation (LMC) is responsible for the purchase and/or disposal of real property on behalf of all government agencies other than exempt agencies listed in Schedule B. In the case of non-metropolitan property LMC may enlist the assistance of the Department for Environment and Heritage (DENR) where appropriate.
53. DENR retains delegated authority to deal with Crown land in all areas of the State. DENR is responsible for transfers of Crown land between agencies. LMC may, acting as agent for DENR, manage the process for disposing of Crown land in the metropolitan area on the open market.
54. LMC is responsible for all negotiations with private parties or local government expressing an interest in acquiring government real property, except in the case of:
 - exempt agencies listed in Schedule B 1.2, 2.2 and 2.5, where the exempt agencies are responsible for such negotiations
 - Crown land, where DENR is responsible for such negotiations.

Agencies (other than exempt agencies) must not enter into discussions with private parties or local government regarding potential property transactions and must refer all inquiries to LMC.

55. All costs and transactions attributable to the purchase or disposal of a particular property shall be clearly identified and accurately recorded in an auditable form by the relinquishing agency and/or purchasing agency.

Compulsory acquisitions

56. Compulsory acquisitions are the responsibility of individual agencies where authorised by the provision of enabling legislation.

Advisory services

57. An advisory service on the purchase and/or disposal of Crown land is provided by DENR on a fee for service basis.
58. An advisory service on the purchase and/or disposal of real property in the metropolitan area is provided by LMC on a fee for service basis.

An advisory service on the purchase and/or disposal of non-Crown land in the non-metropolitan area is provided by LMC, with the assistance of the DENR, on a fee for service basis.

Procedure for the Disposal of Surplus Property

Strategy for Disposal

59. LMC will coordinate the development of a strategy for the disposal of the surplus property.

The disposal strategy will take account of:

- a. recommendations of any strategic land use assessment of the subject property;
 - b. expressions of interest in the property by other government agencies or local government;
 - c. existing information on the condition of the property and its suitability for proposed uses.
60. To reduce holding costs for relinquishing agencies, enable capture of the maximum financial return to government and inform advice to Ministers, LMC may be engaged on preparatory work for a disposal strategy prior to a property being declared surplus.

Notification of Surplus Property

61. Agencies shall seek Ministerial approval to declare property as surplus to requirements for all real property with an estimated market value below \$4.4 million including GST. Above this threshold the matter must be referred to Cabinet. A request for approval to dispose of surplus property is to be accompanied by a copy of the advice from DPLG on the strategic assessment of the property.
62. All agencies, including exempt agencies, are to notify LMC of all land declared surplus to agency requirements.
63. Procedures to dispose of property will not commence unless Ministerial or Cabinet approval to declare the property surplus has been given.

Agency expressions of interest

64. LMC will circulate information on surplus properties to all government agencies and the relevant local council.

Agencies or the local council may express an interest in purchasing the surplus property for their own purposes, or advise of existing services on the land which are not protected by a registered easement.

65. Agencies will be given 30 working days to express interest in the surplus property, unless some other time frame is agreed between LMC and the relinquishing agency.

In the event that no expression of interest is received within 30 working days or such other period as may have been agreed, LMC and the relinquishing agency may proceed as though there is no interest on the part of other agencies.

66. Agencies expressing interest in a surplus property must indicate that funds will be in place within 30 working days unless the parties agree otherwise.

67. In the event that more than one expression of interest is received:
- expressions by agencies shall be considered ahead of an expression by the relevant local council
 - unless multiple agency expressions can be resolved by discussion between the bidding and relinquishing agencies, the relinquishing agency will submit the matter to Cabinet, to determine the best whole of government outcome.
68. In the process of disposing of surplus government land, local councils may be given the opportunity to purchase land for public or community uses at market value. Transfers of land to local government for public or community uses must be at market value, unless Cabinet directs otherwise

For reasons of competitive neutrality, local councils may not be offered surplus government land on favourable terms for uses which would compete with private sector activity, such as residential, industrial or commercial purposes. In such cases the local council must bid for the land in an open process with the private sector.

Land Investigations

69. Following the period provided for agency and council comment and/or expression of interest, LMC will arrange for any necessary investigations to determine the condition of the land, its suitability for proposed uses or any other matters relevant to finalising the disposal strategy for the property.

Disposal

70. Upon finalisation of the disposal strategy, the LMC will arrange for the property to be transferred, assigned or sold in accordance with that strategy and any applicable legislative provisions, Cabinet decisions or Ministerial approvals applying to the subject property. LMC will ensure that the Registrar General receives notification of the transfer.
71. LMC will also arrange for any pre-disposal matters to be completed, such as zoning, demolition or remediation works.

Basis for price

72. The basis for price in all government real property disposal transactions will be the current market value of the property, as defined by the Australian Property Institute.

That is, the estimated amount for which the property should be exchanged on the date of valuation between a willing buyer and a willing seller in an arms length transaction wherein the parties have each acted knowledgeably, prudently and without compulsion. (Source: International Valuation Standard 1 - Market Value Basis of Valuation).

Valuers may use other appropriate processes to value a property where market value is difficult to determine, as approved by the Australian Property Institute (Refer to International Valuation Standard 2 - Valuation Bases Other than Market Value).

73. Valuations of the facilities and land should be undertaken by the Valuer-General or, with the prior approval of the Valuer-General, another qualified valuer who is a member of the Australian Property Institute.

The Valuer-General may give prior general approval to individual agencies to use other qualified valuers, on such conditions as the Valuer-General thinks fit and subject to regular review by the Valuer-General. Where a valuer other than the Valuer-General is used, the Valuer-General will retain a right to audit valuations.

74. Valuations obtained prior to a full investigation into the condition of the land are to be considered conditional until all necessary investigations and pre-sale preparatory works have been completed.
75. Transfers between agencies need to be approved by the relevant Minister in line with government policy concerning prudential management and transparency of subsidies. The purchasing agency will also need to comply with Treasurer's Instruction 8.
76. Disposal of property at prices, including rental rates for applicable land, substantially at variance with the valuation need to be approved by the relevant Minister. In the case of property transactions between government agencies (including between state government agencies and local government), the value of the property will be the current market value, unless Cabinet directs otherwise.
77. In addition to the requirements listed above for setting the value for surplus property, where the highest and best use of the property being valued is residential, the valuation shall take into account the need for any new development to conform with the *Planning Strategy*, in particular the requirement for 15 per cent of housing in all new significant developments to be affordable, including 5 per cent for those with high needs.

Availability and Application of Proceeds

Proceeds

78. All proceeds from real property sales, defined as sale price less costs (clause 83), will be paid to the Treasurer for application to the Consolidated Account, except where legislative provisions, or a relevant direction from the Treasurer under the *Public Finance and Audit Act*, require otherwise.
79. Unless otherwise determined by Cabinet or a specific statutory provision exists (as per clause 9), an agency selling property surplus to Government requirements is eligible to receive additional investing expenditure authority if and only if:
 - a. the property did not become surplus as a consequence of a new initiative funded by the government. In that instance the proceeds should be used to offset the cost of the initiative itself; and
 - b. the sale is not budgeted for in current forward estimates; or
 - c. the land sold is not Crown land.
80. In addition to the provisions of clause 79, an intra-government sale must be funded by the receiving agency's investing program for the agency selling the surplus property to be eligible to receive additional investing expenditure authority.
81. For eligible properties valued at less than \$4.4 million relinquishing agencies will be given an increase in their investing expenditure authority for a Cabinet approved project or program equal to 50 per cent of the proceeds, or any other share decided by Cabinet.
82. For properties valued at \$4.4 million or more, the relinquishing agency would need to seek Cabinet approval to receive any increase in their investing expenditure authority. Cabinet Submissions would need to include details of the specific investing project or program to which it wishes to apply the proceeds.

Proceeds – Timing

83. Proceeds from the sale of properties will be transferred to the Consolidated Account as soon as possible after the sale or transfer has been completed. Any increase in investing expenditure authority will be available for a period of up to 12 months after the proceeds have been applied to the Consolidated Account, or as otherwise determined by Cabinet.

Costs

84. Costs associated with the disposal of surplus government property will be paid by the relinquishing agency as they are incurred. Costs are defined as:
 - a. management fees charged by LMC and/or DENR;
 - b. costs associated with the preparation of the land for sale, such as costs incurred by DENR in providing clear title for disposal of Crown land, investigations into the condition of the land, demolition of buildings or remediation work. (This shall include costs to DTEI Building Management Division for physical and financial evaluation of buildings).

Setting of Fees

85. Fees are to reflect the costs associated with the provision of the service, and will be determined by negotiation between the relinquishing agency and the LMC and DENR. Agreements setting out levels of service, including timing, will be negotiated where appropriate.

Annual Reporting

86. LMC will provide an annual report to the Major Proposals Review Committee of Cabinet on property transactions it has managed on behalf of other agencies, the services it has provided and the fees charged for these services as well as an annual evaluation by user agencies of these services.

Schedule A Definitions

Adelaide Park Lands

'Adelaide Park Lands' is defined by a plan deposited in the General Registry Office by the Minister for Environment and Conservation pursuant to the *Adelaide Park Lands Act 2005*.

Note that the Adelaide Park Lands are more than the parklands currently managed by Adelaide City Council as they may include any other land vested in or under the care, control and management of the Crown or State authority, as defined by the *Adelaide Park Lands Act 2005*.

By virtue of that Act, the Adelaide Park Lands definition must, as far as is reasonably appropriate, correspond to the general intentions of Colonel William Light in establishing the first Plan of Adelaide in 1837.

Crown Land

'Crown land' means:

- Unalienated Crown land; or
- Dedicated land (in accordance with section 18 of the *Crown Land Management Act 2009*); or
- Crown leasehold land (land subject to a lease granted under the *Crown Land Management Act 2009*).

Agencies seeking to purchase or dispose of Crown land will need to obtain prior approval through the Department of Environment and Natural Resources (DENR). Such approval is conditional on the payment of fees to provide clear title for disposal.

Disposal

'Disposal' encompasses both the sale of real property and the granting of a lease exceeding 6 years, with the exception of leases granted in accordance with a statutory power.

Fair Value

'Fair value' is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's-length transaction.

Government Agencies

For the purposes of this circular, 'government agencies' shall be defined as all administrative units under the *Public Sector Act 2009 (SA)*, all instrumentalities of the Crown, Ministers including Ministers as corporations sole, and statutory office holders.

Exempt agencies are listed in Schedule B of this circular. Exempt agencies with property in an area designated for a Geographical Area Land Use Assessment, are expected to collaborate in such an assessment.

Metropolitan Area

The term 'metropolitan area' means that area as defined in the relevant volume of the *Planning Strategy*, as amended from time to time.

Real Property

'Real property' is defined to include Crown land, a freehold interest in land or a leasehold interest exceeding six years, whether or not that land includes fixtures such as buildings or other structures.

Regional Centres

'Regional centres' are non-metropolitan population centres, as identified in the relevant volumes of the *Planning Strategy* as amended from time to time, from which a significant range of state government services (e.g. health, education and regulatory services) are provided directly by state government staff.

Threshold of Value

The 'threshold of value' is the market value of the real property, including improvements, of:

- \$500 000 in the metropolitan area
- \$100 000 outside the metropolitan area.

The Valuer-General may vary the threshold of value from time to time to reflect market conditions.

Schedule B Exemption Status of Agencies

1. Agencies which are Exempt from the Operation of the Circular

1.1 Agencies (or parts of agencies) are exempt where Cabinet has approved the commencement of a sale process of an operating entity (agency or part of an agency).

1.2 Those public non-financial corporations and financial corporations listed below are exempt from the application of the Circular other than notifying the LMC of land declared surplus (clause 62) or unless specific roles are ascribed to them in this Circular (e.g. LMC):

- Adelaide Cemeteries Authority
- Adelaide Convention Centre Corporation
- Adelaide Entertainments Corporation (trading as Adelaide Entertainment Centre)
- Adelaide Festival Centre Trust
- Australian Children's Performing Arts Company (trading as Windmill Performing Arts)
- Distribution Lessor Corporation
- Generation Lessor Corporation
- HomeStart Finance
- Land Management Corporation
- Lotteries Commission of South Australia
- Motor Accident Commission
- Public Trustee
- RESI Corporation
- South Australian Asset Management Corporation
- South Australian Government Financing Authority (trading as SAFA)
- South Australian Government Employee Residential Properties
- South Australian Housing Trust
- South Australian Motor Sport Board
- Superannuation Funds Management Corporation of South Australia (trading as Funds SA)
- Transmission Lessor Corporation
- West Beach Trust (trading as Adelaide Shores)
- WorkCover Corporation of South Australia.

This list may vary from time to time.

1.3 Note that Agencies defined in 1.1 and 1.2 above, with property in an area designated for a Geographical Area Land Use Assessment, are expected to collaborate in such an assessment (clauses 44 - 51).

2. Agencies which are Partially Exempt from the Operation of the Circular

The following partial exemptions also apply:

2.1 Information requirements

The following agencies are exempt from the requirement to produce a minimum property data set –

Department for Environment and Heritage in relation to:

- Crown land held under the *Crown Land Management Act 2009* by the Department for Environment and Heritage or dedicated to the care, control and management of local government;
- Crown land held in the name of the Minister for Environment and Conservation;
- Land managed under the *National Parks and Wildlife Act 1972* and the *Wilderness Protection Act 1992*.

2.2 Use of Land Management Corporation as the Purchase and Disposal Agent

The following agencies are exempt from the requirement to use the Land Management Corporation as the purchase and disposal agency –

- Department for Environment and Heritage in relation to Crown lands and the purchase of land to be vested under the *Crown Land Management Act 2009* and/or the *National Parks and Wildlife Act 1972*
- Department for Transport Energy and Infrastructure
- Defence SA.

In these instances the above agencies shall assume the purchase and disposal role of LMC as described in the circular and may, by arrangement, engage LMC as their agent in aspects of the execution of that role.

In the case of overseas property holdings, all agencies are exempt from the requirement to use the Land Management Corporation as the purchase and disposal agency, and the requirement for a valuation to be provided by either the Australian Property Institute or the Valuer-General.

2.3 Distribution of Proceeds

Agencies that currently have rights to retain the proceeds of sales, other than those described in Clauses 78 to 82 for stipulated purposes, by way of legislation and/or their charter of establishment, retain these rights.

2.4 Land Use Assessment and Circulation of Information on Surplus Land Holdings

The following agencies are exempt from the operation of the Circular except for clauses 29-51, 61-63, 64-68.

- South Australian Forestry Corporation (trading as Forestry SA)
- South Australian Water Corporation (trading as SA Water)
- TransAdelaide.

2.5 Defence SA

Defence SA is exempt from the requirements of clauses 23 – 43 regarding identification of property and site strategic land use assessment and clauses 52 – 77 regarding procedure for disposal of surplus property in relation to land administered by Defence SA within:

- Technology Park Adelaide
- Port Adelaide Industrial Precinct and
- The scope of the Northern Lefevre Peninsula Masterplan.

3. Agencies which are Exempt from the Operation of the Treasurer's Direction

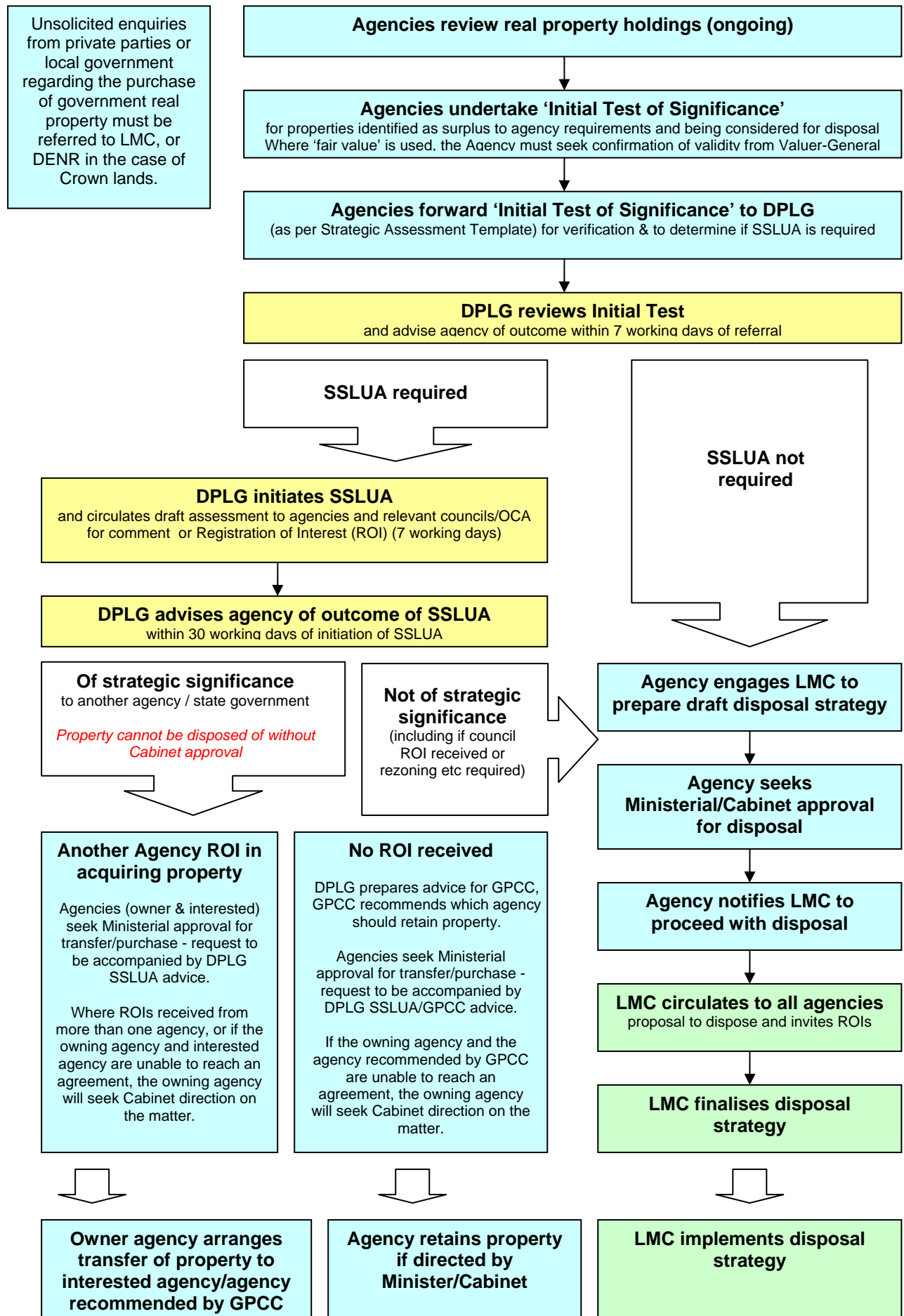
3.1 Agencies (or parts of agencies) are exempt where Cabinet has approved the commencement of a sale process of an operating entity (agency or part of an agency).

3.2. The following agencies are exempt from the operation of the Treasurer's Direction made pursuant to s 7(2) of the *Public Finance and Audit Act 1987 (SA)* attached as a cover note to this Circular.

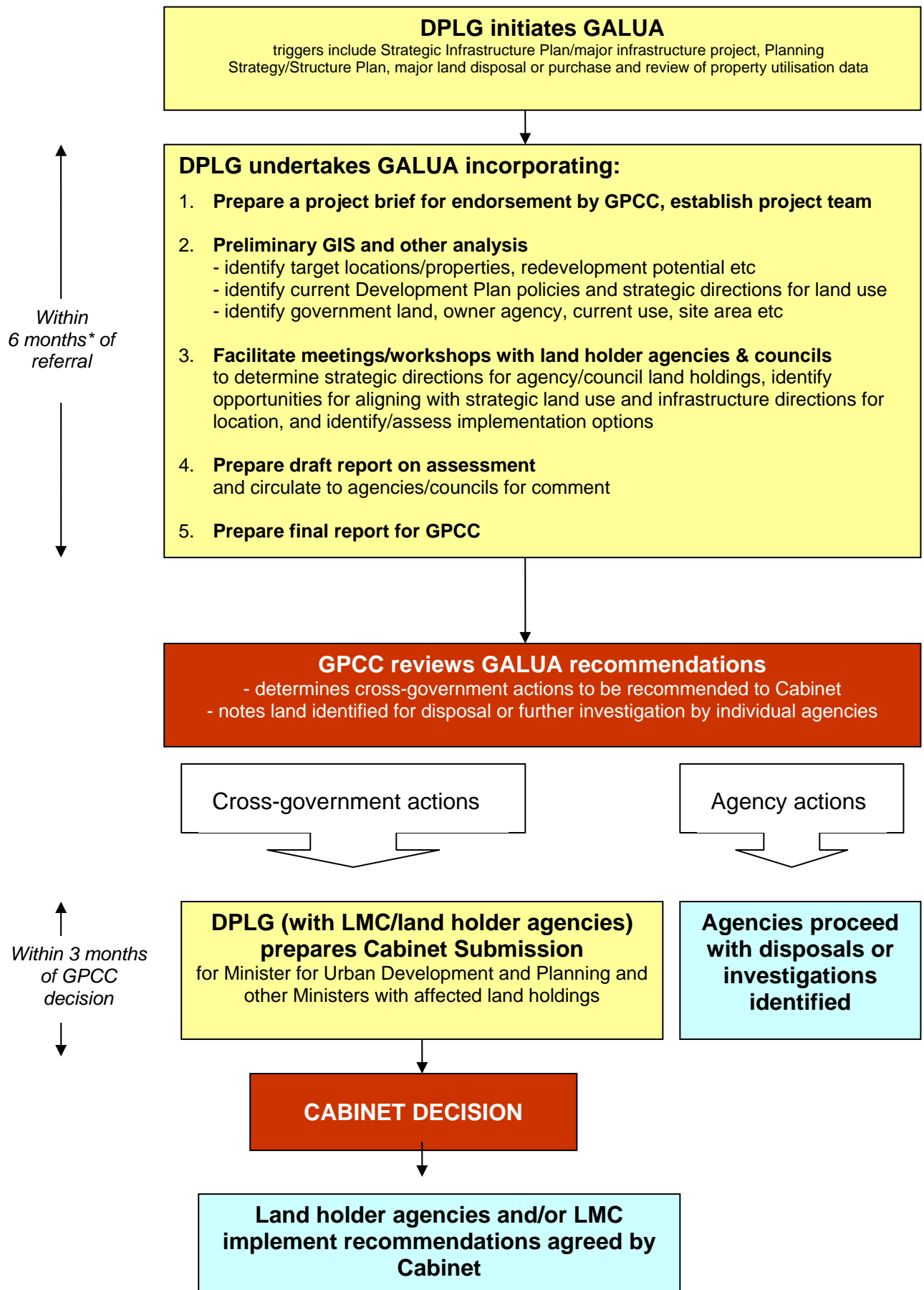
- Adelaide Cemeteries Authority
- Adelaide Convention Centre Corporation
- Adelaide Entertainments Corporation (trading as Adelaide Entertainment Centre)
- Adelaide Festival Centre Trust
- Australian Children's Performing Arts Company (trading as Windmill Performing Arts)
- Distribution Lessor Corporation
- Generation Lessor Corporation
- HomeStart Finance
- Land Management Corporation
- Lotteries Commission of South Australia
- Motor Accident Commission
- Public Trustee
- RESI Corporation
- South Australian Asset Management Corporation
- South Australian Forestry Corporation (trading as Forestry SA)
- South Australian Government Financing Authority (trading as SAFA)
- South Australian Housing Trust
- South Australian Motor Sport Board
- South Australian Water Corporation (trading as SA Water)
- Superannuation Funds Management Corporation of South Australia (trading as Funds SA)
- TransAdelaide
- Transmission Lessor Corporation
- West Beach Trust (trading as Adelaide Shores)
- WorkCover Corporation of South Australia.

Schedule C

Flowchart: SSLUA and Disposal of Surplus Property



Schedule D Flowchart: Geographical Area Land Use Assessment



* Within 6 months of referral or a timeframe consistent with other strategic land use and planning initiatives intended to implement the Planning Strategy.

Schedule E

Template: Strategic Assessment

Template to be completed by owning Agency – Property Information, Initial Test, SSLUA Information

DPLG File Reference:	
PROPERTY INFORMATION	
Owning Agency Property Reference (if applicable)	
Registered Proprietor (consistent with DTEI Land Services Group records) and Current Responsible Minister (e.g. Minister for Transport if registered as Commissioner for Highways)	
Local Government Area	
Site Identification* (Certificate of Title/Crown Record identification and Plan (eg DP, FP) & Lot Number)	
Site Street Address	
Site Area (m²) and Dimensions (m)	
Capital Value and Site Value (include date and source of valuation/s, if multiple records exist, provide the relevant valuation number/s) Where 'fair value' is used, please attach advice from the Valuer-General confirming the validity of using the 'fair value' for purposes of the Initial Test.	
Development Plan Zoning (include Development Plan map reference)	
Current Use/s of Site	

*For multiple allotments identify all parcels individually as shown below

	Site Identification	Street Address	Site Area and Dimensions	Site Value Capital Value	Development Plan Zoning	Current Use/s of Site
1	<i>CT xxxx/xxx Axx FP xxxxxx</i>	<i>Henderson Rd City of Paris</i>	<i>18500 sqm 400mx46.25m</i>	<i>\$100,00 \$ 157,000</i>	<i>Rural Living 1</i>	<i>Vacant</i>
2						
3						
4						
5						
6						
7						

INITIAL TEST	
<p>Is the fair value of the property, including improvements (Capital Value), in excess of the ‘threshold of value’? *\$500,000 in the metropolitan area, \$100,000 outside of the metropolitan area</p>	YES / NO
<p>Does the land adjoin or have the potential to be amalgamated with other land in government ownership (Australian, State or local)?</p>	YES / NO
<p>Is there a declared project in the approved Capital Investment Program or <i>Strategic Infrastructure Plan for SA</i> for which the property may be suited? If yes, provide details of program/project.</p>	YES / NO / UNSURE
<p>Is the site use inconsistent with the zoning in the Development Plan or intended zoning in relevant Structure Plan or volume of the Planning Strategy? If yes, provide details.</p>	YES / NO
<p>Do other factors exist which may give the property strategic significance in relation to implementation of government policy? If yes, provide details of factors.</p>	YES / NO
<p>In your assessment, is the property of strategic significance? Guidelines for assessment: If none or insufficient of the above factors exist, the property shall be deemed not have strategic significance.</p>	<p>YES / NO If yes, please provide additional SSLUA information below</p>

Information Sources:

Maps for ownership of adjoining property: www.planning.sa.gov.au see Research Data and Mapping

Capital Investment Program: www.treasury.sa.gov.au see Budget Capital Investment Statement

Strategic Infrastructure Plan: www.infrastructure.sa.gov.au

Housing and Employment Land Supply Program: www.planning.sa.gov.au

The Planning Strategy: www.planning.sa.gov.au

SITE STRATEGIC LAND USE ASSESSMENT INFORMATION	
<p>Basic Infrastructure Inventory</p> <ul style="list-style-type: none"> • Floor Area • Age/Condition of all major improvements • Tenancy details (if applicable) 	
<p>Potential Constraints</p> <ul style="list-style-type: none"> • Known encumbrances over the site • Known native vegetation Issues • Known heritage Issues • Environmental considerations (including potential site contamination) 	
<p>Known relevant studies / assessments previously carried out relating to site</p>	
<p>Known interests in purchasing the site</p>	
<p>Other relevant comments</p>	