

PROVINCE

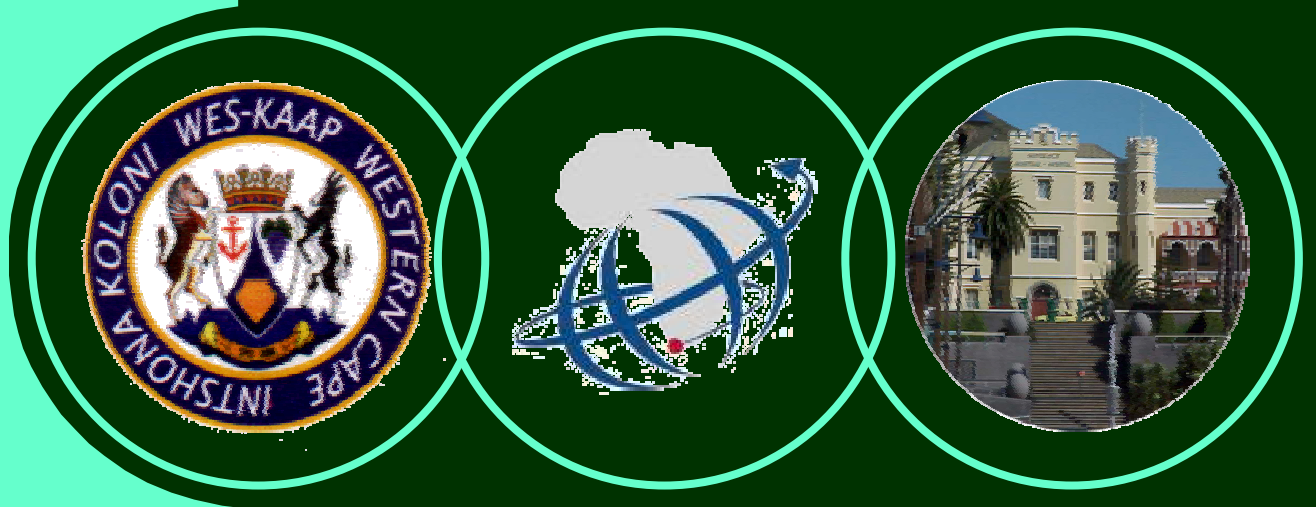
OF THE

WESTERN

CAPE

# GREEN PAPER ON THE MANAGEMENT OF PROVINCIAL PROPERTY

*23 May 2001*



DEPARTMENT OF ECONOMIC AFFAIRS, AGRICULTURE AND  
TOURISM



# PROVINCE OF THE WESTERN CAPE

## INVITATION TO COMMENT ON THE GREEN PAPER ON THE MANAGEMENT OF PROVINCIAL PROPERTY

The Department of Economic Affairs, Agriculture and Tourism welcomes any comment, criticism or expressions of concern from all interested parties on the proposals made for the management of provincial property.

Please make written submissions before 31 July 2001. Submissions can be mailed to, or delivered at, the offices of the Head of Branch: Property Management and Works, Department of Economic Affairs, Agriculture and Tourism.

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This Green Paper is also available at <http://www.westerncape.gov.za>.



## FOREWORD



On behalf of the Western Cape Provincial Government, we have pleasure in presenting this Property Management strategy and policy for your consideration and comment.

The Property Management strategy of any government is one of the central pillars of its plan for managing its own assets. As such it must inform a government's actions and spell out its core goals and objectives. This document has as its core objective the preservation of the assets and the creation of income for the people of the Western Cape.

It seeks firstly to analyse the existing national and local environment that impacts on the management of the portfolio. It also analyses the relationship between the overarching objectives of the province and the impact that the management of such a portfolio will have on these objectives.

The Task Team that was appointed by myself investigated the critical issues that hamper the effective management of the portfolio and also used national and international best practices to benchmark these issues.

The Provincial Government must ensure that the assets that are available for the use to execute provincial functions are utilised for the highest and best use and that these assets can survive and prosper in this world.

The document attempts to show the way to utilise such assets optimally and to make sure that we can add value in their management. We hope that you will share our feeling of anticipation in reading it. We would also appreciate your comments, criticism and suggestions.

My personal thanks to all of those who have given their time and ideas to create this exciting document.

### **GERRIT VAN RENSBURG (MEC FOR AGRICULTURE, PROPERTY MANAGEMENT & WORKS)**

It has been said that he who owns land has power. Over the ages wars have been waged over this valuable resource.

In the Province of the Western Cape, land represents an opportunity to enhance the value of public services by ensuring the land is utilised optimally for the execution of provincial functions by all its departments. The most visible are education, health, housing, transport and social services.

Even though apartheid is no longer with us, we still live in a divided city. The provincial land holdings should be utilised, as envisaged, to bridge these divides and ensure that an over-supply in one area and an under-supply in another, are balanced. The opportunity also exists for assisting previously marginalised developers, investors, contractors and tenants.

The Green Paper sought to ensure that the current and future provincial departmental needs are adequately catered for and that properties in excess of the needs of the province are released to the market place to ensure an additional revenue source. Private sector developers and investors are ready and waiting to embrace the opportunities presented through this process.

I wish to thank my colleagues on the task team for their commitment and dedication in producing the document before you today. In closing a quote: The health of a democratic nation may be measured by the quality of functions performed by its public organisations (De Tocqueville).

### **KEVIN ROMAN (CHAIRPERSON: PROPERTY MANAGEMENT POLICY TASK TEAM)**

## EXECUTIVE SUMMARY

Property represents a public resource that has the potential of enhancing the value of public services by ensuring suitably situated and appropriate accommodation for the execution of provincial functions by departments and non-governmental service providers. In addition, it will, if effectively managed, facilitate socio-economic development and redress, and create an additional source of revenue for the Provincial government.

The Green Paper on the Management of Provincial Property explores the context of managing property in the Province of the Western Cape and sets out a vision and strategic framework as well as policy options for institutional arrangements regarding its management.

In Chapter 1 the background to, and policy context, of the Green Paper are discussed. An important aspect highlighted is the requirement that Provincial property and its management should be related to the ten overarching objectives of the Provincial Government.

In Chapter 2 the current policy and institutional framework within which the management of Provincial property takes place are set out. It is concluded that several shortcomings and constraints in the policy framework need to be addressed in order to optimise the benefit of properties to the Province and its people. These shortcomings and constraints relate to issues of ownership, lack of consistency and uniformity in property management practices by the relevant role players, and cumbersome administrative processes brought about by statute. Similarly, the current institutional framework creates shortcomings in the management of property by vesting property-related activities in a wide variety of role players in different departments and other structures. This prevents optimising the benefit of properties as Provincial assets.

In Chapter 3 the critical issues resulting from the current policy and institutional framework are explored. The issues of ownership, transaction delays, highest and best usage, and contemporary demands relating to sustainability, sophistication, creativity, innovation, inclusivity and consistency in the management of property are explored.

In Chapter 4 a theoretical framework relating to the management of property is provided and a number of international and national practices discussed. The functions of property services in the private sector, namely facilities management, property management and asset management are discussed. Public sector models discussed include the Gauteng model, where property services by the line departments are **coordinated** by means of a Property Committee and Property Board. The Province of Ontario, Canada and Intersite models allocate responsibility for property services to a **corporate** entity, while the United States Federal Government model, although characterised by an internal hierarchical approach, makes provision for a **comprehensive approach** to property services. The Queensland, Australia, model is aimed at **integrating** property services, which are the responsibility of the line departments. Each model has advantages and disadvantages, which are detailed. Finally, the chapter also includes a discussion on balancing profit and socio-economic objectives.

In Chapter 5 a qualitative framework to guide the management of Provincial property is discussed. This includes identification of a vision, mission and strategic imperatives, as well as enabling and strategic objectives for the management of Provincial property. Milestones passed in achieving the required approach are listed, and finally a number of critical success factors identified. This is to serve as an overview of **what** should be done.

In Chapter 6 the *how it should be done* is addressed in a proposed strategic framework for provincial property services. Firstly, a process model for provincial property services relates the various functions to the lifecycle of individual properties. Secondly, policy guidelines for the provision of client accommodation, for balancing revenue generation with economic and socio-economic development needs, for ensuring transparency and equity, and for preferential procurement and appointment for empowerment, are formulated. Thirdly, options for institutional arrangements are provided in order to generate debate and input by as wide a group of role players as possible. These options are: an internal structure, partial outsourcing, full outsourcing, and corporatisation.

In Chapter 7 the way forward in the policy formulation and implementation process is discussed and legislative changes that may be necessary are identified.

## BESTUURSOPSOMMING

Eiendom is 'n hulpbron met die potensiaal om die waarde van openbare dienste te verhoog deur die beskikbaarstelling van goed geleë en geskikte akkommodasie vir die uitvoering van provinsiale funksies deur departemente en nie-regering diensverskaffers. Indien eiendom boonop doeltreffend bestuur word, kan dit, sosio-ekonomiese ontwikkeling en regstelling fasiliteer en 'n addisionele bron van inkomste vir die provinsiale regering skep.

Die Groenskrif oor die Bestuur van Provinsiale Eiendom ondersoek die konteks van eiendomsbestuur in die Provinsie Wes Kaap en bevat 'n visie en strategiese raamwerk, sowel as beleidsopsies vir institusionele bestuursreëlings.

Die agtergrond en beleidskonteks van die Groenskrif word in Hoofstuk 1 bespreek. 'n Belangrike aspek wat beklemtoon word, is die noodsaaklikheid dat provinsiale eiendom en die bestuur daarvan by die tien oorhoofse doelwitte van die provinsiale regering moet aansluit.

Die huidige beleids- en institusionele raamwerk waarbinne die bestuur van provinsiale eiendom plaasvind, word in Hoofstuk 2 uiteengesit. Daar word tot die gevolgtrekking gekom dat verskeie tekortkominge en beperkings in die beleidsraamwerk aandag sal moet kry sodat die Provinsie en sy mense die maksimum voordeel uit eiendomme kan trek. Hierdie tekortkominge en beperkings hou verband met geskilpunte oor eienaarskap, gebrek aan konsekwentheid en uniformiteit in eiendomsbestuurspraktyke deur die relevante rolspelers, asook omslagtige administratiewe prosesse wat deur die wet teweeggebring word. Die huidige institusionele raamwerk lê voorts die bestuur van eiendom aan bande deurdat eiendomsverwante aktiwiteite by 'n groot verskeidenheid rolspelers in verskillende departemente en ander strukture berus. Dit verhoed die optimalisering van eiendom as provinsiale bate.

Hoofstuk 3 handel oor die kritieke geskilpunte voortspruitend uit die huidige beleids- en institusionele raamwerk vir die bestuur van eiendom, naamlik eienaarskap, verdragings in die afhandeling van transaksies, hoogste en beste gebruik en die hedendaagse eise met betrekking tot volhoubaarheid, kundigheid, kreatiwiteit, innovering, ingeslotenheid en konsekwentheid.

'n Teoretiese raamwerk vir die bestuur van eiendom en 'n aantal internasionale en nasionale gebruike word in Hoofstuk 4 bespreek. Die funksies van eiendomsdienste in die private sektor, naamlik die bestuur van fasiliteite, eiendomsbestuur en batebestuur word bespreek. Openbare sektor modelle wat bespreek word, sluit in die Gauteng model waar eiendomsdienste deur die lyndepartemente gekoördineer word deur 'n Eiendomskomitee en Eiendomsraad. Die modelle van Ontario provinsie in Kanada en Intersite ken verantwoordelikheid vir eiendomsdienste aan 'n korporatiewe entiteit toe, terwyl die model van die Federale Regering van die Verenigde State, alhoewel dit gekenmerk word deur 'n interne hiërargiese benadering, voorsiening maak vir 'n omvattende benadering tot eiendomsdienste, wat die verantwoordelikheid van die lyndepartemente is, te integreer. Die



voor- en nadele van elke model word aangetoon. Die hoofstuk probeer ook 'n middeweg vind tussen winsgewendheid en sosio-ekonomiese doelwitte.

In Hoofstuk 5 word 'n kwalitatiewe raamwerk bespreek op grond waarvan provinsiale eiendom bestuur kan word. Dit sluit in die identifisering van 'n visie, missie en strategiese noodsaaklikhede sowel as bemagtigings- en strategiese doelwitte vir die bestuur van provinsiale eiendom. Vordering wat reeds gemaak is om die vereiste benadering te bereik, asook 'n aantal kritieke suksesfaktore, word aangedui. Dit dien as 'n oorsig van wat gedoen moet word.

In Hoofstuk 6 word hoe dit gedoen moet word behandel deur middel van 'n voorgestelde strategiese raamwerk vir provinsiale eiendomsdienste. 'n Prosesmodel vir provinsiale eiendomsdienste dui in die eerste plek op die verband tussen die verskillende funksies en die lewensiklus van individuele eiendomme. Tweedens word beleidsriglyne geformuleer om akkommodasie aan kliënte te voorsien, om 'n ewewig tussen inkomsteskepping en ekonomiese en sosio-ekonomiese ontwikkelingsbehoefte te verky, om deursigtigheid en gelykheid te verseker, en vir voorkeuraankope en bemagtigingsaanstellings. Derdens word opsies vir institusionele reëlins aan die hand gedoen om debat te stimuleer en insette van die wydste moontlike groep rolspelers te kry. Hierdie opsies is 'n interne struktuur, gedeeltelike uitkontraktering, volledige uitkontraktering en korporatisering.

Die pad vorentoe met betrekking tot die beleidsformulering en -implementeringsproses sowel as die nodige wetsveranderinge word in Hoofstuk 7 bespreek.

## USHWANKATHELO LWABAPHATHI

Umhlaba unguvimba woluntu onamandla okuphuhlisa ixabiso leenkonzoluntu ngokuqinisekisa ukuba amasebe karhulumente nabo banikezela ngeenkonzoluntu bengengo rhulumente bahleli kakuhle ezindaweni ezifanelekileyo ukuze baqhubekeke nemisebenzi yephondo. Ngaphezulu, ukuba iphethwe kakuhle, inokukhuthaza ukuphuhliswa kwe ntlalontle noqoqosho ilungise, idale omnye uvimba we mali karhulumente wephondo.

Iphesha eliluhlaza lokuphathwa kwemihlaba yephondo lihlola indlela yokuphatha imihlaba kwiphondo laseNtshona Koloni, yaye umisela nombono neendlela ezahlukileyo ezinokusetyenziswa ukuphatha le mihlaba.

Kwisahluko sokuqala kuxoxwa imvelaphi kunye nomongo wephesha eliluhlaza. Umbandela obalulekileyo oqaqanjisiweyo yimfuneko yokuba umhlaba wephondo nokuphathwa kwawo unxulunyaniswe neenjongo ezeshumi zorhulumente wephondo.

Kwisahluko sesibini kuchazwa umthetho okhoyo nesisekelo ekusekelwe kuso ukuphathwa komhlaba wephondo. Kugqityezelwa ngelithi kufuneka kususwe iziphene nemiqobo ethile kwisisekelo somthetho ukuze inzuzo yomhlaba ibe yegqibeleleyo kwiphondo nabantu balo. Eziziphene nemiqobo imalunga nobuniniwo, ukunqaba kozinzo nobuninzi bemiqathango emiselwe ngumthetho. Ngokufanayo, isisekelo esikhoyo sidala iziphene kwimpatho yemihlaba ngokunikezela izenzo ezinxulumene nomhlaba kubantu abaninzi abahlukileyo kumasebe ngamasebe nakwamanye amaziko. Le nto ithintela ukugqibelela kwenzuzo yomhlaba njengenxalenye yamagunya ephondo.

Kwisahluko sesithathu kuqwalaselwa imiba ebalulekileyo edalwa ngumthetho olawulayo kunye nesisekelo esikhoyo. Kuphinda kuqwalaselwe imibandela yobuniniwo, ukulibaziseka kwenkonzo, ukusetyenziswa okuninzi nokukuko, neemfuneko zala maxesha ezimayela nokuqhubekaka, ukuchubeka, ukuba nemibono, iindlela ezintsha eziquka yonke into emalunga nokuphathwa komhlaba ngokulinganayo.

Kwisahluko sesine kuqwalaselwa isisekelo esinokwakhiwa ekuphathweni komhlaba kunye nenani lezisekelo ezikhoyo kweli naphesheya. Imisebenzi yomhlaba kwicandelo langasese, enjengokuphathwa kwamaziko, ukuphathwa komhlaba kunye nokusetyenziswa kwamagunya nako kuyaxoxwa. Iindlela zecandelo loluntu ezixoxwayo ziquka indlela yaseRhawutini, apho iinkonzo zemihlaba ezinikezelwa ngamasebe zidityaniswa yiKomiti yemihlaba kunye neBhodi yemihlaba. Iphondo lase-Ontario eCanada, kunye ne-Intersite zona zinikezela ngoxanduva lweenkonzo zemihlaba kumashishini abucala, ngelixa iMelika yona, nangona ineempawu zamanqanaba amaninzi olawulo, ilungiselela indlela equkayo zonke ezinye kwiinkonzo zemihlaba. Indlela yase-Queensland e-Australia, yona idibanisa zonke iinkonzo zemihlaba eziluxanduva lwamasebe karhulumente.. Konke okubi nokuhle okukhapha ezi ndlela kuchaziwe. Okokugqibela, esi sahluko sixoxa ukungqamanisa inzuzo kunye neenjongo zentlalontle nezooqoqosho.

Kwisahluko sesihlanu kuxoxwa isiseko esixabisekileyo ekukhokheleni ukuphathwa komhlaba wephondo. Oku kuquka ukutyunjwa, imibono kunye neenjongo ezakhayo kuphatho-mhlaba. Amanqanaba asele edluliwe ekuphumezeni indlela efanelekileyo adwelisiwe, okokugqibela, inani leenkukacha zempumelelo nazo zibaluliwe. Le nto kufanele ibonise indlela emakuqhutywe ngayo.

Kwisahluko sesithandathu kuqwalaselwa indlela enobuchule ekunokusekelwa kuyo iinkonzo zemihlaba yephondo. Okokuqala, indlela yenkqubo yenkonzo yomhlaba wephondo inxulumene nemisebenzi eyahlukeneyo kubomi bemihlaba ngemihlaba. Okwesibini, imithetho elawula ukunikwa kweendawo zokuhlala kwabafuna umhlaba ukuze kungqanyaniswe inzuzo-mali neemfuno zokuphuhlisa intlalontle nezozoqosho nokuqinisekisa ukwenziwa kwezinto wonke umntu esazi nokulingana kwindlela umhlaba ophethwe ngayo nokutyunjwa ngokunomkhethe kusenzelwa ukuxhobisa. Okwesithathu, kuvezwe iindlela ezininzi ezahlukileyo ukukhuthaza ingxoxo nezimvo ngokubanzi kubo bonke abachaphazelekayo. Ezi ndlela zezi zilandelayo:

Ukuzenzela ngaphakathi, ukwenzelwa inxalenye ngaphandle, ukwenzelwa konke ngaphandle, nokuphatha njengeshishini.

Kwisahluko sesixhenxe kuxoxwa indlela emakuqhutywe ngayo ukuze kuqhutyelwe phambili, kuchazwe neenguqu ezinokufuneka ngokusemthethweni.

Kwisahluko sesixhenxe kuxoxwa indlela emakuqhutywe ngayo ukuze kuqhutyelwe phambili, kuchazwe neenguqu ezinokufuneka ngokusemthethweni.

## GLOSSARY

### **Accommodation**

Accommodation refers to land or land and improvements required by user departments and other clients of an entity responsible for the management of Provincial property for the execution of Provincial functions.

### **Accounting Officer**

Every department has an accounting officer who is the head of the department and who must ensure that the department maintains effective, efficient and transparent systems of financial and risk management and internal control; a system of internal audit under the control of an audit committee; an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective; and a system for properly evaluating all major capital projects prior to a final decision on the project (**Public Finance Management Act**, 1999 (Act 1 of 1999 as amended by Act 29 of 1999), sections 36 to 43).

### **Accrual Accounting Practice**

Accrual accounting means that revenue and costs are accrued - i.e. recognised as they are earned or incurred, not as money is received or paid – and matched with one another so far as their relationship can be established or justifiably assumed for the period to which they relate.

### **Acquisition**

Acquisition refers to the procurement of immovable property by means of purchasing and/or leasing (**Western Cape Land Administration Act**, 1998 (Act 6 of 1998), sections 1 and 2).

### **Clients**

Clients as referred to in this document means the Provincial Government, all Provincial user departments and non-governmental users of Provincial properties.

### **Corporatisation**

A public entity forms a separate legal corporate entity to manage the provision of a service(s). The public entity continues to own the enterprise but it operates with more of the freedom and flexibility generally associated with a private sector business. A "Section 21 Company" is one of the possible forms of corporatisation.

### **Deemed market value (rental)**

The deemed market value (rental) allocated to land and buildings is a benchmark for assessing under-utilisation, over-utilisation, obsolete buildings, and highest and best usage (see also market value).

## **Disposal**

Disposal refers to the alienation of immovable property through selling, cession and letting (**Western Cape Land Administration Act, 1998**, sections 1 and 3).

## **Empowerment**

Empowerment entails acquiring or setting up leverage for the marginalized and disadvantaged to ensure broader distribution of economic benefit and the expansion of sought-after capabilities. In a property services context the broad process of empowerment is supported by the provision of accommodation for services that would develop such capabilities. In a narrower sense, empowerment is promoted through the "levelling of playing fields" by giving preferential treatment to the previously disadvantaged in procurement and appointment in order to demolish existing impediments caused by the inequalities of the past.

## **Facilities Management**

Facilities management is concerned with the maintenance and development of the physical, environmental and technological infrastructure of properties. It encompasses a wide range of activities by several role players with the same goal of maintaining and improving immovable property. Activities include provision and maintenance of infrastructure, lifecycle planning, technical planning, as well as mechanical and physical systems planning.

## **Market Value**

Market value is defined as "the estimated amount for which a property should exchange on the date of valuation between a willing buyer and willing seller in an arms' length transaction after proper marketing wherein the parties had acted knowledgeably, prudently and without compulsion" (IVC Standards 2000). This definition applies equally to leasing of property.

## **Property Asset Management**

Property asset management is concerned with property investments in order to ensure the best return for owners or stakeholders. It represents a strategic approach to property management, which is aimed at adding and extracting value to and from property during its entire lifecycle, starting with acquisition and ending at disposal.

## **Property Management**

Property management is concerned with the management and administration of income-producing properties. Activities include rental collection, leasing, supervision and management of operating expenses – e.g. security, cleaning and gardening. The responsibilities revolve around the qualitative performance of property, ensuring the most efficient utilisation of space, and the timely and effective reporting and accounting of income and expenditure.

## **Property Register**

The Property Register contains information in respect of all the immovable property of the Western Cape Provincial Government.

### **Public-Private Partnership**

“A public-private partnership (PPP) is a contractual arrangement between a public sector entity and a private sector entity whereby the private sector performs a departmental function in accordance with an output-based specification for a specified, significant period of time in return for a benefit, which is normally in the form of financial remuneration. It furthermore involves a substantial transfer of all forms of project life cycle risks to the private sector. The public sector retains a significant role in the partnership project either as the main purchaser of the services provided or as the main enabler of the project” (National Treasury, 2001). The private partners can be private firms, non-governmental organisations or community-based organisations.

### **Public-Public Partnership**

A public-public partnership is an agreement between two or more public sector entities for service provision.

### **Service-Level Agreement**

A service-level agreement incorporating clauses usually found in a facilities agreement refers to the agreement between user and facilities manager to provide certain specified services.

### **Source Document**

The Source Document contains the data procured and analysed for the compilation of this Green Paper and is available at the offices of the Chief Director: Property Management.

### **User Charges**

A user charge on immovable property is either a market-related charge, or – in the absence of a profit motive - based on recovery of the full cost of owning and maintaining the property.

### **User Right Agreement**

The user right agreement is a contract similar to a lease agreement between the property manager and the user whereby the rights and obligations regarding the use of the property for both parties are laid down.

### **User Department**

A user department refers to a Provincial department that utilises immovable property of the Western Cape Provincial Government (also see *clients*).

### **Whole-of-Government Perspective on the Management of Property**

This perspective on the management of property is adopted to ensure that asset decisions by all agencies support government policy and guidelines and are coordinated between agencies and across government.

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# CHAPTER 1. BACKGROUND AND POLICY CONTEXT

## 1.1 INTRODUCTION

Governments in general, and the Western Cape government in particular, are custodians of public resources and assets. As such, a high standard of professional ethics, reasonable and equitable allocation, efficient and effective utilisation towards optimum public satisfaction, and value for money accountability for public resource management are prerequisites.

In addition to the abovementioned requirements, the dynamics of development and exposure to global competition demand increased performance and therefore a very sharp focus on the core business of government. This also demands an understanding of how value can be added to existing services without creating or increasing budget deficits.

Property represents a category of public resources that has the potential of enhancing the value of public services by ensuring suitably situated and appropriate accommodation for the execution of provincial functions by line departments and non-governmental service providers. In addition, it will, if effectively managed, ensure additional revenue for the provincial government.

In the South African context some provincial properties hold the potential of directly contributing towards the redressing of past wrongs as part of the commitment to land reform. However, a much bigger benefit(s) can often be attained through utilisation of properties for income generation, both by way of business promotion favouring previously disadvantaged individuals and by generating revenue for the province.

This *Green Paper on the Management of Provincial Property* explores the context of managing property in the Province of the Western Cape and sets out a vision and strategic framework as well as policy options for property management in the Province.

## 1.2 THE NEED FOR A GREEN PAPER

The dynamics of the environment and institutional arrangements necessitate this Green Paper.

In the current environment the migration of people into the Western Cape, the changing technological advances and demands for social welfare, economic welfare, law and order, together with shrinking budget allocations, are causing backlogs in meeting the property needs in the Province. Under-utilised properties are sought for development as Provincial Departments re-assess their requirements to address the ever-changing demands that they face.

Simultaneously, the transformation and rationalisation of all spheres of government in South Africa since 1994 have resulted in existing institutional arrangements for the management of property becoming obsolete. The involvement of different provincial and national departments in property-related activities within the Western Cape is now causing overlapping and deficiencies in property management services, resulting in incomplete and disjointed information on properties.

In the light of the above changes, pressures and uncertainties a clear and decisive policy must be formulated for the management of property in the Western Cape. **This policy should clarify the roles and responsibilities of all role players.**

### 1.3 PURPOSE AND OBJECTIVES OF THE GREEN PAPER

The main purpose of this document is to form a base for widespread discussion, comment and debate in a broad consultative process that will take place during the remainder of 2000. Based on the outcomes of this process, the Provincial government will produce a *White Paper on the Management of Provincial Property in the Western Cape*, outlining an agreed vision and implementation framework to guide the activities relating to Provincial properties over the next 10 years. This will be accompanied by the introduction of appropriate enabling provincial legislation and action programmes to support implementation.

Within this context, the main objectives of the Green Paper are:

- to describe and critically examine the existing policy and institutional framework for the management of Provincial property with a view to formulating and implementing appropriate policies for the Province;
- to identify and clarify critical issues relating to the management of Provincial property and to draw lessons on how to deal with the issues from practices elsewhere;

- to propose a vision and mission for the Provincial government to manage property and to propose imperatives and key enabling and strategic objectives to guide property-related activities over the next 10 years;
- to identify the strengths and opportunities contained in the provincial property portfolio that can be built upon;
- to formulate permissible uses of Provincial properties and the criteria according to which departmental users and other users can be accommodated;
- to identify processes on opening up opportunities for generating revenue for the Province from Provincial properties in balance with addressing socio-economic development and empowerment needs;
- to identify processes for purchasing, disposing, renting and leasing provincial properties, including entering into property-related relationships with third parties;
- to establish a broad strategic and institutional framework and key initiatives through which the vision and mission for the management of Provincial property can be realised; and
- to identify legislative measures which may be necessary to implement the policy.

#### **1.4 FOCUS AND SCOPE OF THE GREEN PAPER**

This document focuses on the management of all Provincial government properties, including leased property. Included in the scope are properties registered and still to be registered in the name of the Provincial government and which are currently being utilised by departments, and provincial public entities (e.g. hospitals, educational institutions). In addition, Provincial business enterprises which fall within the functional areas of exclusive Provincial legislative competence and the functional areas of concurrent national and Provincial legislative competence are included. Excess road reserves and other properties in the name of the Road Trustees that do not form part of road reserves are examples of the latter.

Excluded from the scope of the Green Paper, however, are Provincial Housing Development Board properties and road reserves. The scope of the Green Paper also covers coordination with the property management activities of other public and civil society role players in the Province.

## 1.5 RELATED POLICY INITIATIVES

The changes referred to in Section 1.2 of this document resulted in a wide variety of policy initiatives that have a bearing on the objectives of this Green Paper. Chapter 2 will deal with these more comprehensively, but for the purpose of demarcating the policy context of this process, the following initiatives need to be highlighted:

- The Province of the Western Cape Green Paper titled, *Preparing the Western Cape for the knowledge economy of the 21<sup>st</sup> century* sets out a vision and strategic framework for ensuring that the Western Cape is well prepared for the global knowledge economy of the 21<sup>st</sup> Century. **Property and its management are intended to serve this vision by providing appropriate accommodation and by facilitating the highest and best usage of Provincial property in both the socio-economic and economic senses.**
- The White Paper of the National Department of Public Works (DPW) titled, *Public Works in South Africa: Towards the 21<sup>st</sup> Century* was released in September 1997. This White Paper reflected on DPW's endeavours to establish a durable strategy in setting out key departmental programmes and demonstrating how South Africa's broader socio-economic objectives would be met in part through expanded investments in public works and dynamic changes in the approach to public works programmes, property investments, property and facilities management and project management.

The National Department of Public Works subsequently (1999) formulated their mission in such a way as to ensure that the National State Departments of South Africa have a built environment that meets their financial, technical and social requirements. The mission also aims to implement the National Public Works Programme through a community-based approach and through ensuring that infrastructure provision creates jobs, empowers communities and develops human resources.

Finally, in February 2000 the national Department of Public Works released a document titled *The need for an effective, uniform and consistent approach to the acquisition, management and disposal of immovable property by all custodians of*

*state land*. The document endeavours to secure the support of the provinces for new legislation (provisionally called the Property Act) which is to provide norms and standards for the acquisition, management and disposal of state-owned fixed property by all custodians of state land, and the channelling of the proceeds from the disposal of all national and Provincial government property to a central fund. **Such an approach to state-owned properties will obviously seriously compromise a strategic approach to the management of property by the Province of the Western Cape.**

- The *White Paper on South African Land Policy* of the Department of Land Affairs (DLA) was released in June 1997. It recognised land as a precious resource as well as its important role in shaping the political, economic and social processes caused by land ownership and use. It also described land as a sensitive issue and a finite resource. It stated that land policy should ensure accessible means of recording and registering rights in property, establish broad norms and guidelines for land use planning, effectively manage public land and develop a responsive, client-friendly land administration service. The White Paper further stated that the existing public land management system is fragmented, uncoordinated, non-transparent and inequitable and lacking a coherent information system. It also lacks clarity in regard to the roles, responsibilities and policies of the different institutions involved in the administration, planning and disposal of public land. It identified the need for a set of national norms and standards to ensure the effective use of state and public land as an asset in support of land reform. A coordinated land use management system within national government and between national and other spheres of government was identified as a necessity. **Provincial properties and their management are directly affected by this policy initiative.**

## **1.6 RELATING PROPERTIES TO THE OVERARCHING OBJECTIVES OF THE PROVINCE**

The Cabinet of the Western Cape adopted ten overarching policy objectives. These objectives are to guide future work in stimulating social and economic development. Properties and their appropriate management are key elements in:

- establishing a safer environment for all;
- creating an enabling environment for growth;
- preparing the people of the province for the knowledge economy of the 21<sup>st</sup> century;
- containing the spread of HIV/AIDS and TB;
- empowering the poor through effective provision of basic services;
- improving the quality and accessibility of services;
- protecting, enhancing and promoting the total environment for the optimum development of all;
- maintaining and improving the physical infrastructure required for the development of the province;
- binding the Province, as the gateway to Africa, ever more strongly to the country and the continent;
- focusing on sustainable rural development.

## 1.7 STRUCTURE OF THE GREEN PAPER

Following upon this introductory chapter, the Green Paper is structured as follows:

**Chapter 2** describes the current policy and institutional framework within which provincial property management takes place.

**Chapter 3** explores critical issues relating to the management of property.

**Chapter 4** defines the functions related to the management of property and explores international and national practices.

**Chapter 5** sets out the vision, mission, strategic imperatives and objectives that should guide the management of property in the Province of the Western Cape and describes the milestones passed in attaining them.

**Chapter 6** sets out a proposed strategic framework for the management of Provincial property.

**Chapter 7** describes the way forward in the policy formulation and implementation process and identifies legislative measures that may be necessary.



## CHAPTER 2: POLICY AND INSTITUTIONAL FRAMEWORK FOR THE MANAGEMENT OF PROVINCIAL PROPERTY

### 2.1 INTRODUCTION

The purpose of this chapter is to describe the current policy and institutional framework within which the management of Provincial property takes place. This is done as a first step in enabling demarcation of the differences between what is and what should be, as well as what needs to be done to reduce these differences.

#### **This chapter will identify and address:**

- Legislation impacting on the management of Provincial property;
- Other policy documents that have a bearing on and are relevant to the Green Paper;
- The existing institutional framework and its implications on the management of Provincial property;
- The different properties and clients of an entity / entities dealing with the management of property;
- Other key role players;
- Additional matters dealing with the policy and institutional framework and deductions, which need further exploration in subsequent chapters.

### 2.2 LEGISLATION IMPACTING ON THE MANAGEMENT OF PROVINCIAL PROPERTY

An extensive body of legislation affects provincial properties and their management. In *Schedule 1* below 27 acts, laws, instructions, regulations, bills and ordinances as well as their implications for properties and property-related role players are set out. This list was extracted from the Source Document where the implications of each piece of legislation and of other identified legislation have been discussed comprehensively.

The following observations are made in respect of the characteristics of the legislation:

- The terminology describing "property" owned by and / or under the control of government differs. Examples of this are *state property*, *assets*, *provincial assets*, *immovable state property*, *provincial property*, *state land*, *land*, *provincial state land*, *state-owned immovable property*, *national state* (heritage resources) and *rental housing property*.
- **Section 104 of the Constitution of the Republic of South Africa, 1996** empowers provincial legislatures to pass legislation with regard to
  - All matters within the functional areas listed in Schedule 4, i.e. areas of concurrent national and provincial legislative competence (e.g. the **Western Cape Provincial School Education Act, 1997**);
  - Matters within the functional areas listed in Schedule 5, i.e. areas of exclusive provincial legislative competence (e.g. the **Western Cape Planning and Development Act, 1999**);
  - Any matter outside the functional areas listed in Schedules 4 and 5 that is expressly assigned to a province by national legislation (e.g. the **Constitution of the Western Cape, 1997**); and
  - Any matter for which a provision of the Constitution envisages the enactment of Provincial legislation (e.g. the **Western Cape Exchequer Law, 1994**).

The implication here is that both national and provincial legislation impact on property. In some cases national legislation provides for a national framework and / or norms and standards, while provincial legislation concurrently does the same in the provincial sphere. A case in point is the **Land Administration Act, 1995** and the **Western Cape Land Administration Act, 1998**.

- Some legislation applies to all properties, regardless of whether ownership vests in the state or in private hands, while other legislation is only applicable to property owned by the state. Examples of the former are the **Rental Housing Act, 1999** and the **Occupational Health and Safety Act, 1993**. Examples of the latter are the

**Public Finance Management Act, 1999, Western Cape Land Administration Act, 1998 and Western Cape Provincial School Education Act, 1997.**

***SCHEDULE 1: LEGISLATION IMPACTING ON THE MANAGEMENT OF PROVINCIAL PROPERTY***

LEGISLATION	TYPE OF PROPERTY	WHO?	WHAT?
Interim Constitution of the Republic of South Africa, 1993 (Act 200 of 1993) (*)	State property	Department of Public Works Provinces Department of Land Affairs Local Authorities	Section 239 determines which sphere of government should become owner of state property in a province. The act provides a mechanism to unlock disputes between "different owners". The act is to be read with Item 28 (1) of Schedule 6 of the Constitution of 1996.
Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) (*)		"Competent authority" Registrar of Deeds	Item 28 (1) of Schedule 6 provides for the issuing of certificates of ownership once ownership has been established in terms of section 239 of the Interim Constitution of 1993.
Constitution of the Western Cape, 1997 (Act 1 of 1998)	Provincial assets	Provincial Legislature	Provincial legislation has to provide for the establishment of a register of provincial properties.
Public Finance Management Act 1999 (Act 1 of 1999)	Assets	Accounting officer of departments	Management, safeguarding and maintenance
Regulations promulgated in terms of Section 76 of the PFM Act, 1999 (GG no 21249 of 31/05/2000)	Immovable state property	Accounting officer of department	Sale at market value
		Accounting officer of department	Letting at market-related tariffs
	Trust money and property	Accounting officer of department	Safekeeping and proper use
Western Cape Land Administration Act, 1998 (Act 6 of 1998) (+)	Immovable Property	Premier	Unless otherwise expressly provided for in any other law, may acquire immovable property which must be registered in the name of the Western Cape Provincial Government.
		Premier	May dispose of provincial state land, unless otherwise expressly provided for in any other law.
		Premier	Must co-ordinate the provincial government's actions regarding administration of provincial state land with the other spheres of government.
		Accounting Officer	Proceeds of any disposal of provincial state land must be paid into a Land Capital Account.
		Accounting Officer	Establishment and maintenance of a consolidated register of all provincial state land.

(\*), (+), (x) Acts indicated as such to be read together.

		Premier	Annual report to Western Cape Parliament detailing formal offers from public to acquire provincial state land and all disposal of such land.
Regulations promulgated under section 10 of Act 6 of 1998 in PN 595/1998 of 16/10/1998	Provincial State Land	Premier MEC	To be acquired for consideration which is less than or equal to its market value.
		Head of Property Management Component	To be disposed of for consideration which is more or equal to its market value.
		Responsible Minister	Shall appoint a Provincial Property Committee consisting of Head of Provincial Property Management, heads of Provincial Departments, three persons with property expertise (non-provincial employees) and one representative each from respectively the National Department of Land Affairs and Public Works.
		Property Committee	Consider reports of Head of Property Management on acquisitions and disposals to report every two months to the Minister and to monitor the administration of Provincial State Land.
		Provincial user departments	Shall regularly evaluate their use of land with a view to determining whether they have surplus land, require additional land and/or require improvements to land. They have to report their evaluations annually to the Head of Provincial Property Management.
		Head of Property Management Component	Shall be responsible for the administration of the Provincial State Land portfolio.
		Head of Property Management Component	Shall use its best endeavours to market Provincial State Land which is surplus to the Province's requirements.
		Head of Property Management Component	Shall in a manner that is compatible with the reasonable requirements of the user departments administer provincial state land and all other land leased or utilised by them.
	Any building or improvements on Provincial State Land	User departments	Shall furnish responsible Minister with full particulars before any buildings or other improvements are demolished.
		Responsible Minister	Shall give consent for demolition after consultation and consideration of the view of the Property Committee.
State Land Disposal Act, 1961 (Act 48 of 1961)	State Land (national)	President	Sell, exchange, donate or lease

(\*), (+), (x) Acts indicated as such to be read together.

Land Administration Act, 1995 (Act 2 of 1995) (+)	Land	Minister of Land Affairs	May delegate any power conferred upon him or her regarding land matters to a Premier or an MEC.
		President	May assign the administration of a law regarding land matters to a Premier of a province.
Western Cape Provincial Tender Board Law, 1994 (Law 8 of 1994)	Provincial property	Provincial Tender Board	Issuing of directives in respect of hiring, letting, acquisition and disposal.
Western Cape Exchequer Law, 1994 (Law 4 of 1994)	State property	Accounting officer of department	Acquisition, receipt, custody and disposal (Accounting for all state moneys)
Local Government: Property Rates Bill 2000	Immovable Property	Head of Property Management Component Department of Public Works	All property including property owned by national and provincial organs of state will be rateable.
South African Schools Act, 1996 (Act 84 of 1996) (x)	Immovable property	Governing Body of Public School	A public school which occupies immovable property owned by the state has the right to occupy and use the property for the benefit of the school for educational purposes.
		MEC for Education	Can restrict the right of a public school to occupy and use such property if it is not utilised by the school in the interest of education.
		MEC for Education and Governing Body of Public School	No immovable property owned by the state and occupied by a public school may be alienated unless an agreement has been concluded between MEC and the prospective owner.
		Governing Body of School	May apply to Head of Provincial Education to be allocated the function to maintain and improve the school's property.
	Land or a real right in or over land	MEC for Education	May expropriate land or a real right in or over land for school education purposes.
Western Cape Provincial School Education Act, 1997 (Act 12 of 1997) (x)	School buildings and buildings for school education	MEC for Education	May, out of money appropriated for this purpose by legislature, establish and maintain such buildings for public schools and hostels as he or she may deem necessary or expedient and provide such equipment and erect such buildings as he or she may deem necessary or expedient.
	School property and buildings (including school hostels) and grounds	Governing Body of School	May apply in writing to the Head of Provincial Education to maintain and improve the school's property, buildings and grounds.

(\*), (+), (x) Acts indicated as such to be read together.

	State-owned immovable property, used for school education purposes	Public School	Subject to Section 20 (1)(K) of the SA Schools Act, 1996, a public school, which occupies immovable property owned by the State, has the right to occupy and use such property for the benefit of the school for education purposes and only the responsible MEC may restrict this right.
		MEC for Education	No immovable state property occupied by a public school may be alienated unless an agreement has been concluded between the responsible MEC with the concurrence of the MEC responsible for Finance and the prospective owner.
	Public Schools	MEC for Education	May in terms of Section 33 of the SA Schools Act, 1966, close a public school or part thereof.
	Immovable property	MEC for Education	Land and real rights in or over land for any school education purpose in the province may be expropriated by the responsible MEC in terms of section 58 of the SA Schools Act, 1996.
Western Cape Technical Colleges Law, 1994 (Law 12 of 1994)	Immovable property	State-aided Technical Colleges (Juristic persons)	May purchase or otherwise acquire, hold, hire, let, sell, exchange or otherwise alienate immovable property
		Responsible MEC	Has to approve the letting (for a period longer than two years), sale, exchange or alienation of immovable property acquired with financial assistance of State.
			May grant a loan to the college for the erection of buildings, acquisition or improvement of land.
Health Act, 1977 (Act 63 of 1977)	Hospital facilities	Provincial administrations	Function is to provide these facilities.
	Facilities for treatment of patients suffering from acute mental illness		
	Facilities for the treatment (24 hours or less) of out-patients		
	Maternity homes and services		
Hospitals Ordinance, 1946 (Ord 18 of 1946)	Provincial Hospitals	Provincial Hospital Department	Establishment, maintenance and control of Provincial hospitals
	Immovable property	Hospital Trustees	All immovable property vests in the Hospital Trustees consisting of the Director-General, Director of Hospital Services and the Chairperson of the

(\*), (+), (x) Acts indicated as such to be read together.

	Immovable property	Hospital Board	Each provincial hospital has a Hospital Board which may receive and dispose of immovable property in a manner approved by Premier.
		Hospital Board	May with approval of Premier invest in immovable property which shall be registered in the name of the Board.
National Environmental Management Act, 1998 (Act 107 of 1998)	Property for Environmental Purposes	Minister of Environmental Affairs	Purchase or expropriate property
	State Land		Reserve State Land
			Delegate any of his powers, functions or duties to an MEC responsible for Environmental Affairs
Western Cape Conservation Board Act, 1998 (Act 15 of 1998)	Immovable property	Western Cape Conservation Board (Corporate Body)	With approval of responsible Minister and Provincial Minister of Finance lease, purchase or acquire immovable property; let, sell, exchange or alienate its immovable property; mortgage or burden with a servitude its immovable property; enter into agreements with any person to undertake, on any immovable property leased, purchased or otherwise acquired by or made available to the Board, a business or trade for the convenience of visitors and recommend to Minister to proclaim or de-proclaim land as a nature conservation area.
National Heritage Resources Act, 1999 (Act 25 of 1999)	National Estate (those heritage resources of SA which are of cultural significance)	Provincial Heritage Resources Authorities (to be established by responsible MEC)	To enable and encourage communities to nurture and conserve their legacy
	Heritage Resources	Each State Department	To maintain and conserve the heritage resources under its control in accordance with standards and procedures set out in regulations made by the South African Heritage Resources Agency (SAHRA)
Western Cape Cultural Commission and Cultural Councils Act, 1998 (Act 14 of 1998)	Immovable property	Cultural Commission (Juristic person)	Control, manage, develop and maintain immovable property placed under its supervision with the aim to preserve, promote and develop culture in the Western Cape in accordance with policy.
		Provincial Minister responsible for Cultural Affairs	Subject to the Western Cape Land Administration Act, 1998 (Act 6 of 1998) acquire, develop and maintain immovable property or place such property under supervision of the Cultural Commission.
Museums Ordinance, 1975 (Ord 8 of 1975)	Land or buildings	Administrator	May by agreement or expropriation acquire land or buildings for the establishment of museums.

(\*), (+), (x) Acts indicated as such to be read together.

	Immovable property	Management Committee (every museum has such a controlling body)	To receive, hold, conserve and study all movable and immovable property acquired by it or in its possession.
Housing Act, 1997 (Act 107 of 1997)		National, Provincial and Local spheres of government	The facilitation of a sustainable housing development process, to lay down general principles applicable to housing development in all spheres of government, to define the functions of national, provincial and local governments in respect of housing development, to provide for the establishment of a South African Housing Development Board and provincial housing development boards and the financing of national housing programmes.
Western Cape Housing Development Act, 1999 (Act 6 of 1999)	Immovable property	Western Cape Housing Development Board (Juristic person)	Any immovable property that was passed to the Board on abolition of the Provincial Housing Development Board must be transferred, on a date to be determined by the National Minister, by the Board to the local government in whose area of jurisdiction such property is situated.
Rental Housing Act, 1999 (Act 50 of 1999)	Rental housing property	Government	Must promote a stable and growing market that progressively meets the latent demand for affordable housing among persons historically disadvantaged by unfair discrimination by the introduction of incentives and mechanisms that improve conditions in the rental housing market.
		National government	Must introduce a policy framework, including norms and standards on rental housing.
		Provincial (and local) government	Must pursue the objects of the act within the national policy framework and within the context of broader national housing policy in a balanced and equitable manner.
		MEC responsible for Housing	May establish a Provincial Renting Housing Tribunal
Western Cape Planning and Development Act, 1999 (Act 7 of 1999)		Responsible Provincial Minister	Shall prepare and submit to Cabinet a provincial integrated development framework in respect of the Western Cape province. The general purpose of this framework is to lay down strategies, proposals and guidelines, including development objectives and implementation plans by means of development planning.

(\*), (+), (x) Acts indicated as such to be read together.



Occupational Health and Safety Act, 1993 (Act 85 of 1993) as amended by Acts 181/1993 and 66 of 1995	Buildings used for work	Every employer	Makes provision for the health and safety of persons at work and for the health and safety of persons in connection with the use of plant and machinery; the protection of persons other than persons at work against hazards to health and safety arising out of or in connection with the activities of persons at work.
Cape Town Foreshore Act, 1950 (Act 26 of 1950) as amended in 1978	Foreshore land	Cape Town Foreshore Board	The ownership in the land comprising the foreshore shall vest in the Board
Roads Ordinance 1976 (Ord 19 of 1976)	Public Roads / Public Paths	Administration	Public roads and public paths proclaimed in terms of Section 3 (1) (a) shall vest in the Administration (deemed to be the "Road Authority")
	Property for Road Purposes	Roads Trustees	The Roads Trustees (Provincial Secretary) and the Provincial Roads Engineer may with the approval of the Administrator acquire property for road purposes and may alienate any property of which ownership vests in them
		Road Authority	May expropriate property for road purposes

(\*), (+), (x) Acts indicated as such to be read together.

## 2.3 OTHER POLICY DOCUMENTS IMPACTING ON THE MANAGEMENT OF PROVINCIAL PROPERTY

### 2.3.1 White Paper on Transforming Public Service Delivery (*Batho Pele*)

The White Paper published by the South African Department of Public Service and Administration in 1997 serves the purpose of providing a policy framework and a practical implementation strategy for the transformation of public service delivery. It is claimed in the document (1997:9) that the White paper is primarily about *how* public services are provided rather than *what* services are provided. This is based on eight principles: **consultation, service standards, access, courtesy, information, openness and transparency, redress and value for money**. The White Paper therefore addresses aspects relating to the attitudes of officials towards high-performance service delivery.

### 2.3.2 *Towards the next millennium presentation*

In a presentation to the Western Cape Provincial Cabinet on Friday, 6 March 1998, the former Chief Directorate of Public Works of the Province stated that the model on which properties were managed was outdated and claimed that a new approach was required to meet the challenges of the future. It was explained that the services of an all-inclusive Property Manager are as indispensable as those of financial, personnel and information technology managers. It was proposed that **a Department of Property Management control all Provincial properties**. Its functions would be the management of property through rentals and leases, purchases and sales, erection and maintenance of buildings. Core issues identified were:

- The recognition of the department as the Provincial property manager
- The adoption of a sound business approach
- The improvement of management autonomy
- A redesigned organisational structure
- Strategic management.

The recommendations submitted to, and accepted in principle, by the Provincial Cabinet were:

- A name change of the Ministry and Department;
- That all property-related matters are to be placed under the control of the Department of Property Management;
- That each building must be able to run as a viable entity and be able to produce an acceptable return;
- That a separate Revolving Capital Fund must be created;
- That an increase in the capital allocation to allow for infrastructure cost be approved, i.e. to allow funds to be spent in order to produce income and save on expenditure;
- Immediate filling of posts once the structure has been finalised.

Subsequently, the then Western Cape Minister of Development Planning, Michael Louis, presented a paper titled "Government Assets – Dormant or Beneficial" (The South African Valuer, 1998:9). In this paper he described the extent of the Provincial property portfolio

and then said that this vast property portfolio should not remain dormant, but be optimised by:

- Optimally utilising the Provincial properties then occupied;
- Analysing the letting of each property to ensure that each lease is viable and feasible;
- Introducing other charges and institutional budgets;
- Ensuring that rents payable on hired properties are market related;
- More efficient management of maintenance and operational costs;
- Ensuring that the returns of properties let are maximised;
- Improved productivity.

The minister said that a separate Property management component was to be created, and that he would like that component to be based on the model of Intersite Property Management Services, a full subsidiary of the South African Rail Commuters Corporation.

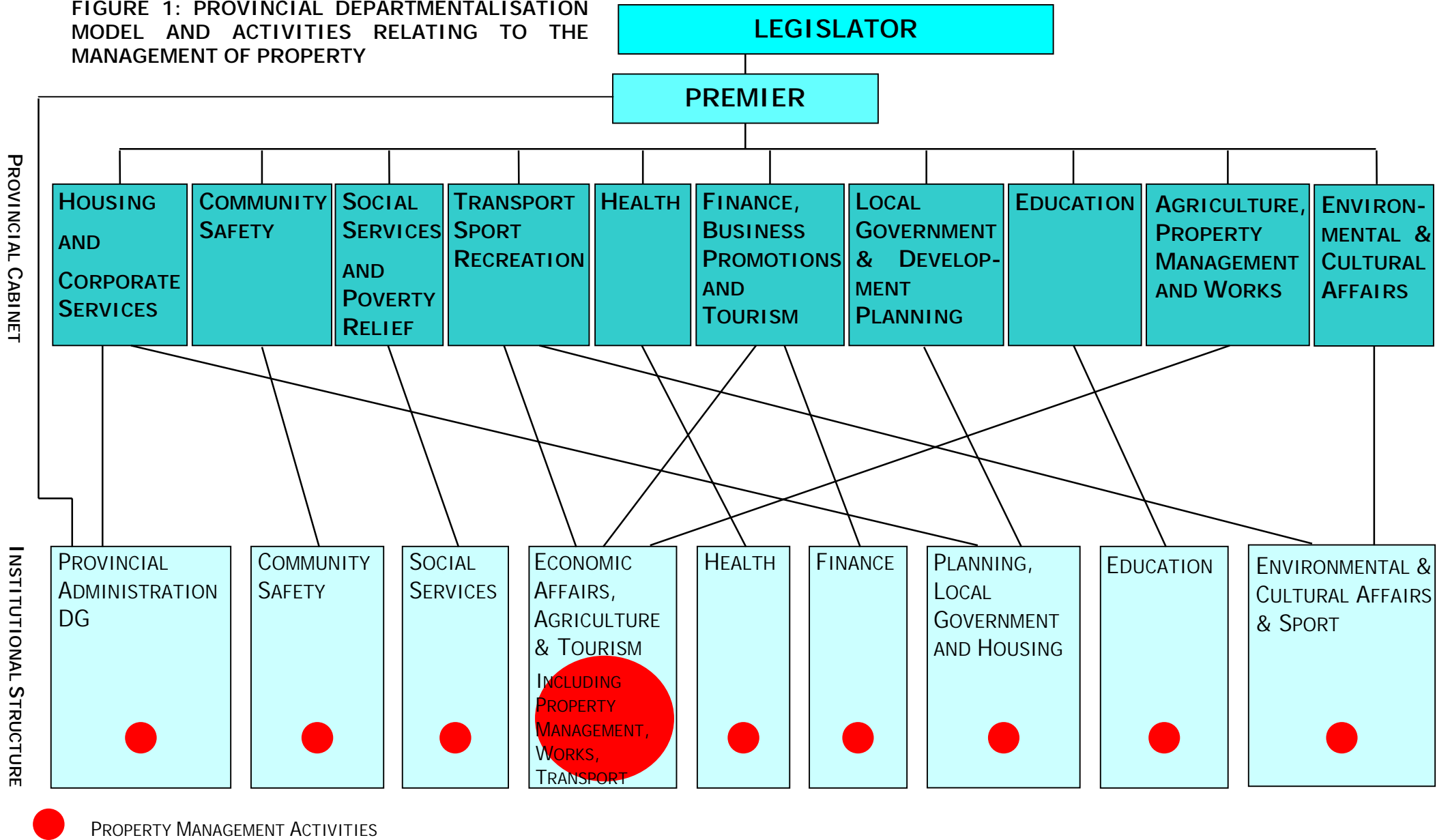
## **2.4 CURRENT INSTITUTIONAL FRAMEWORK**

### **2.4.1 Provincial departmentalisation model**

A "Special Investigation Cabinet Assignment (SICA) Project" resulted in the development of the departmentalisation model as illustrated in *Figure 1*.

The diagram gives an indication of the departments that perform property management functions. Security services as an operational management function of real property management are rendered by Corporate Services in the Provincial Administration: Western Cape, while the other property management functions are performed by the Branch: Property Management and Works, which is situated within the Department of Economic Affairs, Agriculture and Tourism. However, all the other line departments and the Branch: Transport of the Department of Economic Affairs, Agriculture and Tourism presently have components that are involved in a variety of activities related to the management of property which are duplications and fragmentations of functions performed by the Branch: Property Management and Works.

FIGURE 1: PROVINCIAL DEPARTMENTALISATION MODEL AND ACTIVITIES RELATING TO THE MANAGEMENT OF PROPERTY



### 2.4.2 Branch: Property Management and Works

The Branch: Property Management and Works was created in July 2000 by bringing together the Chief Directorates of Property Management – previously forming part of the Branch: Business Promotion, Property Management and Tourism – and Works, previously not linked to the same branch.

**The Chief Directorate: Property Management** manages the planning, development and administration of the Provincial property portfolio and renders corporate support services. It is divided into two directorates: Property Planning and Development, and Property Administration.

**The Chief Directorate: Works** deals with capital expenditure projects and facilities management, and is divided into 3 directorates. One directorate specialises in education properties, the second in health properties and the third deals with the remainder of provincial properties.

### 2.4.3 Western Cape Provincial Property Committee

In terms of Regulation 10 of the **Western Cape Land Administration Act**, 1998 (Act 6 of 1998), a Western Cape Property Committee was established during December 1998. The Committee was established to monitor property management in the Chief Directorate: Property Management to consider reports and to advise the Chief Directorate and Minister on property matters.

The Western Cape Property Committee comprises a chairperson; the heads of the Provincial departments or senior departmental officials nominated by them; at least three persons with proven property experience and expertise from the private sector; a person nominated by the Minister of Land Affairs; and a person nominated by the Minister of Public Works.

### 2.4.4 Provincial Housing Development Board

The **Housing Act**, 1997 (Act 107 of 1997) enacted the appointment of a Provincial Housing Development Board as juristic person (Section 8) to administer every national and provincial housing programme by approving financing and appointing agents to administer its portfolio.

It must *inter alia* manage and administer assets. As such, the Provincial Housing Development Board deals with vast areas of land earmarked for housing and related developments.

## 2.5 CATEGORIES OF PROVINCIAL PROPERTIES

Without absolutely accurate information on property belonging to or leased by the Province, the full potential of the property portfolio will never be unlocked. The restructuring that took place in all spheres of government and in all institutions has resulted in a situation where accuracy and completeness of information was severely compromised.

As a first step in addressing this critical shortcoming on property ownership a computerised *property register* was established in 1997 on a *Merlin Property and Project* operating system. This property register initially recorded properties within the Western Cape, i.e. all properties that may potentially vest in the Province, properties belonging to the Department of Education, Hospital Trustees, Cape Nature Conservation and the Administration of the Cape (now the Provincial Housing Development Board). The register also contained properties that are utilised by departments, but that are not necessarily owned by the Province. Finally, some properties of which ownership is vested in national government were also recorded in the register.

Initially, the *Merlin* property register contained 17 000 properties and is presently being updated and audited. 8 project teams are investigating each property to determine:

- whether ownership of the property should vest in the Province, which will enable the Chief Directorate: Property Management to prepare applications for endorsement of the Title Deeds in terms of Item 28 (1) of Schedule 6 of the Constitution of 1996, by the Registrar of Deeds in favour of the Provincial Government,
- present occupiers (users/clients),
- the current usage,
- **the “highest and best usage”** i.e. maximum potential of each property,
- which properties are presently not registered on the property register, but should also vest in the Province.

Once this audit process is completed and the register consolidated, the *Merlin Property Register* will become a helpful tool in the management of the property portfolio, which is currently estimated to contain approximately 10 000 properties.

The Chief Directorate: Property Management is in the process of capturing all lease agreements and rentals on a Property Management System. *Schedule 2* provides a summary of categories and types of properties, indicates the number of properties per type and identifies the corporate clients. The source document provides a comprehensive explanation about the properties and the needs and expectations of clients.

***SCHEDULE 2: CATEGORIES, TYPES, NUMBERS AND USERS OF PROVINCIAL PROPERTIES***

CATEGORY	TYPES	NUMBER OF PROPERTIES	CORPORATE CLIENT
Agricultural	Experimental farms Agricultural colleges Offices Laboratories		Head of Department: Economic Affairs, Agriculture and Tourism
Commercial	Office buildings Parking space Warehouses Retail buildings		Departmental Accounting Officers and Head of Department: Economic Affairs, Agriculture and Tourism
Cultural	Arts centres Cultural centres Libraries Museums Other buildings of cultural and historical value		Head of Department: Environmental and Cultural Affairs and Sport and Head Of Department: Economic Affairs, Agriculture and Tourism
Educational	Art and music centres Public Schools School clinics Technical colleges		Head of Department: Education
Health	Clinics Hospitals Laboratories		Head of Department: Health and Hospital Trustees
Nature Conservation	Provincial nature reserves Private properties forming part of reserves, of reserved for nature conservation		Head of Department: Environmental and Cultural Affairs and Sport and Nature Conservation Board
Residential	Individual official houses Official housing complexes Individual houses let to staff and private tenants Housing complexes let to staff and private tenants		Head of Department: Economic Affairs, Agriculture and Tourism and Departmental Accounting Officers

Social Services	Social service institutions		Head of Department: Social Services
Training	Provincial Training Academy, Kromme Rhee		Director General, Provincial Administration Western Cape
Transport	Borrowing pits Parking garages Road camps Superfluous road reserves and sites reserved for roads and road camp purposes Traffic centres Weigh bridges		Head of Department: Economic Affairs, Agriculture and Tourism and Road Trustees
Vacant land	Vacant and vacated properties		Head of Department: Economic Affairs, Agriculture and Tourism
Housing	Residential Commercial Schools Vacant land		Head of Department: Planning, Local Government and Housing

## 2.6 OTHER KEY ROLE PLAYERS

### 2.6.1 Provincial role players

Apart from being clients of the Branch: Property Management and Works, as discussed above, the Department of Finance provides direct links to further enhancing property management functions.

From a financial perspective, property represents capital expenditure, and wise and careful consideration of such expenditure is required. Unfortunately, all too often budget pressures result in reductions in capital expenditure. The Department of Finance also considers property to be an asset, which in future will provide a major part of Provincial accreditation for accessing loans. Property may also be a productive asset, in that it generates additional revenue for the Provincial revenue fund.

Finance is also a regulator in the property task environment, being responsible for the execution of functions as set out in Sections 18 and 19 of the **Public Finance Management Act, 1999**. The Department is also a provider of certain indispensable services to Property Management.

Apart from financial assistance as provided for in Sections 18 and 19 of the **Public Finance Management Act, 1999**, information technology services by the Chief-Directorate in the Department of Finance are indispensable in supporting property management activities.



### 2.6.2 Other key role players

Outside the organisational structures of the Province the following role players have a direct bearing on the management of property by the Province:

- Deeds Office
- Department of Land Affairs (national)
- Department of Public Works (national)
- Department of Transport (national)
- Local Authorities
- National State Land Disposal Committee
- Nature Conservation Board
- School Governing Bodies
- State Attorney
- Western Cape State Land Disposal Committee

## 2.7 CONCLUSION

An extensive body of national and provincial legislation as well as other policy directives regulate the activities relating to the management of property in the Province of the Western Cape. However, in order to optimise the benefit of properties to the Province and its people, several shortcomings and grey areas in the policy framework need to be addressed. These shortcomings and grey areas relate to issues of ownership, lack of consistency and uniformity in property management practices by various role players, and cumbersome administrative processes prescribed by law.

The current institutional framework, as discussed in this chapter, creates shortcomings and grey areas for the management of property by vesting property-related activities in a wide variety of role players in different departments and other structures. This prevents optimising the benefit of properties as Provincial asset.

However, in interviews with role players of the various departments (see Source Document), it became clear that there is general consensus that Provincial properties should be managed in a manner which will:

- ensure satisfying provincial functional accommodation needs optimally;
- support socio-economic empowerment and development in the Province; and,
- generate revenue for the Province.

On the one hand, there is general consensus that this can only occur if the needs of the various sectors are considered horizontally, i.e. across functional boundaries. On the other hand, such a cross-functional property management approach can only succeed if the specialised needs of the various client groups and other role players are satisfied.

The management of Provincial properties can therefore not take place in isolation. Issues relating to an institutional framework for the management of property by the Province of the Western Cape will be further discussed in Chapter 4.

## CHAPTER 3: CRITICAL ISSUES

### 3.1 INTRODUCTION

The present policy and institutional framework within which the management of Provincial property takes place, as set out in the previous chapter, results in certain management-related constraints. These constraints are explored as critical issues in this chapter.

**The chapter explores these constraints by discussing and drawing some conclusions on the issues listed below:**

- The effects of present legislation and institutional arrangements on the management of property are summarised;
- The issue of ownership resulting from the present framework is explored;
- Transaction delays resulting from the present framework are explored;
- Highest and best usage of property and the need for engaging previously disadvantaged groups and individuals in activities relating to the management of property, and the effect on it caused by the present framework, are explored;
- The contemporary management demands of sustainability, sophistication, creativity, inclusivity and consistency are discussed;
- Finally the implications of the critical issues are consolidated.

### 3.2 CRITICAL ISSUES IN THE CONTEXT OF THE POLICY AND INSTITUTIONAL FRAMEWORK

#### 3.2.1 Legislation-related impediments

The following legislation-related impediments have direct and/or indirect consequences for the management of Provincial property.

- The predominance of national legislation is confirmed by the provisions of both sections 44 and 146 of the **Constitution of the Republic of South Africa, 1996**. In terms of the provisions of sections 44 Parliament may pass legislation on any matter within a functional area of concurrent national and provincial legislative competence as listed in Schedule 4 as well as, in specific specified circumstances,

with regard to matters falling within the functional areas of exclusive provincial legislative competence as listed in Schedule 5. Further confirmation is found in section 146, which stipulates that national legislation that applies uniformly to the country as a whole prevails over provincial legislation if it cannot be regulated effectively by individual provincial legislation; in matters that require uniformity in establishing norms and standards, frameworks or national policies or in respect of, *inter alia*, the maintenance of national security and economic unity, the promotion of equal opportunity of equal access to government services and the protection of the environment.

- Provisions of Item 28(1) of Schedule 6 of the Constitution of 1996 determine that the registration of immovable property owned by the state in the name of a particular government shall take place upon the production of a certificate by a "competent authority" stating that such property vests in that particular government in terms of section 239 of the previous Constitution (1993). On compliance the Registrar of Deeds must make the necessary entries or endorsements to register such property in the name of the particular government. The present *de facto* position is that the Western Cape State Land Disposal Committee (consisting of two representatives of the Province and two each from the national Departments of Land Affairs and Public Works) on a monthly basis recommend to the sole "competent authority" (presently the national Minister of Land Affairs) which properties should be certified for registration purposes.
- Provincial property transactions (i.e. acquisition and disposal) are presently dispersed and fragmented due to the fact that they are implemented in terms of empowering provisions emanating from a number of different legislative sources. Examples in this respect are the **Western Cape Land Administration Act**, 1998, the **Health Act**, 1977 and the **Hospitals Ordinance**, 1946, the **Museums Ordinance**, 1975, and the **Western Cape Conservation Board Act**, 1998.
- There is a void in present legislation pertaining to the management of property in respect of specific types of property. The absence of legislation in respect of the determination, certification and confirmation of the ownership of former Model C schools is a case in point.

### 3.2.2 Institutional impediments

The institutional framework as set out in the second half of Chapter 2 clearly illustrates that property management activities take place in a fragmented manner, dispersed amongst the various departments. This is in addition to the numerous sections of legislation and different administrative processes for different clients. This context is typical of hierarchically and functionally organised structures.

These structures had many advantages in ensuring control of routine work in the industrial era. However, in a knowledge society they become cumbersome and create impediments in allowing work to be done. They prevent innovation and entrepreneurship, because people doing the work have no real authority, while people with authority do little work. Hierarchical structural arrangements may support functional efficiency, but do not encourage co-ordination and integration for effectiveness. They actually encourage feuding among staff and divisions.

The hierarchical organisation is good at delivering repetitive mass-produced products, but is totally insensitive to what the “market” requires, as it distances the organisation from its clients. Information becomes bottled up in the hierarchy, instead of spreading to the people who need it to do the work. A culture of “not rocking the boat” suppresses ideas and “healthy” conflicts.

In the public sector the power-authority relationships between the legislative, executive and administrative functions and between the various spheres of government add another dimension to this issue of structural barriers. This power-authority relationship in itself is indispensable for maintaining democratic principles, but added to the fragmented responsibilities for the management of property, it leads to roles becoming blurred even further. This in turn demands a lot of focus on eliminating mistakes occurring between the various role players, to the detriment of focusing on innovation.

### 3.2.3 Critical issues in the context of the policy and institutional framework

**Schedule 3** provides a summary of how the context impacts on a number of critical issues to be discussed in the following sections.

**SCHEDULE 3: CRITICAL ISSUES IN THE CONTEXT OF THE POLICY AND INSTITUTIONAL FRAMEWORK**

ISSUE	LEGISLATION	STRUCTURE
<b>OWNERSHIP</b>	<ul style="list-style-type: none"> <li>* Endorsement of properties in terms of item 28(1) of Schedule 6 of the Constitution of 1996</li> <li>* Prevalence of national legislation in terms of Section 146(2) and (3) of the Constitution of 1996</li> <li>* Gaps in legislation</li> </ul>	<ul style="list-style-type: none"> <li>* Dispersed ownership between accounting officers</li> </ul>
<b>TRANSACTION DELAYS</b>	<ul style="list-style-type: none"> <li>* Divergent procedures, authorisations and decisions between various types of properties</li> <li>* Inflexible letting and leasing procedures</li> </ul>	<ul style="list-style-type: none"> <li>* Too many role players</li> </ul>
<b>HIGHEST AND BEST USAGE</b>	<ul style="list-style-type: none"> <li>* Absence of superseding legislation</li> <li>* Absence of clear guidelines on empowerment</li> </ul>	<ul style="list-style-type: none"> <li>* Dispersed property management activities prevent integration</li> </ul>
<b>CONTEMPORARY PROPERTY MANAGEMENT DEMANDS:</b> Sustainability Sophistication Creativity Innovation Inclusivity Consistency	<ul style="list-style-type: none"> <li>* Lack of capacity nationally to implement enabling legislation</li> <li>* Divergent legislation</li> </ul>	<ul style="list-style-type: none"> <li>* Dispersed property management activities preclude a long-term perspective, specialisation, research and the ability to involve other parties</li> </ul>

### 3.3 OWNERSHIP

The first requirement in addressing the following issues relating to ownership is that the Property Register should be finalised and audited.

#### 3.3.1 Confirmation of Ownership in terms of Item 28 (1) of the Constitution, 1996

- One of the most critical shortcomings in current legislation relates to Item 28 (1) of the Constitution of 1996, whereby “a *competent authority*” must certify that a certain immovable property owned by “*the state*” is “*vested in a particular government in terms of section 239 of the previous Constitution*” before a Registrar of Deeds can make the necessary entries or endorsements to register that immovable property in the name of that government. At present, the national Minister of Land Affairs is the only accepted “competent authority”.

Another role player in the process of ownership is the Western Cape State Land Disposal Committee, consisting in the Western Cape of two representatives each of the Province and the regional offices of the Departments of Land Affairs and Public Works. The committee meets once a month to clear individual properties, after which the “competent authority” can certify this. Where disputes arise, these are referred to a National State Land Disposal Committee. The process, therefore, is cumbersome and needs reconsideration.

- The second aspect on ownership in terms of Item 28 (1) of the Constitution of 1996 relates to clarification about the utilisation of properties. Although it is clear that ownership of properties utilised for functional areas of concurrent national and provincial legislative competence and functional areas of exclusive provincial legislative competence (respectively Schedule 4 and 5 of the Constitution of 1996) should be vested in the Province, confirmation of ownership of individual properties remains a problem for the following reasons:
  - Vacant sites reserved for Schedule 4 and 5 purposes, but which reservation was suspended before 27 April 1994, is a matter of dispute, which may eventually have to be resolved in the Constitutional Court. An example is

vacant sites reserved for educational purposes, but of which the reservations were suspended in terms of the **Education Affairs Act (House of Assembly)**, 1988 (Act 70 of 1988).

- Ownership of former Model C Schools vested in the governing body of each school. As part of the transformation process, however, these properties were expropriated in favour of the "RSA", but there are not further mechanisms to conclude the re-allocation process of ownership of these properties to the Province.

### **3.3.2 Properties utilised for Schedule 4 and 5 functions without formal confirmation of ownership**

- A number of schools were built on land belonging to the Housing Board or particular local authorities, without transfer of ownership to the Provincial government or any lease agreements. When these properties were developed, there was no *de jure* separation between "*Housing Board*" and "*Province*" and township development was funded from the same budget as school construction. Currently, however, the Provincial government and the Housing Board are two separate legal entities, and Provincial government improvements on Housing Board land would be clarified contractually.
- In terms of the **Abolition of Development Bodies Act, 1986** (Act 75 of 1986), properties previously belonging to divisional councils and black development boards were transferred to the then Administrator of the Cape. Some of these properties were developed by means of Housing Board loans, and ownership should be transferred to the Provincial Housing Development Board in terms of the **Housing Act, 1997** (Act 107/1997). Other properties were developed with financing by local authorities. It was also proclaimed that ownership of these should be transferred to the newly established local authorities.

### **3.3.3 Administrative processes relating to property ownership**

- One of the negative consequences of unresolved clarifications of ownership is the absence of authority to deal with land invasions. Before court orders for evictions can be issued, certificates of ownership must be submitted. In the absence of



confirmation of ownership, Province is therefore without means of dealing with land invasions, while the relevant national department may have the authority, but not the motivation for dealing with the matter.

- Property taxes are being paid for by the national Department of Public Works. It is, therefore, not possible to manage the flow of funds allocated for this purpose, or for being held accountable for these funds. Furthermore, information accompanying the responsibility to pay provides the means to ensure that all properties are identified and also to ensure that all properties are managed according to “highest and best usage” principles.
- Property ownership does not only bring benefits. Presently, the estimated backlog in maintenance of property owned by the Province or of which ownership should vest in the Province amounts to R1,1 billion (Chief Director: Works: 2000).

### **3.3.4 Institutional arrangements regarding ownership**

The responsibilities of accounting officers as determined in Section 38 (1) of the **Public Finance Management Act**, 1999 (Act 1 of 1999 as amended by Act 29 of 1999) may, from an accounting point of view, necessitate that ownership of properties be allocated to the user departments for which the accounting officers are responsible, thereby enabling them to reflect the value of properties as asset(s) on the balance sheet. This is in accordance with accrual accounting practices.

However, Item 28 (1) of the Constitution of 1996 determines that ownership be vested in a particular government rather than a particular department. Furthermore, should ownership of property be vested in each user department with an accounting officer, it means that he/she will have the authority to implement, and be held accountable for, efficient and effective management, including maintaining and safeguarding those properties. But this would cause a fragmented management of smaller government property portfolios within the same sphere of government. This will be to the detriment of an integrated and holistic approach and its accompanying optimal utilisation of properties.

### 3.4 TRANSACTION DELAYS

#### 3.4.1 Divergent procedures, authorisations and decisions

Sections 2 and 3 of the **Western Cape Land Administration Act, 1998** (Act 6 of 1998) provide for the acquisition and disposal of property by the Premier, “unless otherwise expressly provided for in any other law ...”. This act can therefore only be applied in the absence of other legislation. Currently, superfluous and unutilised road reserves, Hospital Trustees, Nature Conservation, Agricultural and Education land transactions are provided for in other legislation. This leads to divergent procedures, authorisations and different decision makers, causing confusion and delays, and preventing an integrated property management process.

#### 3.4.2 Too many role players

The departmentalisation model discussed in Chapter 2 illustrates that property management activities are performed by a variety of role players. This slows down transactions in an era where the competitive edge is gained through being faster than the competitor. Clients in the business sector expect a fast reaction, not through crisis management where speed is obtained by means of rushing and cutting corners, but by eliminating waste and improving and streamlining processes.

#### 3.4.3 Inflexible letting and leasing procedures

The **Western Cape Land Administration Act, 1998** provides for letting and leasing of properties on the same basis as selling and buying. Each transaction – even short-term letting and leasing transactions – must follow the cumbersome process of registration in the Deeds Office.

### 3.5 HIGHEST AND BEST USAGE

*Highest and best usage* is defined (Margolius, 2000) as the most probable use of a property which is physically possible, appropriately justified, legally permissible, financially feasible and which results in the highest value of the property being attained.

In order to achieve this a use that is not legally permissible or physically possible cannot be considered as the highest and best use. A use that is legally permissible and physically possible may nevertheless require an explanation by a valuer justifying why that use is reasonably probable. Once analysis establishes that one or more uses are probable uses, they are then tested as to financial feasibility. That use which results in the highest value, in keeping with the other tests, is considered the highest and best usage.

The usage of provincial properties (land and buildings) needs reviewing in order to ascertain whether or not the properties are in fact being utilised to their "highest and best usage". By way of example, a hospital or school in a specific area may be uneconomical for a variety of financial reasons. The building could have exceeded its economic life-span and/or the locality in which it is situated has changed.

Further development of the land and buildings needs to be reviewed and considered. Highest and best usage should be related to accommodation needs, land reform, business promotion favouring previously disadvantaged individuals and communities, and generating revenue for the Province.

The process of consultation with various role players revealed that the principle of highest and best usage of Provincial properties is presently not adhered to, because:

- Various Provincial properties have under-utilised space or land beyond the minimum requirements for their present purposes;
- A number of Provincial properties provide excellent opportunities for business promotion and/or revenue generation, while present occupiers can be located equally well elsewhere;
- Many Provincial properties are no longer suitably located in terms of the needs of beneficiaries;
- Certain Provincial properties are no longer suitable for fulfilling their functions due to functional, economic or technical obsolescence;
- Legal and constitutional constraints prevent highest and best usage;
- There is an inherent conflict between highest and best usage and the need for empowerment, development and the social upliftment of communities.

### **3.5.1 Absence of superseding legislation**

The previously mentioned constraint that the **Western Cape Land Administration Act, 1998** can only be applied in the absence of other legislation effectively prevents consideration of highest and best usage beyond the narrow sector-specific needs of functional areas.

### **3.5.2 Dispersed activities preclude integration**

The present structural arrangement reflects vertical division and a hierarchical and functional approach to property management. It rigidly commits properties in particular sections to those sectors only and creates an impediment to horizontal integration. Such integration is necessary for serving the core business objectives of the Province.

### **3.5.3 Absence of clear guidelines on empowerment**

Empowerment of previously disadvantaged communities can either take place by means of social upliftment of communities or economic upliftment by facilitating previously disadvantaged individuals to gain access to business opportunities. The former may contradict the principle of "highest and best usage" of properties in a context of financial gain, and hence clear guidelines are necessary to balance the two. Giving previously disadvantaged individuals access to business opportunities may not compromise highest and best usage principles, because this is a matter of "levelling the playing fields", rather than allowing compromised usage of properties. Procurement legislation and regulations are in place to guide transactions in this regard.

## **3.6 CONTEMPORARY MANAGEMENT DEMANDS**

The issues of sustainability, sophistication, creativity, innovation, inclusivity and consistency in property management need further clarification:

**Sustainability** is concerned with a long-term perspective, which links properties to the vision and mission of the Province. Acquisition, management and disposal of a property need not only be considered in terms of lifecycle costing, but also in terms of how they will

serve the Provincial vision and mission. Such an approach may cause short-term increases in expenditure in order to gain long-term benefits.

**Sophistication** is an issue because the management of property requires leveraging and enhancing practices, skills and competencies as well as technologies on the cutting-edge of the field of specialisation.

**Creativity** entails new responses to new and unresolved demands of the 21<sup>st</sup> century. Technological and other advances in the environment bring new solutions, which need to be recognised in the core functions of Provincial property management.

**Innovation** entails the ability to implement creative ideas. The South African policy environment is richly endowed with creative ideas as described in the thousands of pages of green and white papers, but lack of innovative approaches to implementing them still results in inaction.

**Inclusivity** means ensuring that all potential role players are involved. This includes those in other spheres and institutions of government, as well role players in the non-governmental and business sectors. Inclusivity means linking up in partnerships to add value to core business functions.

**Consistency** entails applying the same sound management principles to all Provincial properties in utilising them to serve Provincial objectives without having to deal with exceptions caused by divergent arrangements and expectations of various role players. Consistency, however, does not exclude adhering to the specialised needs of clients and users.

### **3.6.1 Implementation delays of enabling legislation**

**The Public Finance Management Act (1999)** and **Treasury Regulations (2000)** provide a framework for responding positively to the above contemporary management demands with their emphasis on a performance-driven system based on measurable outputs.

Provision is made *inter alia* for effective corporate management arrangements, strategic planning and public private partnerships. However, capacity and other constraints presently prevent the full implementation of these arrangements.

### **3.6.2 Divergent legislation**

Divergent legislation as discussed on subsection 3.4.1 prevents responding fully and appropriately to contemporary property management demands.

### **3.6.3 Dispersed property management activities**

As explained in subsection 3.5.2, dispersed property-related activities preclude an integrated approach toward highest and best usage of all Provincial properties. These dispersed activities are also impeding the ability to implement practices conducive to contemporary management approaches by property specialists.

## **3.7 CONCLUSIONS ON THE CRITICAL ISSUES**

Shortcomings in legislation guiding Provincial property-related activities and institutional arrangements promoting dispersed and unintegrated activities gave rise to a number of critical issues. Identification of these issues helped define the present imperfect approach to the management of provincial property. Subsequent chapters will explore alternative processes in demarcating the differences between current and sought-after practices.

## CHAPTER 4: MANAGEMENT OF PROPERTY: THEORY AND PRACTICE

### 4.1 INTRODUCTION

This chapter provides a theoretical framework within which to understand the functions relating to the management of property and to describe international and national practices. This is done in order to contribute towards creating a strategic framework for the management of provincial property.

The following definitions and practices are discussed in this chapter:

- The constructs **facilities management**, **property management** and **asset management** are defined as functions relating to the management of property, and their relationship to each other and other role players is illustrated.
- Other national and international property management practices are explored and illustrated in order to highlight various approaches to the management of property.
- Conclusions drawn from the defined functions and various practices explored are set out for the purpose of formulating a strategic framework for the management of Provincial property in the Western Cape.

### 4.2 DEFINING FUNCTIONS IN THE MANAGEMENT OF PROPERTY

Functions of property management in the private sector as set out by Du Plooy (2000), Dubben and Sayce (1991:25) and Penny (1987:18) include facilities management, property management and asset management.

**Facilities management** is concerned with the physical and technical infrastructure, which includes *inter alia* bricks and mortar as well as mechanical equipment. Activities include provision and maintenance of infrastructure, lifecycle planning, technical planning, as well as mechanical and physical systems planning.

**Property management** as a function is concerned with the management and administration of income-producing properties. Activities include rental collection, leasing,

supervision and management of operating expenses – e.g. security, cleaning and gardening. The responsibilities revolve around the qualitative performance of property ensuring the most efficient utilisation of space and the timely and effective reporting and accounting of income and expenditure.

**Property asset management** is concerned with property investments, in order to ensure the best return for owners or stakeholders. Responsibilities revolve around the quantitative performance of assets. Activities include formulation and implementation of strategy, managing transactions, financing, accounting, benchmarking, performance reporting and risk management. Asset management, therefore, is a distinct profession which integrates the other functions. It represents a strategic approach to property management, which is aimed at adding and extracting value to and from property during its entire lifecycle, starting with acquisition and ending at disposal. In between, changing market opportunities and economic factors are related to physical and financial structuring requirements in order to ensure **highest and best usage**.

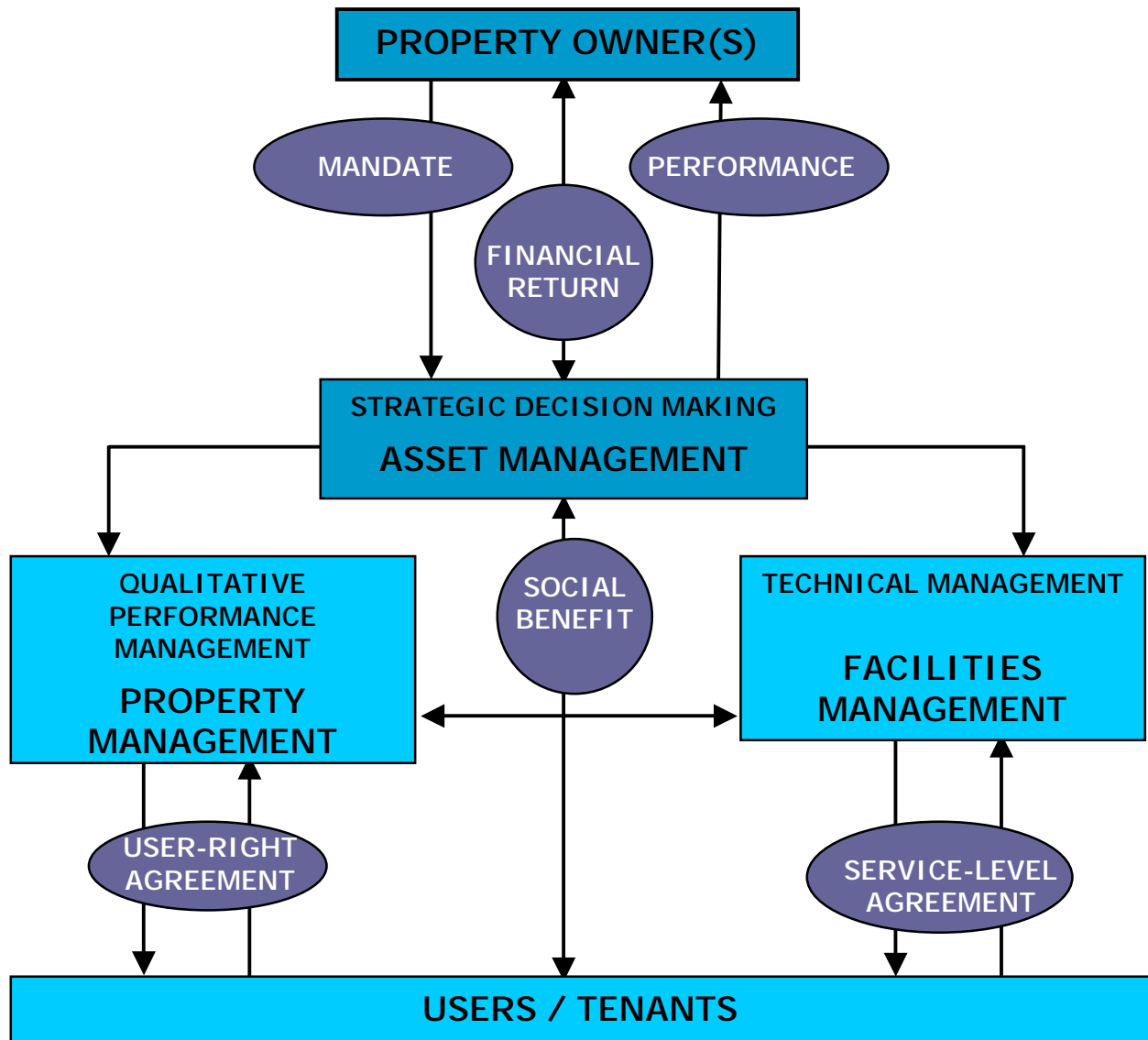
#### **4.3 MANAGEMENT OF PROPERTY IN THE PRIVATE SECTOR**

The above functions and relationships to the various role players surrounding the management of property in the business sector are illustrated in *Figure 2*. It clearly illustrates that financial returns fall within the sphere of interaction between the owner(s) and asset managers. The social benefits fall within the sphere of interaction between property managers, facilities managers and users of properties.

#### **4.4 PUBLIC SECTOR MODELS FOR THE MANAGEMENT OF PROPERTIES**

Public sector property management models explored in researching this policy initiative are discussed in the Source Document, but aspects of each of these which may contribute towards determining an appropriate model for the Province are illustrated in *Figures 4, 5, 6, 7 and 8* below and the significance of each is pointed out.



**FIGURE 2: MANAGEMENT OF PROPERTY IN THE PRIVATE SECTOR**

#### 4.4.1 Present Western Cape Provincial Property Management arrangements

In a Provincial property management context, the distinction between financial return and social benefit as set out in *Figure 2* is more blurred, because Provincial government as property owner considers *highest and best usage* in terms of the strategic objectives rather than mainly financial return, as would be the case in the business sector. The lifecycle of a Provincial property is mostly initiated as a result of a socio-economic objective. However, *Figure 3* – which is derived from *Figure 1* and further information in Chapter 2 – illustrates that the present Provincial institutional arrangements not only produce fragmentation of property management activities, but also make no provision for a dedicated asset management component to support innovation.

#### 4.4.2 Province of Gauteng (1999)

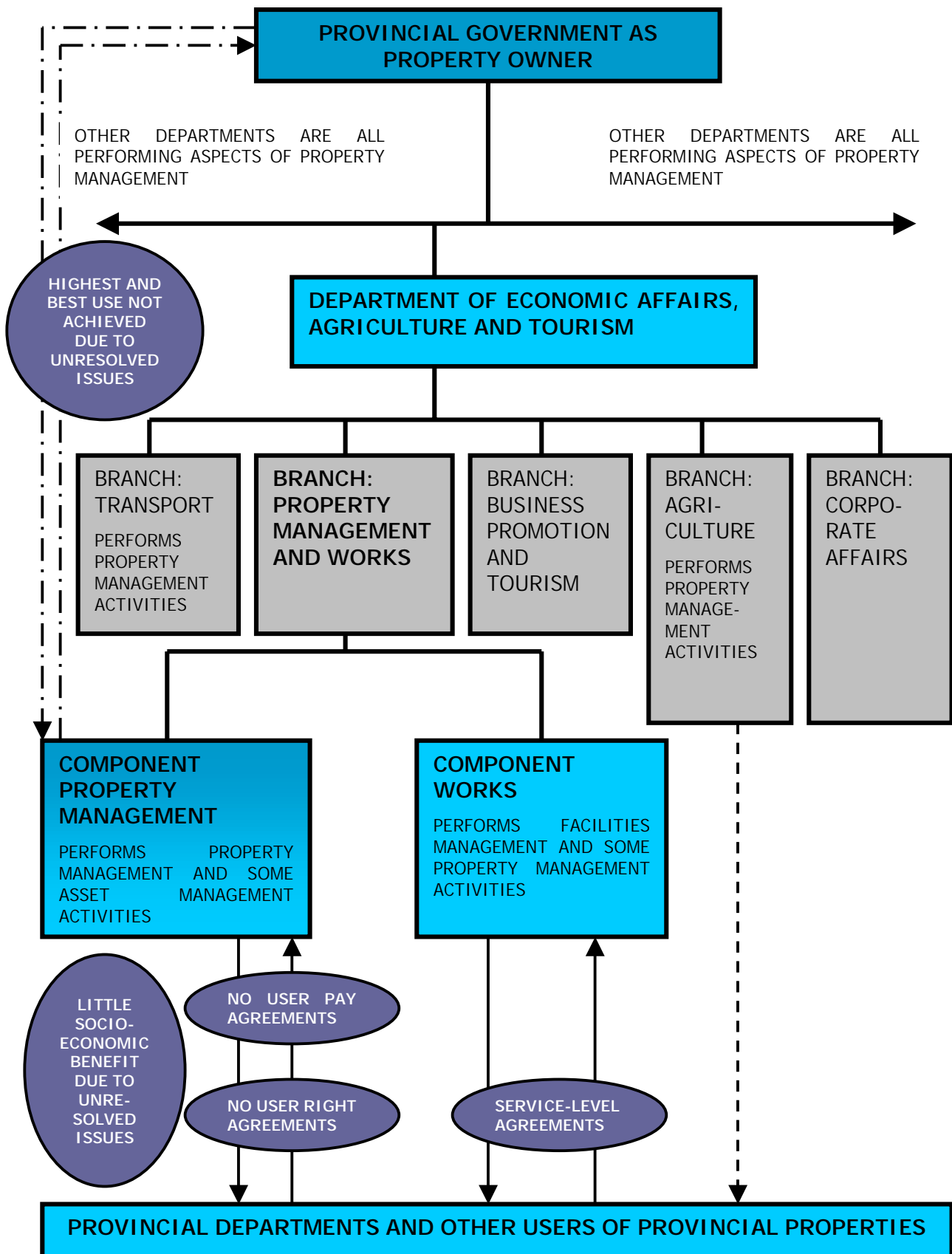
The establishment of a Property Board and Property Committee was the Province of Gauteng's answer to ensure **coordination** of property-related activities. (This arrangement was in operation up to 1999.) The Property Committee consisted of representatives from each Provincial Department. The Committee considered excess properties with a view to re-allocation to other Provincial Departments. Should another Department not require the excess, it was referred to the Department of Land Affairs and Housing, who submitted a recommendation for disposal to the Property Board, consisting of the Minister of Property Management and the Heads of Departments. The approval was then returned to the Department of Land Affairs and Housing, which in turn referred it to the relevant Department for finalising the disposal. That Department then may have requested the Department of Land Affairs and Housing to assist in the disposal. *Figure 4* illustrates this process.

The **advantage** of this approach is that it provides for coordination amongst the various line departments in dealing with excess properties. The **disadvantage** is that this approach does not support a comprehensive approach that would successfully address the issues discussed in Chapter 3.

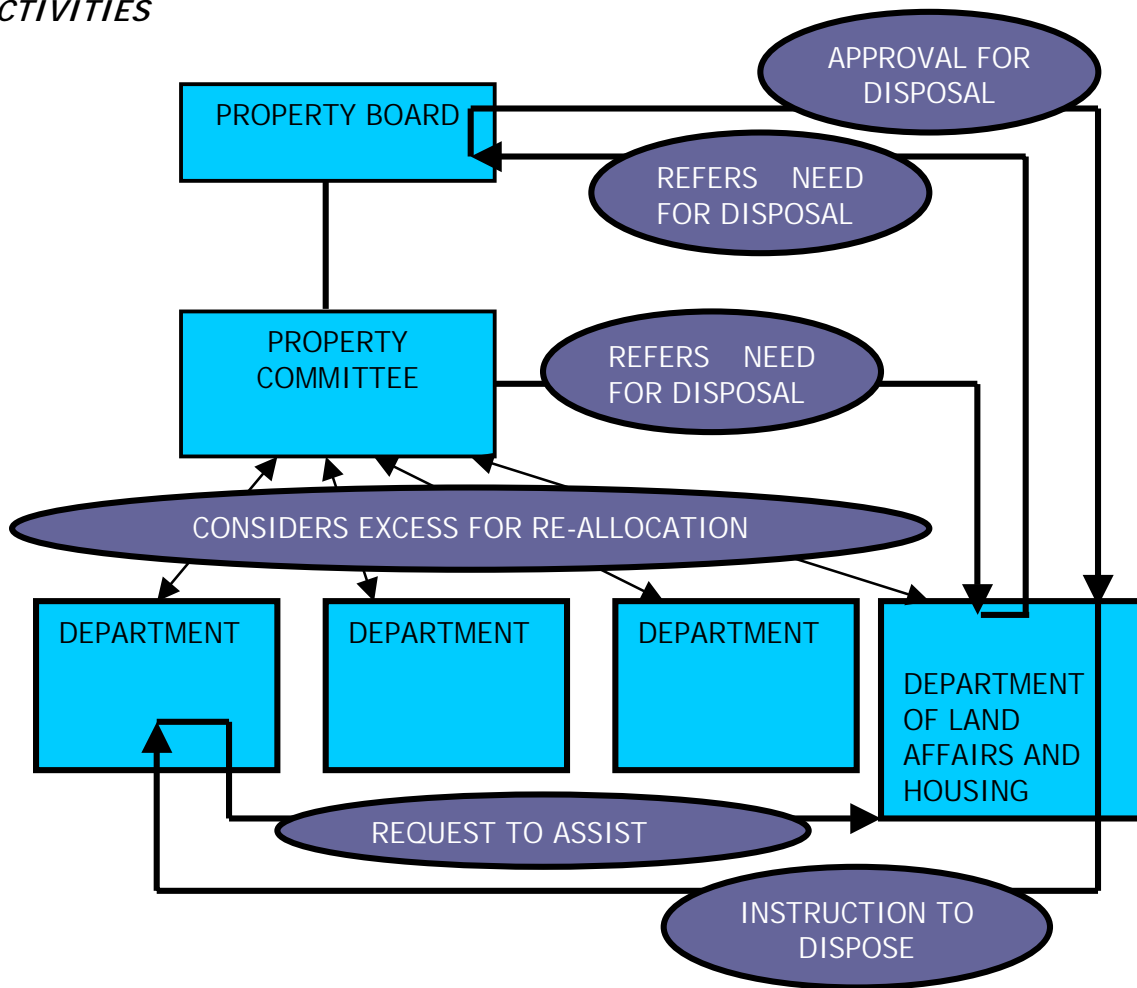
#### 4.4.3 Intersite

The formation of a separate **legal corporate entity** to provide property management services, as in the case with Intersite Property Management Services (Pty) Ltd, which was formed out of the property division of the South African Rail Commuter Corporation (SARCC), provides the ability to operate with more of the freedom generally associated with a private sector business or Section 21 company. Intersite not only provides services to the SARCC, but also is actively marketing its expertise to other public sector institutions. Government still owns the corporation and controls it through a Board. *Figure 5* depicts the structural arrangements of Intersite.

**FIGURE 3: PRESENT WESTERN CAPE MANAGEMENT OF PROPERTY ARRANGEMENTS**



**FIGURE 4: PROVINCE OF GAUTENG COORDINATION OF PROPERTY-RELATED ACTIVITIES**

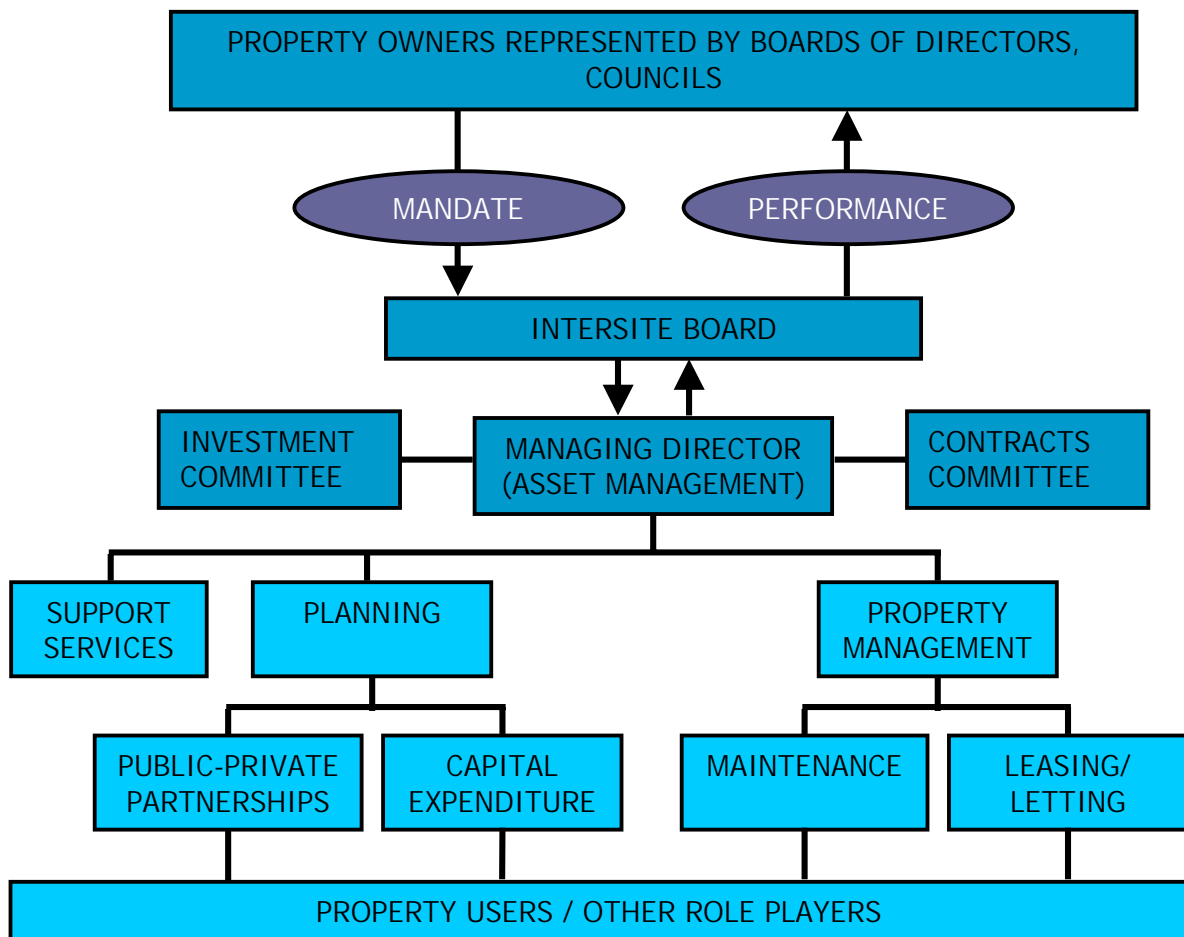


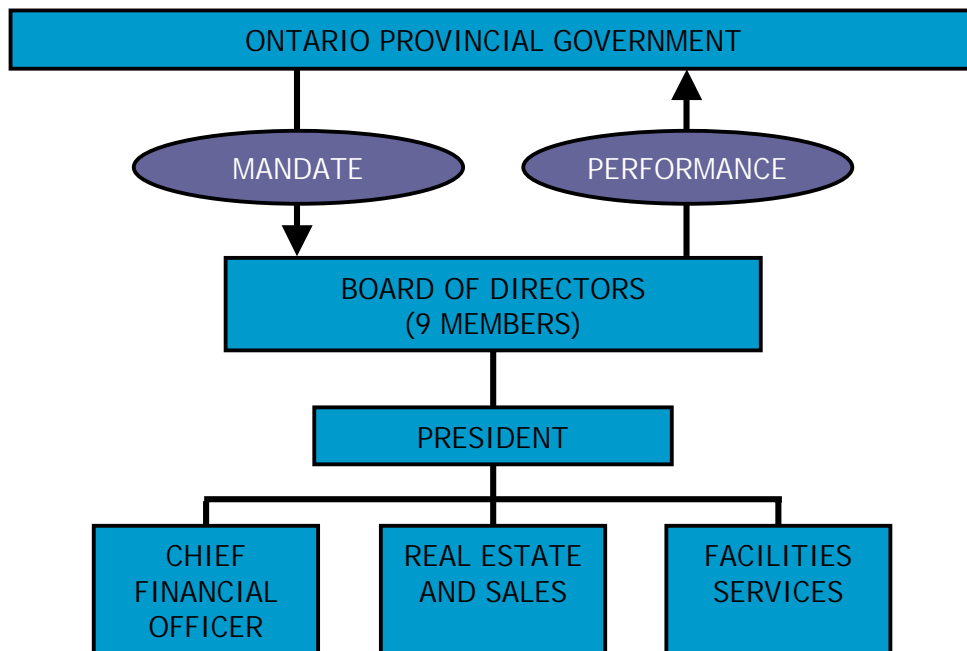
#### 4.4.4 Province of Ontario, Canada

An example of the formation of a separate legal corporate entity in a provincial setting is seen in the Province of Ontario, Canada, where the Ontario Realty Corporation (ORC) as “Crown” Corporation has the mandate to provide provincial government ministries as well as agencies, boards and commissions with professional property-related services. ORC is **working closely with** local governments and communities in order to revitalise these communities (i.e. socio-economic development) while fulfilling its commercial mandate as well. A government-appointed Board of Directors consisting of nine persons with a variety of private and public sector expertise gives direction to ORC activities and has already ensured the adoption of public-private partnership and business practices. *Figure 6* illustrates the organisational arrangements. Revenues generated by ORC are used to fund ORC operations and dividends are deposited in the General Consolidated Revenues account (<http://ontariorealty.on.ca/> 08/08/2000).

The **advantages** of this corporatisation approach are that a dedicated single-function corporate entity is created to deal exclusively with property services and the appointment of a Board of Directors that has appropriate experience of property-related matters. This Board can ensure that appropriate decisions regarding property services are taken. The fact that this corporate entity is placed outside the formal structures of government allows flexibility normally associated with the private sector. This may, however, also be considered a **disadvantage**, due to the possibility of reduced democratic accountability, and because the emphasis may shift to generating revenue at the cost of socio-economic responsibilities. Such an interpretation is incorrect, because a government institution and executive authority still appoint the Board and give it its mandate. This mandate must ensure a balanced approach to highest and best usage, as will be further discussed in the next section.

**FIGURE 5: INTERSITE STRUCTURE**



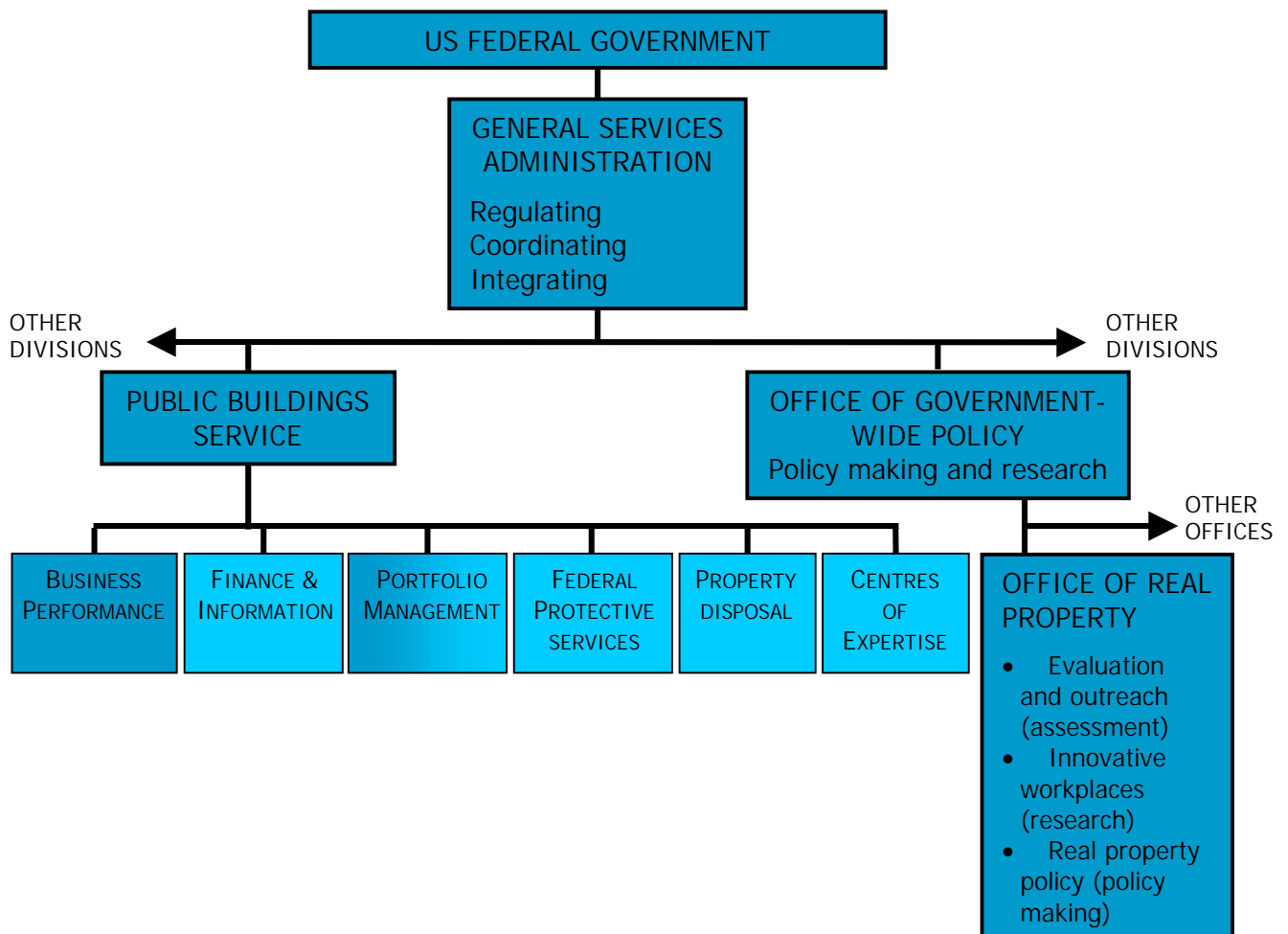
**FIGURE 6: ONTARIO REALTY CORPORATION (ORC)**

#### 4.4.5 United States Federal Government

Management of property and its strategic functioning are affected extensively by contemporary developments, especially in the area of information technology, which not only offers new management applications and requires new accommodation provisions, but also offers new approaches to setting up workplace arrangements, such as decentralised and networked workplaces and working from home. These developments need to be **researched and explored** continuously and globally. *Figure 7* illustrates how the General Services Administration (GSA) of the United States Federal Government addresses this requirement. Apart from a Public Buildings Service division, an Office of Government-wide Policy division has *inter alia* an Office of Real Property subdivision, which is mainly concerned with property-related policy making and research. This Office of Real Property has to ensure that policies are related to latest developments in workplace requirements. For that purpose they maintain active linkages with other national, state and local governments, the private industry, professional associations and the academic community (<http://www.gsa.gov/public.htm> 08/08/2000).

The **advantage** of this arrangement lies in the **comprehensive** approach to property services. Not only does the *Public Buildings Services* division render the full range of property services, but the *Office of Government-wide Policy* executes assessment, research and policy formulation services. This is done beyond the borders of the organisation. The **disadvantage** is that property services are still only one of a variety of services offered by both the *Public Buildings Services* division and the *Office of Government-wide Policy* within the GSA. It still contains characteristics of a hierarchical organisation, with the potential of the negative manifestations discussed in Chapter 3.

**FIGURE 7: PROPERTY MANAGEMENT, US FEDERAL GOVERNMENT**



#### 4.4.6 Queensland Government, Australia

The Building Division of the Department of Public Works in Queensland, Australia, provides an example of the **integration** of property management activities where responsibility for ownership and management of properties is devolved to line agencies. It is expected of each agency to address organisational requirements for property management in terms of certain mandatory responsibilities and other discretionary requirements based on size of the portfolio, types and complexities of assets, and emphasis on core business activities.

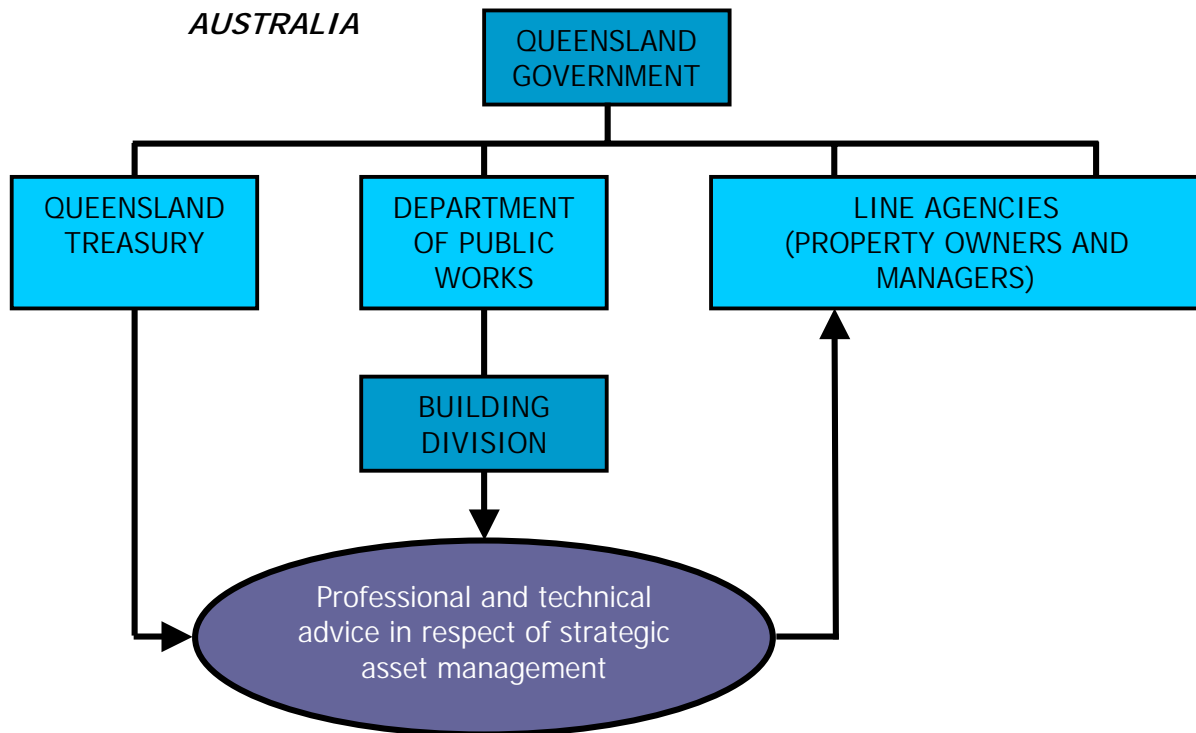
*Figure 8* illustrates that the Building Division, together with Queensland Treasury provide expert professional and technical advice on **Strategic Asset Management**. This entails a framework, which encompasses so-called *lateral, vertical and whole-of-government* perspectives on the management of property. The lateral perspective is aimed at enabling agencies to develop portfolio-wide strategies to match defined services with the required quality, quantity and type of properties. The vertical perspective ensures that decisions on assets are enhanced by means of structured methodologies and decision-making tools that take the lifecycle of a property into consideration. The whole-of-government perspective ensures that asset decisions by agencies support government policy and guidelines, and are coordinated within agencies and across government:

([http://www.build.qld.gov.au/p\\_sam/sam\\_bk1/overview.htm](http://www.build.qld.gov.au/p_sam/sam_bk1/overview.htm) 14/06/2000).

The **advantage** of the services provided by the Queensland Department of Public Works is that their *lateral, vertical and whole-of-government* perspectives are mechanisms for supporting integration. The **disadvantage** is that ownership and accountability for property services are still dispersed amongst the various user departments. A comprehensive range of property services is therefore still not ensured.



**FIGURE 8: PROPERTY MANAGEMENT IN QUEENSLAND GOVERNMENT, AUSTRALIA**

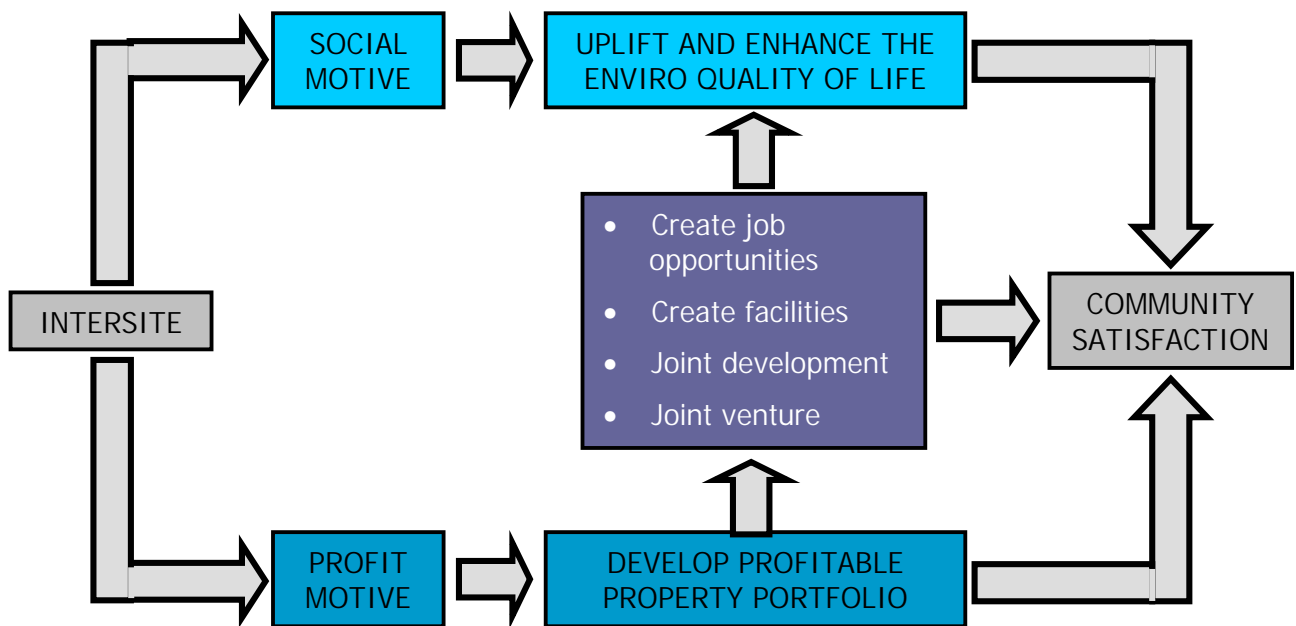


#### 4.5 MODELS FOR PROVIDING A BALANCE BETWEEN PROFIT AND SOCIO-ECONOMIC OBJECTIVES

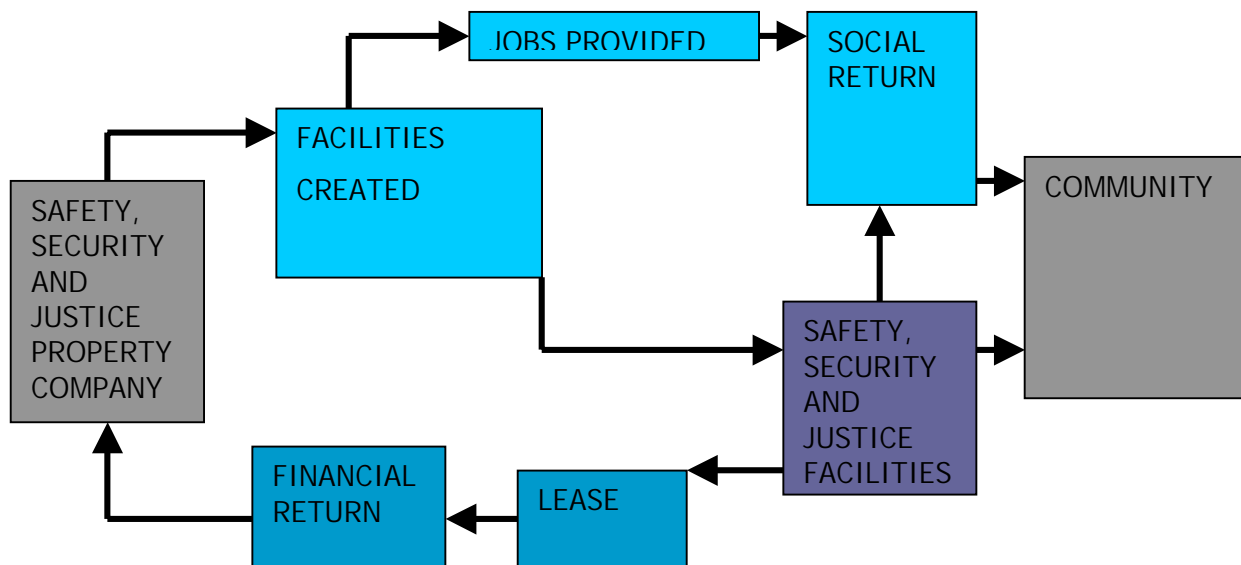
The present Provincial organisational structure does not necessarily prevent the utilisation of properties in serving socio-economic development and empowerment objectives of the various line departments, but it does preclude an approach whereby an integrated property portfolio is considered in terms of a balance between socio-economic objectives as served by the line departments, the socio-economic potential of excess properties, and the potential for generating financial returns by means of properties.

Maximising financial return may not be the highest priority when highest and best usage of properties is considered, but the ability to **maximise return in balance with socio-economic objectives** remains of critical importance, because maximising return still means more revenue to finance further socio-economic and economic development. Innovative management of Provincial properties through the function of asset management is therefore indispensable. *Figures 9 and 10* provide frameworks for determining this balance as adopted by Intersite and the Safety, Security and Justice Property Company respectively. The latter is a private company providing safety, security and justice accommodation on a lease basis to government and it actually illustrates how all leased properties can be related to both profit and social motives.

**FIGURE 9: INTERSITE: SOCIAL AND PROFIT MOTIVES (Adapted from Intersite)**



**FIGURE 10: SAFETY, SECURITY AND JUSTICE PROPERTY COMPANY: SOCIAL AND PROFIT MOTIVES**



**4.6 CONCLUSION**

Management of property in the business sector is served by the functions of facilities management, property management and asset management. The latter represents a strategic approach that ensures maximising financial return. In a public sector context asset management should ensure highest and best usage of properties in terms of providing the most appropriate balance between socio-economic development and financial returns. The lifecycle of a Provincial property is, in fact, mostly initiated as a result of a socio-economic

objective that may eventually or indirectly also serve economic objectives. The maximisation of return should, however, not be neglected. It requires specific expertise and innovation that should be accommodated in a separate component of the *Property Management Entity*. National and international practices that should be considered in formulating a policy include the possibility of creating a separate legal corporate entity to provide property management services to **all** Provincial government departments, entities and boards. Such an entity is still owned by the Provincial government, but may be given strategic direction by a Board of Directors consisting of individuals with a variety of private and public sector expertise.

Mechanisms should also be created to ensure that the *Property Management Entity* collaborates closely with other government and non-governmental institutions in the Province dealing with property management. This should ensure providing maximum benefit to communities, especially those previously disadvantaged communities that are still marginalised through a lack of facilities providing public services and business opportunities. In this regard, it is acknowledged that significant value can be added through public-public and public-private partnerships.

Further mechanisms are necessary to ensure that properties are provided in terms of the latest developments in the field of workplace arrangements. Research networks and global linkages should be set up.

It is clear from previous chapters and the examples in this chapter that ownership should vest in the Provincial government to ensure integration. However, apart from where ownership vests, a strategic asset management framework should focus on matching of properties with required uses to enhance value of properties through their entire lifecycle, and to ensure a *whole-of-government* property integration. Institutional arrangements supporting an integrated approach will also ensure a balance between revenue generation and socio-economic objectives.

## CHAPTER 5: VISION, MISSION, STRATEGIC IMPERATIVES AND OBJECTIVES

### 5.1 INTRODUCTION

The purpose of this chapter is to set out a qualitative framework to guide the management of Provincial property. The chapter also includes an overview of milestones already passed towards reform and lists critical success factors for Provincial property-related activities.

**The following are included in the chapter:**

- A vision for the management of Provincial property;
- A mission statement;
- Strategic imperatives;
- Enabling and strategic objectives for the management of property;
- Milestones passed in achieving the required approach;
- Critical success factors;
- Conclusion.

The vision, mission, strategic imperatives and objectives have been formulated within the context of the fulfilment of the promise of the Western Cape. This is a promise of a thriving economy, a safe environment for all, an enabling environment for economic growth, basic services to empower the poor, and improved quality and accessibility of services provided by the Provincial government. The total environment must also be protected, enhanced and promoted to ensure the optimum development of people. The physical infrastructure required for the development of the Province also needs to be maintained and improved. In relating this context to the management of property, it is necessary to ensure that:

- properties be made available to public and non-government users in support of the provision of essential Provincial functions and in line with the overarching policy objectives of the Province;
- properties be utilised in the fulfilment of public concerns such as socio-economic development, including redressing the imbalances of the past;

- properties be utilised to ensure a constant income stream for the Province; and
- properties are optimally utilised.

## 5.2 VISION

The vision of the Branch is, “Dynamic Provincial property services to unlock value for the benefit of all”.

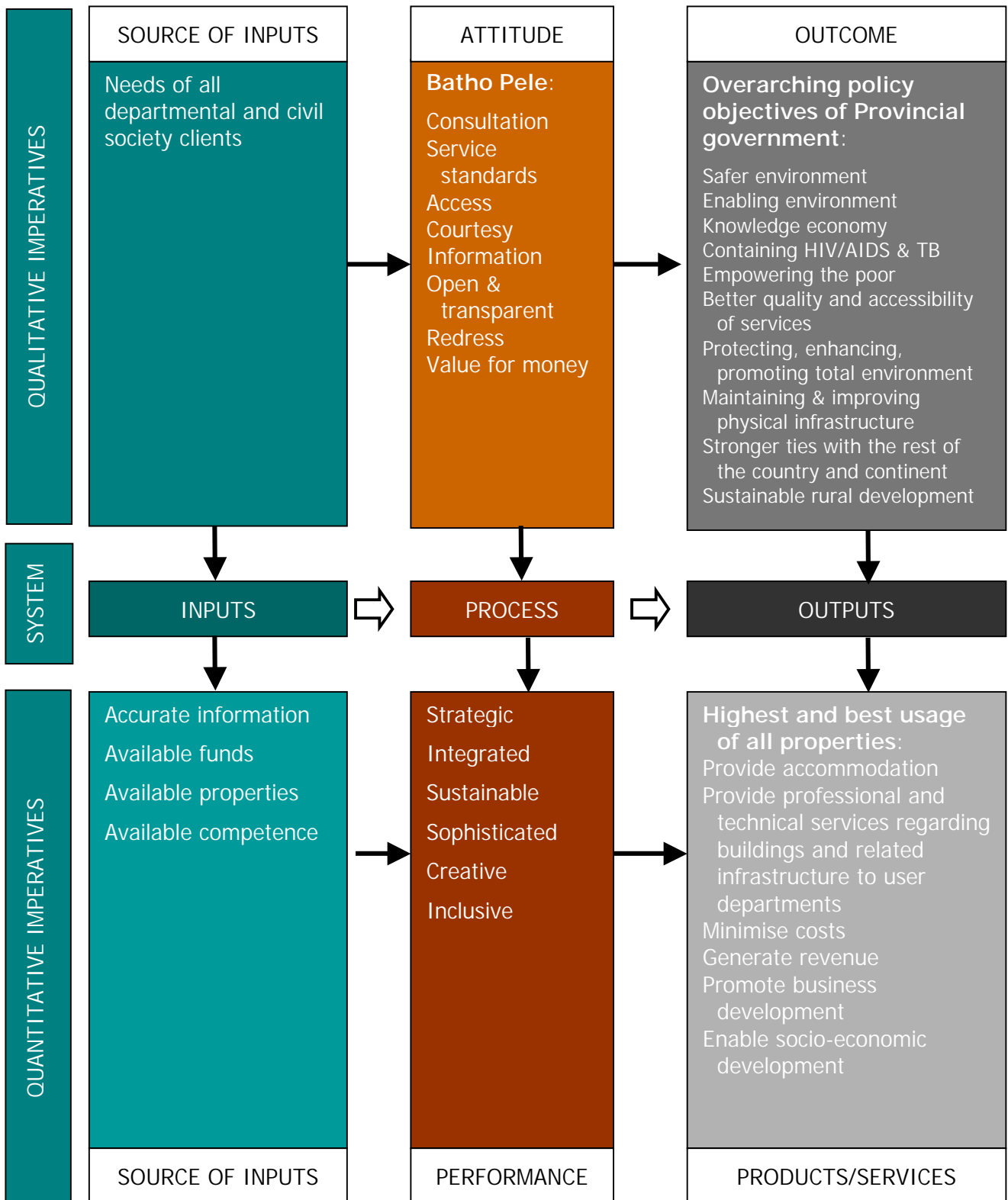
## 5.3 MISSION STATEMENT

The mission statement of the Branch is, “Achieving service excellence in the provision, maintenance, and utilization of properties by the innovative application of best practice principles”.

## 5.4 STRATEGIC IMPERATIVES

Strategic imperatives underpinning the policy on property management in the Province of the Western Cape are related to requirements expressed in the previous chapters of this document. Some of these represent the qualitative aspects of property management but, simultaneously, others that support high-performance management are indispensable. *Figure 11* illustrates a strategic imperative system for property management.

**FIGURE 11: STRATEGIC IMPERATIVE SYSTEM FOR PROVINCIAL PROPERTY SERVICES**



## 5.5 OBJECTIVES

At present, two sets of objectives have been identified. The short-term objectives will enable and enhance high-performance property services, while the longer-term strategic objectives are aimed at the sustainable delivery of services and support of outcomes identified in the above-mentioned value system.

### 5.5.1 Enabling (short-term) objectives

- To formulate and implement a policy for the management of property;
- To promote enabling legislation;
- To create an enabling environment for the economic, effective and efficient management of, and operations regarding property;
- To formulate clear role definitions for all role-players and to establish partnerships;
- To establish and maintain a reliable property information system;
- To validate the economic and socio-economic value of Provincial properties;
- To empower all role-players.

### 5.5.2 Strategic objectives

- To deliver property services in accordance with *Batho Pele* and the demands of 21<sup>st</sup> century workplaces;
- To utilise the property portfolio optimally for the empowerment of the people of the Western Cape;
- To substantially increase Provincial revenue in a sustainable manner.

## 5.6 MILESTONES PASSED

The previous chapters were dedicated to describing the existing policy and institutional framework and contemporary property services issues. This was done, *inter alia*, to identify problems with the *status quo*. However, recognition should also be given to the milestones passed on the road to high-performance property services in the Province.

- Firstly, political and corporate leadership and client departments recognise the Branch as the only dedicated and centralised property services component in the Province, and some enabling legislation supporting it is in place.
- Secondly, a staff component and management structure is in place with a commitment to succeed, possessing knowledge of the portfolio and clients, and having the competence to manage towards objectives.
- Thirdly, information technology, management systems, office space, equipment and financial resources for the functions of the management of property are available.
- Fourthly, the window of opportunity for improving property services and the extent of the portfolio as well as for substantially increasing returns in the form of revenue and derived value is wide open.
- Fifthly, opportunities for corporatisation, public-private partnerships and entering into beneficial user agreements create the potential for job enrichment and becoming acknowledged property services managers. This in turn may lead to further opportunities such as executing property services for external clients.
- Sixthly, an affirmative action policy for correcting the employee composition is in existence and operational.
- Seventhly, a preference procurement system based on weighting in favour of previously disadvantaged individuals and groups is applied for contract procurement.
- Eighthly, the appointment of professional consultants such as architects, engineers, land surveyors, quantity surveyors, town and regional planners and valuers is done according to a policy of empowerment of previously disadvantaged firms.

## **5.7 CRITICAL SUCCESS FACTORS**

National legislation and other policy directives on property ownership beyond the control of the Provincial government may compromise the realisation of some of the above-mentioned



strategic requirements. The following success factors, however, are controllable by Provincial policy makers and management and should therefore be appropriately managed:

- Provincial policy on the management of property must be formulated.
- Provincial legislation must be adapted and compiled in order to eliminate and / or coordinate divergent procedures, authorisations and decisions about the various types of properties and to bring all properties under one “umbrella.”
- Institutional arrangements must be made to support strategic – i.e. across the sectoral needs of individual line departments – management of all Provincial properties.
- Ownership and information about what is owned need to be finalised.
- Ownership obligations and specifically the huge maintenance backlog must be dealt with.
- Norms and standards for space utilisation must be determined and applied.
- Highest and best usage of all provincial properties according to policy must be achieved.
- The minimum accommodation requirements of all departmental and civil society clients must be satisfied through owned and leased properties.
- Sophistication in the management of property must be achieved through leveraging and enhancing practices, skills and competencies as well as technology which represents the cutting-edge of public and business sector property management internationally.
- Creativity must be achieved through researching new property-related demands and solutions.

- Innovation must be ensured by systems which will provide incentives for the successful implementation of more economic, efficient, and effective property-related solutions.
- Inclusivity must be ascertained, i.e. the full potential contribution of all role players in the public and private sectors must be utilised in the management of property, a “whole-of-government” approach must be followed and interaction with other government institutions in the Province ensured.
- Consistency must be achieved by eliminating divergent arrangements without excluding the need for specialisation.
- Performance in terms of the above critical success factors must be measured through the application of norms and standards, as well as by appropriate performance indicators and benchmarking.

## 5.8 CONCLUSION

Chapter 5 provided a vision, mission, strategic imperatives and objectives for the management of Provincial property. The critical success factors identified give an indication of **what** must be done. Chapter 6 will explore **how** it should be done.

## CHAPTER 6: PROPOSED STRATEGIC FRAMEWORK FOR PROVINCIAL PROPERTY SERVICES

### 6.1 INTRODUCTION

It was stated in Chapter 2 that this Green Paper is the result of a presentation to the Provincial Cabinet on 6 March 1998, where it was claimed that the services of an all-inclusive Manager of Provincial property are as indispensable as those of financial, personnel and information technology managers. The then Western Cape Minister of Development Planning therefore proposed, and Cabinet agreed, that a separate, consolidated entity be created for the management of property. The relevant minister subsequently said that a separate component would be created. The minister also expressed certain preferences as to how the institutional arrangements should be structured, i.e. as a corporate entity.

**The purpose of this document is not to prescribe any such arrangements. Instead, in this chapter a workable strategic framework for the management of Provincial property is proposed and alternative arrangements discussed in order to generate debate and input by as wide a group of role players as possible.**

**The following aspects will be covered in this chapter:**

- A process model for Provincial property services;
- Strategic Provincial property services;
- Preferential procurement and appointment for empowerment;
- Institutional framework to support strategic Provincial property services;
- Conclusions on the proposed strategic framework.

### 6.2 A PROCESS MODEL FOR PROVINCIAL PROPERTY SERVICES

The nine overarching policy objectives of the government of the Western Cape were listed in Chapter 1. It was stated that property is a key resource in serving these objectives. Each of the nine objectives can be linked to a Provincial department. However, although property is managed from within the Department of Economic Affairs, Agriculture and Tourism, it still

serves all nine policy objectives through the provision of accommodation – i.e. land or land and improvements - to these departmental clients.

It also serves the objectives through the provision of accommodation to civil society partners executing related Provincial functions. The provision of appropriately situated, equipped and maintained accommodation for clients is therefore a **strategic function** in the management of Provincial property. This function requires a demand-driven approach, whereby all client accommodation needs are considered and then related to individual properties. This function can be served by means of owning or leasing properties. It is accepted that there will be a continuous demand for the acquisition and construction of new accommodation to serve the changing and growing needs of clients. However, in order to minimise costs and ensure efficiency and effectiveness, a service provider/client agreement should revolve around the optimum and best usage that would serve its purpose, based on accepted norms and standards.

Property is also used in support of socio-economic development. Providing suitable accommodation to client departments dealing with socio-economic matters could contribute towards this. This is done by allocating to the needy and previously disadvantaged individuals and groups suitable premises in order for them to undertake business initiatives. Once again, a demand-driven approach is followed whereby needs are identified and then related to individual properties.

Socio-economic development may also be obtained through utilising individual properties for land restitution purposes. This is not a Provincial demand-driven function, but individual Provincial properties may become involved. In this instance, therefore, an individual property-driven approach is followed whereby the property determines the action.

Property also has the potential to generate income for the Province and its people. Properties containing possibilities for business promotion and generating revenue for the Province will support economic development and socio-economic development through job creation. Small, medium and micro enterprises (SMMEs) as well as previously disadvantaged individuals and groups will also be supported when competing for the utilisation of such properties. Obviously, the additional revenue generated can be redirected into socio-economic development by providing more accommodation to be utilised for that purpose.

*Figure 12* illustrates that Provincial objectives and the characteristics of individual properties place demands on the management of Provincial properties. The model depicted in *Figure 12* is referred to as a process model, because it can be related to the lifecycle of individual properties.

### **6.3 STRATEGIC PROVINCIAL PROPERTY SERVICES**

#### **6.3.1 Provision of accommodation for provincial and related functions and socio-economic development**

##### **6.3.1.1 Strategic considerations**

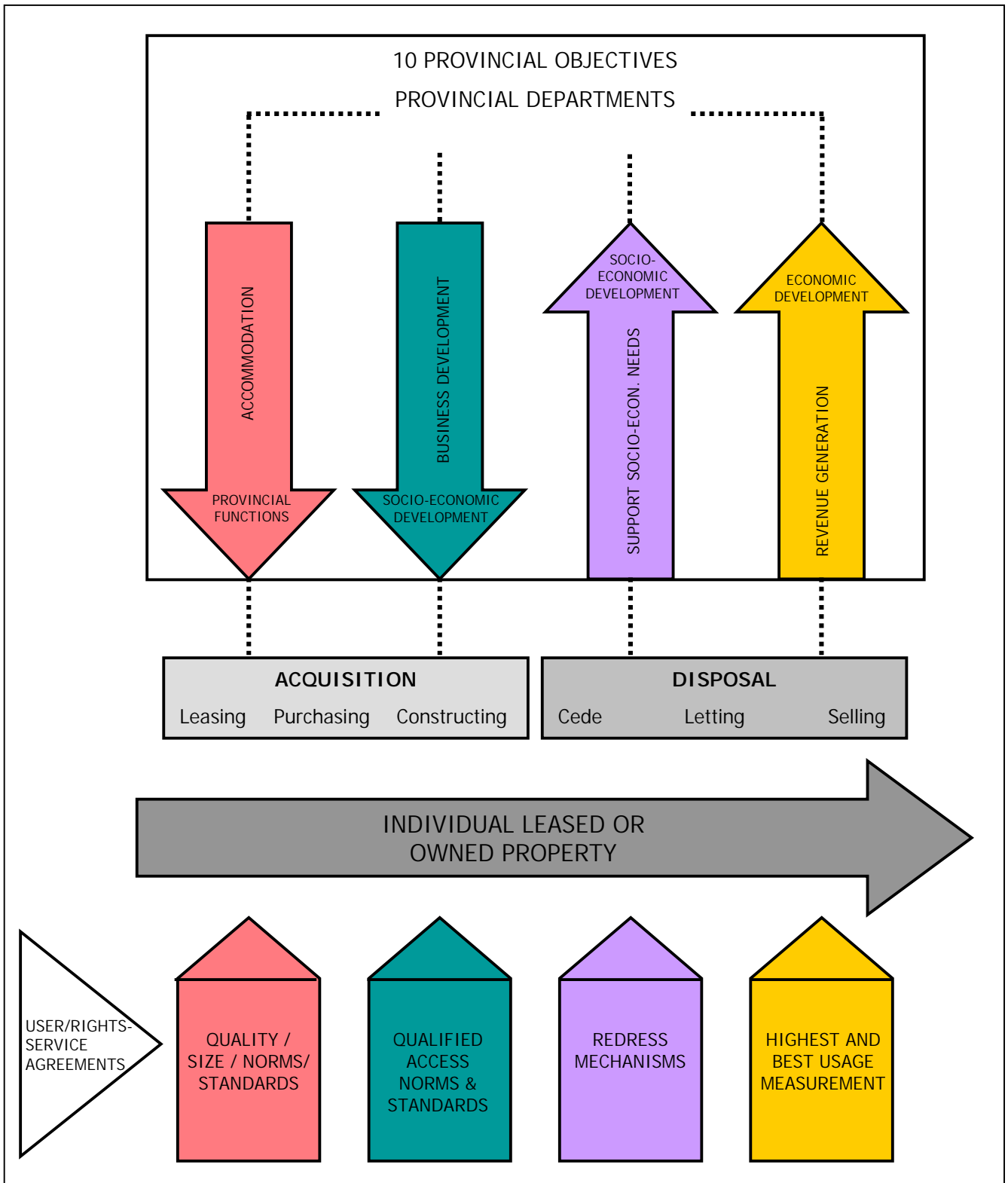
Strategic property services require that accommodation – i.e. land or land and improvements – should be aligned with strategic objectives. It is therefore the responsibility of each user department to determine its accommodation requirements, just as it is their responsibility to determine human resource requirements. However, some mechanism should be available to research these requirements in terms of changing needs and opportunities. Property and user expertise should be combined for this research process.

From a strategic point of view, it should be taken into consideration that there is a marked imbalance between accommodation for services in previously disadvantaged areas and those in previously advantaged areas. These not only include services in functional areas of concurrent national and Provincial legislative competence, but also of sole national legislative competence, such as police stations. Accommodation needs should therefore be considered in an integrated manner, i.e. including all spheres of government where applicable.

From a tactical point of view, the optimal utilisation of the Provincial property portfolio should be ensured. For this reason, the deemed market value of land and buildings is a benchmark for assessing under-utilisation, over-utilisation, obsolete buildings, and highest and best usage. It must be acknowledged that optimal utilisation is affected by:

- The value of the existing own property portfolio;
- The value of additionally leased properties;
- The asset management of the portfolio;
- The cost of maintaining the portfolio.

**FIGURE 12 PROCESS MODEL FOR PROVINCIAL PROPERTY SERVICES**



Where user departments consequentially require accommodation in excess of that determined by set norms and standards, these user departments will have to pay market value rental on the excess. User charges on accommodation within the set norms and standards will, however, be based on recovery of the full cost of owning and maintaining the property, including service costs and taxes. This will ensure that:

- highest and best usage is achieved;
- vacant space not previously utilised or audited is returned for re-application to fulfil other accommodation needs or generate revenue;
- effective maintenance levels are set; and
- individual departments are informed about the deemed costs, which as indicated would have a market-related basis.

With these principles applied, the Asset Manager can appropriately respond to the accommodation requirements of client departments and their non-governmental service providers.

#### **6.3.1.2 Proposed policy guidelines for the provision of client accommodation**

Accommodation needs can be met by utilising existing properties, purchasing and/or constructing, or leasing new ones. The following policy guidelines for the provision of accommodation are proposed:

- The provision of accommodation is scheduled in a Provincial Strategic Accommodation Plan. This Plan is compiled from the inputs of client departments, who derive their accommodation requirements from their strategic objectives.
- Multi-disciplinary work-groups - containing property and user expertise - facilitate research on the most appropriate satisfaction of these requirements. The Property Services Entity (PSE) undertakes project management of this process.
- The PSE identifies suitable property that fulfils the requirements. The approach is to first search for suitable property amongst the Province's own properties. If it is unsuccessful, this search is continued in the property market.

- Provision and acquisition of accommodation is undertaken and budgeted for by the PSE according to the approved strategic accommodation plan.
- Ownership of all property is in the name of the Western Cape Provincial government, whilst the details of the user department of the specific property are entered into the Central Property Register, which is maintained and controlled by the PSE.
- Accommodation is provided by the PSE according to approved norms and standards. Some of these norms and standards already exist, but others must still be formulated.
- User agreements and service-level agreements form part of the contractual arrangement between the PSE and user departments. This principle is also applicable where non-governmental service providers utilise accommodation. In other words, the user department with which the non-governmental service provider is in partnership remains the contracting partner.
- When user charges are implemented, budgetary allocations to client departments will be provided only to the set norms and standards.
- Leased accommodation is dealt with in a similar manner, except that the PSE enters into a contractual agreement with the lessee.
- The PSE determines the most appropriate means of acquisition.
- The payment of property taxes according to the set norms and standards should be undertaken by the PSE, along with other services to be determined.
- Property acquired for use in the medium and long term is held and managed by the PSE and may be utilised for other purposes until it is needed for the earmarked use. The short-term usage will be restricted by way of a development clause.
- Property presently utilised must also be reconsidered in terms of the set norms and standards. Excess property must be returned to the PSE for utilisation, or



alternatively, **users should pay market-related user charges for this excess property from own funds.**

- Excess property in close proximity to residential communities that have potential for business development needs to be identified and subjected to a process of consultation with these communities and other role players.

### **6.3.2 Revenue generation in balance with socio-economic development needs**

#### **6.3.2.1 Strategic considerations**

Property must be released for the maximum benefit of the people of the Western Cape and should not be frittered away to meet short-term expediencies. Thus Provincial property should not only be released for financial profit, but should only be released where the benefit to the people of the Province is clear and substantial.

The primary rationale behind property services activities should be to use property as a resource to promote specific, targeted economic and socio-economic objectives. These may include immediate deliverables such as the provision of land for low-income housing, new school sites, new health centres and road projects, and also deliverables such as nature reserves, which may generate revenue directly or may relate to indirect and long-term benefits such as the restructuring of the urban and rural environment and the promotion of tourism. Other objectives such as the reduction of the administrative burden of managing leases should accordingly be subordinated to this primary approach.

In terms of the **Western Cape Land Administration Act, 1998**, all Provincial property must be assessed once a year to determine whether it is optimally used or not. The PSE is accordingly responsible for an ongoing audit of all Provincial property. The strategy for assessment and release of property should be based on the following categorisation, which is done in close consultation with user departments and clients of the PSE:

- **Vital** Properties which should not be disposed of, and whose tenants cannot be accommodated elsewhere;

- **Necessary** Properties where tenants may be accommodated elsewhere, or where needs may change over time;
- **Useful** Properties which are not totally necessary for the core business of the user department;
- **Surplus** Properties that must be re-considered in terms of highest and best usage. Many of these Provincial properties have already been identified by property developers or individuals who want to secure them for development purposes or private ownership.

One of the ingredients for ensuring economic growth and socio-economic development in the Province is to encourage large-scale development of undeveloped or under-utilised land, whether it is for housing community facilities, job-creating commercial and industrial activity or land redistribution. However, the sudden release of Provincial property will have a substantial impact on the urban land market. Accordingly, the process must be handled with care and be professionally planned.

Where disposal is considered, therefore, it must be ensured that this is done as expeditiously as possible in a consistent manner so as to ensure that maximum financial and social returns are generated through the sustainable disposal of such Provincial property.

As discussed below, disposal of surplus property can be done through a variety of processes, which in broad terms are either permanent or temporary. Temporary disposal through letting results in continued administration and maintenance costs and requires additional capacity to manage leases effectively.

Disposal of vacant land by way of long-term leases that follow upon public tenders, calls for proposals, concessions, or unsolicited bids is an attractive alternative to selling. Long-term leases bring a sustainable income stream – property and improvements revert back to Province upon termination of the lease. Selling is advantageous because it generates short-term financial benefit. It is, however, not necessarily beneficial in the long term for the Province and its people, because it entails “asset stripping” and may result in a loss of control over the direction of development on large portions of land. In addition, the release of state land into the market may lead to harmful speculation.

Disposal should therefore be managed strategically and the disadvantages controlled through tight conditions, including statements of principle as to its usage from the Province and local authorities. Furthermore, “ennoblement” of a property – which would ensure highest and best usage – should be considered before the means of disposal are determined.

#### **6.3.2.2 Proposed policy guidelines for balancing revenue generation with economic and socio-economic development needs**

The following policy guidelines are proposed to ensure that revenue generation is considered in balance with economic and socio-economic development needs:

- Properties, and parts of properties, must be **assessed** in terms of whether they are vital, necessary, useful, or surplus to need.
- Long-term needs of the Province must be taken into consideration during assessment.
- Annual assessment of properties and parts of properties must include consideration of **highest and best usage**, i.e. in terms of serving the strategic objectives of user departments, and their potential for revenue generation, either through being applied by a user department or through disposal.
- The generation of revenue through disposal of property must be managed in a manner which will **ensure maximum sustainable benefit and minimum disadvantage** to Province and communities. Conditions attached to disposal, statements of principle as to usage, as well as ennoblement must therefore precede disposal.

Disposal should only be undertaken via **competitive** processes followed by the **evaluation** of various offers received. Evaluation criteria must include a **weighting** in favour of **previously disadvantaged** groups and individuals.

### 6.3.3 Transparency and equity

#### 6.3.3.1 Strategic considerations

Democratic principles for the rendering of property services include adherence to transparent and equitable practices. Disposal of property is not only beneficial to the Province through revenue being generated, but also benefits specific groups and individuals in society. Care should be taken to maintain transparency and equity through the following processes.

The following strategic considerations will be dealt with, namely:

- Sale of property
- Long-term leasing
- Short-term leasing
- Other processes relating to disposal.

#### Sale of property

It is generally accepted that **competitive processes** are the most transparent mechanism available for disposal of property. In addition, they are likely to generate the greatest direct return on the disposal of property. However, care should be taken that such processes should not perpetuate past inequalities by demanding adherence to requirements that previously disadvantaged individuals or groups cannot comply with.

Selling of property may be executed by means of the following processes:

- **Public tendering** enables Provincial government to impose explicit conditions and apply special criteria to specific property transactions. Public notice is given through the media to promote transparency. Applicants are invited to submit specific proposals for development. All applications are evaluated against transparent and well-publicised criteria which will enable selection of the *best offer*, rather than being restricted to the *highest bid*.
- **Calls for proposals** bring a wide range of professional ideas and experience into the planning processes, but it is expensive for prospective developers to compile such

proposals. A two-stage process should therefore be followed. During the first stage conceptual submissions are invited from the public. The most promising proposals received in the first phase are short-listed. Developers of these are then invited to submit more substantial and detailed proposals. Calls for proposals may require conditional disposals, whereby development is subject to rezoning. All disposals through this process are subject to Auditor-General scrutiny.

- **Public auctions** provide a quick and simple process for disposal of property. A professional auctioneer is generally appointed to make all practical arrangements pertaining to disposal. Public notice is given of the auction and the highest bid is accepted. Transactions are normally completed within two to three months. Few conditions are imposed and properties are usually sold “voetstoots”. This mechanism is of limited value where there is an endeavour to exercise control over the direction of future development. It should therefore only be used where there is little interest in controlling the direction of development, e.g. for disposal of small portions of properties, or properties which are not strategically located for development purposes.
- **Unsolicited bidding** entails an initiative by a private developer to compile a proposal without disposal being advertised by Province. It is therefore initially not subject to competition. However, during the process of consideration, opportunity for competition, transparency and equity is provided by advertising, inviting comments, objections and competition. The process will be dealt with as prescribed by Treasury Regulations, and such initiatives by private entrepreneurs should not be stifled.

### **Long-term leasing**

Long-term leasing entails a contractual arrangement whereby property and improvements will revert back to the Province after a period exceeding 10 years. The nature of the intended development will determine the period that this option precludes permanent alienation of capital assets. It is also especially appropriate where Provincial property is earmarked for other purposes in future. The requirements for competition and alternative processes for disposal as identified under the sale of property are appropriate for long-term leasing too.

## Short-term leasing

Short-term leasing, i.e. less than 10 years, is often not suitable for application of competitive processes such as those described above. The nature of properties, especially residential, requires a different approach to ensure that transparency prevails, because the execution of a competitive process may eventually be more costly than the benefit derived from competition.

Discretionary powers should be granted to the leasing portfolio manager in respect of short-term leasing. The process would usually entail the advertising or referral of available property to real estate brokers for leasing. Delays in following rigid departmental guidelines usually result in wasted time in leasing property on a short-term basis. The ultimate effect results in loss of rental income.

The manager should be skilled in basing his decision on known market factors, e.g. rental being acquired for similar properties, lease escalation percentages and other incentives offered to prospective tenants in order to conclude leases. Where necessary, the properties can be valued at his/her discretion in order to achieve these goals.

Letting to existing or new tenants should be priced according to these valuations. The emphasis in short-term leasing is therefore on ensuring a suitable, transparent process, linked to market principles rather than a competitive process, which requires more time to execute.

## Other processes relating to disposal

Under this heading concessions and disposal below market value are dealt with.

- **Concessions** entail the granting of a right for supplying a public service or product on behalf of the Province on a Provincial property, or exploiting some scarce commodity on such a property at a fixed price. The concession does not confer the right to lease. The operator assumes responsibility for operations and maintenance and capital investment on property in addition to working capital. The concession is conferred as a result of a competitive process, too.

- **Disposal below market value** may be considered where the social benefit to be derived through the disposal compensates for the financial shortfall. Disposal can then be at a reasonable value that may, however, not be lower than the original cost of purchasing the property. Actual losses will therefore not be incurred through the disposal. In these circumstances a reversionary clause will be inserted into the contract ensuring that speculation does not occur.
- **Donations** could only be granted under exceptional circumstances within a clear policy framework and a high level of control.
- **Local authorities and other spheres of government** may be granted **preferential status** regarding the disposal of Provincial property as an integral part of the *integrated development plan* for which the property is needed and in which manner the property will be developed.
- **Disposal to specific individuals or targeted sectors** of the public should be managed properly. Such disposals are guided by specific guidelines and rules and are linked to specific programmes. These include the transfer of houses programme, which seeks to grant ownership rights to occupants at a discounted price; land restitution, which seeks to compensate previous dispossession; and land reform, which seeks to target emerging farmers. Such programmes are presently managed by national departments, but should be executed in co-operation with Provincial property services.

#### 6.3.3.2 Proposed policy guidelines to ensure transparency and equity

Disposal of property not only brings benefits to the Province by way of revenue, but also to the groups or individuals with whom such transactions are concluded. However, property is a public resource and disposal should therefore be executed in a manner which will ensure transparency and equity. The following proposed policy guidelines serve that purpose:

- Competitive processes must be followed when disposal is done through selling, long-term leasing and concessions.
- Provincial government must, however, also benefit from the entrepreneurial spirit of developers. Unsolicited bidders should therefore be allowed to compete with offers

received as a result of competitive processes following upon the submission of their bids. This must, however, be done within the policy prescriptions of National Treasury.

- Similarly, the cost for developers to compile proposals should be reduced when calls for proposals are used as a mechanism. This is done through a two-stage process, whereby only conceptual submissions are initially invited, and then a short list of developers is invited to submit detailed proposals.
- Short-term leasing is often linked to special circumstances, where Province may suffer damage if properties are not occupied. Vacant commercial space should therefore be advertised appropriately, but the PSE should have the authority to accept the first reasonable offer, rather than going through lengthy tendering processes. Residential property can be leased at market-related prices.
- Unnecessary subjective conditions for the disposal of property should be avoided. However, where disposal is intended to serve certain strategic objectives, or where property is strategically located, the following conditions should apply:
  - Development must take place within a reasonable time, and if not, the property will revert back to Province.
  - A pre-emptive right should be registered against the property to the effect that, should it no longer be utilised for that purpose, ownership will revert back to Province.
  - Where property is disposed of below market value, the necessary clauses to prevent undue benefit must be inserted.
  - Donations should only be made for specific purposes, which should be identified according to objective criteria and published in order to promote transparency.
  - Donations should be subject to reversionary conditions to ensure that where the property is used for purposes other than intended, e.g. resale, or the intended process is unduly delayed, the property would revert back to the Province.
  - Donations should be subject to prior approval by Cabinet after recommendation by the Provincial Property Committee (or Board, should a Board be appointed by Cabinet).
  - Provincial Treasury must approve donations.



- Local government must purchase excess Provincial property at full market value.
- Conditions must be attached to the sale of property to local government whereby development and future use are linked to acceptable time frames and occur in accordance with the Western Cape Development Framework and local integrated plans.

## **6.4 PREFERENTIAL PROCUREMENT AND APPOINTMENT FOR EMPOWERMENT**

A number of references to empowerment in this paper justify a section setting out the strategic considerations and specific policy guidelines for a particular focus on the wider concept and context of empowerment. But first this concept and its context need to be clarified.

### **6.4.1 The concept and context of empowerment**

Empowerment may be defined as acquiring or setting up leverage for the marginalised and disadvantaged (Bryant & White, 1982:16). It cannot be accepted that economic benefit and development will lead automatically to a broader distribution of wealth, particularly in South Africa with its history of inequitable allocation of benefits.

The ten overarching objectives of the Province as set out in Section 1.6 of Chapter 1 address the responsibility to empower people, but the objectives of empowering the poor through the effective provision of basic services, in particular, can be highlighted. It must then be understood that “basic services” include activities for setting up “leverage”, purposeful “broader distribution” of economic benefits and “expanding the range of economic and social choices available to previously disadvantaged individuals and groups by freeing them from servitude and dependence”.

Such an understanding is supported by “The Cape of Good Hope for All” as the fourth pillar of the economic vision for the Western Cape identified in the Green Paper: “Preparing The Western Cape for the Knowledge Economy of the 21<sup>st</sup> Century” (2000:35) of the Western Cape Provincial Department of Economic Affairs, Agriculture and Tourism. The policy objectives and strategic initiatives identified in the above-mentioned fourth pillar are focused on “raising the quality of life especially of the poorest communities”.

This understanding of basic services is also appropriate if related to Sections 9 and 195 of The Constitution, 1996, where it is stated *inter alia* that legislative and other measures designed to protect or advance the previously disadvantaged may be taken, and that public administration should adhere to a number of principles, which include notions of equitable provision of services, and to have a development orientation. It is also appropriate in terms of item 1.2.5 of the White Paper on Transforming Public Service Delivery, (*Batho Pele* White paper) 1997, where it is stated *inter alia* that "improving the delivery of public services means redressing the imbalances of the past" and that the objectives of service delivery include welfare and equity.

In the preceding chapters of this document the importance of empowerment has been acknowledged a number of times. In Section 3.6, Chapter 3, it was stated that *inclusivity* is a contemporary management demand. It was accepted that the inclusivity of all role players calls for empowering previously disadvantaged role players in order to enable them to make a meaningful contribution. In section 5.5, Chapter 5, the empowerment of all role players, especially previously disadvantaged role players, was included as an enabling, short-term objective.

In section 6.3 of this chapter, the proposed policy guidelines for balancing revenue generation with economic and socio-economic development needs include the point that "*evaluation criteria must include a **weighting** in favour of **previously disadvantaged groups and individuals***".

The meaning of empowerment as enshrined in the Constitution, 1996 and other policy documents should firstly be related to the broad scope of empowerment processes that include shelter, access to utility services, job creation, rural development, poverty alleviation, education, meaningful ownership and access to finance to conduct business. These are ongoing processes. But secondly, in a narrower context, and more applicable for the rendering of property services, empowerment means creating a temporary window of opportunity for members of the previously disadvantaged business sector in order to promote a degree of equity whereby all role players can compete on a level playing field. A preferential procurement and appointment policy should be understood in this context. However, this can in no way be allowed to compromise the specified and expected service standards. The benefit of such a policy is not only that past inequalities are rectified, but

also that new sources of supply are developing capacity to increase competition, thereby promoting more economic procurement.

#### **6.4.2 Strategic considerations**

Strategic considerations will be discussed under the headings of:

- Contract procurement and disposal and letting of assets
- Appointment of consultants
- Pre-qualification and termination.

##### **Contract procurement and disposal and letting of assets:**

The **Preferential Procurement Policy Framework Act, 2000** (Act 5 of 2000) gives effect to section 217 of the Constitution, which determines that procurement must be done in accordance with a system that is fair, equitable, transparent and cost effective. Section 217 further allows for the provision of categories of preference in the allocation of contracts and protection and advancement of persons, and categories of persons, disadvantaged by unfair discrimination. It finally determines that national legislation must prescribe a framework within which a policy of preferential procurement and the protection and advancement of such persons may be implemented.

Section 2 of the **Preferential Procurement Policy Framework Act, 2000** determines that a preference point system must be adopted whereby, with contracts with a rand value above a prescribed amount, 10 points may be allocated for specific goals, while 90 points will be allocated for lowest prices. Contracts equal to or below that rand value may be allocated a maximum of 20 points for the specific goals. These goals may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination as well as implementing the programmes of the Reconstruction and Development Programme as published. The goals must clearly be stated in such invitations to submit a tender.

The Province of the Western Cape is presently in a process of drafting legislation and regulations providing more detailed formulas and instructions for the application of a preference point system for contracts relating to procurement and disposal and letting of assets.

In addition to a preference point system, which entails the use of an empowerment objectives price mechanism, two further mechanisms may be considered in support of empowerment through preferential procurement.

These are:

- the classification of contracts which are packaged to facilitate the engagement of targeted groups or structured in a manner to permit targeted groups to participate; and
- the use of performance specifications which define socio-economic deliverables.

The empowerment objectives price mechanism, packaging or structuring of contracts and performance specifications defining socio-economic deliverables are components of *targeted procurement*, as defined by the (national) Department of Public Works (<http://www.pwdprocure.co.za/orientation.html>, 07/11/2000).

### **Appointment of consultants**

It was stated in section 5.6, chapter 5 that the appointment of professional consultants is done according to a policy of empowerment of previously disadvantaged firms. This policy should be strengthened to contain clear measurable, quantifiable and controllable goals. A strategic consideration should therefore be to initiate a system that distributes work to consultants more objectively, but still target historically disadvantaged firms in order to develop their experience, capacity and numbers. The (national) Department of Public Works has followed this route (<http://www.publicworks.gov.za/docs/pr/1999/rosterlaunch.html> 09/11/2000).

### **Pre-qualification and termination**

Pre-qualification entails the screening of persons and enterprises targeted for preferential procurement, disposal and letting of assets and appointment of consultants before they are entered onto a register prior to tendering or appointment. This saves time during actual tendering and allows for once-off thorough investigations in order to prevent “window

dressing". It will also allow monitoring the progress of such persons and enterprises to ensure that they reach a situation where they can compete without preferential treatment.

Qualification for registration or placement on a roster is not a permanent arrangement. The progress of such persons and firms must be monitored to ensure their development to a point where this qualification is terminated.

#### **6.4.3 Proposed policy guidelines for preferential procurement and appointment of consultants**

The following policy guidelines are proposed to ensure empowerment through preferential procurement, disposal and letting of assets and appointment of consultants:

- A Preference Points System and general conditions relating to such a system should be developed for property-related tenders.
- A pre-qualification and termination system should be implemented and maintained.
- Appointment of consultants for property-related services should be done according to a roster that would promote empowerment of previously disadvantaged individuals and firms. Qualification as such before placement on the roster would also entail a pre-qualification process. While on the roster as a consultant of preference, close monitoring of progress and eventual termination of preferential status should be ensured.
- Packaging and structuring of contracts to facilitate the engagement of targeted groups and the use of performance specifications that define socio-economic deliverables should be undertaken where development and disposal packages are compiled.

### **6.5 INSTITUTIONAL ARRANGEMENTS**

It was stated in previous chapters that dispersed property services negatively affect performance. The policy guidelines proposed in the previous section contained references to a *Property Services Entity* that should manage all policy-related activities. Such a dedicated entity therefore should provide a *one-stop property service*.

The alternative institutional arrangements for such a service are discussed below and illustrated in *Figures 13, 14, 15 and 16*. These alternatives include a full internal structure, partial outsourcing, full outsourcing and a corporate entity.

### **6.5.1 Internal structure**

*Figure 13* depicts the proposed organisational arrangements, should it be decided that a Branch within the Department of Economic Affairs, Agriculture and Tourism must render full property services. The only difference between this proposal and the present arrangement is that:

- all provincial government properties will be managed by the PSE on the basis of user right and service-level agreements as well as user charges;
- an asset management service component is added;
- the Western Cape Property Committee will be replaced by a board which will report directly to the Minister with the necessary mandate to take decisions and not as at present, where the Property Committee only makes recommendations.

In this arrangement Provincial government makes policy, a property committee or board (with or without its own secretariat) takes property decisions, while the Branch: Property Services executes those decisions. The advantage of such an arrangement is that it requires limited legislation relating to restructuring and will therefore be the quickest to implement. The disadvantage is that it still lacks the flexibility associated with outside arrangements and may stifle attempts at entrepreneurial management.

### **6.5.2 Partial outsourcing**

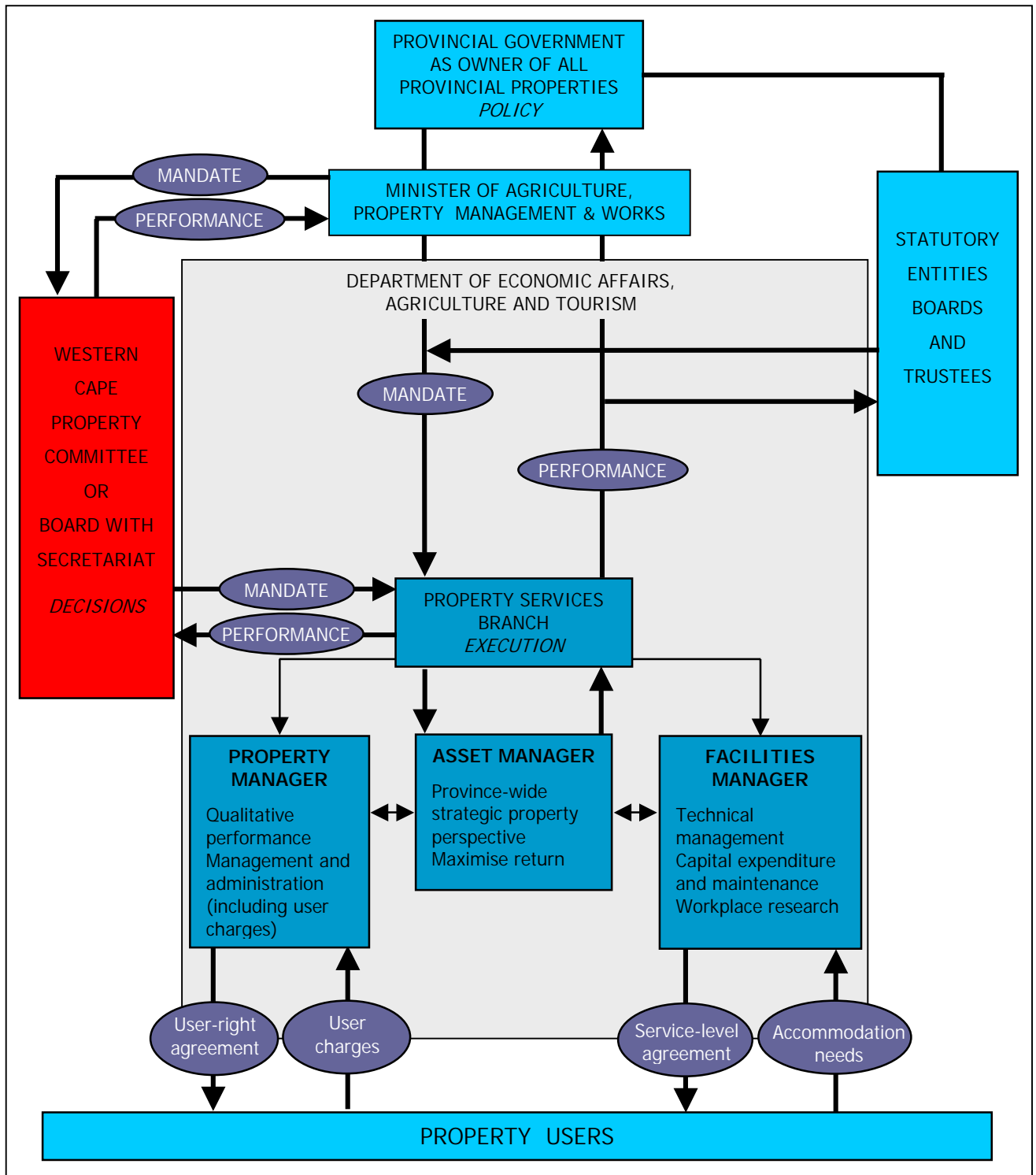
*Figure 14* illustrates the partial outsourcing option. This option differs little from the internal option. At present both the property and facilities manager apply partial outsourcing by contracting contractors and consultants to perform a variety of functions for Province. Internal staff act as programme and project managers of contractors and consultants. The advantage of this option is that expertise is contracted in when needed, and contracts are terminated. Partial outsourcing may include one or two of the three components of the proposed entity being fully outsourced. The advantage of partial outsourcing is that it requires limited legislative restructuring and that it is in compliance with the policy of

government to make the public service smaller and to utilise outside expertise. The result is a saving in staff expenses.

### **6.5.3 Full outsourcing**

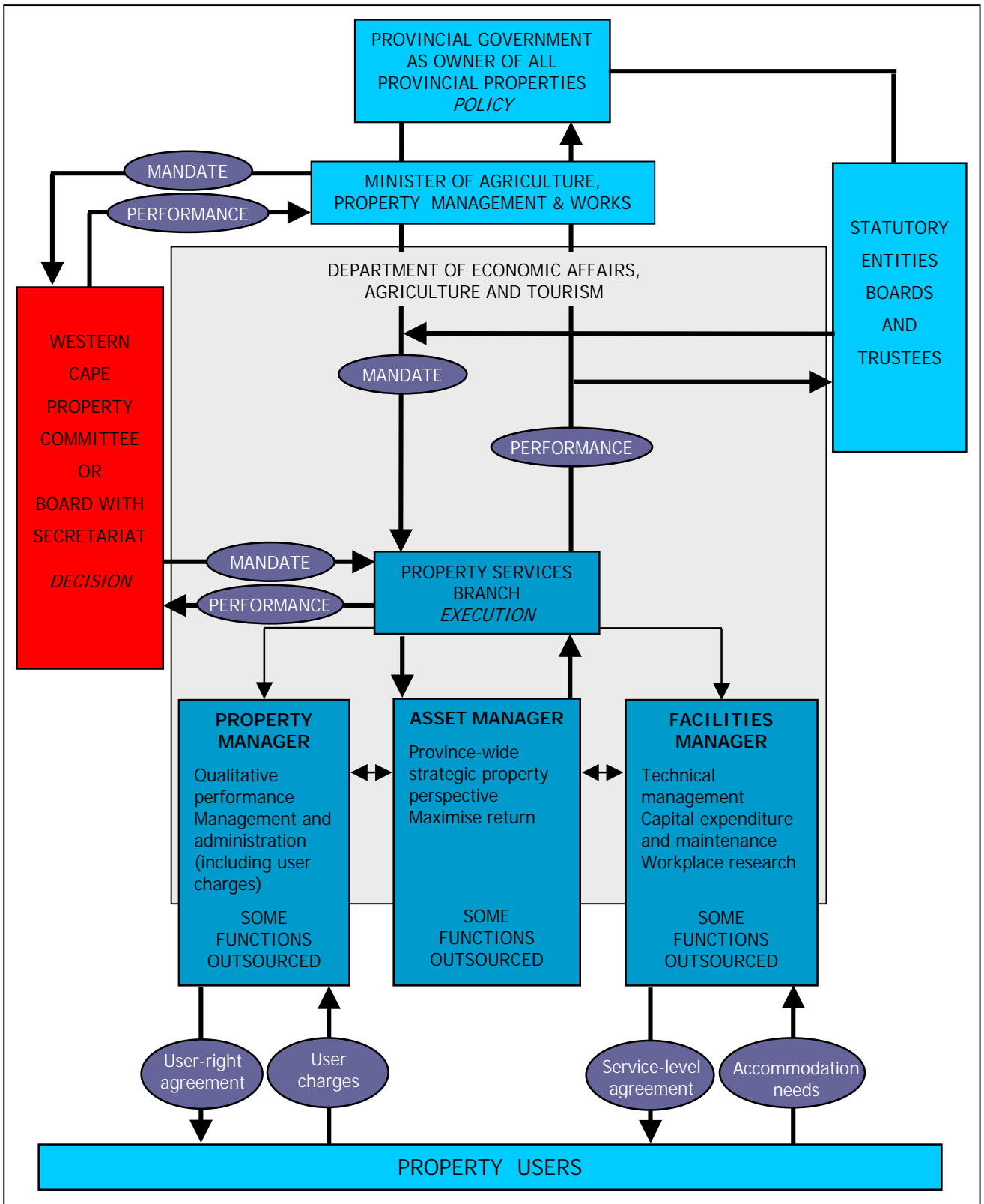
Figure 15 illustrates the full outsourcing option. Only a small internal PSE is retained, mainly dealing with policy formulation, budgeting, providing strategic direction and monitoring. Operational property service activities are, however, outsourced to an independent Asset/Property/Facilities Manager. This option was followed by the SA National Roads Agency when they appointed Intersite to manage their property portfolio. With this option, the Property Committee or Board is given a broad mandate by the Provincial Government to make property-related decisions, and in turn is held accountable for performance. It must be listed in Schedule 3 of the **Public Finance Management Act, 1999**, and must also operate in accordance with Chapter 6 of the Act. Without this option, the alternatives discussed here would be incomplete. However, experiences elsewhere have shown that very sensitive issues relating to the continued employment of existing staff accompany such an option. It is normally required of the contractor to take over staff on terms that are to their - i.e. the staff's - satisfaction.

**FIGURE 13: INTERNAL PROPERTY SERVICES OPTION**





**FIGURE 14: PARTIAL OUTSOURCING OPTION**



#### 6.5.4 Corporatisation

Figure 16 illustrates the fourth option, namely corporatisation. A separate juristic entity is created to provide property services outside the formal Provincial structures. This entails setting up a company in which the Provincial government is the sole or majority shareholder. A Board of Directors is appointed by Cabinet to take property-related decisions, while a Managing Director manages execution. As with the previous option, the Board will have to be listed in Schedule 3 of the **Public Finance Management Act**, 1999, and operate according to Chapter 6 of the Act. Intersite and Ontario Realty Corporation are examples of this arrangement. The main benefit of this option is that it entails a single-purpose entity focusing on property services that can operate with the flexibility and creativity normally found in the private sector, while still complying with the accountability required by the public sector. If managed competently, such a Provincial property company may be contracted by other public sector entities to perform property services for them too. This, therefore, introduces an element of competitiveness, which can only enhance performance.

#### 6.6 CONCLUSION

The provision of accommodation to Provincial and non-governmental users executing Provincial functions, is a strategic function of a property services entity. This should be executed by means of the application of set norms and standards and user-rights agreements, as well as service-level agreements and research on appropriate accommodation. Both the property and facilities management components of a property services entity have responsibilities in this regard.

Cognisance should be taken of the fact that the management of property should facilitate socio-economic development. This is done by providing suitable accommodation to users providing socio-economic services, and by giving the needy and previously disadvantaged individuals and groups access to accommodation containing business opportunities. Individual properties may also be utilised for land reform purposes.

FIGURE 15: FULL OUTSOURCING OPTION

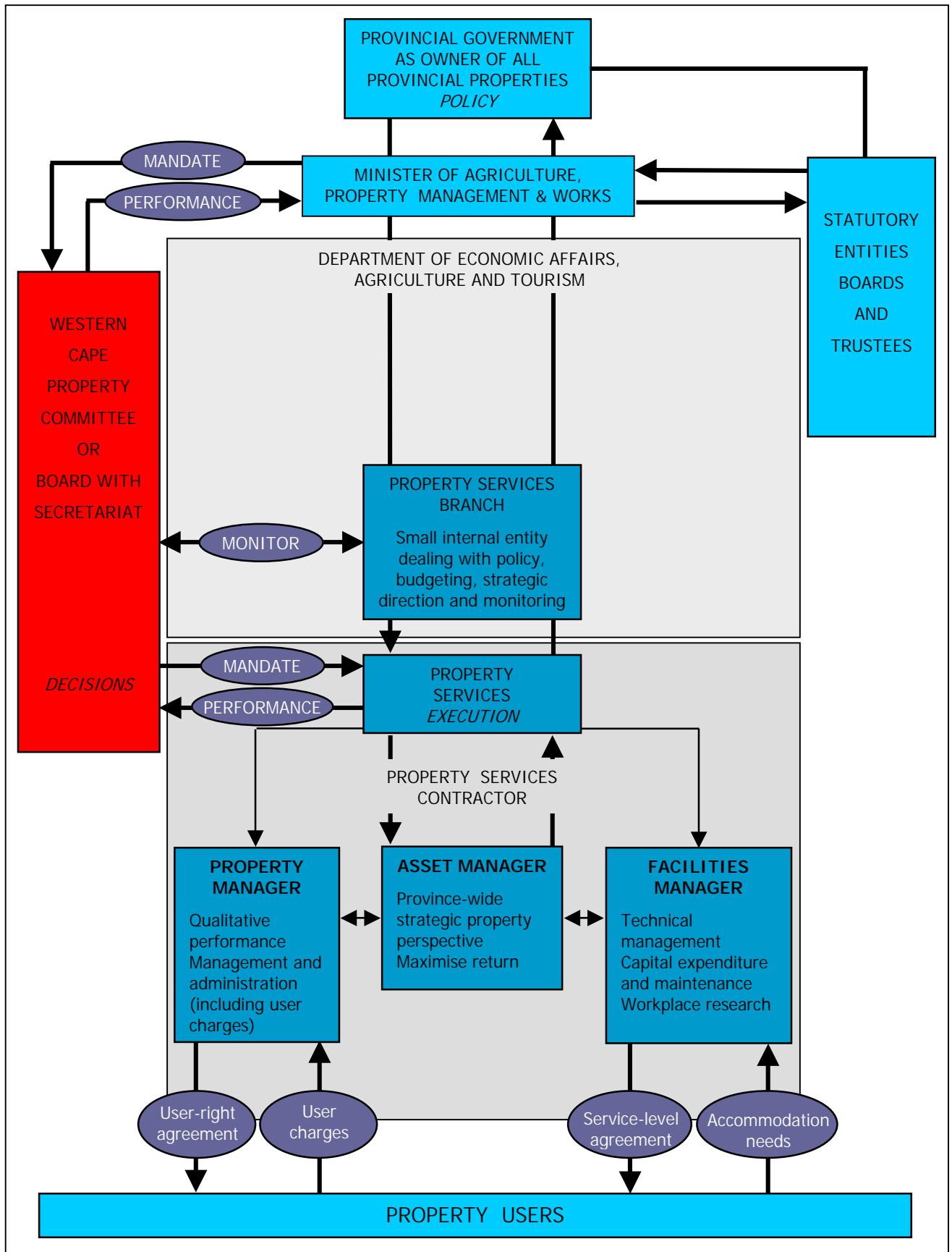
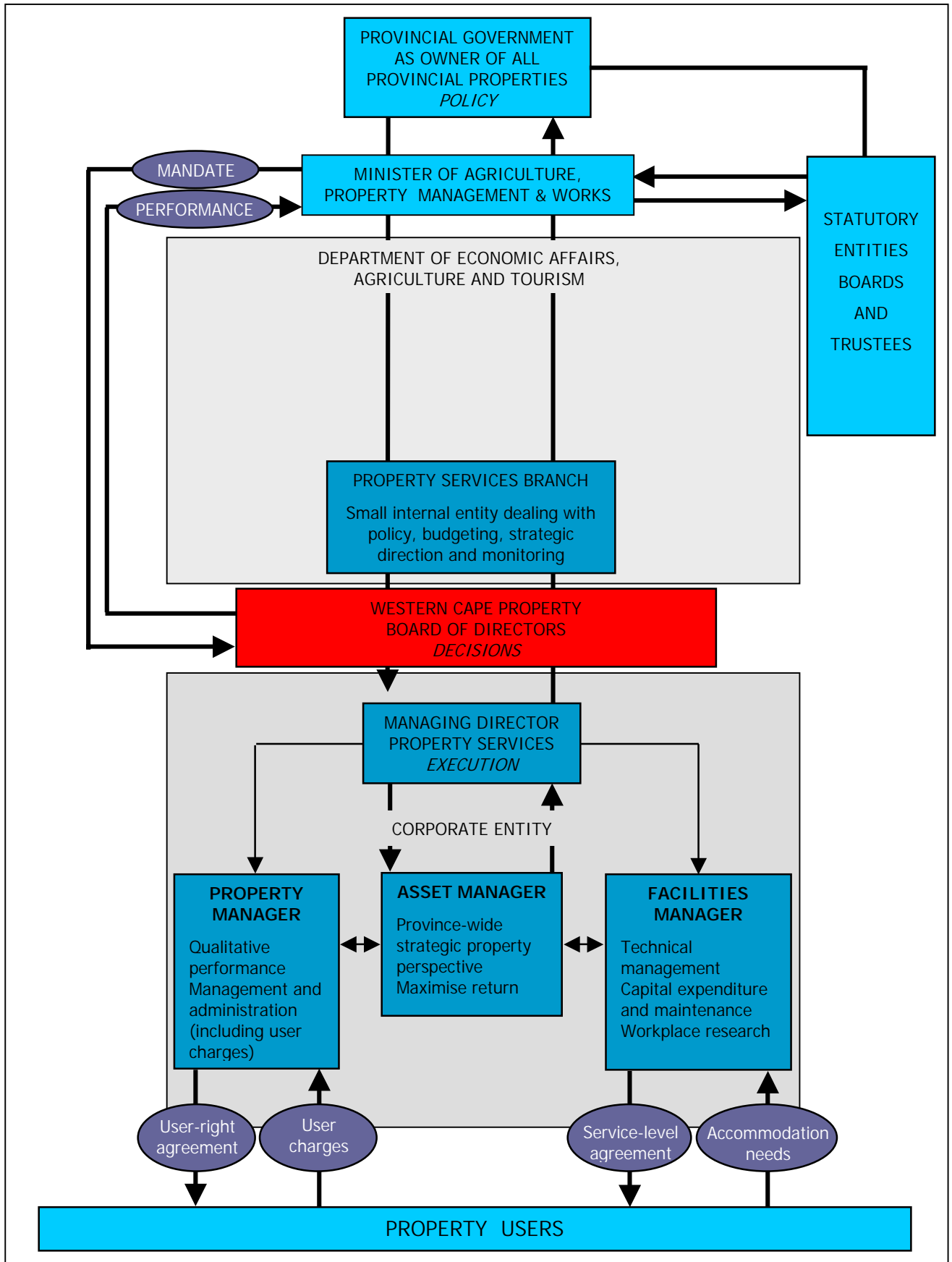


FIGURE 16: CORPORATISATION OPTION



Another responsibility in the management of property is to generate revenue and promote economic growth by means of partnerships with the private sector. Jobs created will also contribute to socio-economic development and previously disadvantaged individuals and groups may be supported when competing for the utilisation of such properties. This responsibility should be driven by an asset management component.

Strategic property services demand policies which will ensure optimum utilisation of properties for accommodation purposes through deriving accommodation requirements from strategic objectives and set norms and standards applicable to these objectives. All Provincial properties must be owned by the Provincial government, and managed by and budgeted for by the property services entity.

Properties or parts of properties in excess of need should then be utilised optimally for revenue generation and socio-economic objectives. Accommodation in excess of the set norms and standards that are retained by user departments must be subject to market-related rental payable by such departments. This rental must be financed from their own funds. A number of policy guidelines were proposed in this regard. Where revenue is generated through disposal of property, it is essential to ensure that practices should be transparent and equitable. Policy guidelines were proposed to ensure this.

Finally, four options for institutional arrangements were identified, illustrated and discussed. These are:

- an internal structural arrangement;
- partial outsourcing;
- full outsourcing; and
- corporatisation.

Debate and submissions on the most beneficial institutional arrangement for property services will be welcomed. After response to the Green Paper has been disseminated, the White Paper will further discuss the preferred option and set out the necessary legislative implications.

## CHAPTER 7: THE WAY FORWARD

### 7.1 INTRODUCTION

The purpose of this chapter is to describe the way forward in the process of formulating and implementing a policy on the management of provincial property in the Western Cape.

**This chapter will include:**

- Setting out the steps to completion of the process;
- Discussing the implications in terms of amending existing, and drafting new legislation.

### 7.2 THE WAY FORWARD

The process of policy formulation has thus far revolved around gathering information for the compilation of a Green Paper. It has included submitting preliminary findings on existing shortcomings to two reference groups representing a wide variety of public and private sector role players. The public was also notified of the process by means of newspaper advertisements, which invited input. A Draft Green Paper was compiled as a result of this process.

The second step entailed submission of the Draft Green Paper to the various role players within Provincial Government. In this regard, it was submitted to, and workshopped with all Provincial Departments. It was submitted to the Provincial Cabinet for approval on 23 May 2001.

The publication of this Green Paper therefore signals the end of a comprehensive process of consultation with various role players and the achievement of an important milestone. However, the existence of a Green Paper does not mean that the process of policy consultation has ended. The Green Paper was published and distributed for the purpose of inviting and obtaining further public input. Copies of the Green Paper will be forwarded to role players who have thus far been involved or who responded upon invitation, and also be made available to groups and individuals upon request.

The third step will entail finalising a White Paper on the Management of Provincial Property by adapting and adding on to the Green Paper as necessitated by the inputs received. The White Paper will also further expand on the details of the selected institutional option.

The fourth step will entail obtaining Provincial Government approval and publication of the White Paper.

The fifth step will entail implementation of policy aspects that could be implemented even without amendments of existing legislation or the drafting of new legislation. Simultaneously, however, the process of amendment and drafting of legislation will be followed and the resulting implementations put into effect when completed.

### **7.3 LEGISLATIVE IMPLICATIONS**

Regardless of the choice of option for institutional arrangements decided upon during the policy process, certain amendments to existing Provincial legislation will be required as a minimum. Even if the full internal property services option is taken, legislation must provide for integrated property services and for the authority to perform those services strategically to vest in the Head of the Branch.

Other options will require new Provincial legislation and even amendments to National legislation. An example in this regard is the listing of a Provincial Property Board in Schedule 3 of the Public Finance Management Act (1999) and the required process for doing so as prescribed in Chapter 6 of the Act. Simultaneously, such a Board will require the drafting of new Provincial legislation.

## **7.4 CONCLUSION**

Completion of the process for drafting a policy on the management of Provincial property entails steps to finalise a Green Paper in order to invite public comment. After this, steps will be taken to finalise a White Paper as policy for the management of Provincial property. This will be followed by a process to implement policy aspects not relying on amendments to legislation, or new legislation, while simultaneously the drafting of such amendments and new legislation will be initiated. It is foreseen that the minimum legislative implication of the process would be the amendment of Provincial legislation, but depending on the institutional option decided upon, new Provincial legislation and amendments to National legislation may be required.



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