

Commercial Asset Management Framework

Document title	Commercial Asset Management Framework
Contact details	Department of Treasury and Finance
Approved by	
Date approved	
Document review	
TRM number	

Version	Date	Author	Changes made
1.0	November 2022	Economic Policy	Initial draft

Related Documents	Author	Details / Contact
Fiscal Strategy Panel's final report: <i>A plan for budget repair</i>	Fiscal Strategy Panel	https://treasury.nt.gov.au/_data/assets/pdf_file/0010/683461/Budget-Repair-Final-Report-web.pdf

Acronyms	Full form
FMA	<i>Financial Management Act 1995</i>
GBD	government business division
GOC	government owned corporation
GOC Act	<i>Government Owned Corporations Act 2001</i>

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1. Purpose

The Territory Government has a significant investment in a portfolio of government businesses, general government agencies and statutory bodies.

The Commercial Asset Management Framework has been developed to guide consideration of the appropriate governance structure to ensure government's investment is managed efficiently and is effective in delivering government objectives.

This framework provides a basis for evaluating commercial assets in terms of government's service delivery needs, corporate and strategic objectives, financial interest, market environment, ownership and control, and accountability, reporting and performance requirements, and has been based on the following principles:

- decisions should be based on service delivery needs and outcomes (that is, service delivery should be at the core of commercial asset management)
- commercial asset management should be integrated into relevant government policy and planning frameworks, as well as budget and evaluation processes and aligned with government objectives
- decisions should take into account performance through monitoring and measuring key performance indicators, as well as evaluating all options that could address the service delivery needs, including engaging the private sector
- ownership, control, accountability, responsibility and reporting requirements should be clearly established, communicated and implemented, and relative to the objective of the asset
- information management systems should meet all government decision-making and reporting requirements, and asset-related risks should be fully integrated into the organisational risk management framework
- commercial asset management activities should be undertaken as part of the government's overall resource allocation and management framework.

The framework has been developed as a self-assessment tool for use by the Department of Treasury and Finance and other agencies in assessing the appropriateness of the entity structure of government commercial assets.

Review of government commercial assets is to be conducted through standardised assessment principles and criteria set out in the framework.

2. Entity structures for government commercial assets

In the context of the framework, entity structures for government commercial assets include the following:

Government agency

A unit of government administration as nominated in an Administrative Arrangements Order for the purposes of the *Financial Management Act 1995* (FMA). Agencies form part of the general government sector and are entities that fulfil the functions of government as their primary activity.

Services agencies include those that are mainly non-market in nature and largely for the collective consumption by the community, or involve the transfer or redistribution of income.

These services are provided free of charge or at nominal charges (below costs of production), often only recouping related administrative costs. Charges are generally regulatory or a tax.

Agencies are mainly funded through appropriations from the Central Holding Authority.

Government business division

The FMA defines a GBD as an agency or part of an agency that:

- recovers a significant proportion of its operating costs through charges on users
- is determined by the Treasurer to be a government business division

While a GBD is a part of the general government sector and fulfils the functions of government as its primary activity, it is a trading entity that follows commercial practices and is required to comply with competitive neutrality principles to minimise any commercial advantages over private sector businesses resulting from government ownership.

A GBD is to recover its operating costs through user charges, adopt an appropriate commercial management and operating focus (that is, establish an audit committee and have an appropriate level of accountability and performance monitoring), account for costs of production and price accordingly and adhere to tax equivalent arrangements.

A GBD remains subject to the financial management framework and accountabilities contained in the FMA, with the chief executive accountable to the responsible minister for financial performance.

Where government specifically requires a GBD to carry out an activity it would not elect to do on commercial grounds, or would only undertake commercially at higher prices, such functions are designated as community service obligations.

Statutory body

A statutory body is established by or under an Act for a public purpose where there is a need for some operational independence from government while still providing for a level of government control. These entities are funded from levies, taxes or grant funding.

The enabling legislation generally sets out, among other things, the composition, functions, powers, governance and ministerial direction arrangements, and reporting requirements. The enabling legislation therefore establishes the level of independence from government and degree of government control that applies to each statutory body.

Government owned corporation

A GOC is a commercial entity established by government to deliver goods and services in markets where government participation is deemed necessary.

A GOC is established by enabling legislation (as a separate legal entity) and operates under the *Government Owned Corporations Act 2001* (GOC Act) and the Government Owned Corporations Corporate Governance and Reporting Framework, which set out governance, performance, reporting, investment and corporate planning obligations required of a GOC to ensure it meets its objectives.

A GOC operates on a commercial basis, at least as efficiently as any comparable business, and is funded largely through the sale of goods and services, with the aim to maximise sustainable returns to the Territory on its investment in the corporation in accordance with the shareholder model of corporate governance.

While a GOC is required to operate in a commercial manner, the GOC Act provides that a GOC can be directed by the shareholder to undertake activities that may not be commercially viable.

Private delivery

This involves providing a public good or service by the private sector and can be achieved through:

- the transfer of ownership, management or control of a public entity (for example, the long-term lease of the Darwin Port Corporation and sale of the Territory Insurance Office)
- withdrawal of government from a market, enabling the gap in the market to be taken up by the private sector – this is essentially what occurred when the government ceased its Government Printing Office GBD
- outsourcing a public good or service through a contractual arrangement, for example, when government agreed to cease the Darwin Bus Services GBD.

While the Territory may have a financial interest in other entities, such as ownership of shares, these are outside the scope of this framework as the Territory has no controlling interest in these entities and is subject to other governance frameworks.

3. Commercial Asset Management Framework – assessment criteria and general characteristics

There is a range of entity and governance structures through which government can achieve its objectives and deliver its goods and services, including:

- government agency
- government business division
- statutory body
- government owned corporation
- private enterprise.

The optimum structure will generally depend on the market environment and conditions in which an entity operates, how commercial objectives are adopted and whether these factors fit with government's service delivery needs, financial and budgetary constraints and desired levels of control.

The following criteria have been developed to guide the review of government commercial assets and consideration of the appropriateness of the existing governance structures.

Table 1: Framework criteria

Criteria	Considerations
Policy and service objectives	<ul style="list-style-type: none"> • Service delivery needs and outcomes sought to be achieved • Level of specificity in relation to the goods and services outcomes to be delivered to consumers • Strategic importance of the activity
Market environment	<ul style="list-style-type: none"> • Capacity of the private sector to deliver outcomes in a manner consistent with government policy objectives • Degree of workable competition and regulatory environment in place to guide outcomes • Risk of market failure and or monopolistic behaviour
Government control	<ul style="list-style-type: none"> • Level of government intervention and influence needed to ensure any specific public policy outcomes are achieved • Extent to which the Territory bears reputational or financial responsibility for performance
Governance	<ul style="list-style-type: none"> • Arrangements necessary to support the specific service delivery outcomes and ensure accountability, transparency and performance align to the nature of the services.

The following table provides guidance on reviewing government commercial assets and sets out the characteristics of various governance structures to provide government goods and services under each of the framework criteria.

Table 2: Governance structures – general characteristics under each framework criteria

Government agency	Government business division	Statutory body	Government owned corporation	Private enterprise
Policy and service objectives				
<p>Broad objectives to deliver outcomes in a particular area</p> <p>Services are provided for the general public and are not commercial in nature</p> <p>Responses are likely to be fluid with a mix of measures to achieve outcomes, many of which are not commercial in nature</p>	<p>Commercially driven objectives but with strategic policy intent that requires government support and alignment</p> <p>Commercial principles for the recovery of costs through user charges and pricing</p> <p>Objectives require approach that would otherwise be uncommercial (risk, return on investment, etc.)</p>	<p>Functions of strategic importance to government are clear and generally have a narrow focus around a specific activity or sector</p> <p>In many instances, the overall outcome being sought is a mix of public and commercial objectives</p>	<p>Objectives are clear, specific and best managed on a commercial basis</p> <p>Comparatively limited strategic policy issues sought to be achieved</p> <p>Financial autonomy aimed at providing return to government</p>	<p>No particular public policy objectives need to be achieved, or can be achieved more efficiently through regulation or contract</p> <p>Private sector considered a more appropriate, efficient and effective means of delivering goods and services either directly to community (privatisation) or on behalf of government for community (outsource)</p>
Market environment				
<p>Service provided on basis of public policy rather than cost recovery</p>	<p>Thin or limited market for commercial delivery of objectives</p> <p>Some level of government presence is considered necessary to support efficient pricing of goods and services (either for Northern Territory Government or consumers)</p> <p>Providing goods or services where a market failure is deemed to exist and government intervention is required</p>	<p>Limited private sector capacity to undertake functions due to commercial or regulatory factors</p> <p>Government presence is considered necessary to achieve strategic policy outcomes</p>	<p>A market failure exists or could emerge if left to the private sector (particularly in regional/remote areas)</p> <p>Open competition with the private sector for customers in some markets</p>	<p>A competitive market exists for the delivery of the services</p> <p>Arrangements to address market failures can be efficiently managed through administrative or regulatory measures</p>

Government agency	Government business division	Statutory body	Government owned corporation	Private enterprise
Government control				
High level of direct government control, primarily budget funded, directly responsible to a minister	Operational autonomy from government to achieve commercial objectives, but with agency/ministerial oversight to drive strategic outcomes	Operational independence from government provides level of commercial flexibility (procurement, contracting) and supports decision-making and outcomes High-level government strategic oversight provides a steering role through ministerial appointment of members/board, approvals, direction and or control in exercising powers	Operational independence from government to achieve commercial objectives Regulatory settings provide the basis for service standards to customers and delivery of financial returns to government High-level government strategic oversight through shareholder function to align service delivery with government policy objectives and promote performance accountability	Regulatory settings or contractual frameworks provide the necessary basis to achieve any broader government policy objectives Nil or limited government control over operations of entity required
Governance and accountability				
Integrated government decision-making and accountability to parliament to support delivery of public policy outcomes Subject to policies of government and compliance with the Northern Territory's Financial Management and Accountability Framework	Clear separation from general agency accountabilities to support commercial decision-making Adherence to principles of competitive neutrality to promote transparency and efficient competition Subject to policies of government and compliance with the Northern Territory's Financial Management and Accountability Framework	Functions and activities detailed in legislation provide for higher levels of accountability and transparency Commission or board structure provides for subject matter expertise, stakeholder engagement, etc. Not subject to compliance with the Northern Territory's Financial Management and Accountability Framework.	Corporatised governance structure supports transparency and accountability of commercial decision-making and outcomes Not subject to Northern Territory's Financial Management and Accountability Framework Regulatory settings provide accountability for performance to shareholder and support efficient delivery of services Independent board structure provides subject matter expertise across corporate functions	Regulatory/licensing settings provide the necessary basis to achieve any broader governance requirements Subject to acquittal requirements as identified in individual contractual arrangements.

