

List of Submissions to ED 238 *Consolidated Financial Statements – Australian Implementation Guidance for Not-for-Profit Entities*

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Mr Kevin Stevenson
Chairman
Australian Accounting Standards Board
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By email: standard@asb.gov.au

24 June 2013

Dear Kevin

Re: AASB ED 238 - Consolidated Financial Statements – Australian Implementation Guidance for Not-for-Profit (NFP) Entities

We are writing to the Australian Accounting Standards Board (AASB or the Board) in relation to the Board's ongoing deliberations in developing proposed Australian Implementation Guidance for NFP Entities in relation to Consolidated Financial Statements.

In summary:

- We believe that the implementation guidance will be useful in addressing the unique aspects of NFP entities in the private and public sectors when applying AASB 10, *Consolidated Financial Statements* (AASB 10) and AASB 12, *Disclosure of Interests in Other Entities* (AASB 12)
- We agree with the Board's decision in providing only the implementation guidance and not amending or adding new requirements to AASB 10 and AASB 12 for the purpose of application by NFP entities.

Our responses to the specific questions referred in the exposure draft have been included in the Appendix attached.

Please feel free to contact me on 03 9671 7553 if you require further information.

Yours sincerely



Clive Mottershead
Partner
Deloitte Touche Tohmatsu

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APPENDIX**CONSOLIDATED FINANCIAL STATEMENTS – AUSTRALIAN
IMPLEMENTATION GUIDANCE FOR NOT-FOR-PROFIT ENTITIES**

- 1. Whether Australian implementation guidance for not-for-profit (NFP) entities should be added to AASB 10 and AASB 12 and, if so, whether it should, as proposed, be authoritative (i.e. “integral” to the Standard) or non-authoritative material;**

We recommend that Australian implementation guidance for NFP entities should be added to AASB 10 and AASB 12 as it provides useful application guidance for such entities. We further agree with the proposal that the guidance be made authoritative (i.e. “integral” to the Standard) to ensure consistency in application by all the entities covered in the scope of this standard and avoid any diversity in practice.

- 2. Whether the proposed implementation guidance appropriately explains the definition of ‘control’ in AASB 10 for application by NFP entities, including the following aspects:**
 - a. the broad nature of returns from a controlled NFP entity, including non-financial and indirect benefits (paragraphs IG16 and IG17); and**
 - b. the four detailed sets of implementation examples in the proposed Appendix E for AASB 10;**

We believe the implementation guidance appropriately explains the definition of ‘control’ in AASB 10 for application by NFP entities. The guidance in paragraph IG16 and IG17 rightly explains that in application to NFP entities, the broad scope of the nature of returns encompasses financial, non-financial, direct and indirect benefits, whether positive or negative, including the achievement or furtherance of the investor’s objectives.

We believe that the four detailed sets of implementation examples provides application guidance which can either be referred directly or analogised to apply to specific fact patterns. We acknowledge that certain structure such as those described in Example IG2 (Control of LMN local government) and Example IG3 (Control of XYZ University) can be complex and to suggest there could be alternative options based on the specific facts and circumstances is an appropriate approach.

In addition to the four detailed set of implementation examples, the examples provided in the paragraph discussion are useful in understanding the concepts and how the requirements of AASB 10 need to be applied in the context of NFP entities.

3. Whether the proposed implementation guidance appropriately explains the definition of 'structured entity' in AASB 12 for application by NFP entities;

We agree with the Board's rationale that in the context of NFP entities; administrative arrangements or statutory provisions would be considered as dominant factors in determining control similar to voting or similar rights in the context of for-profit entities. The key concept in the definition of structured entities is the significance of contractual arrangement in determining control as compared to administrative arrangements, statutory provisions or voting interests and we believe this concept has been elucidated through examples for both public and private sector.

4. Whether it is appropriate to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements (see the proposed amendments to AASB 1049 set out in the ED);

We agree with the Board's decision to exclude the disclosure requirements in AASB 12 in respect of GGS financial statements:

- i. The exemption is consistent with paragraph 45 of the existing AASB 1049 which exempts the General Government Sector (GGS) financial statements from complying with any of the disclosure requirements of the superseded AASB 127 Consolidated and Separate Financial Statements.
- ii. The disclosures would essentially duplicate the AASB 12 disclosures for the whole of government financial statements. As entities included in the GGS financial statements are also included in the whole of government financial statements, the entities' association with structured entities could be addressed in either set of financial statements. The nature of the risks associated with interests in structured entities is unlikely to change between the GGS level and the whole of government level.

5. Whether there are any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals, including GFS harmonisation issues;

As noted in paragraph 6 of the basis of conclusion of the ED, the types of harmonisation differences between AASB 10 and the ABS GFS Manual are not affected by the proposals in this ED since the proposed implementation guidance does not change or depart from the principles in AASB 10. The Board should also before finalising the proposal have discussions with and consider any additional reporting obligations such as those that may be mandated by the Australian Charities and Not-for-profits Commission (ACNC) and which may have to be complied by the NFP entities.

6. Whether, overall, the proposals would result in financial statements that would be useful to users;

We believe the new standards AASB 10 and AASB 12 applicable to for-profit entities would improve financial reporting and provide users with more useful information. The implementation guidance applicable to NFP entities retains the concepts in AASB 10 and AASB 12 and adds additional examples and implementation guidance to elucidate those concepts and as such we believe the proposals would be useful to users of financial statements prepared by NFP entities as well.

7. Whether the proposals are in the best interests of the Australian economy; and

There are a number of NFP entities operating in the Australian economy. The guidance proposed in the exposure draft would enhance the financial reporting by such entities in the context of determining control and disclosure of interests in structured entities which will be more meaningful and insightful for the users of financial statements. We therefore believe that the proposals are in the best interests of the Australian economy.

8. Unless already provided in response to the above specific matters for comment, the costs and benefits of the proposals relative to the current requirements, whether quantitative (financial or non-financial) or qualitative.

We believe that the NFP entities may have to initially incur additional costs to assess the impact as well change the existing systems and processes to align with the requirements of proposed changes. However we do not expect these costs to be incommensurate with the benefits expected in the long run in terms of consistency in reporting and the application of sound principles to the concept of control aligned with the for-profit entities resulting in more qualitative financial reporting across the NFP sector.



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Dear Mr Stevenson

ED 238 CONSOLIDATED FINANCIAL STATEMENTS – AUSTRALIAN IMPLEMENTATION GUIDANCE FOR NOT-FOR-PROFIT ENTITIES

The Heads of Treasuries Accounting and Reporting Advisory Committee (HoTARAC) welcomes the opportunity to provide comments to the Australian Accounting Standards Board Exposure Draft 238 *Consolidated Financial Statements – Australian Implementation Guidance for Not-for-Profit Entities*.

HoTARAC is highly supportive of the AASB's efforts in developing Australian Implementation Guidance for not-for-profit (NFP) entities regarding AASB 10 *Consolidated Financial Statements*.

While HoTARAC generally agrees with the proposed Guidance, our key issues are in the following areas, where we believe that additional consideration is required:

- Delegated power – to clarify that a delegated power of itself is not sufficient to demonstrate control or preclude control.
- Removal rights – to confirm that that a Minister's power to remove a public sector entity's decision makers does not, of itself, preclude a public sector entity from controlling another body.
- Substantively enacted legislation – to reconsider whether substantively enacted legislation provides the investor the current ability to direct relevant activities.

- De facto agent – to provide additional guidance regarding the meaning of de facto agents as this is a critical issue for the public sector.
- Removal of certain Aus paragraphs – to include a table of concordance which clearly shows where previous Aus paragraphs were not retained.

Further detailed comments are attached. If you have any queries regarding HoTARAC's comments, please contact David Laidley from New South Wales Treasury on (02) 9228 4759.

Yours sincerely


Grant Hehir
CHAIR
HEADS OF TREASURIES ACCOUNTING AND REPORTING ADVISORY
COMMITTEE

25 June 2013

Encl

**HoTARAC Response to AASB ED 238 *Consolidated Financial Statements—
Australian Implementation Guidance for Not-for-Profit Entities***

Specific matters for comment

1. *Whether Australian implementation guidance for NFP entities should be added to AASB 10 and AASB 12 and, if so, whether it should, as proposed, be authoritative (ie “integral” to the Standard) or non-authoritative material.*

HoTARAC agrees that authoritative Australian implementation guidance should be added for NFP entities to AASB 10 and AASB 12.

2. *Whether the proposed implementation guidance appropriately explains the definition of ‘control’ in AASB 10 for application by NFP entities, including the following aspects:*
 - (a) *the broad nature of returns from a controlled NFP entity, including non-financial and indirect benefits (paragraphs IG16 and IG17); and*
 - (b) *the four detailed sets of implementation examples in the proposed Appendix E for AASB 10.*

- (a) HoTARAC agrees that the proposed implementation guidance appropriately explains the broad nature of returns from a controlled NFP entity.
- (b) HoTARAC is strongly supportive of the AASB’s decision to include implementation examples to help clarify the application of the AASB 10 requirements to NFP entities. However, HoTARAC offers the following comments on the examples, and an additional example, for further consideration.

IG21 and the legal concept of delegations

IG21 provides that “a department acts as a principal in its own right even under a delegation of power from the Minister if it is acting with its own discretion, not subject to specific direction by the Minister”.

This is not entirely consistent with HoTARAC’s understanding of the concept of “delegation” (as summarised in AASB Agenda Paper 7.3, June 2012). We understand that where there is a delegated power, the person/entity exercising that power is always acting in their own right (in relation to that power) and with their own discretion and cannot be directed by the delegator. The wording in paragraph IG21, however, implies that it is possible that a person may be acting under delegation and may not always have discretion; i.e. they may be subject to specific direction by the delegator.

We think that this paragraph confuses the concept of delegation and needs to be explained more clearly. That is, in HoTARAC’s view, a delegated power of itself is not sufficient to demonstrate control or preclude control. The issue is more whether

the delegated power is sufficiently wide to allow the delegate to control the relevant activities of the other entity.

Example IG4A

Example IG4A concludes that "...the Department has delegated power over the statutory authority and is acting as an agent on behalf of the Minister".

However, the information in Example IG4, which forms the background to Example IG4A, does not refer to there being a delegation even though the conclusion is that the Department has "delegated power". Instead, the facts refer to the Department "acting on behalf of the Minister" and requiring the Minister's approval for certain decisions. This is not consistent with HoTARAC's understanding of a delegation or "delegated power", where the delegate acts in its own right and cannot be directed by the delegator.

In addition, in assessing control, the conclusion makes no mention of the key fact included in Example IG4, that the Minister appoints the statutory authority's governing council. Further, the reference to remuneration does not seem a particularly strong argument that supports the Department acting as an agent. This is because the nature of government is such that whether or not the Department is acting as a principal or agent the Department is likely to be explicitly remunerated.

Example IG4B

This example introduces a new term "delegated control", without explanation. Again, as per Example IG4A, there are no facts given which indicate that the Minister has delegated power to the Department. Further, the example varies the facts in IG4 to support the conclusion that the Department is acting as a principal. However, there is no variation to the core fact, which states that the Department "acts as 'system manager' for the State public health system on behalf of the Minister". The phrase "on behalf of" implies the Department is acting as an agent, which is contrary to the conclusion.

Example IG2, IG3A Alternative outcomes

A majority of HoTARAC respondents consider that the "alternative outcome" paragraphs may be unnecessary, as all examples are based on judgements and will be impacted by alternative facts. It seems particularly unnecessary in IG3A, given that IG3B illustrates the alternative scenario of where a State government does control a university.

Additional example of protective rights

HoTARAC proposes an additional example to be added to paragraph IG15 to further illustrate protective rights, as follows:

Use of a regulator's intervention powers where a regulated entity is non-compliant with performance standards or due to failure to comply with a requirement or direction issued under an Act.

Such powers include appointment of additional members to the governing body under certain restricted circumstances. For example, a State housing regulator may recommend the appointment of one or more appropriately qualified persons to the governing board of a regulated entity, when the entity has failed to comply with performance standards. The regulator must first consult with the governing body of the entity about a proposed recommendation and must consider any nominations put forward by the governing body. The regulator-appointed members will become part of the governing body of the regulated entity. The appointed members do not report to the regulator nor does the regulator direct them on how to govern. Their duties and responsibilities are exactly the same as other members of the governing body.

3. *Whether the proposed implementation guidance appropriately explains the definition of 'structured entity' in AASB 12 for application by NFP entities.*

HoTARAC agrees that the draft implementation guidance appropriately explains the definition of "structured entity" in AASB 12 for application by NFP entities. However, it is noted that a similar clarification is also relevant to FP public sector entities, which are often established under statutory provisions.

4. *Whether it is appropriate to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements (see the proposed amendments to AASB 1049 set out in the ED).*

HoTARAC agrees that it is appropriate to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements.

5. *Whether there are any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals, including GFS harmonisation issues.*

HoTARAC is not aware of any regulatory issues that may affect the implementation of the proposals.

6. *Whether, overall, the proposals would result in financial statements that would be useful to users.*

Subject to the above comments, overall, HoTARAC believes that the proposals would result in financial statements that would be useful to users.

7. *Whether the proposals are in the best interests of the Australian economy.*

No comments.

8. *Unless already provided in response to the above specific matters for comment, the costs and benefits of the proposals relative to the current requirements, whether quantitative (financial or non-financial) or qualitative.*

No comments.

Other comments

Removal rights

HoTARAC believes that additional guidance should be provided regarding the concept of removal rights within government. Paragraph B65 provides that when a single party holds substantive removal rights and can remove the decision maker without cause, this, in isolation, is sufficient to conclude that the decision maker is an agent.

A government Minister will often have the power to remove a decision maker. For example, the relevant Minister can always remove the Head of a Department and legislation often gives the Minister power to remove directors of statutory authorities. This seems to imply that a Department can never, and statutory authorities can only rarely, control another entity and that those other entities are acting as agents. This was previously addressed in the Basis for Conclusions to IASB ED 10 (paragraphs BC96-97), the precursor to IFRS 10, where it was explicitly stated that the IASB did not believe the guidance on agency relationships would prevent an intermediate parent from preparing consolidated financial statements. However, when IFRS 10 was issued, these paragraphs were omitted from the Basis for Conclusions.

In HoTARAC's view, a Minister's power of removal discussed above arises from a control relationship rather than a principal/agent relationship. That is, a Minister can dismiss a public sector entity's key personnel irrespective of any relationship that the entity has with other entities. Given that this is a particular issue in the public sector, where individual entities are controlled as part of the Total State Sector/Whole of Government, HoTARAC believes that this view should be confirmed by the AASB.

Substantively enacted legislation

Paragraph IG12 explains that sometimes rights can be substantive even though they are not currently exercisable. However, it then provides that rights in substantively enacted legislation cannot give the investor the current ability to direct the relevant activities.

HoTARAC understands that the clarification in paragraph IG12 is based on paragraph 30 of IPSAS 6 *Consolidated and Separate Financial Statements*. However, given that IPSAS 6 has not yet been updated for the new IFRS 10, it is not clear that the principle in IPSAS 6 is consistent with IFRS 10. Instead it may be argued that the effect of paragraph IG12 is actually to amend IFRS 10. HoTARAC believes that this needs to be further considered by the AASB.

Paragraph IG12, as it is written, is confusing and difficult to understand. HoTARAC recommends that the whole paragraph be reworded to improve clarity.

De facto agent

HoTARAC notes that the AASB has not proposed implementation guidance in respect of some topics, such as de facto agents, due to its assessment that the issue arises for both FP and NFP entities. However, HoTARAC recommends that further consideration should be given to the issue of de facto agents and what it means in the public sector context, where all public sector entities are related parties to all other public sector entities. Additional guidance on this matter is critical for the application of the AASB 10 concept in the public sector context. It would be preferable for the AASB to apply its NFP deliberations and decision on this matter to FP entities as well.

Removal of certain Aus paragraphs

The previous AASB 127 Aus paragraphs have not been fully carried forward. For example, the following paragraphs on indicators of control have been omitted:

- Para Aus17.3(e) where an entity is required to submit to Parliament reports on operations that include audited financial statements
- Aus 17.4 on the government's rights to residual assets.

It is important that the main differences for the public sector are made transparent and the reasons explained. Accordingly, HoTARAC recommends including a more detailed explanation in the Basis for Conclusions.

A table of concordance would also be useful.



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26 June 2013

Mr Kevin Stevenson
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By email: standard@asb.gov.au

Dear Mr Stevenson

Invitation to comment – ED 238 Consolidated Financial Statements - Australian Implementation Guidance for Not-For-Profit Entities

Crowe Horwath is pleased to provide the Australian Accounting Standards Board with its comments on Exposure Draft ED 238 Consolidated Financial Statements - Australian Implementation Guidance for Not-For-Profit Entities (“ED 238”).

Crowe Horwath provides a complete range of accounting, advisory, tax and wealth management services. Crowe Horwath comprises more than 800 principals and professionals located in Australia and New Zealand and is part of the national WHK Group, which is listed on the Australian Securities Exchange and is the fifth largest accounting services group in Australia.

We are supportive of the Board's aim of providing additional implementation guidance on AASB 10 *Consolidated Financial Statements* to not-for-profit (“NFP”) entities. However, we do not believe the proposals clearly and adequately explain the concepts as they apply to NFP entities. For example, two of the four illustrative examples (universities and local councils) are too narrow in their application and are not particularly helpful to the broader NFP sector. We would prefer the inclusion of broader, more common scenarios that would assist a wide range of users. We also suggest that the Board clarify a number of application aspects contained in the ED.

Our detailed comments on the proposals are included in the attached Appendix.

We would be pleased to discuss any aspect of our submission with you further at your convenience.

Sincerely,
Crowe Horwath

A handwritten signature in black ink, appearing to read 'Martin Olde'.

Martin Olde
Partner



APPENDIX

Specific matters for comment

- A. *Whether Australian implementation guidance for not-for-profit (NFP) entities should be added to AASB 10 and AASB 12 and, if so, whether it should, as proposed, be authoritative (ie “integral” to the Standard) or non-authoritative material;*

We are supportive of the inclusion of additional implementation guidance on AASB 10 *Consolidated Financial Statements* to not-for-profit entities.

Due to the varying nature of NFP entities, we are concerned that the examples can not contemplate all the various factors that need to be considered in assessing control. Hence, if the guidance is authoritative there is a risk that preparers and users may apply a conclusion based on the examples that is not appropriate in the actual specific circumstances. Therefore, we suggest that the guidance be non-authoritative material.

- B. *Whether the proposed implementation guidance appropriately explains the definition of ‘control’ in AASB 10 for application by NFP entities, including the following aspects:*

(a) *The broad nature of returns from a controlled NFP entity, including non-financial and indirect benefits (paragraphs IG16 and IG17); and*

(b) *The four detailed sets of implementation examples in the proposed Appendix E for AASB 10;*

and

- C. *Whether the proposed implementation guidance appropriately explains the definition of ‘structured entity’ in AASB 12 for application by NFP entities.*

We do not believe that the proposed guidance clearly and adequately illustrates the definition of control for application by NFP entities. By their nature, not-for-profit entities, whether in the public sector or private sector, often display unique characteristics that are not prevalent in the for-profit sector. In our opinion, Examples 3 and 4 (universities and local government) are too narrow and entity specific and are of limited benefit and application to the broad NFP sector. We would prefer the Board provide illustrative examples of scenarios that are more common in practice and relevant to a broader constituency. For example:

- It can be difficult to establish statutory or contractual arrangements between entities within the same religious order. While an intuitive assessment may lead to a conclusion that the head religious body controls the activities of the entities within that religious order, such power may not arise from voting or equity rights (in the corporate sense) nor statutory or contractual arrangements. Hence, applying the factors discussed in AASB 10.11 may lead to an alternative view.

We suggest that additional guidance on the relative weightings of the factors described in AASB 10.B18 and B19, as well as recognising that power may be derived from other ‘non-traditional’ factors in the context of NFP entities would assist users and preparers.

- The narrow purpose and design of an entity established by a non-for-profit entity may make it difficult to clearly identify the ‘relevant activities’ over which the parties may have control.

Some not-for-profit entities are established with pre-determined, well defined and narrow objectives. We believe it would be useful to constituents for the Board to clarify and provide further guidance on the application of the principles referred to in IFRS 10.BC80 to not-for-profit entities, especially where the financial returns are not the key purpose of establishing the entity.

- Appendix E [for AASB 12] discusses structured entities. We agree with the statement in IG6 of Appendix E which states:

“... for not-for-profit entities, structured entities have been designed so that less conventional means – in the context of not-for-profit entities – are the dominant factor in determining who controls the entity. Therefore, in the not-for-profit context, the reference in the definition to “similar rights” encompasses administrative arrangements and statutory provisions, as these often are the dominant factor in determining control of not-for-profit entities.”

However, there does not appear to be discussion of what are “less conventional means” and how they are analysed in determining control in the context of AASB 10. Consistent with the points above, we suggest that this concept be specifically included in the NFP guidance within AASB 10.

- AASB 10.B8 acknowledges that voting rights may not be the dominant factor in deciding who controls an investee and that the relevant activities may be “directed by means of contractual arrangements”. Given the comment above, we suggest the AASB clarify whether, for NFP entities, such assessments are limited to the existence of ‘contractual arrangements’ or whether non-contractual arrangements and other “less conventional means” could still give a party control over an investee. (see also examples below)

As discussed above, a religious organisation may have the practical ability to direct the activities of an investee notwithstanding such ability does not arise from ‘statutory or contractual arrangements’. To aid a broader group of users, we suggest more common examples of NFP relationships be included to illustrate the concepts discussed, such as:

Example 1:

NFP is a private sector not-for-profit organisation whose objectives is the provision health services to the sick and injured and provides first aid training to the community. NFP establishes NFPE, a company limited by guarantee, whose sole objective is to teach first aid to school children. The Board of NFPE comprises like-minded individuals but who are not directors of NFP. Vacancies on the Board of NFPE are decided by a majority of NFPE’s directors. Other than appointing the initial Board of NFPE, NFP does not have the power to remove or appoint the directors of NFPE. NFPE’s sole source of funding is donations from NFP and NFP donates training equipment and logistical and administrative support to NFPE. NFPE decides which schools it will visit and the types of first aid training it will deliver.

Some suggest that NFPE is an extension of NFP and should be consolidated by NFP. It is viewed as a structured entity that has been established by NFP for the furtherance of its objectives and whose existence is dependent upon the continued support of NFP. NFP can exercise power over the activities of NFPE by varying the level of funding and other support it provides to NFPE. Further, one could argue that NFPE is, in substance, an agent for NFP in furthering NFP's objectives and can effectively remove NFPE simply by terminating funding and support and refer to IG20(a) to support this proposition. However, applying the guidance described in IG9 (economic dependency), IG10 (financial dependency), IG14 (protective rights) and Example IG2 (local council), one might conclude that NFP does not control NFPE.

Example 2:

NFP sets up an entity to provide services to NFP (whether it be catering / training / recruitment services) and NFP initially is the only user of that entity's services. The entity is unable to direct profits back to the NFP. NFP is able to set the prices for which the entity charges its services (which therefore determines the profits and manages their costs) and set service standards/requirements. However, the NFP can not appoint a majority of the members of the board of the entity. Applying the rationale in Example IG1, one would conclude that NFP does not control the entity because the voting process does not give NFP the power to appoint board members. However, others would suggest that the entity is an extension of the reporting entity that should be consolidated with that of NFP.

Example 3:

Schools, elite sporting organisations and the arts establish foundations to raise funds that are directed towards the creator NFP although their Constitutions do not prohibit alternative directions of funds. In many cases the governing board of the foundation contains a majority of high-profile business, political or sporting persons that support the objectives of the NFP but would be assessed as being independent of the NFP. In the absence of voting rights or other 'contractual arrangements' that give the creator direct power over the foundation, it could be suggested that the NFP does not control the foundation.

Under AASB 127 and Interpretation 112, all three examples above would generally be consolidated with the NFP, although for the reasons above, a different view may be taken under the Exposure Draft.

Given the potential impact on the NFP sector, we strongly suggest that the Board clarify:

- a) whether the accounting for such arrangements would likely change under AASB 10, and if so why; and
- b) under what circumstances members of the governing board of the foundation (or similar entity) would be considered nominees of the NFP.

Given the potential inconsistency between the statements in IG 6 in Appendix E for AASB 12 and AASB 10.B8, referred to above, we suggest that the Board clarify its views in the final standard.

- We are concerned that some of the examples contained in the proposals appear to start with a conclusion that is consistent with current practice and then attempts to justify that conclusion. However, the arguments used in some of those examples either appear to be inconsistent or may require further information and clarity so that the principle supporting the AASB’s reasoning is more transparent.

We suggest that the Board clarifies the operation of the following aspects of the implementation guidance:

Reference	Comments
IG5, Example IG1	<p>“As an example of contractual or statutory arrangements, a not-for-profit investor often will have power over an investee that it has established when the constituting document or enabling legislation specifies the investor’s rights to direct the operating and financing activities that may be carried out by the investee. However, the impact of the constituting document or legislation is evaluated in the context of other prevailing circumstances, as all facts and circumstances need to be considered in assessing whether an investor has power over an investee.” (IG5)</p> <p>While IG 5 suggests that such rights are not conclusive in assessing control, the conclusions in Example IG1 appear to focus on voting rights as determinative of control. Eg, Example IG1A suggests that control does exist because of the existence of such rights. Alternatively, Example IG1B suggests that control does not exist due the inability to appoint board members.</p> <p>We believe it would be useful to constituents for the Board to more clearly articulate the key determinants of control.</p>
IG8	<p>The example in IG8 suggests that the government has control over the statutory authority, but it is unclear on what basis that determination is made.</p>
IG2	<p>Example IG2 provides a scenario where a Minister can “give directions concerning rates and charges so as to limit the Council’s general income for a financial year”. Setting aside government grants, the power to determine the amount of total rates and charges is clearly a relevant activity that affects the investee’s returns.</p> <p>How the total rates and charges are divided across different categories of constituents does not change the fact that, in this scenario, the power to limit total income is a major substantive power that does <i>significantly affect</i> the Council’s returns.</p> <p>We would suggest that the allocation of rates across constituents is only an administrative decision, would not significantly affect the overall returns of the Council, and would not be a key determinant in assessing control.</p>

<p>IG 12, IG11</p>	<p>“Paragraph B24 states that to be substantive, rights need to be exercisable when decisions about the direction of the relevant activities need to be made. Usually this means that the rights need to be currently exercisable. However, paragraph B24 also notes that sometimes rights can be substantive even though they are not currently exercisable. For many not-for-profit investors, power over an investee may be obtained from existing statutory arrangements. <i>Neither the power to enact or change legislation nor rights specified in merely substantively enacted legislation give the investor the current ability to direct relevant activities of the investee.</i>” (IG12) (emphasis added)</p> <p>We suggest that the Board clarifies why it believes that the power to enact or legislate change does not give the investor control, even of such power is currently exercisable (eg, the government has a majority in both Houses). Does the Board’s view alter if the statutory instrument is a Regulation or instrument that may be issued by a Minister rather than legislation passed by Parliament, and if so, why?</p> <p>In addition, it would be helpful for the Board to clarify how that statement in IG12 is reconciled to AASB 10.B24, including Application examples Example 3 within that paragraph, as well as the indicators in paragraph AASB 10.B23. It is unclear how the mere passage of time does not preclude the existence of currently exercisable rights, but the current ability to issue a regulation or statutory instrument does (especially if the conditions in B23 are satisfied).</p> <p>Further, in the case of amending legislation or regulations, there may be scenarios in which all the indicators in B23 would indicate the existence of substantive rights, although such power is expressly excluded from the assessment in IG 12.</p> <p>We contrast the scenario described in IG12 (that is, that the power to enact change does not give the investor the current ability to control) and the comment that “for some not-for-profit investors, political, cultural, social or similar types of barriers might make it difficult for the investor to exercise rights held in relation to an investee. However, the investor’s rights would be substantive, despite such barriers, if the investor can still choose to exercise those rights” in IG11.</p> <p>We believe there is a fine distinction between these two concepts and it would be helpful to constituents for the Board to clarify the difference between having the <i>ability</i> to direct the activities but being subject to barriers to exercise that ability, and the investor’s ability to exercise power by passing legislation or other instruments that are within its ability to do so. In both cases, the investor may have the right to exercise its power to direct the relevant activities of the investee but chooses not to do so.</p>
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27 June 2013

Mr Kevin Stevenson
Chairman
Australian Accounting Standards Board
PO Box 204
Collins Street VIC 8007

Via e-mail: standard@asb.gov.au

Dear Kevin

Exposure Draft (ED) 238, Consolidated Financial Statements – Australian Implementation Guidance for Not-for-Profit Entities

Thank you for the opportunity to comment on the Exposure Draft 238, *Consolidated Financial Statements – Australian Implementation Guidance for Not-for-Profit Entities*. CPA Australia and the Institute of Chartered Accountants Australia (the Institute) have considered the ED and our comments are set out below.

CPA Australia and the Institute represent over 200,000 professional accountants in Australia. Our members work in diverse roles across public practice, commerce, industry, government and academia throughout Australia and internationally.

We agree with explaining and illustrating the principles in AASBs 10 and 12 from the perspective of not-for-profit entities when those explanations and illustrations are limited to addressing circumstances where those principles do not readily translate into a not-for-profit context. We also agree with the inclusion of comprehensive examples to illustrate the principles. Nevertheless, we believe the implementation guidance can be further improved through the inclusion of further discussion on a number of topics including the relationship of government and parliament in the context of control and the inclusion of more illustrative examples relevant to a broader constituency of not-for-profit entities.

More detail on our views and answers to the questions in the ED follow in the Appendix.

If you have any questions regarding this submission, please do not hesitate to contact either Mark Shying (CPA Australia) at mark.shying@cpaaustralia.com.au or Kerry Hicks (the Institute) at kerry.hicks@charteredaccountants.com.au

Yours sincerely



Alex Malley
Chief Executive
CPA Australia Ltd



Lee White
Chief Executive Officer
Institute of Chartered Accountants Australia

Representatives of the Australian Accounting Profession



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Institute of
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APPENDIX – Comments on specific questions

- 1. Whether Australian implementation guidance for NFP entities should be added to AASB 10 and AASB 12 and, if so, whether it should, as proposed, be authoritative (ie “integral” to the Standard) or non-authoritative material.**

Yes, we support the addition of authoritative material in the form of Australian implementation guidance to AASBs 10 and 12.

- 2. Whether the proposed implementation guidance appropriately explains the definition of ‘control’ in AASB 10 for application by NFP entities, including the following aspects:**
 - a. the broad nature of returns from a controlled NFP entity, including non-financial and indirect benefits (paragraphs IG16 and IG17); and**
 - b. the four detailed sets of implementation examples in the proposed Appendix E for AASB 10.**

The AASB 10 definition of control requires evidence of ‘power’, ‘returns’ and a ‘link between power and returns’. Generally, we believe the proposed implementation guidance including the implementation examples provide a useful explanation. However, we think further improvements can be made in the areas that follow.

Relationship of government and parliament

Paragraph IG8 illustrates an example of the power of a parliament to appoint and paragraph IG11 illustrates an example of the power of a government to appoint. As we understand it, and subject to other facts and circumstances, the outcomes in both examples would be consolidation into the whole of government general purpose financial statements. It is not clear to us why the power of a parliament to appoint would result in the government having control. We think the inclusion of an explanation would be helpful.

Example IG1A

We understood the purpose of Example IG1A was to illustrate ‘power’, however, on reading the example we believe it illustrates ‘returns’ and not ‘power’. A new example for ‘power’ would be useful, and the current example could be used to demonstrate ‘returns’ and/or expanded into a comprehensive example.

Paragraph IG12

The paragraph IG12 reference to paragraph B24 notes “sometimes rights can be substantive even though they are not currently exercisable”. Despite this, paragraph IG12 concludes that rights in substantively enacted legislation do not give the not-for-profit investor the current ability to direct the relevant activities of the investee. We find this conclusion difficult to understand and suggest the inclusion of an explanation would be useful.

Example IG2

Example IG2 is restricted to illustrating a scenario where the State Government does not control the Council and does not illustrate the opposite scenario. There is a risk that this example will be relied upon in all facts and circumstances, unless a contrary example is presented. We believe it would be useful if Example IG2 contained both scenarios as in the University example (IG3). This is particularly needed given the superseded guidance which stated that local government could not be controlled by State or Territory government. We understand and appreciate the use of a principles based approach rather than a rules based approach but in the absence of examination of a scenario where control of local government does exist, the rule in the superseded guidance is more likely to be applied.

Example IG3

We support the inclusion of the University example as we understand control of Universities by government has been a difficult area for practitioners to determine. However, we would suggest including further complications. A situation where there are returns to the investor which are not directly aligned with the objectives of the University could be included, such as state government returns from universities attracting international students. It is argued that this improves the State's economy and can improve the State's image as a tourist destination which would not be the primary aims of the University. Also it is not clear in the example whether the University Council's responsibilities, powers and functions are established by the University's enabling legislation or by the Council itself. We understand this is an important factor to consider because if the enabling legislation sets the powers and functions, then this is evidence of the State Government's rights to direct the relevant activities of the University.

Further examples

While we support the inclusion of comprehensive examples we would recommend the inclusion of several more examples relevant to a broader constituency of not-for-profit entities. More 'structured entity' examples should be included to explain how the control of these entities in the NFP sector operates through 'less conventional means' (IG6 of Appendix E in AASB 12).

Therefore, we recommend the inclusion of at least one example specifically addressing Foundations. Foundations are very common in both the public and private sectors. They are usually established for a variety of reasons, in many cases to raise funds generally directed towards the purpose of the NFP body that has created them. However, generally the governing body of such foundations is independent from the creating NFP body. The NFP body would often appoint the 'initial board' of the Foundation but has no removal powers. The board may contain high profile business or sporting persons. In the absence of voting rights or other contractual arrangements that give the NFP power over the Foundation, the example needs to indicate the factors that may give rise to control versus no control in such situations. Organisations that establish foundations could be varied, but often include schools, sporting organisations, arts and cultural organisations.

3. Whether the proposed implementation guidance appropriately explains the definition of 'structured entity' in AASB 12 for application by NFP entities.

Yes, we believe the draft implementation guidance appropriately explains the definition of "structured entity" in AASB 12 for application by NFP entities.

4. Whether it is appropriate to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements (see the proposed amendments to AASB 1049 set out in the ED).

Yes, we support the exclusion of all disclosure requirements in AASB 12 in respect of GGS financial statements.

5. Whether there are any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals, including GFS harmonisation issues.

We are not aware of any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals.

6. Whether, overall, the proposals would result in financial statements that would be useful to users.

Subject to the above comments, overall, we believe the proposals would result in financial statements that would be useful to users.

7. Whether the proposals are in the best interests of the Australian economy.

Yes, we believe the proposals are in the best interests of the Australian economy.

8. Unless already provided in response to the above specific matters for comment, the costs and benefits of the proposals relative to the current requirements, whether quantitative (financial or non-financial) or qualitative.

As Australian Accounting Standards cover sectors not addressed by IFRS, we believe the proposals will deliver benefits to users, preparers and auditors in excess of any cost.

THE UNITING CHURCH IN AUSTRALIA NATIONAL ASSEMBLY

SUBMISSION DATED 26th June 2013.

The Chairman,
Australian Accounting Standards Board, Level 7,
PO Box 204,
Collins Street West,
VICTORIA. 8007
Email: standard@asb.gov.au

AASB ED238 on Control in the Not-for-profit Sector

Dear Mr Chairman,

This submission represents the views of the Uniting Church in Australia with all its diversity of activities, locally and internationally, and we can be available for conversation if so desired by your Board.

As a national Australian Church and one of the largest religious institutions, aged care and other community services providers and educational bodies, we have regularly provided government assistance advice and assistance and are pleased to be able to offer our practical concerns with the Exposure Draft

BACKGROUND TO THE UNITING CHURCH IN AUSTRALIA

The Church is an unincorporated body created by consistent State and Territory property trust legislation. That legislation was enacted on 22nd June 1977.

The Church is the result of the of many years of discussion to 22nd June 1977 of the Methodist Church in Australia and the majority of both the Presbyterian and Congregational Union Churches in Australia.

Enabling State and Territory Legislation created a statutory corporation in each of their geography but the “State” jurisdictions for the Church do not exactly follow those geographies. Additionally, the Church is a federated body but the main operational responsibilities are through the synods and their presbyteries. Most of the latter are limited to each presbytery’s regional geography but there are some exceptions, being mainly because of indigenous and ethnic presbyteries. As well, each statutory corporation primarily has a nominee role and not one that is a trading or operational activity.

The Church is primarily an unincorporated association of religious individuals who are able to exercise a wide variety of ministries through the authority of national Regulations and synod by-laws. There are nonetheless many different structures including unincorporated entities such as the synods, national Assembly, church constituted unincorporated bodies and congregations, companies limited by guarantee, incorporated associations, letters patent, public ancillary funds and trusts. This

structural diversity covering well over 3,000 entities across Australia is expected to be greatly impacted by the recently passed legislation for Charities and Not-for-Profit entities which primarily appears to be built on companies limited by guarantee and incorporated associations. However we do appreciate the creation of the “basic religious charity” classification which is exempt from the governance standard disclosures and lodgement of annual financial reports, and therefore we believe the proposed accounting standard.

We also need to state the Australian legislation generally makes a distinction between “charity” and “not-for-profit” whereas the Exposure Draft implies that the terminology of “not-for-profit” includes charities. We contend that this should be specifically stated in the Standard.

As well, it is extremely important to understand the diversity of the sector in its range of activities, entity structures, governance processes and accountabilities. In other words, one set of rules and requirements does not automatically work for all. Our mixture of unincorporated entities, companies limited by guarantee, incorporated associations, letters patent, trusts and public ancillary funds is not common to most charities and not-for-profit organisations, other than many religious institutions.

OVERALL OBSERVATIONS ON THE EXPOSURE DRAFT

The Church readily acknowledges the wide variety of resources it has available to it are generally available in the large activities but too often are not available in most small organisations which numerically exceed the large. This is an insoluble problem because of the diversity of our organisational sizes and in-house expertise.

Our various UnitingCare and other large community services organisations, our synods and treasury operations, and our schools, each have employed professionals and utilise appropriate accounting systems to comply with the national chart of accounts as the foundation of the annual financial reports. However, many of our smaller, local community activities are resourced by volunteers who do not have the professional accounting skills to prepare annual financial statements to the level required by accounting standards. Fortunately, the Australian Charities and Not-for-profits Act exempts many those who can be classified as “basic religious charity” under that Act.

As well, access to local auditors for large entity audits, medium entity reviews and where their constitutions require audits, irrespective of financial size, is geographically difficult to impossible, for those outside urban and rural cities.

This will also cause considerable consternation as to whether they satisfy the definition of special purposes or general purposes for financial reporting. In this reporting area, we note that the Commonwealth Administrator assented to Regulation Amendment No. 3 on 19th June 2013 which is still somewhat unhelpful as it still does not absolutely define the difference between special and general purposes.

The issue of organisational control clearly does not work well within the Uniting Church as we have more than 3,000 entities across Australia of diverse size, nature and body structure. The majority of our entities are unincorporated congregations and presbyteries, yet the Synod body to whom they are ultimately accountable is also unincorporated. Several synods would have up to at least 1,000 entities which could be argued to be a group which is an impossible consolidation task.

Our community services and schools in particular will be medium or large tier organisations, many of which will be incontestably general purposes because of the multi sources of government funding. However the Australian Charities and Not-for-profits Commission through the already mentioned Regulation Amendment has prescribed that some of these can choose to be special purpose reporters and can further choose not to consolidate for financial reporting. This leads us to wonder whether there has been adequate consultation between your Board and the Commission, let alone with the major Churches.

Our proposed direction is to consolidate where such financial reporting is beneficial to stakeholders and otherwise individually report where we deem necessary.

The issues of control raised in the ED238, especially in IG 8 and IG9 are in many cases unworkable and questionable as to any cost benefit.

Similarly, as good examples with our individual schools, each school's reporting should be to key stakeholders with the largest interested group being the fee paying parents of their students. Therefore, any group financial statements serve no real purpose to any one because the fees, governance, staffing and related operational matters are not consistent across our schools if they were grouped.

CONCLUSION:

The Church strongly desires to work with the AASB and the ACNC but is concerned that it has not been part of any consultative process with either of the Commission or the Australian Accounting Standards Board in this regard. We are certainly available to meet with Board representatives to explore a solution.

Yours faithfully,

Jim Mein AM
National Response Coordinator
Assembly of the Uniting Church in Australia,
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0408 660 591
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28 June 2013

Mr Kevin Stevenson
Chairman
Australian Accounting Standards Board
PO Box 204
Collins St West Victoria 8007
AUSTRALIA

Dear Mr Stevenson

**AASB Exposure Draft ED 238: Consolidated Financial Statements –
Australian Implementation Guidance for Not-for-Profit Entities**

Please find attached the Australasian Council of Auditors-General (ACAG) response to the Exposure Draft referred to above.

The views expressed in this submission represent those of all Australian members of ACAG.

Overall, ACAG is supportive of the proposals in ED 238. Attached are views on the specific matters for comment.

The opportunity to comment is appreciated and I trust you will find the attached comments useful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S O'Neill', is written over a light blue horizontal line.

Simon O'Neill
Chairman
ACAG Financial Reporting and Auditing Committee

Specific Matters for Comment

1. **Whether Australian implementation guidance for not-for-profit (NFP) entities should be added to AASB 10 and AASB 12 and, if so, whether it should, as proposed, be authoritative (ie “integral” to the Standard) or non-authoritative material.**

ACAG supports the inclusion of the implementation guidance for both AASB 10 and AASB 12. ACAG agrees with the proposed approach for both sets of guidance to be integral to the standards in the interests of consistent application by NFP entities.

ACAG also supports the guidance being included as separate appendices as opposed to numerous Aus paragraphs being incorporated in either the main body of the standard or in existing appendices. This is consistent with the principle that Aus paragraphs in the body of the standard should only be used to amend requirements or add new requirements. Also, the quantity of guidance material proposed for AASB 10 would significantly lessen the readability of the body of the standard or Appendix B if it were to be dispersed throughout these.

ACAG considers the AASB would be justified to mandate that the appendices be adopted at the same time as AASB 10 and AASB 12 are adopted, in the interests of consistent application of the guidance.

2. **Whether the proposed implementation guidance appropriately explains the definition of ‘control’ in AASB 10 for application by NFP entities, including the following aspects:**
 - (a) **the broad nature of returns from a controlled NFP entity, including non-financial and indirect benefits (paragraphs IG16 and IG17); and**
 - (b) **the four detailed sets of implementation examples in the proposed Appendix E for AASB 10.**

In general, ACAG considers that the proposed guidance adequately explains the three concepts of control in AASB 10, being power, variable returns and ability to use power to affect returns.

The guidance for the concept of “*rights that give an investor power over an investee*” appropriately acknowledges that for many NFP entities in the public sector, rights are created from statutory arrangements such as enabling legislation. However, whether these rights are substantive or protective rights and whether they relate to relevant activities requires judgement. Preparers and auditors of financial statements will benefit from guidance material that aids professional judgement and effective decision making.

ACAG provides the following comments:

- Paragraph B14 of AASB 10 requires the investor to have existing rights that give the investor the current ability to direct the relevant activities of the investee. In addition to the example provided in IG8 and the implementation examples, it would be beneficial if the guidance included more illustrations of relevant activities for NFP entities.

- In order to determine if an activity is a relevant activity, it would be beneficial to include benchmarks or parameters that give further guidance that helps determine whether or not the investee's returns are significantly affected.
- IG7 provides additional examples of rights that can give an investor power. ACAG suggests that further guidance of how to apply B15 examples would be beneficial. In particular, B15(d) "*rights to direct the investee to enter into, or veto any changes to, transactions for the benefit of the investor*", requires judgement as to what are benefits to the investor. A government may be able to direct a statutory authority to perform a certain function or transaction (deliver government services), which would benefit the government.
- IG10 suggests that a government may not have the ability to direct the relevant activities of a financially dependent entity, if the investee's governing body has ultimate discretion over the activities. However, better practice financial governance would require that every governing body has ultimate discretion of all the entity's activities, as they have the responsibility for the oversight of the entity's operations and discharge of responsibilities. Therefore, the inference that the independence of a governing body is a distinguishing factor to determine power over an investee may not be valid in all circumstances, and has the potential to be misinterpreted in the NFP sector.

(a) Broad nature of returns from an investee

Paragraphs IG16 and IG17 state that an investor's return from its investee can be broad, and can include non-financial returns and direct or indirect benefits. In addition, returns can include the achievement or furtherance of the investor's objectives. However, there is limited material in either Appendix B of AASB 10 or the proposed Appendix E which assists in understanding non-financial returns. Further discussion of the nature of variable returns than that provided in IG16 and IG17 could be warranted.

Where returns comprise, for example, the furtherance of the investor's objectives, guidance on how to differentiate between negative returns and no returns may be helpful. It would also be beneficial to include how the achievement of the investor's objectives is to be determined or measured.

Appendix B paragraph B57(c) of AASB 10 infers that an investor may derive returns which the investee may not itself be primarily driven towards. ACAG presumes this tries to demonstrate the concept of indirect returns. It would be helpful to explicitly state that returns to the investor do not need to directly relate to the investee's returns.

(b) Implementation examples

Overall, the implementation examples are helpful in understanding the requirements of AASB 10, and how to apply them to NFP entities. However, there are some issues where it would be helpful to explain through the examples, and some areas which would benefit from further clarification.

i. Example IG 1A & 1B – Community housing association

ACAG supports the notion that returns to an investor that are non-financial in nature are of value to the investor. While we agree that the achievement of social objectives is a relevant example of a non-financial return, we note that Example IG1 is the first time this concept is introduced in the guidance, which is not explained until paragraph IG16.

ii. Example IG 2 – Local Government Council

ACAG supports Example IG2 as a demonstration of the application of the control concepts to the NFP sector. In particular, the example illustrates the importance of determining whether the investor has substantive or protective rights related to the investee.

What becomes apparent in the example, is the judgement required to determine whether the State Government can direct relevant activities that significantly affect the Council's returns. This example raises the issue of what constitutes directions of relevant activities by an investor to an investee in the NFP sector. In a NFP context, differentiating between 'directing' relevant activities and the ability to give directions which relate to relevant activities will be at times complex.

The example refers to the Minister's ability to give a direction that limits the raising of rates collected from ratepayers, but concludes that this does not have a major effect. It could be argued that if the Minister gave a direction to limit the raising of rates collected from ratepayers, then this may constitute the direction of relevant activities, as it could have a significant impact on the Council's ability to deliver services to the community, and consequently the Council's returns.

There is potential for divergent application of this concept without the setting of parameters or further guidance on what constitutes "direction" of a relevant activity. This is because the notion of returns of an investee, where they are non-financial, may be difficult to objectively identify.

Further, ACAG questions the validity of the assumption used in Example IG2 that the objectives of the State Government and Local Governments are aligned.

iii. Example IG 3A & 3B – University

ACAG supports Example IG3 as a demonstration of the application of the control concepts to the NFP sector, in particular, the concept of rights that give an investor power over the investee.

The issue of indirect returns would be beneficial to apply to the university illustrative examples. Example 3A states that '*The State Government's objectives for the activities of the University are consistent with those specified in the Act for the University*' (p.26).

It would be useful to clarify whether they are perceived to directly correlate with those objectives in the Act, or whether the provision of the university's returns necessarily produces returns for the investor.

Incorporating a specific example of returns to an investor which are not directly aligned with the objectives of the university could assist in understanding that such returns should not be

overlooked in ascertaining who has control. An example could be State Government's returns from universities attracting international students. This improves the State's economy, can improve the State's image as a desirable tourist destination, and may facilitate development in the form of student housing, all of which would not be returns the university is primarily aiming to achieve. It could be helpful to apply this scenario to the existing illustrative examples.

Another factor which may be helpful to incorporate is the potential complexity in evaluating differing returns for different investors. For example, the Australian Government may achieve broad policy objectives through its support of universities, whereas a State Government may see its key returns as being related to the State's economy and supply of tertiary-educated people into the State's workforce. Regardless, Example IG3B would benefit from clearer articulation of the nature of the returns being obtained by the State.

What is not clear in the example is whether the University Council's responsibilities, powers and functions are established by the university's enabling legislation, or by the Council itself. ACAG believes that this is an important factor that needs to be considered, because if the enabling legislation sets the powers and functions, then this may be evidence of the State Government's rights to direct the relevant activities of the university.

In paragraph IG8, it is explained that, in the context of the Auditor-General or the judiciary, legislation governing the establishment and operation of an independent statutory office and setting out the broad parameters within which the office is required to operate, results in parliament having the ability to direct the relevant activities of the office. What is the difference compared to an Act of the State that establishes a University?

The suggested solution refers to the Australian Government's grant agreements as protective rights due to the condition that allows misapplied funds to be reclaimed. However, this is not the only condition of these grant agreements, with the primary condition being that universities are required to perform education or research activities. The Australian Government can direct how many students are educated, and what type of research is performed. For example, the Australian Government could direct universities to only teach domestic students. Further, a university that performs poorly may not be awarded funding in the future, directly impacting the activities of the university. Consideration of such factors would assist in the usefulness of this example.

iv. Example IG 4A & 4B – Hospital

ACAG supports Examples IG 4A & 4B as effectively demonstrating the impact of delegated powers on NFP entities. ACAG agrees with the conclusions reached and the distinguishing factors.

Example IG 4A identifies a situation where a statutory authority would be consolidated at a whole of government level while not being consolidated by the Department. ACAG believes it may be helpful to expand this example, or include a separate example, which considers collective rights at a whole of government level. There are some situations where the powers of a single Minister or Department are unlikely to support the Minister having control but, when viewed in conjunction with the powers of another Minister or Department at the whole of government level, may result in a conclusion that the government as a whole controls the entity concerned.

- 3. Whether the proposed implementation guidance appropriately explains the definition of ‘structured entity’ in AASB 12 for application by NFP entities.**

ACAG considers that the guidance is necessary and appropriately explains the definition of ‘structured entity’. However, we suggest simplification of the wording in IG6.

- 4. Whether it is appropriate to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements (see the proposed amendments to AASB 1049 set out in the ED).**

ACAG considers the proposal to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements as appropriate.

- 5. Whether there are any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals, including GFS harmonisation issues.**

ACAG is not aware of any such issues.

- 6. Whether, overall, the proposals would result in financial statements that would be useful to users.**

The proposals support a more consistent interpretation of Australian Accounting Standards in relation to control, which in turn is useful to users. This is likely to lead to better comparability between entities, which is beneficial to users. Further, the guidance in defining control seems to be appropriate to support useful information to users in terms of what would be considered controlled.

- 7. Whether the proposals are in the best interests of the Australian economy.**

ACAG considers the proposals are in the best interests of the Australian economy.

- 8. Unless already provided in response to the above specific matters for comment, the costs and benefits of the proposals relative to the current requirements, whether quantitative (financial or non-financial) or qualitative.**

In relation to the proposed guidance for AASB 10, ACAG considers that the proposals will provide benefits to preparers and auditors. The application of AASB 10 to NFP entities has potential to be costly to implement, due to shifting from a (at times) rules-based approach under previous standards (for example, local governments not being under the control of state governments) to a more principles-based approach. However, the implementation guidance in ED 238 assists in interpreting such requirements, and will therefore assist in minimising costs.



Kevin Stevenson
Chairman
Australian Accounting Standards Board
PO Box 204
Collins Street West VIC 8007

30 June 2013

Dear Kevin,

Invitation to comment on ED 238 Consolidated Financial Statements – Australian Implementation Guidance for Not-for-Profit Entities

We are responding to your invitation to comment on the above Exposure Draft (ED) on behalf of PwC.

We support the Board's conclusion that the principles in AASB 10 *Consolidated Financial Statements* can be applied in a not-for-profit context.

Our detailed responses to the specific questions in the ED are in Appendix A to this submission.

We would welcome the opportunity to elaborate on our views if you wish. Please contact me on (03) 8603 3574 if you would like to discuss our comments further.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gordon Thomson', is written over a light grey circular stamp.

Gordon Thomson
Partner
Assurance

Appendix A: Comments on the specific questions in the ED

- a) **whether Australian implementation guidance for not-for-profit (NFP) entities should be added to AASB 10 and AASB 12 and, if so, whether it should, as proposed, be authoritative (ie “integral” to the Standard) or non-authoritative material**

We believe it is appropriate to add implementation guidance to AASB 10 and AASB 12 to demonstrate the applicability of the key principles in a not-for-profit context and to explain particular terminology for application in a not-for-profit context. We also believe the guidance should be authoritative, consistent with the status of the application guidance in AASB 10 (and IFRS 10).

- b) **whether the proposed implementation guidance appropriately explains the definition of ‘control’ in AASB 10 for application by NFP entities, including the following aspects:**

- i. **the broad nature of returns from a controlled NFP entity, including non-financial and indirect benefits (paragraphs IG16 and IG17)**

We believe the explanation of the returns criterion in a not-for-profit context is appropriate.

- ii. **the four detailed sets of implementation examples in the proposed Appendix E for AASB 10**

Examples IG1A&B

We believe these examples appropriately explain the control definition.

Example IG2

We note that consolidation of local governments by state or territory governments has been a controversial issue. We also note that the superseded guidance (i.e. the guidance in AASB 127 *Consolidated and Separate Financial Statements*) stated that under existing legislative arrangements state and territory governments do not control local governments.

We understand the Board’s decision to not include a blanket statement in the replacement guidance and instead to emphasise the need to apply the principles in the standard taking into account the relevant facts and circumstances. However, we wonder if the Board has undertaken sufficient research and analysis to establish whether control of a local government could in fact arise in any state or territory in Australia and the implications of this. If control of a local government in Australia is only a theoretical possibility, then we would be concerned about the burden that might be placed on state and territory governments in having to undertake what may be a very time consuming and expensive analysis for no apparent benefit. Moreover, we are concerned about the risk of misapplication of what is a challenging standard, and about the possible flow on effects in other areas through analogous applications.

We would be happy to discuss our concerns with you.

If the Board decides to retain a local government example we believe it would be helpful to provide an additional example where the state or territory government controls the local government.



Examples IG3A&B

We note that consolidation of tertiary institutions by federal, state or territory governments has been a controversial issue. As with local governments, the assessments would be heavily dependent on the particular facts and circumstances and may require the exercise of considerable judgment.

Given that the assessments will likely be less problematic than for local governments and the fact that two contrasting examples have been provided, on balance we think the examples may be helpful and could be retained.

Examples IG4A&B

We believe these examples appropriately explain the control definition.

Other possible examples

It may be helpful to include one or more examples of a not-for-profit entity such as a hospital or a university that establishes a separate entity to conduct specific activities, such as research and development activities. These entities may be structured to operate relatively autonomously and it can require careful analysis to establish whether or not control exists.

iii. Other comments

We believe it is important for the implementation guidance to highlight that the rights that convey power to investors in a not-for-profit context will normally be different to those that convey power to investors in a for-profit context. This distinction is addressed in a number of different locations in the exposure draft (both in relation to the discussion of 'control' in AASB 10 and 'structured entity' in AASB 12), however we think it might be helpful to emphasise the point early on in the implementation guidance for AASB 10. For example, IG5 could be amended as follows:

Paragraph 11 states that power arises from rights, and refers to voting rights granted by equity instruments and rights arising from contractual arrangements. **While these rights will often be the source of power for private sector entities, power will frequently arise through different sources for not-for-profit entities. For example, for many not-for-profit entities, rights arising from administrative arrangements or statutory provisions will often be the source of power.**

The example in IG5 could then be located in a separate paragraph.

c) whether the proposed implementation guidance appropriately explains the definition of 'structured entity' in AASB 12 for application by NFP entities

We believe the proposed implementation guidance appropriately explains the definition of 'structured entity' in AASB 12 for application by NFP entities

- d) whether it is appropriate to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements (see the proposed amendments to AASB 1049 set out in the ED)**

We believe it is appropriate to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements.

- e) whether there are any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals, including GFS harmonisation issues**

We are not aware of any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals.

- f) whether, overall, the proposals would result in financial statements that would be useful to users**

Subject to the matters mentioned above, we believe that the current ED would result in financial statements that would be more useful to users.

- g) whether the proposals are in the best interests of the Australian economy**

We are not aware of anything that would suggest that the inclusion in the standards of implementation guidance for not-for-profit entities is not in the best interests of the Australian economy.

- h) unless already provided in response to the above specific matters for comment, the costs and benefits of the proposals relative to the current requirements, whether quantitative (financial or non-financial) or qualitative**

We believe the proposals have the potential to improve the quality of financial reporting by not-for-profit entities and so enhance the decision making of the users of the financial statements. Subject to our comments in (b) (ii) above, we do not believe the proposals in themselves will impose significant costs on entities required to comply with the relevant standards. Indeed, the implementation guidance and disclosure relief may reduce the costs of compliance.

John Church
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The Chairman
Australian Accounting Standards Board.
PO Box 204
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Victoria 8007
Australia.

Dear Sir,

I am writing this as a submission to comment on part only of your exposure draft ED 238.

My main interest is in small religious Charities which are corporations and the clear attempt by the AASB to impose additional redtape on this group. This may in fact be a breach of our Constitution.i.e discriminating on the basis of religion. It has also been suggested that your actions will be in breach of Australian Human Rights Commission Act by applying separate standards for some religions and not others.

I make the following further observations:

1.The AASB has refused to recognise Charities and merely puts them in with not for profits We have a separate Charities Act your refusal to discuss and why you ignore it is puzzling. History records that charities existed well before any accounting standards were ever designed or contemplated.

I submit that the AASB should recognise this and design a standard for those charities that are caught by your provisions and not others that only have to comply with the ACNC .

It is clearly an attempt by the AASB to apply its requirements selectively.

One of the common criticisms today is of unnecessary additional redtape your approach clearly is evidence of this additional burden without any justification.

The aim of standards should be simplicity and clarity yet I note that this is contrary to your policy which I may quote to you

Conceptual Framework of Financial Reporting 2010

QC32 Financial reports are prepared for users who have a reasonable knowledge of business and economic activities and who review and analyse the information diligently....

At times, even well-informed and they add at times even well informed diligent users may need to seek the aid of an adviser to understand information about complex economic phenomena .

Such an aim or principle I find disturbing for charities as the principle purposes should be to provide all recipients of the information to have an intelligible clear set of accounts. Your attitude seems to be totally contrary to the concepts advanced in the Charities Act. Yet nowhere have you made any attempt to explain this. I understand that your approach is totally different but you refuse to justify this let alone explain this in clear and simple terms. Your

clear aim should be to provide stakeholder information in a clear form appropriate for the reader and should include sufficient detail while whilst being easy to read.

2. In your general approach to Standards you talk about a “principle based approach’ yet this is clearly not an effective approach as has been evidenced by your continually changing views and use and definition of words (we now have an optional extra of profit and loss allowed to be used which you had banned several years ago). This cannot give a lay person confidence in the AASB.

There has been no evidence of your body examining its approach to these issues following the recent GFC and one could suggest that they did not help or even exacerbated the GFC.

3. I would further submit if a corporation had its auditor as a member of its Board your principles do not permit this yet this is a practice that you allow for yourself but not others. Could you please explain? One would think for integrity public policy and principle reasons this should not be permitted for a body that is a standard setter.

4. I also note that you are proposing “service reporting requirements” for certain corporations yet those that are religious within the ACNC Act do not have to comply with these proposed requirements (which you have been talking about since I think 1997). This will create a discriminatory approach to some religions. I believe that you have an obligation to explain why you are adopting this selective approach and whether you have the Constitutional power to set discriminatory standards on the basis of religion or structure. I look forward to receiving your considered legal advice on this issue.

4. I started reviewing your paper and the first Implementation Example. I find it is vague and not clear.

You have failed to define “Religious Organisation” is it incorporated association or unincorporated or a basic religious charity or created by Statute or a corporation limited by guarantee or even a coporation?

It is pointless to comment further on the further discussion that you have provided as there is not clear statement on what you mean by the terminology “religious organisation”.

I believe that the AASB should move away from vague and uncertain, ambiguous principles which is your stated approach which lead to subjective interpretations and for Charities clearly set out accounting standards that are appropriate and proper for the members and donors and they are not required to resort *at times even well informed diligent users (i.e. members and donors) may need to seek the aid of an adviser to understand information about complex economic phenomena* .I would submit that your approach is contrary to good public policy let alone for the public good.

I look forward to receiving your considered reply.

Yours Faithfully,



John Church
29th June, 2013

28 June 2013

The Chairman
Australian Accounting Standards Board
PO Box 204
Collins Street West
Victoria 8007

Request for comments on Exposure Draft 238: *Consolidated Financial Statements - Australian Implementation Guidance for Not-for-Profit Entities*

Dear Mr Stevenson

Ernst & Young Australia is pleased to provide our comments on the AASB's Exposure Draft 238 *Consolidated Financial Statements - Australian Implementation Guidance for Not-for-Profit Entities* (the 'Exposure Draft').

The application of the concept of 'control' to the not-for-profit (NFP) sector has long proven a significant point of contention among NFP entities and practitioners. The NFP sector is characterized by its complexity of comprising entities with differing institutional structures and the varying arrangements and agreements underpinning NFP operations. As such, it has faced numerous challenges in consistently applying the concepts under AASB 127 *Consolidated and Separate Financial Statements*.

Although we note that the clarification of the definition of control under AASB 10 *Consolidated Financial Statements* will alleviate some of the historic issues encountered by the NFP sector in making an assessment of control, we welcome the recognition by the AASB that complexities remain and that the perspectives of NFP entities differ to those of the for-profit sector. We therefore support the inclusion of Appendix E *Australian Implementation Guidance for Not-for-Profit Entities* as an integral part of AASB 10 *Consolidated Financial Statements*.

We support the proposal to amend AASB 12 *Disclosure of Interests in Other Entities* to explain the application of the definition of a structured entity by NFP entities.

We also support the proposed amendments to AASB 1049 *Whole of Government and General Government Sector Financial Reporting*.

We provide additional comments for the Board's consideration below.

Matters for comment:

- 1. Whether Australian implementation guidance for NFP entities should be added to AASB 10 and AASB 12, and if so, whether it should, as proposed, be authoritative.**

Our view is the NFP sector is diverse and whilst there will exist for some entities, elements of similarity in perspective with for-profit entities when applying the criteria within AASB 10 to determine control, we concur with the AASB's viewpoint that circumstances exist where a for-profit perspective does not readily translate to a not-for-profit perspective. We believe that without the additional application guidance, there exists the potential for mis-understanding and mis-application of the principles of AASB 10 which will only hinder goals towards improved transparency and accountability within the NFP sector and the ability of users to easily compare financial reports of NFP entities. To support robust, consistent financial reporting within the NFP sector, the guidance must be authoritative.

- 2. Whether the proposed implementation guidance appropriately explains the definition of 'control' in AASB 10 for application by NFP entities, including the following aspects:**
 - a. The broad nature of returns from a controlled NFP entity,**
 - b. The four detailed sets of implementation examples in the proposed Appendix E**

We are supportive of the approach the AASB has taken to the Appendix in addressing matters impacting the NFP sector broadly in the order in which the related paragraphs appear in the body of AASB 10 and in Appendix B. As we note above, there will exist some common for-profit and not-for-profit perspectives in applying the requirements of AASB 10 and the cross referencing to relevant paragraphs of Appendix B serves the interests of the NFP sector in providing further examples of items for consideration in the control assessment.

However, we suggest that the AASB consider the structure of example IG1. We note the conclusions set out in IG1A discuss rights to variable returns from the religious organisation's involvement with the association, but this is presented before the concept of returns is discussed within the Exposure Draft. Our recommendation would be for this example to focus on the assessment of power to illustrate the concepts in paragraphs IG4 - IG8 and to either conclude the example at this point or to expand on it at a later point in the Exposure Draft when the concept of returns is discussed.

We believe IG14 would benefit from clarifying how an entity assesses whether the regulatory powers are substantive or protective. The example given in this paragraph merely repeats the first half of the paragraph rather than being an example of how the assessment is made. Instead an example of the 'particular circumstances' referred to that would make it substantive would be more useful.

Returns:

We note examples IG1A, IG2 and IG3A discuss the concept of returns for the relevant scenario. However, in each example, the nature of returns are essentially the same - the contribution to the achievement or furtherance of the 'investor's' goals and objectives. We would recommend the AASB to either supplement the scope and nature of returns with a list of examples or provide additional application examples where the returns are those other than including or furthering the investor's objectives. In particular we note that it is often difficult to assess returns for Companies Limited by Guarantee, and recommend that these are included in the examples.

Examples:

We welcome the inclusion of the examples within the proposed Appendix. Our concern with the examples however is the predominant focus on public sector NFP application compared to examples within the private NFP sector. The NFP private sector has previously voiced this as an issue with the application guidance present with AASB 127, so we urge the AASB to include additional examples such as companies limited by guarantee. These entities are prohibited from paying dividends to their shareholders but may provide financial benefits by other means such as loans and by furthering common goals and objectives.

In regards to example IG2, we do not believe the principles of AASB 10 are being appropriately applied and could lead to potential mis-interpretation and application of the control assessment. The relevant activities of the Council are not clearly defined in order to understand how the activities significantly affect returns and therefore how the actions of the State Government really impact those activities. For many of the activities noted as substantive, they appear to be protective in nature rather than substantive. For example, the statement that the ability to direct the rates and charges is substantive does not appear to be supported in the assessment, where it is concluded they do not have a major effect. This would therefore lead us to conclude they are not substantive powers over the relevant activities. Alternatively, some of the examples given as protective rights appear more substantive in nature - for example the 'ability to enforce recommendations on the council' - without more information about why this was assessed as protective.

In almost all of the examples, there is a statement that: 'They are substantive rights if they do not relate to fundamental changes or exceptional circumstances.' While such a statement is true, it can lead to confusion, as this is not the basic concept used in AASB 10. Rather the approach is to consider whether the rights are in relation to relevant activities and only then consider if they need to be further assessed. That is, if they don't relate to relevant activities they don't need to be further considered. By concluding in these examples that certain rights are substantive, it has the potential to mislead the readers.

Other comments:

We believe the scope of the proposed guidance is limited and should be revised. IG1 states 'The appendix does not apply to for-profit entities or affect their application of AASB10'. However it is common for a for-profit entity to have a relationship with a NFP entity. In this scenario, the proposed application guidance would be of benefit to the for-profit entity in assessing whether it has control over the NFP entity.

We propose the Board consider either expanding the scope of the proposed Appendix to include all public sector entities, whether for or not-for profit, or include in the preface to the guidance a statement that it may be applied by for-profit public sector entities with an interest in a NFP entity.

Paragraph IG4 states 'As an example, a not-for-profit investor would have power over an investee when the investor can require the investee to deploy its assets or incur liabilities in a way that affects the returns to the investee...' We believe this should state '...the returns of the investee...'

3. Whether the proposed implementation guidance appropriately explains the definition of 'structured entity' in AASB 12 for application by NFP entities

We believe the guidance appropriately explains the definition of a structured entity.

4. Whether it is appropriate to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements.

We concur with the Basis of Conclusions paragraph, BC 24 that GGS financial statements need not be required to comply with the disclosure requirements of AASB 12, on the grounds that such disclosures would essentially duplicate the AASB 12 disclosures for the whole of government financial statements.

5. Whether there are any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals, including GFS harmonisation issues.

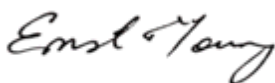
The GAAP/GFS implications noted in the introduction to this Exposure Draft appears adequately assessed and considered as part of the process in issuing this Exposure Draft. We draw the Board's attention however, to possible implications that may affect the implementation of the proposals in the proposed financial reporting regulations of the Australian Charities and Not-for-Profit Commission, specifically the concept of joint and collective reporting.

Draft proposals stated that, depending on the circumstances, joint and collective reporting may diverge from the requirements in particular Australian Accounting Standards (AAS), including AASB 10. We strongly urge the AASB to engage with the ACNC in regards to the proposals of joint and collective reporting so as to avoid any potential for inconsistent application of AAS across the NFP sector.

Finally, we believe the proposals would result in financial statements that would be useful to users, the proposals are in the best interest of the Australian economy and we do not envisage that this application guidance would have any significant cost/benefit implications to the NFP sector.

Please contact Lynda Tomkins (lynda.tomkins@au.ey.com), direct (02) 9276 9605 or Suzanne Maris (suzanne.maris@au.ey.com), direct (02) 9248 4818 if you wish to discuss any of the matters raised in this response.

Yours sincerely



Ernst and Young

28 June 2013

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Dear Mr Stevenson

ED 238: CONSOLIDATED FINANCIAL STATEMENTS – AUSTRALIAN IMPLEMENTATION GUIDANCE FOR NOT-FOR-PROFIT ENTITIES

Thank you for the opportunity to provide our views on ED 238. Our comments arise from our understanding and involvement with the not-for-profit ('NFP') sector as well as our consultations therewith in respect to the proposals in ED 238.

About Moore Stephens

We are writing on behalf of the Moore Stephens Australia network of eight independent firms of business advisors and chartered accountants.

Moore Stephens has a deep understanding of its clients and the environment in which they operate. We have had a long-standing commitment and involvement with the NFP sector, having been involved with NFP organisations for the past 50 years. We currently provide various professional services, including assurance, accounting, tax and advisory services, to a range of NFP organisations, including:

- religious organisations;
- large charities; and
- Universities and TAFE colleges.

As a consequence of our long-standing commitment to and involvement with NFP organisations, we have taken a strong interest in regulatory changes impacting the sector, and have been active in recent years in providing submissions to the Government's various committees and consultations to support the sector through the current reform phase.

Overall Views

We support the AASB's efforts to develop high-quality accounting pronouncements that address NFP specific financial reporting issues and, subject to our responses and reasoning in respect to the

Specific Matters for Comment contained in ED 238 provided in Appendix 1 to this letter, broadly support the proposals in ED 238.

If you have any queries please contact the contributors to this submission listed below.

Dean Ardern – Moore Stephens Australia (03) 8635 1800

Joe Shannon – Moore Stephens Sydney (02) 8236 7700

Yours faithfully



Joe Shannon

Chairman

Not-for-profit Group

MOORE STEPHENS AUSTRALIA

APPENDIX A: SPECIFIC MATTERS FOR COMMENT

A1 *Should Australian implementation guidance for NFP entities be added to AASB 10 and AASB 12 and, if so, should it, as proposed, be authoritative (i.e., “integral” to the Standard) or non-authoritative material?*

A1.1 We agree with the proposal to add implementation guidance for NFP entities to AASB 10 and AASB 12 as authoritative material, thereby making it integral to the application of the Standards. Such an approach:

- a) is consistent with the current status of the public sector-specific guidance in AASB 127: *Consolidated and Separate Financial Statements* regarding application of the concept of control; and
- b) would be expected to facilitate comparability of financial statements between NFP entities and over time.

A1.2 However, we also note that such an approach may not be appropriate in all circumstances, particularly where proposed NFP-specific requirements and/or guidance are not consistent with the corresponding IFRS requirements. In such circumstances, we would recommend the AASB issue a NFP-specific Australian Accounting Standard or Interpretation, consistent with the approach it has adopted with respect to the recently-issued first batch of compiled versions of Australian Accounting Standards and Interpretations applicable to annual reporting periods beginning on or after 1 January 2013.

A2 *Does the proposed implementation guidance appropriately explain the definition of ‘control’ in AASB 10 for application by NFP entities, including the following aspects:*

- a) *the broad nature of returns from a controlled NFP entity, including non-financial and indirect benefits (paragraphs IG16 and IG17); and*
- b) *the four detailed sets of implementation examples in the proposed Appendix E for AASB 10?*

A2.1 While we support including the proposed guidance in paragraphs IG16 and IG17 in AASB 10, we do not consider the concept of ‘returns’ to be integral to the consistent application of AASB 10 in a NFP context. In the absence of the proposed guidance in IG16 and IG17, we would anticipate the vast majority of (if not all) preparers and auditors would interpret ‘returns’ broadly, consistent with the requirements and guidance in paragraphs 15, 16 and B5(c) of AASB 10. In contrast, we consider the concept of ‘relevant activities’ to be much more difficult to interpret and apply in a NFP context and, therefore, more likely to give rise to inconsistencies in reporting outcomes.

A2.2 Example IG1 provides a useful explanation of how the notion of ‘relevant activities’ might be interpreted in a NFP context where power resides within a single entity within a group. However, for many NFP entities, the power to govern different aspects of a group’s activities often resides with more than one entity within the group. For instance, some NFP groups (particularly religious groups) are structured to ensure that their asset management and fund-raising activities on the one hand, and their pastoral, educational, community and/or welfare activities on the other, are managed by separate and distinct entities. Such arrangements are likely to pose some difficulties for the consistent application of AASB 10, particularly in determining the parent entity of a group of entities that are not linked by ownership/voting interests.

A2.3 Some argue that asset management and fund-raising activities are the most important activities of NFP entities because they provide the entities with the capacity to undertake their NFP activities. However, an equally valid argument can be made for the pastoral, educational, community and welfare activities being the 'relevant activities' of a NFP entity, particularly when the monies they receive are premised on the entity providing such services. Accordingly, we recommend the AASB give further consideration to the different ways in which reporting groups of NFP entities, particularly private sector entities, are arranged and the potential implications of these different arrangements for identifying the relevant activities of the group.

A3 *Does the proposed implementation guidance appropriately explain the definition of 'structured entity' in AASB 12 for application by NFP entities?*

A3.1 We offer no comments in respect to the proposed implementation guidance in relation to the definition of a structured entity.

A4 *Is it appropriate to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements?*

A4.1 We offer no comments in respect to the proposal to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements.

A5 *Are there any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals, including GFS harmonisation issues?*

A5.1 As you would be aware, pursuant to the *Australian Charities and Not-for-profits Commission Act 2012*, the Commissioner of the Australian Charities and Not-for-profits Commission (ACNC) has the power to, amongst other things, allow two or more registered entities to prepare and lodge one or more financial reports ('joint and collective reporting') with the ACNC. The Act provides the following example of such a situation.

The Commissioner may allow a reporting group of affiliated registered entities that advance religion and relieve poverty to prepare and lodge 2 financial reports, one report in relation to the reporting group's religious functions and one in relation to the reporting group's welfare function.

A5.2 In our response to the draft *Australian Charities and Not-for-profits Commission Regulation 2012* and accompanying Explanatory Material, we expressed in principle support for the proposal to permit registered entities to depart from the requirements in Australian Accounting Standards dealing with the preparation and presentation of consolidated financial statements by providing joint or collective reporting. We envisage a number of circumstances in which joint and collective reporting could facilitate the provision of useful information that might not be provided under AASB 10, including where a group of NFP entities that are subject to common control (all have the same ultimate 'parent') but do not prepare consolidated financial statements because their 'parent' is domiciled outside of Australia.

A5.3 Notwithstanding our in principle support for the proposal for joint and collective reporting, the prospect that a NFP entity might, in preparing its financial statements, not comply with the requirements in applicable Australian Accounting Standards raises some questions (and concerns) regarding:

- a) the basis on which the financial statements might be prepared; and
- b) how the auditor might deal with the divergence from the Accounting Standards in their audit report.

Accordingly, we recommend the AASB raise this matter (if it hasn't already) with the ACNC and the Auditing and Assurance Standards Board (AuASB) with a view to establishing a clear position on the potential implications of any divergences from applicable Australian Accounting Standards as a consequence of the joint and collective reporting proposals.

A6 Overall, would the proposals result in financial statements that are useful to users?

A6.1 Subject to the outcomes from the matters discussed in paragraphs A2.1-A2.3 and A5.1-A5.3 above, we would expect that the proposals in ED 238 would facilitate the preparation and presentation of financial statements that are useful to users.

A7 Are the proposals in the best interests of the Australian economy?

A7.1 Subject to the outcomes from the matters discussed in paragraphs A2.1-A2.3 and A5.1-A5.3 above, we consider the proposals in ED 238 to be in the best interests of the Australian economy.

A8 The costs and benefits of the proposals relative to the current requirements, whether quantitative (financial or non-financial) or qualitative.

A8.1 We offer no comments in respect to the potential costs and benefits of the proposals in ED 238.



Mr Kevin Stevenson
Chairman
Australian Accounting Standards Board
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By Email: standard@asb.gov.au

26 June 2013

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Dear Kevin

Exposure Draft ED 238 Consolidated Financial Statements –
Australian Implementation Guidance for Not-for-Profit Entities

Grant Thornton Australia Limited (Grant Thornton) is pleased to provide the Australian Accounting Standards Board with its comments on ED 238 *Consolidated Financial Statements – Australian Implementation Guidance for Not-for-Profit Entities* (the ED). We have considered the ED, as well as the accompanying draft Basis for Conclusions.

Grant Thornton's response reflects our position as auditors and business advisers to the Australian business community. We work with listed and privately held companies, government, industry, and not-for-profit organisations (NFPs). This submission has benefited with input from our clients, Grant Thornton International, and discussions with key constituents.


We welcome the AASB issuing additional implementation guidance on applying the 'control concept' in the not-for-profit (NFP) sector on the basis that this is an area where significant uncertainty exists in practice. While appreciating that the application of principles-based standards requires the use of professional judgement, we agree that additional guidance is necessary in this instance to assist Australian NFP entities in translating the for-profit perspective in AASB 10 *Consolidated Financial Statements* and AASB 12 *Disclosure of Interests in Other Entities* into the NFP environment.

We also concur with the ED's approach of explaining and illustrating the relevant terms and concepts in the NFP context rather than revising the IFRS-based requirements as we consider IFRS compliance to be paramount to the Australian economy.

Our detailed comments set out in the Appendix to this letter.

If you require any further information or comment, please contact me or Peter Kidd (peter.kidd@au.gt.com).

Yours sincerely
GRANT THORNTON AUSTRALIA LIMITED



Andrew Archer
National Audit Leader

Appendix: AASB Specific Matters for Comment

Question 1

Whether Australian implementation guidance for not-for-profit (NFP) entities should be added to AASB 10 and AASB 12 and, if so, whether it should, as proposed, be authoritative (i.e. “integral” to the Standard) or non-authoritative material.

We support adding the Australian NFP implementation guidance into AASB 10 and AASB 12 on the basis that such guidance is necessary in translating the for-profit perspective in AASB 10 and AASB 12 into NFP perspective. As noted in our cover letter, this is an area where there is significant uncertainty in practice and we believe that issuing this guidance will help promote more consistent application of control concept in the NFP sector.

We believe the proposed implementation guidance should be issued as an integral part of the Standards as this will help promote consistency in financial reporting.

Question 2

Whether the proposed implementation guidance appropriately explains the definition of ‘control’ in AASB 10 for application by NFP entities, including the following aspects:

- the broad nature of returns from a controlled NFP entity, including non-financial and indirect benefits (paragraphs IG16 and IG17); and
- the four detailed sets of implementation examples in the proposed Appendix E for AASB 10;

We agree with the level of explanation and illustration provided in the ED.

Question 3

Whether the proposed implementation guidance appropriately explains the definition of ‘structured entity’ in AASB 12 for application by NFP entities.

We believe the ED adequately explains the definition of a structured entity in the context of the NFP sector. We appreciate that it is not easy to define a structured entity in the NFP context and agree with the AASB’s conclusion that the reference to ‘similar rights’ in the definition of a ‘structured entity’ encompasses administrative arrangements and statutory provisions as they are common means by which control is determined in the NFP public sector.

Question 4

Whether it is appropriate to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements (see the proposed amendments to AASB 1049 set out in the ED).

We do think it is appropriate to exempt GGS financial statements from AASB 12 disclosures on the basis that such disclosures would be captured in the whole of government financial statements.

Question 5

Whether there are any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals, including GFS harmonisation issues.

We are not aware of any regulatory issues.

Question 6

Whether, overall, the proposals would result in financial statements that would be useful to users.

We agree that the proposals would result in financial statements that would be useful to users.

Question 7

Whether the proposals are in the best interests of the Australian economy.

We agree that the proposals are in the best interests of the Australian economy.

Question 8

Unless already provided in response to the above specific matters for comment, the costs and benefits of the proposals relative to the current requirements, whether quantitative (financial or non-financial) or qualitative.

We have no further comment.



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Mr Kevin Stevenson
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Our ref Submission – ED 238

12 July 2013

Dear Kevin

Submission - ED 238

We are pleased to have the opportunity to comment on ED 238 *Consolidated Financial Statements – Australian Implementation Guidance for Not-for-profit Entities* (ED 238) issued by the Australian Accounting Standards Board.

Overall we agree with the basic principle of adding an appendix to AASB 10 *Consolidated Financial Statements* (AASB 10) to explain and illustrate how the principles in the Standard apply from the perspective of not-for-profit entities without actually changing the fundamental principles of AASB 10. However, we do have concerns about the application of these principles, in particular to the examples highlighted below. Our comments are outlined below and included in more detail in Appendix 1 and 2:

- Certain examples contained within the ED, more specifically example IG1 and IG2, do not appropriately apply the principles of AASB 10. The purpose and design of the entities in these examples have not been adequately addressed, the relevant activities are not clearly articulated and classification of rights as substantive or protective in nature is questionable.
- We note that the application of AASB 10 is complex for the private sector and that it is important that the AASB does not inadvertently establish precedent via the not-for-profit guidance that may not have widespread support internationally, so it may be more appropriate for the more contentious examples around state control of local government to have clearer fact patterns that leave less interpretation.
- When working through the more complex and unclear examples provided within the ED we would encourage the AASB to also consider the general principles contained within

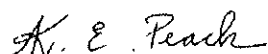
AASB 10, particularly the principles relating to agent and principle or defacto control as these principles may assist in providing further clarity on contentious areas.

- Application of the new Standard is complex, requires a significant amount of judgement and may change the control conclusion for certain entities, accordingly we consider that a mandatory effective date of 1 January 2014 will not give preparers sufficient time to be able to appropriately apply the new Standard. We would encourage the AASB to allow for an effective date of at least two years from the date of issuing the final standard.

Our comments on the specific matters raised for comment and on other issues are set out in Appendix 1 and 2.

We would be pleased to discuss our comments with members of the AASB or its staff. If you wish to do so, please contact Carol Warden on (02) 9335 8402.

Yours sincerely



Kris Peach
Partner

Appendix 1

Topics that the AASB has requested specific comments on:

- whether Australian implementation guidance for not-for-profit (NFP) entities should be added to AASB 10 and AASB 12 and, if so, whether it should, as proposed, be authoritative (i.e. “integral” to the Standard) or non-authoritative material;

Overall we support the proposals outlined in ED 238 and would support the proposals being authoritative.

- whether the proposed implementation guidance appropriately explains the definition of ‘control’ in AASB 10 for application by NFP entities, including the following aspects:
 - i. the broad nature of returns from a controlled NFP entity, including non-financial and indirect benefits (paragraphs IG16 and IG17); and
 - ii. the four detailed sets of implementation examples in the proposed Appendix E for AASB 10;

We consider that the proposed guidance appropriately explains the definition of ‘control’ in AASB 10 including the broad nature of returns. However, the examples of returns predominantly focus on public sector NFP application compared to examples within the private NFP sector. We would encourage the AASB to provide additional examples of returns, covering a broader range of entities for example companies limited by guarantee. Within Appendix 2 in the discussion relating to Example IG1 we provide such an example in relation to a school that establishes a foundation. Inclusion of this example within the ED, together with others may be useful.

With the exception of Examples IG1 and IG2, we consider that the proposed implementation guidance appropriately explains the definition of ‘control’ in AASB 10 for application by NFP entities. Please refer to Appendix 2 for more details regarding our concerns relating to Example IG1 and IG2.

- whether the proposed implementation guidance appropriately explains the definition of ‘structured entity’ in AASB 12 for application by NFP entities;

We consider that the proposed guidance appropriately explains the definition of a ‘structured entity’ in AASB 12 for application by NFP entities.

- whether it is appropriate to exclude all disclosure requirements in AASB 12 in respect of GGS financial statements (see the proposed amendments to AASB 1049 set out in the ED);

We consider it appropriate to provide an exemption from AASB 12 disclosures for GGS financial statements on the basis that such disclosures would essentially duplicate the AASB 12 disclosures for the whole of government.

- whether there are any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals, including GFS harmonisation issues;

We consider that the proposals address all the relevant regulatory issues or other issues in the Australian environment that may affect the implementation of the proposals, including GFS harmonisation issues

- whether, overall, the proposals would result in financial statements that would be useful to users;

We consider that the proposals would result in financial statements that would be useful to users.

- whether the proposals are in the best interests of the Australian economy; and

We consider that the proposals would be in the best interests of the Australian economy

- unless already provided in response to the above specific matters for comment, the costs and benefits of the proposals relative to the current requirements, whether quantitative (financial or non-financial) or qualitative.

We consider that the benefits of the proposals would outweigh the costs and would not be overly onerous from a cost perspective in comparison to the current requirements.

Appendix 2

In addition to the comments highlighted above we have the following additional comments:

	Paragraph(s)	Issue noted	Recommendation
1	IG6	This paragraph as currently worded seems to indicate that a State government would generally not have power to direct the relevant activities of a local government. This seems to contradict IG2 which requires an entity to apply the general principles contained within AASB 10 when assessing who has power over a local government.	We recommend that this example is removed.
2	Example 1G1	<p>We have the following concerns with this example as currently worded:</p> <p><i>Purpose and design and identification of relevant activities</i></p> <ul style="list-style-type: none"> • As part of the control analysis, the purpose and design together with the identification of relevant activities of the association including the impact of rights arising from any contractual arrangements in place have not been appropriately considered. We consider these steps to be critical in the control analysis [AASB 10.B3, B5-B8, BEx1]. • Consideration as to whether the religious organisation has the ability to change the constitution of the association and what impact this would have on the control analysis should be addressed. The capacity to change the constitution to enable change in appointment of directors is likely to be critical to the assessment of power. 	<p>We recommend the following in respect of our concerns:</p> <p><i>Purpose and design and identification of relevant activities</i></p> <p>The purpose and design of the structure should be specifically addressed as we consider it be to a key element in the control analysis and more specifically the determination as to what the relevant activities are. For example, assume the same fact pattern as IG1 except that the board of governors consists of 10 people, 2 appointed by the religious organisation and the remaining 8 are considered to be independent of the religious organisation. Based on this fact pattern and applying AASB 10, there are two possible arguments that could be put forward when considering the purpose and design, the relevant activities and who ultimately controls the association:</p> <p>(1) the association has been set up to achieve a specific objective i.e. the purpose and design is to provide low cost housing and since this objective has been set up at inception one could argue that while the association</p>

	<p><i>Basis for concluding power exists</i></p> <ul style="list-style-type: none"> The first paragraph of Example IG1A concludes that the religious organisation controls the association by virtue of the fact that the organisation has rights that give it the current ability to direct the relevant activities of the association. The example does not elaborate as to what specific rights give the organisation power. In order to understand the outcome the example should identify the key relevant activities that have been assessed and why the religious organisation is considered to have power. <p><i>Exposure to variable returns</i></p> <ul style="list-style-type: none"> Example IG1A states that the religious organisation has never received (and cannot receive) a financial return. We do not agree with this comment because while the organisation does not have a direct financial return, we do consider it to have an indirect financial benefit by virtue of the fact that the religious organisation has the ability to direct where the returns go i.e. it must be used for the community housing program and in the event of a wind up would generally be able to direct where any remaining assets should go. Whether financial returns are made to the religious organisation and then distributed to a 3rd party or whether the funds are distributed at the religious organisation's request to a 3rd party should not result in a different accounting outcome. 	<p>has the ability to make many of the day-to-day decisions it is operating within a defined framework as to where the funds are obtained from, to whom the funds can be distributed to and accordingly has no relevant activities that impact the variability of returns (everything has effectively been pre-determined). Therefore, the association could be considered to be an extension of the religious organisation itself. This together with the fact that the religious organisation, while not directly receiving any financial return from the association is exposed to variable returns by virtue of the fact that it directs where the returns go and there is congruence of objectives results in the religious organisation having control.</p> <p>(2) the association is considered to have relevant activities and is not merely operating under a defined framework determined at the initial set up by the organisation. Accordingly, an analysis must be performed in order to determine who has rights over those relevant activities and assuming it is not the organisation who holds these rights, one would conclude that the organisation does not control the association.</p> <p>The purpose and design of the structure becomes very important in determining which of these two alternatives is the most appropriate for the facts and circumstances.</p> <p>We have seen similar fact patterns where schools have established separate foundations, with independent boards, but the funds raised can only be used for capital projects of the school. In our view without consideration of the specific purpose and design of the foundation, the conclusion could be reached that there are relevant activities and that the school does not have control. However, in our view where</p>
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3	IG12	The paragraph concludes that the power to enact or change legislation, and having rights specified in merely substantively enacted legislation, do not give the investor power. Additional explanation as to why this is the case would be helpful. It may be useful to contrast this to the unfettered ability of an entity to change the constitution of	We recommend that the paragraph include additional explanation as to why the power to enact or change legislation and having rights specified in merely substantively enacted legislation do not give rise to power. We note that this is one of the key interpretive elements of the guidance and it's important not to inadvertently create a

		<p>one of its investees (see discussion on Example IG1) to determine the composition of the board of directors which may result in obtaining power.</p>	<p>for-profit precedent. Reference to whether the power is currently exercisable may assist (i.e. legislative reform requires approval from parliament, substantive legislation may or may not give rights that are currently exercisable, depending on when the legislative change is effective.</p>
4	<p>Example IG2</p>	<p>We have the following concerns with this example as currently worded:</p> <p><i>Purpose and design and identification of relevant activities</i></p> <ul style="list-style-type: none"> As part of the control analysis the purpose and design together with the identification of relevant activities of the Council, including the impact of rights arising from any contractual arrangements in place have not been appropriately considered. We consider these steps to be critical in the control analysis. <p>For example, if the ability to raise revenue outside of rates is restricted and required to be approved by the State then given the boundary constraints (i.e. State has unfettered ability to change boundaries which determines the volume of rates that can be charged) and the ability to cap revenue raised from rates it can be argued that the amount of revenue is limited/determined by the State and accordingly there are no relevant activities of the local government that impact the variability of returns (i.e. allocation of capped revenue is arguably not a relevant activity, as although the composition of where the monies may be spent may change, the actual quantum of spending is not able to be influenced by Council).</p> <p>In such circumstances, even though the Council is making a number of day-to-day decisions which impact returns these decisions may not be considered to be</p>	<p>We recommend that the example is reworded to include consideration of the purpose and design of the entity, identification of relevant activities, and additional guidance as to why certain rights have been determined to be protective. A helpful starting point may be that to the extent to which the right is only exercisable with cause e.g. in the event of an unlawful act, or other actions outside of the control of the entity who has the right it should be considered to be protective in nature and reassessed at the point in time when, and if, the default occurs – at that point the rights may be considered to be substantive. Similarly, rights which can be exercised without cause may be more akin to substantive rights.</p> <p>If the purpose of the example is to provide a clear example of where the State does not control local government then we recommend you change the fact pattern to make it clearer regarding the purpose and design that there is no capping on revenue from rates and that revenue from other sources is not dependent on approval from state governments.</p>

		<p>decisions over relevant activities as these have already been set by the State and therefore are considered to be irrelevant in the control analysis. The State is setting the framework under which the Council operates and accordingly there are no relevant activities.</p> <p>Based on the facts provided we do not consider the analysis to address the purpose and design concerns noted above, therefore we do not agree with the conclusion reached.</p> <ul style="list-style-type: none"> • Some of the protective rights appear more substantive in nature. We consider that under AASB 10 unfettered rights to change or step in are likely to be substantive rather than protective. Generally where there are conditional rights they are more likely to be protective [AASB10.14, B22-B28]. • Accordingly we would consider the right to restructure the Council through boundary changes a relevant activity as based on the facts it is an unfettered right, and where the State is able to change the boundaries without cause in our view is more akin to a substantive right than a protective right. Furthermore, we would also consider the ability to appoint inspectors of municipal administration without cause to be more akin to a substantive right than a protective right. Where it is conditional on issues with management etc. then we would consider the rights to be more protective in nature. 	
5	<p>Basis for conclusions</p>	<p>Insufficient explanation/background as to why certain Aus specific paragraphs contained within AASB 127 were not replicated in ED 238 or not replicated verbatim, for example:</p>	<p>The Basis for Conclusion should set out the rationale for specific paragraphs not being carried forward.</p>

		Aus 17.2 – discussion as to why accountability is not given specific prominence when applying the new control model.	
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