



<b>Project:</b>	<b>Implementation Guidance for NFP public sector licensors</b>	<b>Meeting</b>	AASB May 2018 (M164)
<b>Topic:</b>	<b>Summary of responses to ED 283</b>	<b>Agenda Item:</b>	5.1
<b>Contact(s):</b>	Justine Keenan <a href="mailto:jkeenan@asb.gov.au">jkeenan@asb.gov.au</a> (03) 9617 7642  James Barden <a href="mailto:jbarden@asb.gov.au">jbarden@asb.gov.au</a> (03) 9617 7643  Kala Kandiah <a href="mailto:kkandiah@asb.gov.au">kkandiah@asb.gov.au</a> (03) 9617 7626	<b>Project Priority:</b>	High
		<b>Decision-Making:</b>	Low
		<b>Project Status:</b>	Consider comments on ED

## Introduction and objective of this paper

- 1 The objective of this paper is to provide the Board with a summary of the feedback received on the AASB Exposure Draft ED 283 *Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Public Sector Licensors*.
- 2 This paper does not contain Staff recommendations on how the Board should respond to the issues raised by respondents. These recommendations will be provided to the Board at the June 2018 meeting. Consequently, the Board will not be asked to make any decisions at this meeting, but rather consider the comments and are invited to provide comments to Staff if they wish.

## Attachments

- Agenda item 5.2      AASB ED 283; and
- Agenda item 5.3      Comment letters received on ED 283

## Outline

- 3 This paper is set out as follows:
  - (a) background (paragraphs 4-5);
  - (b) key issues identified by Staff (table 1);
  - (c) other issues identified by Staff (table 2);
  - (d) next steps (paragraph 8);
  - (e) summary table of written responses for each question (Appendix A);
  - (f) list of respondents (Appendix B);
  - (g) list of other outreach (Appendix C);
  - (h) full summary of feedback (Appendix D).

## Background

- 4 ED 283, issued in December 2017, proposes amendments to AASB 15 *Revenue from Contracts with Customers* to add requirements and authoritative implementation guidance for application by not-for-profit (NFP) public sector licensors to transactions involving the issue of licences. Specifically, the proposed amendments include:
- (a) expanding the scope of AASB to include non-contractual licences;
  - (b) distinguishing licences and taxes;
  - (c) clarifying the types of licences issued by not-for-profit public sector licensors as:
    - (i) IP licences – as outlined in paragraph B52 of AASB 15; and
    - (ii) non-IP licences – which give the licensee either rights over a non-identified asset or assets of the licensor or rights to perform an activity that does not involve an asset or assets of the licensor;
  - (d) clarifying the application of the principles in AASB 15 to licences that are not within the scope of other Australian Accounting Standards including:
    - (i) clarifying that a non-IP licence that involves granting a licensee rights over an identified asset or assets of the licensor that is a lease (or contains lease), should be accounted for in accordance with AASB 16 Leases;
    - (ii) providing guidance to apply the application guidance in paragraphs B52-B63B to account for the revenue from licences of IP;
    - (iii) providing guidance to apply AASB 15 to non-IP licences, other than those in the scope of AASB 16;
    - (iv) providing guidance to assist licensors determine whether a licence is distinct from other goods or services in accordance with the requirements of AASB 15; and
    - (v) providing guidance to assist licensors identify performance obligations when issuing not-for-profit public sector licences;
  - (e) providing recognition exemptions for short-term licences and licences issued for a low-value transaction price.
- 5 The comment period for ED 283 closed on 31 March 2018 and the aim is to finalise the proposals in time for when AASB 15 would apply to NFP entities, which is for reporting periods *beginning* on or after 1 January 2019.

## Key issues identified by Staff

- 6 Staff have received eight written submissions to ED 283 and participate in several outreach meetings and presentations. Appendix A provides a summary table, appendices B and C provide details of the respondents and outreach activities. A detailed summary of feedback received is available for the Board in Appendix D.
- 7 Based on constituents' responses, Staff consider the following items to be the key issues raised. Staff expect that these issues will require considerable analysis by Staff, and expect to provide recommendations to the Board to address these issues at the June 2018 meeting. Staff's initial thoughts in response to these key issues is outlined in the table below. Staff note that the remaining issues identified in Appendix D will also be fully considered.

Table 1: Key issues identified

Respondent comment	Staff initial thoughts
<p><b>The outcome of applying AASB 15 principles to non-IP licences</b></p> <p>In relation to the accounting for non-IP licences, the majority of respondents agree that such licences should be accounted for as a separate performance obligation in accordance with the general principles of AASB 15. However, despite support in principle, numerous respondents raised concern with the outcomes of this accounting, in particular for high-value and long-length licences such as casino licences. Respondents noted that some activities which extend beyond just maintaining exclusivity of the licence, such as periodically monitoring whether the terms of an arrangement are being met and upholding the integrity of the licence are not just features of a licence, but are in fact performance obligations that enhance the commerciality of the agreements. These respondents note that without the active involvement of the State in regards to these activities, there is a risk that the commercial value of the arrangement will not be upheld, potentially exposing the licensor to legal action from the licensee. Respondents note that the licensor’s activities:</p> <ul style="list-style-type: none"> <li>(a) serve to maintain confidence in the services, systems and operations of the licensee, upon which the commerciality of the arrangement is underpinned; and</li> <li>(b) if not performed would substantially detract from the commerciality of the arrangement.</li> </ul> <p>Respondents’ request that the Board clarify in the guidance whether these would in fact be distinct performance obligations that would likely result in revenue being recognised over time, rather than at a point in time, noting that the current guidance is not worded in such a way.</p> <p><u>See App D, SMC 3(b) for more detail</u></p>	<p>Staff will analyse the examples of substantive activities that respondents have provided and consider whether these activities would be separate performance obligations in accordance with AASB 15.</p> <p>In doing so, Staff will consider how the guidance in the final Standard could be enhanced to assist entities identifying what in a licence is:</p> <ul style="list-style-type: none"> <li>(a) a promise to grant the right to perform an activity;</li> <li>(b) a promise that would be a separate performance obligation in accordance with AASB 15; and</li> <li>(c) a feature of a licence that would not be a separate performance obligation, such as exclusivity.</li> </ul>
<p><b>Licences vs taxes</b></p> <p>Respondents raised the following issues in regards to licences vs taxes:</p> <ul style="list-style-type: none"> <li>(a) some respondents recommend aligning the distinction between a licence and tax more closely with GFS to allow for the harmonisation of the two frameworks;</li> <li>(b) one respondent considered that no non-IP licences were within the scope of AASB 15, but rather all should be accounted for in accordance with AASB 1058;</li> <li>(c) some respondents raised concerns with the proposal to allocate the transaction wholly to the promise to grant licence where the arrangement has a dual purpose of granting a licence and imposing a tax. The respondents are especially concerned with the practical consequences when having to account for the variable consideration, noting that it is possible for an arrangement to demonstrate both elements of licensing and taxation; and</li> <li>(d) some respondents requested clarifications on the guidance in paragraph G3 to distinguish licences from taxes, especially in regards to the notion of compulsory vs discretionary.</li> </ul> <p><u>See App D, SMC 7 for more detail</u></p>	<p>Staff will re-evaluate the usefulness of the GFS guidance on distinguishing a licence from a tax.</p> <p>Staff will also analyse examples of arrangements that are not clearly a licence or a tax to identify the nature of the arrangements. As part of this process, Staff will consider how the guidance to distinguish a licence from a tax in paragraph G3 could be enhanced. Staff expect further guidance on distinguishing whether a licence is compulsory or discretionary will be necessary.</p>

Table 2: Other issues identified

Respondent comment	Staff initial thoughts
<p><b>Guidance in relation to recognition exemptions for short-term and low-value licences</b></p> <p>The majority of respondents support the AASB providing recognition exemptions for short-term and low-value licences. However, several respondents requested the Board provide more guidance and examples on:</p> <ul style="list-style-type: none"> <li>(a) what the Board means by ‘short-term’ (ie providing a time threshold) and ‘low-value’ (ie providing a monetary threshold, or provide more examples);</li> <li>(b) whether the Board intended for the exemption to apply to licences only when they are both short-term and low-value; and</li> <li>(c) whether the exemptions are appropriate for some low value licences that have a high volume of transactions, meaning the revenue is material.</li> </ul> <p><u>See AppD SMC 4 for more detail</u></p>	<p>Staff note the Board intended the recognition exemptions to be consistent with those provided in AASB 16 <i>Leases</i>. Staff expect to propose additional guidance to clarify this. Staff note that AASB 16:</p> <ul style="list-style-type: none"> <li>(a) defines ‘short-term’ as less than 12 months; and</li> <li>(b) does not provide a monetary threshold to determine ‘low-value’, but does note in the BC to AASB 16 that the IASB had in mind leases of a value of around US\$5,000.</li> </ul>
<p><b>Examples of types of IP licences</b></p> <p>Due to the minimal guidance available on what constitutes an IP licence, some respondents request that the Board provide specific examples of IP licences that would be unique to the public sector.</p> <p><u>See AppD SMC 6 for more detail</u></p>	<p>Staff intend to conduct further outreach with respondents to understand the type of licences that are unique to the public sector and are not clearly identifiable as licences of IP. If Staff identify examples of such licences, it may be recommended to include examples of these in the final Standard.</p>
<p><b>Example of whether a licence is distinct</b></p> <p>A number of respondents raised their disagreement with the Board’s analysis that a commercial fishing licence is not distinct from other goods or services. These respondents were of the view that a public sector entity was not promising to transfer fish, but rather provide a right to perform an activity (fishing).</p> <p><u>See AppD SMC 6 for more detail</u></p>	<p>Staff intend to reconsider and/or re-word the example provided in ED 283 to ensure that it clearly reflects the principles of AASB 15.</p>
<p><b>Non-IP licences issued by FP public sector entities</b></p> <p>A number of for-profit public sector entities have been identified as issuing non-IP licences which appear to be identical in nature to those issued by the NFP public sector.</p> <p><u>See AppD SMC 8 for more detail</u></p>	<p>Staff will consider the Standard-setting framework for FP entities and make a recommendation on whether the scope of the project should be extended.</p>
<p><b>Licences involving non-identified assets of the licensor</b></p> <p>Some respondents noted example of non-IP licences involving the non-identified assets of the public sector, such as mooring fees, road occupancy licences and aquatic licences.</p> <p><u>See AppD SMC 6 for more detail</u></p>	<p>Staff will assess these licences and determine whether the principles of AASB 15 will be easily applicable.</p>
<p><b>Variable consideration</b></p> <p>Some respondents noted difficulties in estimating sales-based or usage-based revenue for non-IP licences that are recognised at a point in time, due to external considerations that are beyond the entities’ control. However, other entities supported the transaction neutrality in applying the general principles of AASB 15 as proposed in ED 283.</p> <p><u>See AppD SMC 5 for more detail</u></p>	<p>Staff will consider the difficulties and recommend to the Board whether the simplified accounting available for IP licences should be extended to non-IP licences, with regard to the NFP Standard-setting framework.</p>

**Next steps**

8 Staff will provide detailed analysis and recommendations to the Board at its June 2018 meeting.

Legend (shading)

Green = Respondent agrees

Amber = Respondent neither completely agree / disagree and/or more clarification required

Pink = Respondent disagrees

Grey = Respondent providing example (neither agrees or disagrees)

**Appendix A: Summary of written responses for each question**

	S1 – KPMG	S2 – EY	S3 – Audit offices (Vic, NSW, WA,NT, Qld)	S4 – Audit Offices (SA & TAS)	S5 – HoTARAC	S6 – AHPRA	S7 – ABS
<u>SMC 1 (AASB 15 scope to include non-contractual)</u>	Agree	Agree	Agree	Disagree with non-IP licences in AASB 15 – should be AASB 1058	All but one jurisdiction agrees	No comment	No comment
<u>SMC 2 (statutory lease arrangements)</u>	None noted	None noted	None noted	None noted	Port of Melbourne transaction	No comment	No comment
<u>SMC 3 (a) IP licences to apply AASB 15 B52-B63B</u>	Agree	Agree	Agree with more guidance (for eg how to account for access to data registries)	Agree	All but one jurisdiction agrees – the jurisdiction that disagrees says licences should be in scope of AASB 1058	No comment	No comment
<u>SMC 3 (b) Non-IP licences (distinct &amp; non-leases) to apply AASB 15 as separate PO</u>	Agree	Disagree with outcome of point in time recognition as it doesn't reflect economic substance	Disagree with outcome of point in time recognition for casino examples incl. exclusivity, distinct – fishing)	Disagree that non-IP licences should be accounted for in AASB 15 instead of AASB 1058	All but one jurisdiction agrees with AASB 15 but with more guidance, also they disagree with commercial fishing example)	Further guidance required over PO to benefit public	Disagree with treatment of casino – view licence as tax
<u>SMC 4 Practical expedients faithful representation</u>	Agree with more guidance on what short-term and low-value is	Agree with more guidance; applies to IP and non-IP?	Agree with more guidance on what short-term and low-value is	Agree with more guidance and should be low value OR short term	Disagree – could lead to inconsistency although consistent with current – make requirements narrower	Agree with more guidance	No comment
<u>SMC 5 Sales-based commission (variable commission per AASB 15.56-67 or AASB 15.B63)</u>	Agree – with AASB 15.56-67	Agree – with AASB 15.56-67	Disagree – apply AASB 15.B63 otherwise add more guidance	Disagree – apply AASB 15.B63	Prefer AASB 15.56-67. Not aware of variable consideration in jurisdictions – royalties are separate transaction	No comment	No comment
<u>SMC 6 Non-IP licences involving asset of licensor that are not leases</u>	Casino / lottery licences	Access to data registries	Access to data registries	Access to data registries	Clarification of asset on or off balance sheet (e.g. mooring fees, road occupancy, aquatic licence)	No comment	No comment
<u>SMC 7 Licence versus tax</u>	Agree	Disagree – revisit guidance to distinguish licence from tax	Agree with more guidance and reconsider split	Disagree - revisit guidance to distinguish licence from tax	Disagree – revisit with consideration of GFS	No comment	Disagree – revisit GFS definition
<u>SMC 8 For-profit public sector licensors (PSLs)</u>	Extend scope to for-profit PSLs	Not aware of for-profit PSLs	Extend scope to for-profit PSLs	Extend scope to for-profit PSLs	Not aware of for-profit PSLs	No comment	No comment
<u>GMC 9 NFP Standard-setting framework followed</u>	Agree	Disagree applying it as it is not yet finalised	Agree	Agree	Agree	No comment	No comment
<u>GMC 10 Reg issues (i.e. GFS)</u>	None noted	None noted	None noted	None noted	Consider aligning with GFS	No comment	No comment
<u>GMC 11 FS that are useful</u>	Agree	Agree except for high-value/long term licences	Agree	Disagree – too much uncertainty, costly etc	Except for what noted in SMC 3	Seeking further guidance	No comment
<u>GMC 12 Best interest economy</u>	No comment	As above GMC 11	Except for what noted in SMC 3	No comment	No comment	No comment	No comment
<u>GMC 13 Additional comments / Additional Comments</u>	No additional comments	Consider consistency with AASB 1059 for similar arrangements	Additional comments from QAO (see appendix D)	No additional comments	Additional comments on activities performed by PSLs	No comment	No comment

## **Appendix B: List of respondents**

B1 The Board received seven written submissions on ED 283:

### List of written submissions

Submission no.	Respondent	Type of Organisation
S1 – KPMG	KPMG	Professional services firm
S2 – EY	Ernst & Young (EY)	Professional services firm
S3 – Audit offices	Victorian Auditor-General’s Office (VAGO), also on behalf of: <ul style="list-style-type: none"><li>- Audit Office of New South Wales (NSW AO)</li><li>- Office of the Auditor General for Western Australia (AO WA)</li><li>- Northern Territory Auditor-General’s Office (NT AO)</li><li>- Queensland Audit Office (QAO)</li></ul> (plus additional comments)	Public sector auditors
S4 – SA and TAS Audit Offices	Auditor-General’s Department (South Australia), also on behalf of Tasmanian Audit Office	Public sector auditors
S5 – HoTARAC	The Heads of Treasuries Accounting and Reporting Advisory Committee (HoTARAC)	Public sector preparers
S6 – AHPRA	Australian Health Practitioner Regulation Agency (AHPRA)	Public sector preparer
S7 – ABS	Australian Bureau of Statistics (ABS)	Government national statistic agency

### **Appendix C: List of other outreach**

C1 Staff also undertook a range of other outreach activities in relation to ED 283. These activities are outlined below. Any comments that were not also submitted formally have been included in the summary of comments below.

#### List of other outreach

Date	Type	Organisation
15 Jan 18	Teleconference – AASB Staff provided overview and outreach opportunity	State Audit Office representatives
22 Jan 18	Teleconference – AASB Staff provided clarification on specific questions asked by VAGO	VAGO
23 Feb 18	Face-to-face – AASB Staff provided overview and outreach opportunity	ABS
23 Feb 18	Face-to-face – AASB Chair and Staff provided overview and outreach opportunity	HoTARAC
23 Feb 18	Face-to-face – AASB Staff provided overview and outreach opportunity	KPMG
1 Mar 18	Face-to-face – AASB Staff provided opportunity for Department of Treasury and Finance Victoria (DTFV) to raise concerns	DTFV
13 Mar 18	Face-to-face – AASB Staff provided overview and outreach opportunity	NSW Treasury
16 Mar 18	AASB Staff provided presentation and outreach opportunity	South Australian Local Government Financial Management Group
16 Mar 18	AASB Staff provided presentation and outreach opportunity	CPA Newcastle Convention
16 Mar 18	AASB Staff provided presentation and outreach opportunity	CFO Summit, Marcus Evans Events
16 Mar 18	Face-to-face – AASB Staff provided overview and outreach opportunity	Auditor-General’s Department (South Australia)
16 Mar 18	Face-to-face – AASB Staff provided overview and outreach opportunity	Department of Treasury and Finance South Australia
26 Mar 18	Teleconference – AASB Staff provided opportunity for ABS to raise concerns	ABS

## **Appendix D: Summary of Comments Received**

**SMC 1 Do you agree to expanding the scope of AASB 15 to include non-contractual licences (ie arising from statutory arrangements) (paragraphs 4, G7-G9)? If not, please provide your reasons.**

### **SMC 1 Respondents comments**

- A. The majority of respondents (S1 – KPMG, S2 – EY, S3 – Audit Offices, S5 – HoTARAC,) agree with the proposal to include non-contractual licences within the scope of AASB 15, with numerous noting that this would enhance consistency in public sector accounting.
- B. One respondent (S4 – SA and TAS Audit Offices) disagreed that non-IP licences should be dealt with at all in AASB 15, despite noting that the accounting for non-IP licences not captured by AASB 16 Leases should relate to non-contractual, as well as contractual licences. Staff have addressed this concern in SMC 3 (using AASB 15 to account for licences).
- C. One HoTARAC jurisdiction (but not all) disagreed with this question on the basis that they consider non-contractual licences to be taxes rather than licences within the scope of AASB 15. Staff have addressed this concern in SMC 7 (licence or tax guidance).

**SMC 2 Are you aware of any lease arrangements that would arise from statutory arrangements rather than a contract? If so, please provide details of these arrangements and their accounting treatment.**

### **SMC 2 Respondents comments**

- A. The majority of respondents (S1 – KPMG, S2 – EY, S3 – Audit Offices, S4 – SA and TAS Audit Offices,) were not aware of lease arrangements arising from statutory arrangements.
- B. One respondent (S5 – HoTARAC) noted that the Port of Melbourne transaction arose from legislation and was classified as an operating lease for GFS purposes.

**SMC 3(a) Do you agree with the requirements for not-for-profit public sector entities set out in paragraphs G10-G13 which specify that IP licences shall apply the guidance in paragraphs B52-B63B of AASB 15?**

### **SMC 3(a) Respondents comments**

- A. The majority of respondents, S1 – KPMG, S2 – EY, S3 – Audit Offices, S4 – SA and TAS Audit Offices, S5 – HoTARAC (most) agree with SMC3 (a), that IP licences shall apply the guidance in AASB 15 paragraphs B52-B63B.
- B. One HoTARAC jurisdiction (but not all) disagreed with this question on the basis that they consider licences to be taxes (within the scope of AASB 1058) rather than within the scope of AASB 15. Staff have addressed this concern in SMC 7 (licence or tax guidance).



**SMC 3(b) Do you agree with the requirements for not-for-profit public sector entities set out in paragraphs G10-G13 which specify that non-IP licences, that are not a lease and are distinct from other goods or services, shall be accounted for as a separate performance obligation under AASB 15? If not, please provide your reasons.**

<b>SMC 3(b) Respondents comments - Category 1: Respondents who agreed</b>	
<p>One respondent (S1 – KPMG, S2 – EY, S3 – Audit offices (Vic, NSW, WA, NT, Qld), S5 – HoTARAC and S6 – AHPRA) agree in principle with the requirements for not-for-profit public sector entities set out in paragraphs G10-G13 which specified that non-IP licences, that are not a lease and are distinct from other goods or services, shall be accounted for as a separate performance obligation under AASB 15. However, numerous respondents (S2 – EY, S3 – Audit offices (Vic, NSW, WA, NT, Qld), S5 – HoTARAC and S6 – AHPRA) raised concern in regard to the outcomes that may come of the guidance, such as some arrangements that are currently recognised over time requiring a change to point in time, and whether the guidance in AASB ED 283 is helpful in respect of identifying genuine performance obligations of public sector licensors.</p> <p>Specifically, points raised are as follows:</p>	
A.	<p>Respondents (S3 – Audit Offices, S5 – HoTARAC, S6 – AHPRA) disagree with paragraph G18, which states that protecting the exclusivity of an arrangement, periodically monitoring whether the terms of the arrangement are being met and upholding the integrity of the licence shall not be considered as separate performance obligations and instead are features of the licensing arrangement. The respondents note that the licence arrangements, including gaming/casino licences, are commercially negotiated contracts, where the licensor and licensee agree to a value exchange for the whole of the licence period. The respondent notes that ongoing commerciality is a fundamental characteristic of the arrangement and that the licensor is required to actively manage/sustain the value of the arrangements beyond just maintaining exclusivity.</p>
B.	<p>The respondents are of the view that maintaining the commerciality of the arrangements are akin to ongoing maintenance obligations that represent performance obligations in accordance with AASB 15. The actions required by the licensor are ‘active’ and not ‘passive’ – without the active involvement of the State, there is a risk that the commercial value of the arrangement will not be upheld, potentially exposing the licensor to legal action from the licensee. In this respect, the licensor’s activities:</p> <ul style="list-style-type: none"> <li>(i) serve to maintain confidence in the services, systems and operations of the licensee, upon which the commerciality of the arrangement is underpinned; and</li> <li>(ii) if not performed would substantially detract from the commerciality of the arrangement.</li> </ul>
C.	<p>One respondent (S5 – HoTARAC) notes that without the recognition of the activities that the licensors need to fulfil and the commerciality that this provides, the exposure draft will not provide the clarification on non-IP licences that it is seeking to achieve. The respondent also argues that where these obligations are met, AASB 15 paragraph 35(b) <i>“the entity’s performance creates or enhances an asset [in this instance a licence] that the customer controls as the asset is created or enhanced”</i> is met and that revenue would be recognised over the term of the licence.</p>
D.	<p>Respondents (S5 – HoTARAC, S6 – AHPRA) have made AASB Staff aware of the following activities that public sector entities must conduct for the licensee:</p> <ul style="list-style-type: none"> <li>(i) ongoing assurance that the licensor provides for the public to engage in fair gambling activities;</li> <li>(i) conducting inspections and compliance activities;</li> <li>(ii) conducting complex investigations for compliance;</li> <li>(iii) ensuring the industry remains free from criminal influence;</li> <li>(iv) ensuring the integrity and reliability of systems;</li> <li>(v) monitoring the financial activities and probity of approved participants in the gaming industry to ensure compliance with regulations and ongoing suitability to hold a licence, permit or approval;</li> </ul>

**SMC 3(b) Respondents comments - Category 1: Respondents who agreed**

- (vi) provision of a national public register and the ability for licensees to freely move across jurisdictions to practice within the scope of licence;
  - (vii) ongoing requirement to monitor that compliance restrictions are met;
  - (viii) providing ongoing 'audit' services which over a cyclical period randomly audits registrants for compliance with the licence obligation to ensure the protection of the public;
  - (ix) ongoing work to review, amend and update standards for the licencing eligibility; and
  - (x) standing ready to respond to complaints of non-licensed activities
- E. One respondent (S5 – HoTARAC) notes that recognising these activities as performance obligations is the current practice for preparers and auditors. This statement appears to be supported given the comments in S3 – Audit Offices (S3 – Audit Offices and S5 – HoTARAC contain the majority of public sector preparers and auditors).
- F. One respondent (S2 – EY) suggests that the AASB give further consideration to determine, despite the AASB's current proposals accurately reflecting the principles of AASB 15, whether additional conditions (ie exclusivity and monitoring activities) should be taken into account for some non-IP licences to allow them to recognise revenue over time. The respondent noted reasons for the Board to consider this as follows:
- (i) ED 283 would significantly change the accounting treatment as compared to current practice;
  - (ii) public sector licensors may consider the accounting treatment as non-reflective of the way they view the significance of the revenue stream from these licences to their business model;
  - (iii) the proposals do not reflect the economic substance of revenue from certain licences; and
- differences in nature and substance of non-IP licences and IP licences.

**SMC 3(b) Respondents comments - Category 2: Respondents who disagreed**

Three respondents (S4 – Audit Offices (SA & TAS), S5 – HoTARAC (one jurisdiction, but not all) and S7 – ABS) disagreed with the requirements for not-for-profit public sector entities set out in paragraphs G10-G13 which specified that non-IP licences, that are not a lease and are distinct from other goods or services, shall be accounted for as a separate performance obligation under AASB 15. The reasons for their disagreements are as follows:

- A. One respondent (S4 – SA and TAS Audit Offices) disagrees with applying AASB 15 to non-IP licences on the basis that the respondent does not see the issuance of a non-IP licence as a performance obligation, and is of the view that income from the issuance of non-IP licences should be recognised under AASB 1058.
- B. One jurisdiction at HoTARAC disagrees with expanding the scope of AASB 15. In their opinion, the licences issued by the government are unique in nature and only apply to arrangements underpinned by the coercive power of the state. They are not the same as a voluntary transaction between two independent parties that both benefit from the transaction. They should not be included in AASB 15, but dealt with separately ie via AASB 1058.
- C. Respondent S7 – ABS, whilst not explicitly disagreeing with SMC 3(b), disagrees with the related accounting treatment for the casino licence in Examples 8 and 9 of ED 283 because the treatment is not aligned to GFS, where this type of arrangement would be considered a tax rather than a licence. Refer to SMC 7 for more details.

**SMC 4** In relation to the AASB’s proposal in paragraph 4 and the guidance in paragraphs G19-G23 of this Exposure Draft (‘Recognition exemptions’), to include practical expedients in the Amending Standard to account for revenue from short-term or low-value licences issued by not-for-profit public sector licensors:

- (a) do you agree that this proposal would provide relief to preparers while retaining a faithful representation of a not-for-profit public sector licensor’s financial performance? Please provide your reasons.
- (b) if not, what alternative practical expedient approach (if any) to income recognition would you recommend for not-for-profit public sector licensors? Please provide your reasons.

#### SMC 4 Respondents comments

The majority of respondents (S1 – KPMG, S2 – EY, S3 – Audit Offices, S4 – SA and TAS Audit Offices, S6 – AHPRA) supported the inclusion of the recognition exemptions, noting that this would reduce the implementation burden without misrepresenting the licensor’s financial performance. However the following comments were noted:

A. Respondents (S1 – KPMG, S2 – EY, S3 – Audit Offices, S4 – SA and TAS Audit Offices, S6 – AHPRA) requested that the AASB clarify by way of definitions or other guidance, the intended meaning of ‘short-term’ and ‘low-value’. Some respondents (S1 – KPMG, S3 – Audit Offices, S4 – SA and TAS Audit Offices) acknowledged that paragraphs BC73-BC74 in ED 283 help to interpret short-term licences and the Boards intention to be consistent with AASB 16 *Leases*, but nonetheless further guidance is preferred. These respondents provided the following comments:

##### *Short-term licences*

- (i) Respondent S1 – KPMG recommended clarifying what is meant by short-term licences because references to short-term in Standards vary – AASB 16 and AASB 119 *Employee Benefits* define short-term to mean 12 months or less (in the case of AASB 119 it is wholly less than), whereas AASB 107 *Statement of Cash Flows* uses ‘short-term’ referencing a maturity period of three months or less, and AASB 9 *Financial Instruments* uses the term in the context of classification of a financial instrument that is held for trading, for “short-term profit-taking”;
- (ii) Respondents S3 – Audit Offices, S6 – AHPRA and QAO (via additional comments to the S3 – Audit Offices’ submission) stated that there are no examples of ‘short-term’ provided in Appendix G to ED 283 and it is unclear what is taken into consideration when determining whether or not a licence is short-term. For example, a driver licence might be issued for one, five or ten years, but it is up to the licensee if, when and for how long the licence is renewed. One respondent (QAO) also noted that it is not clear whether the short-term expedient will apply in situations where the licensee has a choice to renew (say) every year or renew for three years.

##### *Low-value licences*

- (i) In developing AASB 16, the IASB provided a guideline of low-value meaning an “order of magnitude of US\$5,000 or less”. AASB 16 does not include this prescriptive number in the Standard, but has been included in the IASB’s Basis for Conclusions. Respondents encourages the AASB to follow this approach (S1 – KPMG, S2 – EY);
- (ii) The AASB should include a reminder around low-value being a concept rather than an assessment of materiality (S1 – KPMG);
- (iii) Examples of ‘types of licences’ rather than a monetary threshold may be more helpful (S3 – Audit Offices);
- (iv) The Basis for Conclusions should further explain why a practical expedient for low-value licences is appropriate. This respondent (S4 – SA and TAS Audit Offices) supports this practical expedient

#### SMC 4 Respondents comments

because low value licences are expected to be issued often and as such, there would not likely be unfaithful representation from applying the expedients.

- (v) The proposed guidance relies on the licensor assessing the 'nature of the licence' for the licence to qualify for the low-value exemption, however does not provide detailed guidance on how to make this qualification (the respondent suggested to see, for example, AASB 16 paragraph B5) (S2 – EY).
- B. Some respondents (S3 – Audit Offices, S4 – SA and TAS Audit Offices) were concerned that paragraph Aus8.1 as currently proposed in ED 283 may be read to mean that, to be able to apply a practical expedient, a licence must be both short-term and low-value. Therefore these respondents suggested paragraph Aus8.1(a) should be amended to read as follows (refer to strike through and underline):
- “Aus8.1 A not-for-profit public sector licensor may elect not to apply the requirements in paragraphs 9-90 (and accompanying Application guidance) to:
- (a) short-term licences; ~~and~~ or
- (b) licences for which the transaction price is of low value.”
- C. One respondent (S2 – EY) noted that, as currently drafted, the proposed amendments in paragraph Aus8.2 are not clear on whether the exemptions apply only to licences of non-IP, or to all types of public sector licences. The respondent notes that in the case that IP licences are eligible for the exemption, transaction neutrality would not remain.
- D. One respondent (S5 – HoTARAC) questions whether the proposed expedients offer any substantive 'relief' for preparers. This respondent notes that the proposed expedients are in line with the existing accounting treatment of the majority of licences being issued (of which most will be eligible for the practical expedient). In any case, the respondent noted that the existing treatment provides faithful representation.
- E. One respondent (S5 – HoTARAC) noted that some low value licences have a high volume of transactions, meaning the revenue is material. The respondent questions whether recognising revenue on a single systematic basis could lead to inconsistencies in how material revenue streams are reported.

- SMC 5** In relation to licences issued by not-for-profit public sector licensors that are not intellectual property (IP) licences (ie non-IP licences) that involve sales-based or usage-based commission:
- (a) do you agree with the AASB’s proposal to use the general guidance in AASB 15 paragraphs 56-57 (‘Constraining estimates of variable consideration’) to determine the transaction price for the licensing arrangement, which in turn would determine the timing of revenue recognition? Please provide your reasons.
  - (b) if not, as an alternative, do you believe the general guidance in AASB 15 should be amended to reflect for non-IP licences, the guidance for sales-based or usage-based royalties set out in paragraph B63 of AASB 15 for IP licences? This guidance may make it easier for licensors to determine the transaction price and timing of revenue recognition of non-IP licensing arrangements involving sales-based or usage-based consideration. However, this would mean that the accounting for non-IP licences by not-for-profit public sector entities would be different from that for other entities (which would not be transaction neutral).

**SMC 5 Respondents comments**

- A. Three respondents (S1 – KPMG, S2 – EY, S5 – HoTARAC,) support the use of AASB 15 paragraphs 56-57 to account for licensing arrangement which involve sales-based or usage-based revenue, so that consistency of accounting is maintained across sectors.
- B. Two respondents (S3 – Audit Offices, S4 – SA and TAS Audit Offices) note that practical difficulties would arise for NFP public sector entities applying AASB 15 paragraphs 56-57 to account for licensing arrangement which involve sales-based or usage-based revenue. These respondents support the alternative of applying AASB 15 paragraph B63. Reasons for this include:
- (i) estimating future revenue would be difficult, as it would require consideration of external factors such as economic conditions and tourism (factors that could increase the likelihood or the magnitude of a revenue reversal). Due to this, the respondent does not agree that the fact pattern described in Example 9 of ED 283 would lead to the ability to conclude that a significant reversal would not be highly probable; and
  - (ii) the only performance obligation is assessed as at the point of issuing the licence, which may make it difficult to measure reliably.
- Respondent S4 – SA and TAS Audit Offices also noted that even though transaction neutrality would be the preferred outcome, they do not consider it to be relevant due to the inability of the private sector to participate in the same transactions (that is, non-IP licences do not appear to be issued by non-public sector entities).
- Respondent S3 – Audit Offices suggested that additional guidance would be needed to understand how the licensor accounts for the cost of its obligations under the licence arrangement, if paragraphs 56-57 were to be applied.
- C. One HoTARAC respondent (but not all) was concerned with this proposal as they were of the view that the ‘variable consideration’ received from the licensee was in fact a completely separate transaction (and represents a tax), and should not be accounted for in conjunction with the licence. See SMC 7 for further discussion on this issue.
- D. One respondent (S5 – HoTARAC,) supported transaction neutrality but suggested that licence fees and royalties arising from conducting licensed activities are separate revenue transactions, and do not consider the royalties to be contingent consideration.

**SMC 6 In relation to non-IP licences issued by not-for-profit public sector licensors, do you have examples of distinct licences issued that involve a non-identified asset or assets of the licensor (ie that are not leases)? Please provide the details of your example. If you do have an example, do you think the specific guidance in paragraphs B52-B63B for IP licences may also be useful to help account for the licence in your example? (Paragraphs G14-G15)**

**SMC 6 Respondents comments**

A. One respondent (S5 – HoTARAC) requests the AASB clarify whether the “non-identified assets of the licensor (ie that are not leases)” refer to assets that are “controlled” for accounting purposes (ie on balance sheet) or “controlled” but not on balance sheet (eg navigable waters). The respondent provided the following examples of examples of non-IP licences that involve on and off-balance sheet assets of the licensor that are not considered leases:

- (i) mooring fees - private mooring fees permit individuals to moor vessels on navigable waters. Renewed annually, this licence is not a lease of the seabed and there is no guarantee of tenure. The general position of the site is determined (and may be varied) at the discretion of the government agency.
- (ii) road occupancy licences - required for any activity likely to impact on traffic flow, even if that activity takes place off-road. The government agency directs the use of the area to be occupied.
- (iii) aquatic licences - required for organised activities on, or in, navigable waters. This may also include the exclusive use of an area of navigable water for the conduct of an aquatic activity. The government agency directs the use of the area to be occupied.

The respondent notes that these examples are of low value and considers that the proposed practical expedients may apply. Nonetheless, the respondent believes paragraphs B52-B63B would apply.

- B. One respondent (S4 – SA and TAS Audit Offices) provided outsourced maintenance of data for lands titles (which can include a licence to use that data for commercial purposes) as an example of licences that involve the non-identified assets of a licensor. The respondent requests the AASB clarify whether such arrangement is an IP licence in accordance with AASB 15 (where not a service concession arrangement).
- C. One respondent (S2 – EY) is aware of certain licences issued which allow access to data registries that could contain unidentified assets such as customer relationships, trademarks and brand names
- D. Three respondents (S2 – EY S3 – Audit Offices, S5 – HoTARAC) disagree with the concept in paragraph G15 that a commercial fishing licence is not distinct from other goods and services. In the respondents’ view, the licensor’s obligation is to grant the licensee the right to perform a commercial activity. It does not promise the licensee to transfer the fish, as the fish is not a commodity for sale and the fee is not refundable if no fish are caught. Staff note that this issue was also raised in informal meetings held with some constituents (ABS and DTF NSW).
- E. Some respondents (S5 – HoTARAC, S2 – EY, NSW Treasury, ACAG FRAC), via both formal and informal communications with Staff, indicated that they were unaware of what a ‘take-or-pay’ arrangement was (including the accounting treatment). These respondents requested the Board to clarify this, with one respondent requesting the Board to clarify whether these are in the nature of a tax and should be accounted for under AASB 1058.

**SMC 7 Do you agree that the features outlined in paragraph G3 to determine a tax from a licence provide sufficient guidance in making this distinction? If not, what other factors may be useful to make the distinction?**

**SMC 7 - Category 1: Respondents who disagreed with AASB's tax versus licence outcomes**

Three respondents (S4 – SA and TAS Audit Offices, S5 – HoTARAC and S7 – ABS) recommend aligning the tax versus licence guidance in G3 more closely with GFS to allow for the harmonisation of the two frameworks. Specifically:

- A. Respondent S7 – ABS raised concern that the guidance to determine a tax from a licence is inconsistent with the distinction under Australian GFS (AGFS). Under AGFS, a licence may be classified as either taxation revenue or an administration fee, dependent on whether the payment for the licence is clearly out of proportion to the cost of providing the service.

For example, based on the information provided in example 8 of ED 283, the ABS would classify the casino licence as a tax because it is a compulsory fee to legally run a casino, and the fee (\$100 million) is out of all proportion to the costs of administration (\$100,000)

The ABS pointed out that the distinction between tax and other types of revenue (including revenue for licences) is important in macroeconomic statistics because it impacts on how the transactions are recorded in the National Accounts. Revenue from taxes are recorded in the income account of government. Revenue from the provision of services by government is included as an offset to outlays in the calculation of government final consumption expenditure, which contributes to Gross Domestic Product measured on an expenditure basis.

- B. Respondents S4 – SA and TAS Audit Offices and S5 – HoTARAC raised concerns with the proposal to allocate the transaction wholly to the promise to grant licence where the arrangement has a dual purpose of granting a licence and imposing a tax. The respondents are especially concerned with the practical consequences when having to account for the variable consideration, noting that it is possible for an arrangement to demonstrate both elements of licensing and taxation.

In the case of DTF SA, their casino licensing arrangement consists of two separate arrangements, a licence (via an Approved Licensing Agreement) and a tax (via a Casino duty Agreement). The terms of each agreement are not co-dependent, and whilst linked, are economically separate agreements. They noted in discussions with AASB staff that the licence in this case, which covers exclusivity is considered as one performance obligation and recognised up front when the consideration for the licence is received and the licence is issued. Whereas the consideration received with respect to the casino duty is treated as a tax and recognised over time.

**SMC 7 - Category 2: Respondents who provided feedback on the AASB's tax versus licence features in paragraph G3 of ED 283**

**AASB Feature (a) – Is the arrangement discretionary rather than compulsory?**

Three respondent (S3 – Audit Offices, S4 – SA and TAS Audit Offices, S2 – EY) requested further clarification of the terms 'compulsory' and 'discretionary', as, for example, some might consider a driver's licence is compulsory (on the basis that a licence is required for you to drive legally), whilst others may consider a driver's licence is discretionary (as no person is compelled to drive). One respondent (S4 – SA and TAS Audit Offices) noted that they reached the same conclusions without considering G3 (a), so suggests that it could be removed altogether.

**AASB Feature (b) – What is the primary purpose?**

One respondent (S2 – EY) questions whether this feature is helpful. The respondent considers that ultimately both taxes and licences are established to provide income to the government (although notes this is discussed at BC20).

**AASB Feature (c) – Does the arrangement create direct rights to use or access an asset for a payer, or perform an activity, and, depending on the type of arrangement direct obligations of a payee?**

One respondent (S2 – EY) consider this feature to be helpful in most occasions in making the distinction. However, not all licences may have “direct obligations of a payee”.

**AASB Feature (d) – Does the arrangement give the payer specific permission that must be obtained prior to performing an activity or using or accessing an asset of the payee that would otherwise be unlawful?**

One respondent (S2 – EY) considers this to be the most relevant feature, but suggests referring to ‘a resource’ rather than ‘an asset’, so that unidentified resources are appropriately recognised.

**AASB Feature (e) – Does the arrangement transfer control of a payee’s underlying asset?**

One respondent (S2 – EY) notes that the relevance of this factor is not clear.

**Other feedback on the AASB’s tax versus licence feature**

One respondent (S2 – EY) suggests the Board also revise its definition of a tax in AASB 1058 *Income of Not-for-Profit Entities* to help distinguish between a tax and a licence.

One respondent (S4 – SA and TAS Audit Offices) suggests that consistent terminology be used for the terms ‘payer’ and ‘payee’ throughout this section and the remainder of ED 283.

**SMC 8 Are you aware of any for-profit public sector licensors issuing non-IP licences? If so, please provide details of these licenses and their accounting treatment, and comment on whether the scope of this Exposure Draft should be extended to for-profit public sector licensors?**

**SMC 8 Respondents comments**

Three respondents (S1 – KPMG, S3 – Audit Offices, S4 – SA and TAS Audit Offices) supported the AASB expanding the scope of the guidance to for-profit public sector entities, to enhance the application and comparability within and across government sectors. The following examples of non-IP licences issued by for-profit public sector entities were given:

- forest permits issued by state forestry corporations for research, hunting, filming, firewood collection, grazing and apiary;
- water access licences issued by state water corporations – to extract water from rivers or aquifers for irrigation, industrial or commercial purposes; and
- licences required to perform work on or near electrical distribution networks, issued by electricity generators to undertake contestable work.

**GMC 9 Whether The AASB’s Not-for-Profit Entity Standard Setting Framework [draft] has been applied appropriately in developing the proposals in this Exposure Draft?**

**GMC 9 Respondents comments**

The majority of respondents (S1 – KPMG, S3 – Audit Offices, S4 – SA and TAS Audit Offices, S5 – HoTARAC) agreed that the framework had been appropriately applied.

One respondent (S2 – EY) considered it inappropriate to comment on whether *The AASB’s Not-for-Profit Entity Standard-Setting Framework* has been applied appropriately because the framework is not yet finalised.



**GMC 10 Whether there are any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals, including Government Financial Statistics (GFS) implications?**

**GMC 10 Respondents comments**

Respondents did not raise any issues in relation to this question. Some respondents did raise the interaction with GFS in classifying a licence as a tax, as discussed in SMC 7.

**GMC 11 Whether, overall, the proposals would result in financial statements that would be useful to users?**

**GMC 11 Respondents comments**

Three respondents (S1 – KPMG, S3 – Audit Offices, S5 – HoTARAC) agree that the proposals would result in financial statements that would be useful to users, primarily as implementation guidance will create consistent accounting across jurisdictions. These comments were made subject to other issues raised previously, in particular on issues relating to whether exclusivity is a performance obligation.

One respondent (S4 – SA and TAS Audit Offices) is concerned that the proposals in the ED will lead to different interpretations and accordingly differing treatment of public sector non-IP licences and associated income, primarily due to the complexity and difficulty estimating variable consideration up front, as discussed in the responses to SMC 6.

One respondent (S6 – AHPRA) notes that the proposals would potentially mean that all its revenue is recognised upfront, compared to some being over time at present. The respondent noted that some of its licences require renewal by all licensees on a single date, which would mean that a ‘spike’ would occur in disclosures on monthly reporting.

The respondent noted that this change to recognition of revenue will need to be clearly communicated to all stakeholders to explain changes to the annual financial statements, to ensure they are still useful to users.

**GMC 12 Whether the proposals are in the best interests of the Australian economy?**

**GMC 12 Respondents comments**

No specific comments were given in this regard, with two respondents (S3 – Audit Offices, S4 – SA and TAS Audit Offices) noting that they are not in a position to comment.

**GMC 13 Unless already provided in response to specific matters for comment above, the costs and benefits of the proposals relative to the current requirements, whether quantitative (financial or non-financial) or qualitative? In relation to quantitative financial costs, the AASB is particularly seeking to know the nature(s) and estimated amount(s) of any expected incremental costs, or cost savings, of the proposals relative to the existing requirements.**

**GMC 13 Respondents comments**

No specific comments were provided by respondents.

## Other comments

<b>Other Comment – AASB 1059 interactions</b>
<p>One respondent (S2 – EY) suggests the AASB exclude all licences that fall within the scope of AASB 1059 <i>Service Concession Arrangements</i> from the scope of AASB 15, to avoid any confusion about which Standard takes precedence for arrangements which could fall within the scope of both Standards.</p> <p>The respondent also notes that the accounting outcome would be significantly different for arrangements which may be very similar to a service concession arrangement, but fall outside the scope of AASB 1059 and is instead accounting for as a licence under AASB 15. For example, under AASB 1059, where the operator constructs an asset for the grantor and receives the right to charge users (licence to charge users) then the grant of a right to the operator model applies and revenue will be deferred (ie a non-financial liability is recognised which is amortised over the term of the arrangement). On the other hand, where the SCA falls out of scope of AASB 1059, but is considered to fall into scope of AASB 15, it may be considered that the promise to transfer to the right to charge users (ie the non IP licence) is satisfied once the asset is constructed and all revenue would be required to be recognised at that time.</p>
<b>Other Comment – Scoping of licences</b>
<p>One respondent (S2 – EY) commented that the proposed wordings of paragraph Aus5.2 would require all licence arrangements of NFP entities to be within the scope of AASB 15 (ie as if all licence arrangements are contracts with customers) even if in substance some of them are not, for eg because they are taxes. The respondent's view is that the proposals should apply to licence arrangements only where they are indeed contracts with customers (with contracts defined to include those that arise from statutory or legislative requirements).</p>
<b>Other comment – Examples of IP licences</b>
<p>One respondent (S3 – Audit Offices) requests further guidance of the types of intellectual property that might exist in the public sector, noting that examples of IP licences provided in AASB 15 paragraph B52 are private sector in nature and not generally applicable to the public sector.</p> <p>One respondent (S4 – SA and TAS Audit Offices) provided outsourced maintenance of data for lands titles (which can include a licence to use that data for commercial purposes) as an example of licences that involve the non-identified assets of a licensor. The respondent requests the AASB clarify whether such arrangement is an IP licence in accordance with AASB 15 (where not a service concession arrangement).</p> <p>One respondent (S2 – EY) is aware of certain licences issued which allow access to data registries that could contain unidentified assets such as customer relationships, trademarks and brand names</p>
<b>Other comment – Additional guidance on terms used</b>
<p>One respondent (S3 – Audit Offices) requests additional guidance to clarify the differences between 'rights over the licensor's identified assets', 'right to perform an activity', 'right to use' and 'right to access', as highlighted in ED 283.</p>
<b>Other comment – Refundability</b>
<p>One respondent (S3 – Audit offices [additional comments]) noted it is not clear whether the AASB supports upfront revenue recognition (given the effective policy choice for short-term and low-value exemptions) when the licence is refundable. An example of refundability is for car registration when the registration is cancelled, such as when the car is written off after an accident.</p>

## Other Comment – editorials

One respondent (S2 – EY) noted the following editorial matters:

- paragraph G1, in the first box, should refer to ‘is the transaction a licence or a tax’ rather than ‘is it a non-IP licence’;
- paragraph G15 should refer to ‘non-IP licence’ rather than just ‘licence’;
- paragraph G6 should add ‘where grant of licence is a lease, account for in accordance with AASB 16’;
- paragraph G13(c) should be split into (i) distinct and (ii) not distinct;
- paragraph G14 should give examples of when a licence would be issued as part of a bundle of goods or services;
- paragraph IE6 – the first sentence should say “satisfies its performance obligations related to the licence” rather than referring to the “transferring of the licence”
- paragraph IE7 – the respondent requests the AASB:
  - provides an example of a licence with revenue recognised over time;
  - clarifies if the arrangement is a licence or a tax; and
  - whether it can transfer goods and services to other beneficiaries and still be a performance obligation.
- paragraph IE8 – is the licence a licence or a tax?