

Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Public Sector Licensors

Comments to the AASB by 31 March 2018



Australian Government

**Australian Accounting
Standards Board**

Commenting on this AASB Exposure Draft

Comments on this Exposure Draft are requested by 31 March 2018.

Formal Submissions

Submissions should be lodged online via the “Work in Progress – Open for Comment” page of the AASB website (www.aasb.gov.au/comment) as a PDF document and, if possible, a Word document (for internal use only).

Other Feedback

Other feedback is welcomed and may be provided via the following methods:

E-mail: standard@aaasb.gov.au

Phone: (03) 9617 7600

All submissions on possible, proposed or existing financial reporting requirements, or on the standard-setting process, will be placed on the public record unless the Chair of the AASB agrees to submissions being treated as confidential. The latter will occur only if the public interest warrants such treatment.

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Introduction

Australian Accounting Standards

The Australian Accounting Standards Board (AASB) develops, issues and maintains Australian Accounting Standards.

The AASB is a Commonwealth entity under the *Australian Securities and Investments Commission Act 2001*. AASB 1053 *Application of Tiers of Australian Accounting Standards* explains the two tiers of Australian Accounting Standards.

Exposure Drafts

The publication of an Exposure Draft is part of the due process that the AASB follows before making a new Australian Accounting Standard or amending an existing one. Exposure Drafts are designed to seek public comment on the AASB's proposals for new Australian Accounting Standards or amendments to existing Standards.

Why we are making these proposals

During the AASB's agenda consultation process it was flagged that AASB 15 *Revenue from Contracts with Customers* might not have sufficient guidance for not-for-profit public sector licensors. AASB 15 provides guidance for licences of intellectual property (IP) however, unlike for-profit entities, licences issued by not-for-profit public sector entities extend beyond IP licences.

The Board consequently identified divergence in practice in the accounting for the revenue from licences issued by not-for-profit public sector licensors, leading to some revenue being deferred when it should be recognised immediately or recognised immediately when it should be recognised over time.

The Board considered including guidance in its *Income of Not-for-Profit Entities and Service Concession Arrangements: Grantors* projects, however given constituent feedback indicating this was a significant issue, decided to undertake a separate project to issue the most appropriate guidance, ensuring accurate and consistent revenue recognition for users of financial statements.

What we are proposing

This Exposure Draft proposes amendments to AASB 15 to add requirements and authoritative implementation guidance for application by not-for-profit public sector licensors to transactions involving the issue of licences.

The proposed amendments to AASB 15 with respect to accounting for revenue from licences issued by not-for-profit public sector licensors include:

- (a) expanding the scope of AASB 15 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 a 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.

Application date

It is proposed that the amendments be applicable to annual reporting periods beginning on or after 1 January 2019, with early adoption permitted.

What happens next

The AASB will consider feedback on this Exposure Draft at future meetings and based on the information received will determine whether the proposals should form the basis of the Amending Standard, with or without amendment. Depending on the nature and extent of the feedback the AASB may publish a Fatal Flaw Draft to enable further consultation with stakeholders.

We need your feedback

Comments are invited on any of the proposals in this Exposure Draft by 31 March 2018. Submissions play an important role in the decisions that the AASB will make in regard to a Standard. The AASB would prefer that respondents express a clear overall opinion on whether the proposals, as a whole, are supported and that this opinion be supplemented by detailed comments, whether supportive or otherwise, on the major issues. The AASB regards supportive and non-supportive comments as essential to a balanced review of the issues and will consider all submissions, whether they address some or all specific matters, additional issues or only one issue (whether an issue specifically identified below or another issue).

Specific matters for comment

The AASB would particularly value comments on the following:

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

General matters for comment

The AASB would also particularly value comments on the following general matters:

- 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?
- 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?
- 11 Whether, overall, the proposals would result in financial statements that would be useful to users?
- 12 Whether the proposals are in the best interests of the Australian economy?
- 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.

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PREFACE

**[DRAFT] ACCOUNTING STANDARD
AASB 2018-X AMENDMENTS TO AUSTRALIAN ACCOUNTING STANDARDS – AUSTRALIAN
IMPLEMENTATION GUIDANCE FOR NOT-FOR-PROFIT PUBLIC SECTOR LICENSORS**

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[DRAFT] BASIS FOR CONCLUSIONS

[Draft] Australian Accounting Standard AASB 2018-X Amendments to Australian Accounting Standards - Australian Implementation Guidance for Not-for-Profit Public Sector Licensors is set out in paragraphs 1 – 8. All the paragraphs have equal authority.

Preface

Standards amended by 2018-X

This [draft] Standard makes amendments to AASB 15 *Revenue from Contracts with Customers* (December 2014) and AASB 16 *Leases* (February 2016).

Main features of AASB 15

Main requirements

This [draft] Standard amends AASB 15 *Revenue from Contracts with Customers* (December 2014) to add requirements and authoritative implementation guidance for application by not-for-profit public sector licensors to transactions involving the issue of licences.

The amendments to AASB 15 with respect to accounting for revenue from licences issued by not-for-profit public sector licensors include:

- (a) expanding the scope of AASB 15 to include non-contractual licences;
- (b) distinguishing a licence from a tax;
- (c) providing guidance to clarify the types of licences issued by not-for-profit public sector licensors;
- (d) clarifying the application of the principles in AASB 15 to licences that are not within the scope of other Australian Accounting Standards; and
- (e) providing recognition exemptions for short-term licences and licences issued for a low-value transaction price.

Application date

This [draft] Standard applies to annual reporting periods beginning on or after ... [1 January 2019], with early adoption permitted.

[Draft] Accounting Standard AASB 2018-X

The Australian Accounting Standards Board makes Accounting Standard AASB 2018-X *Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Public Sector Licensors* under section 334 of the Corporations Act 2001.

Kris Peach
Chair – AASB

Dated ... [date]

[Draft] Accounting Standard AASB 2018-X Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Public Sector Licensors

Objective

- 1 This Standard amends:
- (a) AASB 15 *Revenue from Contracts with Customers* (December 2014); and
 - (b) AASB 16 *Leases* (February 2016);
- to add requirements and authoritative implementation guidance for application by not-for-profit public sector licensors.

Application

- 2 The amendments set out in this Standard apply to entities and financial statements in accordance with the application of AASB 15 and AASB 16 as set out in AASB 1057 *Application of Australian Accounting Standards* (as amended).
- 3 This Standard applies to annual periods beginning on or after ... [1 January 2019]. This Standard may be applied to annual periods beginning before ... [1 January 2019], provided that AASB 15 is also applied to the same period. When an entity applies this Standard to such an annual period, it shall disclose that fact.

Amendments to AASB 15

- 4 Paragraphs Aus5.2, Aus8.1-Aus8.5, and a heading before paragraph Aus8.1, are added:
- Aus5.2 Notwithstanding paragraph 5, in respect of not-for-profit public sector licensors, this Standard also applies to all licences issued, other than licences subject to AASB 16 *Leases*, as if the licences are contracts with customers. Licences issued would include those arising from statute or legislative requirements. Guidance on distinguishing between a licence and a tax is set out in paragraphs G3-G6. Licences subject to AASB 16 are those where the arrangement is a lease, or contains a lease, in accordance with AASB 16, excluding licences of intellectual property.

Recognition exemptions (paragraphs G19-G23)

- 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
 - (b) licences for which the transaction price is of low value.
- Aus8.2 If a not-for-profit public sector licensor elects not to apply the requirements in paragraphs 9-90 to either short-term licences or licences for which the transaction price is of low value, the licensor shall recognise the revenue associated with those licences either upfront or on a straight-line basis over the licence period or another systematic basis.
- Aus8.3 A not-for-profit public sector licensor cannot elect to apply Aus8.1-Aus8.2 to licensing arrangements containing variable consideration.

- Aus8.4 If a not-for-profit public sector licensor accounts for short-term licences applying paragraph Aus8.1, the licensor shall consider the licence to be a new licence for the purposes of AASB 15 if there is:
- (a) a modification to the scope of, or the consideration for, a licence; or
 - (b) any change in the term of the licence.
- Aus8.5 The election for short-term licences shall be made by class of licence. A class of licences is a grouping of licences of a similar nature and terms. The election for licences for which the transaction price is of low value can be made on a licence-by-licence basis.
- 5 Appendix G *Australian implementation guidance for not-for-profit public sector licensors* is added as set out on pages 10-13.
- 6 *Australian illustrative examples for not-for-profit public sector licensors* is attached to accompany AASB 15 as set out on pages 14-17.

Amendments to AASB 16

- 7 Paragraph Aus3.1 is added:
- Aus3.1 Notwithstanding paragraph 3, in respect of not-for-profit public sector licensors, this Standard also applies to licences that are in substance leases or contain leases, excluding licences of intellectual property. AASB 15 applies to licences of intellectual property and non-intellectual property licences that are not leases or contain leases.

Commencement of the legislative instrument

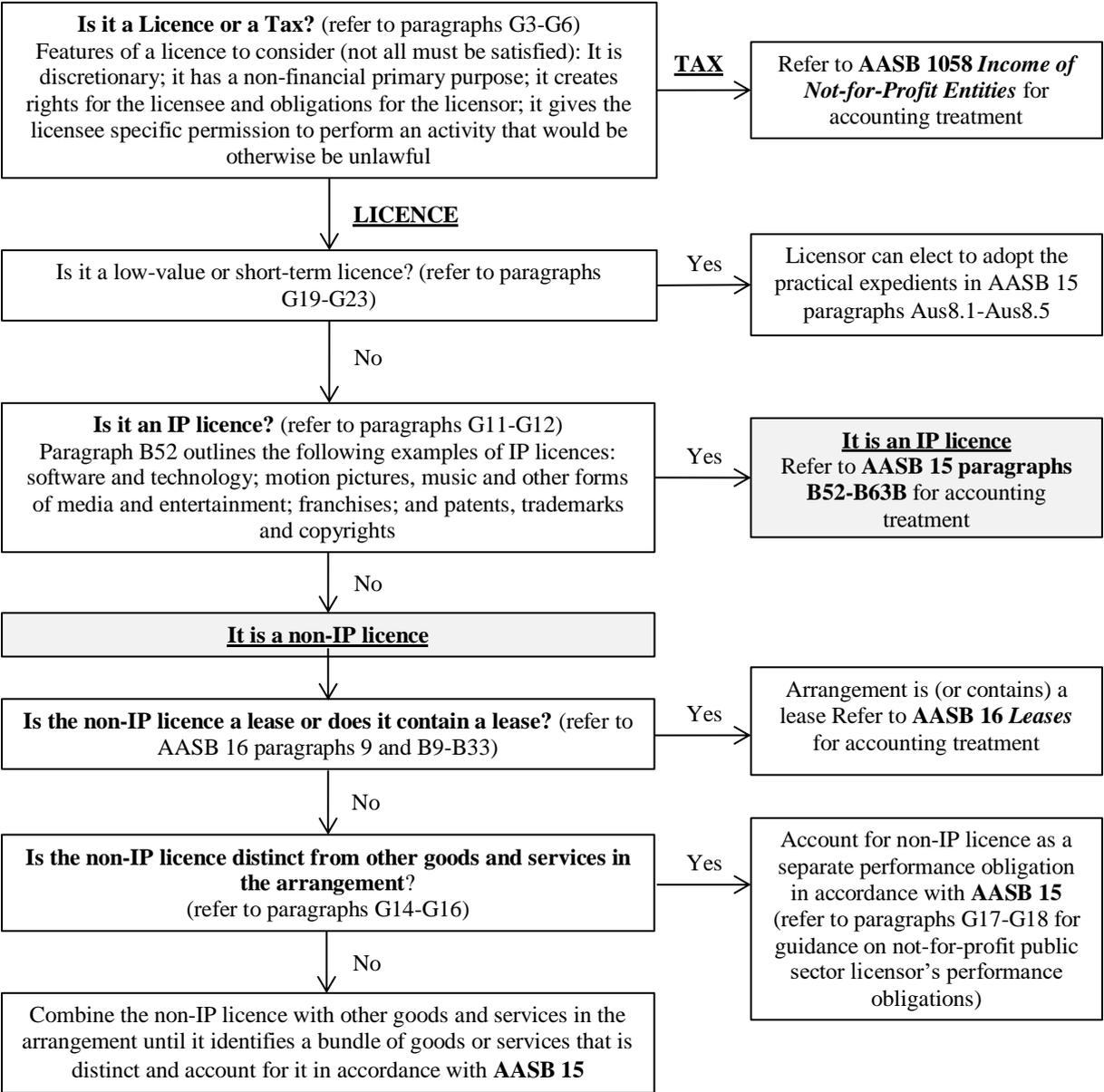
- 8 For legal purposes, this legislative instrument commences on ... [31 December 2018].

Appendix G [FOR AASB 15] Australian implementation guidance for not-for-profit public sector licensors

This appendix is an integral part of AASB 15 and has the same authority as other parts of the Standard. The appendix applies only to not-for-profit public sector licensors.

Overview – Accounting framework for licences issued by not-for-profit public sector licensors

G1 The diagram below summarises the accounting requirements under AASB 15 that not-for-profit public sector licensors shall consider when determining how to account for revenue from licences. The diagram should be read in conjunction with the guidance set out in paragraphs G2-G22, and as referenced in the diagram.



Introduction

G2 AASB 15 *Revenue from Contracts with Customers* incorporates International Financial Reporting Standard IFRS 15 *Revenue from Contracts with Customers*, issued by the International Accounting Standards Board. Consequently, the text of AASB 15 is generally expressed from the perspective of for-profit entities in the private sector. AASB 15 provides explicit Application Guidance for intellectual property (IP) licences. It does not provide guidance for non-IP licences. The AASB has prepared this appendix to explain and illustrate the principles in the Standard from the perspective of not-for-profit public sector licensors, particularly with respect to non-IP licences. The appendix does not apply to for-profit entities or not-for-profit private sector entities, or affect their application of AASB 15.

Distinguishing a licence from a tax

G3 In determining whether a transaction is a licence subject to this Standard, as distinct from a tax subject to AASB 1058 *Income of Not-for-Profit Entities*¹, the following features are relevant. These features are not an exhaustive list and not all features need to be present for an arrangement to be a licence:

| Feature | Licence | Tax |
|---|--|---|
| (a) Is the arrangement discretionary rather than compulsory? | Discretionary | Compulsory |
| (b) What is the primary purpose? | Non-financial purpose (eg equitable allocation of a public resource) | Generating income for the public sector entity |
| (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? | Creates direct rights for a licensee, and could create direct obligations for a licensor | No specific rights for a payer or obligations for a payee |
| (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? | Yes | No |
| (e) Does the arrangement transfer control of a payee's underlying asset? | No | Not relevant |

G4 A not-for-profit public sector entity may enter into an arrangement with a dual purpose of granting a licence and imposing a tax. Consistent with paragraph F28 of AASB 15, the rebuttable presumption is for the not-for-profit public sector entity to allocate the transaction price wholly to the promise to grant a licence.

G5 The presumption is rebutted where the transaction price is partially refundable in the event the entity does not grant the licence.

G6 Where the presumption is rebutted, the entity shall disaggregate the transaction price and account for the component that relates to the grant of the licence (which is generally the refundable component of the transaction price) in accordance with AASB 15. The remainder of the transaction price shall be accounted for in accordance with AASB 1058. Whether the element not related to the grant of the licence is material, and therefore needs to be accounted for separately, shall be assessed in relation to the individual arrangement, without reassessment at an aggregate or portfolio level.

Non-contractual licences arising from statutory requirements

G7 The scope of AASB 15 is underpinned by the definition of a contract in Appendix A, which is an agreement between two or more parties that creates enforceable rights and obligations. A not-for-profit public sector entity should consider paragraphs F5-F19 of AASB 15 when determining whether a contract with a customer exists when issuing licences, with regard to the discussion set out in paragraphs G8-G9.

¹ AASB 1058 defines taxes as “Economic benefits compulsorily paid or payable to public sector entities in accordance with laws and/or regulations established to provide income to the government. Taxes exclude fines.”

- G8 Enforceable rights and obligations between parties may arise from statutory requirements even though no contractual relationship is entered into. For example, a not-for-profit public sector entity may enter into an agreement with an individual or another entity without satisfying the formative elements required to establish a contract (such as the reciprocal intention to create legal relations). Similarly, where an involuntary payment is made to obtain a licence, the arrangement may not be considered a contract under Australian law, despite being economically similar to a contractual relationship.
- G9 Determining whether a licence issued by a not-for-profit public sector entity is created by contract or by statute alone may require significant analysis as to whether there is sufficient ‘voluntariness’ and ‘reciprocity’ to evidence an intention to create a contract, particularly where a voluntary decision to undertake an activity results in the application of an involuntary fee. However, the requirements of AASB 15 focus on whether enforceable rights and obligations are present, and as noted in paragraph F13, the enforceability of agreements does not depend on their form. Accordingly, a licence issued by not-for-profit public sector licensors, with enforceable rights and obligations, would be within the scope of AASB 15 (subject to the other requirements of the Standard) regardless of whether it is considered under Australian law to have been created by contract or by statute.

Types of licences issued by not-for-profit public sector licensors

- G10 Paragraphs B52-B63B describe the application of AASB 15 to licences of intellectual property (IP). Licences issued by not-for-profit public sector licensors extend beyond IP licences to include licensing arrangements in which the licence does not relate to IP (ie non-IP licences).

IP licences

- G11 Not-for-profit public sector licensors shall apply the application guidance in paragraphs B52-B63B to account for the revenue from licences of IP.
- G12 AASB 15 does not define IP, and consequently significant judgement is required in determining whether a licence is a licence of IP or not. Paragraph B52 outlines that IP may include, but is not limited to, any of the following:
- (a) software and technology;
 - (b) motion pictures, music and other forms of media and entertainment;
 - (c) franchises; and
 - (d) patents, trademarks and copyrights.

Non-IP licences

- G13 Where a not-for-profit public sector licensor determines that a licence is not an IP licence (ie a non-IP licence), the licensor should consider whether the non-IP licence is for:
- (a) rights over the licensor’s identified asset(s), in which case the arrangement might be a lease (or contain a lease), and fall within the scope of AASB 16;
 - (b) rights over the licensor’s non-identified asset(s), in which case the licence may:
 - (i) not be distinct from other promised goods or services in the arrangement, and will therefore be accounted for as part of the goods or services it relates to (see paragraphs G14-G15); or
 - (ii) be distinct from other promised goods or services, and will therefore be accounted for as a separate performance obligation under AASB 15; or
 - (c) the right to perform an activity, which would not involve an asset or assets of the not-for-profit public sector licensor, and if distinct from other goods or services, shall be accounted for as a separate performance obligation under AASB 15.

Licences distinct from other goods and services

- G14 If the promise by a not-for-profit public sector licensor to issue a non-IP licence is not distinct from other promised goods or services in the arrangement, in accordance with paragraphs 26-30, the licensor shall account for the promise to issue that licence and the linked goods or services together as a single performance obligation.

- G15 When determining whether the licence is distinct from other goods or services (in accordance with paragraphs 26-30 of AASB 15), a not-for-profit public sector licensor should consider the benefits or desired outputs for which the licence was issued. For example, in the case of a commercial fishing licence, the purpose of obtaining the licence is to obtain goods (ie the fish), and the licence is not separately identifiable from the fish, given:
- (a) the licensor is using the licence as an input to deliver the fish, which is the output to the licensee; and
 - (b) the licence and the promise to deliver the fish are highly interrelated – the licensor would not be able to fulfil its promise of transferring the fish, without undermining its policies and customary business practices, independently of issuing the licence (ie the fish can only be obtained when a fishing licence has been granted).
- In these circumstances, the licence is not separately identifiable from other promises in the arrangement, in accordance with paragraphs 29(a) and (c) of AASB 15.
- G16 Not-for-profit public sector licensors may also find that despite an arrangement appearing as or being called a licence, it is in fact a ‘take or pay’ arrangement, and should be accounted for as such. An example of this would be where a not-for-profit public sector licensor issues an ‘abalone licence’ which requires the licensee to pay for a specified quota of abalone, regardless of whether or not the licensee subsequently manages to take the specified quota of abalone under the licensing arrangement.

Identifying performance obligations

- G17 Where a not-for-profit public sector licensor issues a non-IP licence that transfers to the licensee either rights over the licensor’s non-identified assets or a right to the licensee to perform an activity (that does not involve an asset or assets of the licensor, for example the right to operate a casino), the transfer of the non-IP licence is assessed to determine if there is a single or multiple performance obligations in the arrangement.
- G18 Actions performed by the licensor such as protecting the exclusivity of an arrangement, periodically monitoring whether the terms of the arrangement are being met and upholding the integrity of the licence do not transfer a distinct good or service to the licensee. These actions are considered features of the licensing arrangement and shall not be considered as separate performance obligations that the not-for-profit public sector licensor must undertake to fulfil such arrangements. Examples of actions that are considered features of an arrangement rather than separate performance obligations undertaken by the licensor include, but are not limited to, the licensor:
- (a) monitoring and ensuring that non-licensed parties are not performing the licensed activities; and
 - (b) checking that licensees remain eligible for the licence.

Recognition exemption: low-value licences (paragraphs Aus8.1-Aus8.3)

- G19 This Standard permits a not-for-profit public sector licensor to apply paragraph Aus8.2 in accounting for low-value licences. A licensor shall assess the transaction price of a licence on an absolute basis when the licence is issued.
- G20 Notwithstanding paragraph G19, paragraphs Aus8.1-Aus8.2 shall not apply to licensing arrangements that include variable consideration.
- G21 Low-value licences qualify for the accounting treatment in paragraph Aus8.2 regardless of whether those licences are material to the licensor. The assessment is not affected by the size, nature or circumstances of the licensor. Accordingly, different licensors are expected to reach the same conclusions about whether a particular licence has a low-value transaction price.
- G22 A licence does not qualify as a low-value licence if the nature of the licence is such that, the licence is not typically of low value. For example, casino licences would not qualify as low-value licences because casino licences would typically not be of low value.
- G23 Examples of low-value licences include driver licences, marriage licences and working with children permits.

Australian illustrative examples for not-for-profit public sector licensors

These illustrative examples accompany, but are not part of, AASB 15. They illustrate aspects of the Australian guidance for not-for-profit public sector licensors in AASB 15, but are not intended to provide interpretative guidance.

These examples illustrating aspects of the Australian guidance for not-for-profit public sector licensors in AASB 15 complement, and have the same status, as the Illustrative Examples accompanying IFRS 15 Revenue from Contracts with Customers, which are available on the AASB website to website users in Australia.

These examples are additional to the illustrative examples accompanying AASB 15 that were added as part of AASB 2016-8 Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities. Therefore the numbering of these paragraphs starts at IE5 and the numbering of the examples starts at Example 8.

IE5 The following examples portray hypothetical situations. They are intended to illustrate how a not-for-profit public sector entity that is a licensor might apply some of the requirements of AASB 15 *Revenue from Contracts with Customers* to particular types of licences, on the basis of the limited facts presented. Although some aspects of the examples might be present in actual fact patterns, all relevant facts and circumstances of a particular fact pattern would need to be evaluated when applying AASB 15. The evaluations in each example are not intended to represent the only manner in which AASB 15 could be applied.

Satisfaction of performance obligations (paragraphs 31-38)

IE6 Examples 8 and 9 illustrate a not-for-profit public sector licensor recognising revenue when (or as) the licensor satisfies the performance obligation of transferring the promised licence to the licensee. A licence is transferred when (or as) the licensee obtains control of that licence. To determine when a licensee obtains control of the promised rights associated with the licence and the licensor satisfies its performance obligation, the licensor shall consider the requirements for control in AASB 15 paragraphs 31-34 regarding control by the licensee (the customer).

IE7 The not-for-profit public sector licensor shall determine at the inception of each licensing arrangement whether it satisfies its performance obligation from issuing the licence over time (in accordance with AASB 15 paragraphs 35-37) or at a point in time (in accordance with AASB 15 paragraph 38).

Example 8 – Casino licence with exclusivity rights

Public Sector Authority A (Licensor) granted Casino Operator B (Licensee) a licence to operate a casino in geographical location C for \$100 million.

The terms of the contract are:

- a period of ten years;
- payment for the arrangement is not refundable and is due when the licence is issued;
- the arrangement contains an exclusivity clause, whereby no other casinos may operate within geographical location C during the licence period. Licensor is responsible for protecting the exclusivity of the arrangement and will be responsible for the payment of damages to Licensee if exclusivity is breached; and
- as part of the arrangement, Licensor is responsible for performing a number of regulatory oversight and monitoring activities to ensure Licensee and operation of the casino remain free from criminal influence or exploitation, and gaming in the casino is conducted honestly.
- The cost for granting the casino licence (including surveying the proposed gaming premises) is expected to be \$100,000.

Applying the accounting framework for licences issued by not-for-profit public sector licensors

Is the arrangement a licence or a tax?

Licensor concludes its arrangement with Licensee is not a tax, and does not contain a separable tax element on the basis that it is a discretionary arrangement entered into by each of the parties, that contains a promise to issue a casino licence, and creates enforceable rights and obligations to the parties of the arrangement, as set out in paragraph G3. Although the arrangement has a low cost in relation to the consideration received, which might be indicative of a tax element, Licensor would not need to separately identify any tax element as the transaction price is fully non-refundable (ie the presumption in paragraph G4 of AASB 15 is not rebutted).

Is it a low-value or short-term licence?

Given that the transaction price of the licence is \$100 million and the term of the licence is 10 years, Licensor concludes that its arrangement with Licensee is not a low-value or short-term licence.

Is it an intellectual property (IP) licence?

Licensor concludes its arrangement with Licensee is not an IP licence as the arrangement does not involve rights over intellectual property of the licensor as set out in paragraph G12.

Is the non-IP licence a lease or does it contain a lease?

Licensor concludes its arrangement with Licensee gives Licensee a right to perform an activity (ie operate a casino) rather than conveying a right over an identified asset of the Licensor. Therefore the arrangement is not a lease and does not contain a lease.

Is the non-IP licence distinct from other goods and services in the arrangement?

Licensor determines that the promise to grant the casino licence is distinct in accordance with paragraph 27 of AASB 15 and represents the only performance obligation (ie it does not involve the transfer of other goods or services in addition to the transfer of the licence).

Accounting treatment

- the transaction price of \$100 million is wholly allocated to the single performance obligation of granting the licence.
- in accordance with AASB 15 paragraph 31, Licensor recognises revenue of \$100 million when it satisfies the performance obligation of providing Licensee with the licence to operate a casino.
- the performance obligation to grant the casino licence is satisfied at a point in time. It is not satisfied over time, in accordance with AASB 15 paragraph 35, as:
 - (a) Licensee does not simultaneously receive and consume the benefits provided by Licensor's performance as Licensor performs (ie the benefits are available as soon as the licence is issued);
 - (b) Licensor's performance does not create or enhance an asset that Licensee controls as the asset is created or enhanced (ie the licence does not involve an asset); and
 - (c) Licensor's performance does not create an asset with an alternative use to Licensor (ie the licence does not involve an asset).
- the exclusivity clause which ensures only Licensee can operate a casino in geographical location C is an attribute of the promised licence rather than a performance obligation, in accordance with AASB 15 paragraph B62.
- monitoring and oversight activities performed by Licensor over the licence period are performed to protect the public and not to benefit Licensee. Therefore these activities are not activities that transfer goods or services to Licensee.
- in accordance with AASB 15, paragraph 38, Licensor concludes its single performance obligation of providing the casino licence to Licensee is satisfied when the licence is issued – at inception of the

contract – as Licensee has the ability to direct the use of, and obtain substantially all of the benefits and rights, from the promised licence.

The following journal entry illustrates how Licensor accounts for this arrangement in accordance with AASB 15:

| | Debit | Credit |
|--|---------------|---------------|
| <i>Initial recognition (when licence issued /cash received)</i> | | |
| Cash | \$100 million | |
| Revenue | | \$100 million |

Variable consideration (paragraphs 50-59)

IE8 In accordance with AASB 15 paragraph 46, when (or as) a performance obligation is satisfied, a not-for-profit public sector licensor recognises as revenue the amount of the transaction price (which excludes estimates of variable consideration that are constrained in accordance with AASB 15 paragraphs 56–58) that is allocated to that performance obligation.

Example 9 – Casino licence with sales-based commission

In this example, the facts of Example 8 apply, except that:

- In addition to the upfront payment of \$100 million for the casino licence, Licensor will also receive a portion of Licensee’s casino revenue (ie variable consideration in the form of a sales-based commission). This is paid monthly and Licensor has the right to revoke Licensee’s licence if it fails to pay the monthly variable commission.
- Both Licensor and Licensee have reasonable experience with casino operations in similar geographical locations and similar economic conditions.

Accounting treatment

Licensor concludes on the same basis as set out in Example 8 that:

- its arrangement to issue a non-IP licence to Licensee is not a tax and represents a contract with a customer as defined in AASB 15;
- its single performance obligation of granting the casino licence to Licensee is satisfied at a point in time (when the licence is granted);
- Licensee obtains control of the licence at contract inception when the licence is granted and there is no right of return with respect to the contract; and
- Licensor recognises revenue at the point in time when control of the licence transfers to Licensee (at the inception of the contract).

Accounting for the variable consideration component

In terms of the monthly sales-based commission promised to Licensor, at contract inception, Licensor considers the requirements in AASB 15 paragraphs 50-54 on estimating variable consideration and the requirements in AASB 15 paragraphs 56-58 on constraining estimates of variable consideration, including the factors in AASB 15 paragraph 57.

Licensor observes that the promised consideration depends on the performance of Licensee, is highly susceptible to factors outside both Licensor’s and Licensee’s influence (eg socio-economic conditions, tourism etc) and has a large number and a broad range of possible consideration amounts. However, Licensor and Licensee have reasonable experience with these types of arrangements. Licensor can estimate the future performance of Licensee’s casino based on analysis of data it has collected and Licensee has provided on casinos in similar geographical locations under similar economic conditions.

Licensor uses the expected value method (see AASB 15 paragraph 53(a)) because it is the method that the Licensor expects to better predict the amount of consideration to which it will be entitled. Using the expected value method, Licensor sums the probability-weighted estimated amounts it expects to receive, and after discounting, calculates a total of \$40 million in sales-based commission from Licensee over the 10-year licensing period.

In considering the requirements in AASB 15 paragraphs 56–58 on constraining estimates of variable consideration to determine whether the discounted estimated amount of variable consideration of \$40

million can be included in the transaction price, Licensor concludes that it is highly probable that a significant reversal in the cumulative discounted amount of revenue recognised (ie \$40 million) will not occur based on its previous experiences with similar licensing arrangements, Licensee's forecasting and analysis, and current market information supports its estimate.

Consequently, Licensor recognises \$40 million in addition to the \$100 million upfront cash payment as revenue when the licence is issued.

The following journal entry illustrates how Licensor accounts for this arrangement in accordance with AASB 15:

| | Debit | Credit |
|--|---------------|---------------|
| <i>Initial recognition (when licence issued /cash received)</i> | | |
| Cash | \$100 million | |
| Receivable | \$40 million | |
| Revenue | | \$140 million |

Reassessment of variable consideration

In accordance with AASB 15 paragraph 59, at the end of each reporting period, Licensor updates the estimated transaction price (including updating whether its estimate of variable consideration is constrained) to represent faithfully the circumstances present at the end of the reporting period and the changes in circumstances during the period. Licensor would account for changes in the amount of consideration to which it expects to be entitled in accordance with AASB 15 paragraphs 87-90 (ie by recognising as revenue, or as a reduction in revenue, in the period in which the transaction price changes).

If Licensor receives \$5 million during year 1, and the highly probable expected discounted amount to be received over the remaining 9 years is revised to \$29 million, the following journal entry would be required:

| | Debit | Credit |
|---|--------------|---------------|
| <i>End of year 1 (when variable consideration is reassessed)</i> | | |
| Cash | \$5 million | |
| Revenue | \$6 million | |
| Receivable | | \$11 million |

Basis for Conclusions

This Basis for Conclusions accompanies, but is not part of, AASB 2018-X Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Public Sector Licensors.

Introduction

BC1 This Basis for Conclusions summarises the Australian Accounting Standards Board’s considerations in reaching the conclusions in this Exposure Draft (ED). It sets out the reasons why the Board developed the ED, the approach taken to developing the ED and the key decisions made. In making decisions, individual Board members gave greater weight to some factors than to others.

Reasons for developing the Exposure Draft

- BC2 As a result of constituent feedback, the Board identified there is a risk that revenue from licences issued by not-for-profit public sector licensors is being understated (revenue is deferred when it should be recognised immediately) or overstated (revenue is recognised immediately when it should be recognised over time), which may have a material impact on the financial statements.
- BC3 AASB 15 *Revenue from Contracts with Customers* provides specific guidance on accounting for revenue arising from the issuance of an intellectual property (IP) licence. However, as AASB 15 is generally expressed from the perspective of for-profit entities in the private sector, the AASB received feedback from constituents in the not-for-profit public sector that it is unclear whether the guidance in AASB 15 could be applied to account for revenue from licences issued by not-for-profit public sector licensors, particularly in the case of non-IP licences and non-contractual licences arising from statute and legislative requirements.
- BC4 The Board noted that there is currently diversity in practice in relation to the accounting for revenue from licences, in particular non-IP licences (eg casino and gaming licences), and that the magnitude of the licence transactions is significant to the public sector.
- BC5 The Board has previously considered the accounting for revenue from licences granted by not-for-profit public sector licensors as part of its projects relating to:
- (a) Service Concession Arrangements: Grantors; and
 - (b) Income of Not-for-Profit Entities.
- BC6 In past deliberations on the Service Concession Arrangements: Grantors project, the Board considered whether the application guidance on licences in AASB 15 (paragraphs B52-B63B) could be applied directly or by analogy to licences granted by not-for-profit public sector licensors. However, the Board was unable to form a view at that time, primarily due to the guidance being applicable only to licences of IP.
- BC7 In the context of the Income of Not-for-Profit Entities project, the Board deliberated regarding the inclusion of licences in the scope of AASB 1058 *Income of Not-for-Profit Entities*. Feedback from constituents indicated that diversity in practice exists in the accounting for licences issued by not-for-profit public sector licensors, particularly in determining whether revenue should be recognised over time or at a point in time for licences providing the right to operate in a particular jurisdiction(s) and/or for a particular purpose(s), such as gambling licences. The Board decided to exclude licences outside the scope of AASB 15 from the scope of AASB 1058, in favour of a broader project on the topic.
- BC8 Therefore, in both instances, the Board deferred its deliberations pending a specific project to research the extent to which these types of licences exist, as well as the current and potential accounting treatment.
- BC9 As part of the Board’s 2017-2019 Agenda Consultation, in response to feedback from constituents, the Board considered a broader project plan to address the accounting for intangible assets of public sector entities, including addressing the accounting for revenue from licences issued by not-for-profit public sector licensors.
- BC10 In considering the project scope, the Board was cognisant that the accounting for revenue from licences issued by public sector licensors would preferably be clarified prior to 1 January 2019, which is the mandatory application date of AASB 15 and AASB 1058 for not-for-profit entities. In the absence of clarification, the Board noted that entities could apply AASB 15 or AASB 1058 by analogy, which could add to the current diversity in practice.
- BC11 The Board decided to limit the scope of the project to considering the accounting for revenue of licences issued by not-for-profit public sector licensors and not extend the scope to consider the accounting for the

underlying assets giving rise to the licences (such as sovereign power) given the feedback from constituents related to the revenue recognition of licence transactions, particularly non-IP licences.

- BC12 Consequently, the Board decided to add to its 2017-2019 Work Program a project to clarify the accounting for revenue from the issue of licences by not-for-profit public sector licensors. The Board decided that the project should address:
- (a) the nature of the right created by the licence – whether the licence confers the right to use or access an asset, or confers a right to perform an activity where there is no licensor asset involved, and whether different accounting treatments for revenue from such licences are appropriate;
 - (b) whether the scope of AASB 15 should be expanded to encompass non-contractual licences issued under statute and/or licenses not relating to IP; and
 - (c) whether the guidance in AASB 15 specifically for IP licences is appropriate for all licences issued in the public sector.

Scope

- BC13 The Board has determined that the scope of the amendments to AASB 15 for licences issued by the public sector should be restricted to not-for-profit public sector licensors. Following its normal considerations of transaction neutrality, the Board did not identify any licences issued by for-profit public sector entities that would require additional guidance to that already provided by AASB 15 for for-profit private sector entities.
- BC14 The Board noted that its decision regarding service concession arrangements in *AASB 1059 Service Concession Arrangements: Grantors* to apply that Standard to all public sector entities was the result of a decision made specifically in connection with that project.

Features of licences

- BC15 AASB 15 provides some examples of IP licences but none of the AASB Standards (including AASB 15) describe what a licence is. The Board considered that it would be helpful for licensors in the not-for-profit public sector for the Board to provide guidance in the Standard on identifying the features of a licence. This would help not-for-profit public sector licensors distinguish revenue arising from licences, which would be accounted for in accordance with this Standard, and revenue arising from taxes, which would be accounted for in accordance with AASB 1058.
- BC16 In identifying the features of a licence, the Board considered:
- (a) the extent to which the current Australian Accounting Standards define or infer features of licences, in particular AASB 1058;
 - (b) the extent to which the International Public Sector Accounting Standards Board (IPSASB) considered features of a licence in its projects; and
 - (c) other resources, including the Australian Bureau of Statistics (ABS) Government Finance Statistics (GFS) Manual, commonly accepted definitions, law and other common features of licences issued by not-for-profit public sector licensors.

Features of licences implicit in current Australian Accounting Standards

AASB 1058 *Income of Not-for-Profit Entities*

- BC17 The Board noted that AASB 1058 defines and prescribes the accounting for taxes. Although AASB 1058 uses the term ‘licence’, it is not defined. The Board agreed with the inference that licences and taxes should be interpreted differently, and that the distinction between licences and taxes could, as a starting point, be drawn from the AASB 1058 definition of ‘taxes’, which is:

Economic benefits compulsorily paid or payable to public sector entities in accordance with laws and/or regulations to provide income to the government. Taxes exclude fines.

- BC18 In interpreting the definition of ‘taxes’ with the intention of distinguishing it from licences, the Board noted the definition of ‘taxes’ provides for two points of distinction, being:
- (a) the notion of compulsion; and
 - (b) the purpose of the payment.

- BC19 In relation to compulsion, the Board observed that although a licence fee may be compulsorily payable upon issue, a prospective licensee has discretion over whether to seek a licence. For example, an entity would generally have discretion over whether to perform an activity that requires a licence, whereas a tax would arise generally from activities that are necessary for the entity to exist, for example earning revenue. The Board also observed that the notion of compulsion could be supported by the consequences of evading a licence fee or tax. For example, if an entity was found to have evaded a licence fee, it would not be compulsory for the entity to retrospectively obtain the licence. Any penalty for undertaking unlicensed activities would be in the nature of a penalty or fine (ie the entity would not be compelled to obtain a licence). In contrast, an entity found to have evaded a tax, would be compelled to pay the tax in addition to any penalty or fine. The Board decided that in distinguishing a licence from a tax, the notion of compulsion by reference to whether an entity would have discretion over whether to obtain a licence or not would be useful as a primary discriminator.
- BC20 In relation to the purpose of the payment, AASB 1058 states that “taxes are established to provide income to the government.” The Board considered whether licences could be differentiated such that the primary purpose of the arrangement would be non-financial, for example to regulate social behaviour, or to allocate a public resource equitably. In considering the usefulness of this discriminator, the Board acknowledged some licence arrangements could arguably have multiple purposes (ie both financial and non-financial), or could have a primarily financial purpose on an ongoing basis. Consequently, the usefulness of the purpose of establishment as a distinguishing feature between a licence and tax could be of limited use if considered as a primary distinguishing feature or in isolation. Accordingly, the Board decided that although the purpose could be a useful feature to consider dependent on the specific facts and circumstances of a licence arrangement in conjunction with the other features, it should not be used as a primary, or singular point of distinction between a licence and tax.

Other Australian Accounting Standards

- BC21 The Board considered, but did not identify any features of licences implicit in the following Australian Accounting Standards:
- (a) AASB 15;
 - (b) AASB 16 *Leases*;
 - (c) AASB 138 *Intangible Assets*; and
 - (d) AASB 1059.

The IPSASB

- BC22 In identifying other features distinguishing licences from taxes, the Board considered the IPSASB’s project work regarding the accounting for revenue transactions. The Board noted that the IPSASB had not yet specifically considered the accounting for revenue from licences issued by not-for-profit public sector entities, nor defined the term ‘licence’ in any IPSAS.

Other resources

- BC23 The Board also considered the approach adopted in the ABS GFS Manual in respect of distinguishing licences from other arrangements. The Board noted that the ABS GFS Manual defines the term ‘licence’ widely and infers that although a variety of arrangements could be licences, revenue from these arrangements could be taxes or administration fees dependent on the level of work involved for the issuing public sector entity. Additionally, the Board noted the ABS GFS Manual does not identify the purpose of establishment as a basis for distinguishing a licence from a tax, and adopts the licensor’s perspective in ascertaining the economic substance of the transaction. This approach is therefore inconsistent with the points of distinction implied by the definition of a tax in AASB 1058. Accordingly, the Board decided the approach adopted by the ABS GFS Manual would not be useful in identifying the features of a licence.
- BC24 The Board noted, based on common law and other commonly accepted definitions of the term ‘licence’, the following features are also useful in distinguishing licence arrangements from taxes:
- (a) whether the arrangement creates direct rights of a payer to use (not within the scope of AASB 16) or access the payee’s asset, or perform an activity, and, depending on the type of arrangement, direct obligations of a payee. The Board noted that licences would generally confer direct rights to a licensee, and could, in some instances, create direct obligations for a licensor. The Board considered whether a tax could confer rights (and create obligations), but concluded that the nexus

- between any right or obligation as a result of a tax and the tax itself would not be sufficiently direct;
- (b) based on common law principles, the Board observed that licence arrangements confer a specific permission to perform an activity, or use or access an asset that would otherwise be unlawful; and
 - (c) also based on common law principles, the Board observed that licence arrangements do not transfer control of a payee's underlying asset. The transfer of control of assets would fall within the scope of other Australian Accounting Standards (eg AASB 116 *Property, Plant and Equipment* and AASB 138 *Intangible Assets*), and therefore would not be within the scope of AASB 15.
- BC25 The Board also noted, but considered the following common characteristics of licence arrangements irrelevant in distinguishing between licences and taxes, but could be useful in determining the accounting treatment of revenue from licences:
- (a) the existence of an underlying asset;
 - (b) refundability;
 - (c) transferability; and
 - (d) the period of the arrangement.

Application of Australian Accounting Standards

- BC26 The Board considered the applicability of the existing suite of Australian Accounting Standards to licence arrangements. The Board also considered the suitability of the principles in AASB 15 in the context of whether its application could be extrapolated to appropriately reflect the economic substance of transactions in accounting for revenue from licences issued under statute or legislative requirement.
- BC27 In addition to considering the suitability of AASB 15, the Board also identified other Australian Accounting Standards that refer to licences from an issuer's perspective, and considered whether the scope of these other Standards could encompass the accounting for revenue from non-IP licences given that AASB 15 deals specifically with revenue from IP licences. The Board identified the following Australian Accounting Standards as possibly applicable:
- (a) AASB 16;
 - (b) AASB 1058; and
 - (c) AASB 1059.
- BC28 The Board's views with respect to the application of the Australian Accounting Standards identified above are set out as follows.

AASB 16 Leases

- BC29 The Board noted that AASB 16 would only apply to licences outside the scope of AASB 15 that satisfy the definition of a lease.
- BC30 In considering whether a licence could satisfy the definition of a lease, and therefore be accounted for in accordance with AASB 16, the Board noted that the licence would need to represent a contract (see the discussion in paragraphs BC40 to for a discussion of whether all licences are contracts) conveying a 'right to use' an asset for a period of time in exchange for consideration. The asset would also need to be an identified asset with no substantive right of substitution.
- BC31 The Board considered the meaning of 'right to use' in the context of the application guidance set out in AASB 16, which requires the contract to convey the right to control the use of the identified asset for a period of time. In doing so, the entity is required to assess whether the customer has:
- (a) the right to obtain substantially all of the economic benefits from the use of the identified asset, such that the customer has rights to direct how and for what purpose the asset is used; and
 - (b) the right to direct the use of the identified asset, such that relevant decisions about how and for what purpose the asset is used are predetermined. The customer must also have the right to operate the asset without the supplier having rights to change operating instructions, or the customer designed the asset in a way that predetermines how and for what purpose the asset will be used.

- BC32 Accordingly, the Board noted that AASB 16 could only apply to ‘right to use’ identified assets under contractual licences outside the scope of AASB 15, but that the term ‘right to use’ in the context of AASB 16, as outlined in the application guidance, is differently defined to the term ‘right to use’ in the context of the accounting for revenue from the issue of IP licences addressed in AASB 15.
- BC33 In this regard, the Board noted that most non-IP licences issued by not-for-profit public sector licensors would likely not constitute ‘right to use’ identified asset type licences, and therefore would not fall within the scope of AASB 16 because:
- (a) in most cases there would not be an underlying licensor’s asset involved in the arrangement (for example ‘right to perform’ type licences); or
 - (b) where a licensor’s asset is involved, it would be in the nature of ‘a capacity portion of an asset that is not physically distinct’ ie not an identified asset.
- BC34 In this regard, the Board concluded that although a licence could satisfy the definition of a lease and therefore fall within the scope of AASB 16, only limited examples could be identified (eg spectrum licences).

AASB 1059 Service Concession Arrangements: Grantors

- BC35 AASB 1059 applies to service concession arrangements, and does not intend service concession arrangements to be referred to as licences, on the basis that “...the substance of the transaction appears more akin to financing the construction of the service concession asset, rather than a contract with a customer.” (paragraph BC77 of AASB 1059)
- BC36 Given the approach in AASB 1059, the Board concluded that it would not be necessary to address any licences that meet the definition of service concession arrangements as part of this Exposure Draft as they are adequately dealt with in AASB 1059. The Board also concluded that, in the context of clarifying the accounting for revenue from licences issued by not-for-profit public sector licensors, AASB 1059 should not be applied by analogy to licence arrangements that are not service concession arrangements.

AASB 1058 Income of Not-for-Profit Entities

- BC37 The Board concluded that AASB 1058 should not apply to accounting for revenue from licence arrangements within the scope of this project as it is a ‘residual’ income recognition standard and AASB 15 would be more suitable as it is a ‘primary’ revenue recognition standard.

AASB 15 Revenue from Contracts with Customers

- BC38 AASB 15 applies to the accounting for revenue from contracts with customers, where the customer is a party that has contracted with an entity to obtain goods or services that are an output of the entity’s ordinary activities in exchange for consideration. Paragraph 26(i) of AASB 15 explicitly identifies licences as a possible good or service. Although paragraph B52 states that a licence establishes a customer’s rights to the IP of an entity, and paragraphs B52 and B62 are written in the context of IP licences, paragraph 26(i)’s reference to ‘licences’ is not limited to IP licences.
- BC39 The Board observed that in assessing whether non-IP licences could fall within the scope of AASB 15, non-IP licence arrangements would need to:
- (a) constitute a contract with a customer;
 - (b) constitute goods or services; and
 - (c) be an output of the licensor’s ordinary activities.

The scope of ‘contract’

- BC40 The Board noted that AASB 15 applies only to licences resulting from a contract creating enforceable rights and obligations. The Board noted that the *Framework for the Preparation and Presentation of Financial Statements* (the Conceptual Framework) does not distinguish between rights and obligations created by contract and those created by statute or legislation.
- BC41 A key legal feature in distinguishing between rights and obligations created by contract versus those created under a statute is the assessment of whether the parties entered into the arrangement voluntarily. Arbitrary arrangements imposed by statute (for example, taxation) are not contractual given that mutual voluntariness is lacking. However not all relationships prescribed by statute are this conclusive. The Board noted that for

significant licences there is likely to be a specific contract put in place between the payer and payee that may operate in parallel with rights and obligations imposed by statute (eg gaming licences), however for other licences it is less clear whether they are contractual or statutory in nature.

- BC42 The Board noted that regardless of whether the arrangement or relationship in question arises from a contractual or statutory basis, that arrangement only needs to create enforceable rights and obligations between the relevant parties for it to be considered within AASB 15. Provided that a not-for-profit public sector licence is sufficiently enforceable, it should be within the scope of AASB 15. This is in line with the Board's previous decisions in appendix F to AASB 15 which states in paragraph F13 that the enforceability of agreements does not depend solely on their form.
- BC43 The Board also noted that considerable judgement may be needed to determine whether a licence is contractual or statutory in nature and that if the substance is the same, then similar accounting outcomes would be most consistent with the Conceptual Framework. This is also consistent to the approach set out in appendix C of AASB 9 where the scope of AASB 9 *Financial Instruments* was extended to apply to statutory receivables of public sector entities on initial recognition.

The scope of 'goods and services'

- BC44 The Board considered the question of whether licences (representing a right to use, right to access or right to perform an activity) issued by a not-for-profit public sector entity could be a good or service. In doing so, the Board noted that paragraph 26(i) of AASB 15 includes, within the ambit of goods and services, the granting of licences. This position is further evidenced by the specific guidance in Appendix B of AASB 15 that applies to the accounting for revenue from IP licences in AASB 15. Therefore, the Board observed that the inclusion of IP licences in the scope of AASB 15 could suggest non-IP licences conferring rights to use or access a licensor's asset (and that is not a lease) would also fall within the scope of AASB 15 (subject to the satisfaction of the other criteria applicable to assessing whether an arrangement is within the scope of AASB 15).
- BC45 The Board also considered, in relation to a licence granting a right to perform an activity, whether the absence of a right to an asset of the licensor could preclude the right to perform an activity from constituting goods or services. In its deliberations, the Board noted the legal meaning of 'goods and services', both under statute and general legal definitions, did not exclude the grant of rights, whether related to an asset or otherwise, from constituting goods or services.
- BC46 The Board also acknowledged the Canadian Public Sector Accounting Standards Board's view that issuing of licences and permits would constitute goods or services, as proposed in Exposure Draft *Revenue, Proposed Section 2400* in May 2017, as they could constitute exchange transactions.
- BC47 In light of these considerations, the Board concluded that the issue of a non-IP licence representing a right to access or use a licensor's asset, or perform an activity, would constitute goods or services for the purposes of AASB 15.

The scope of 'ordinary activities'

- BC48 The Board considered whether the issue of a licence would be an output of the public sector entity's ordinary activities. As AASB 15 does not define the meaning of the term 'ordinary activities', the Board noted its derivation from the revenue definition in the Conceptual Framework, particularly as distinct from other activities an entity may engage in. In the context of licences, the Board regarded the issue of licences within the ambit of ordinary activities carried out by a not-for-profit public sector entity as a key responsibility of the issuing authority. Accordingly, the Board concluded that the issue of licences would be within the ordinary activities of a not-for-profit public sector entity.

The Board's conclusion on AASB 15

- BC49 For the reasons outlined above, the Board considered that all licences outside the scope of AASB 16 and AASB 1059 should fall within the scope of AASB 15, whether contractual or statutory in nature. Despite this decision, the Board acknowledged the following possible alternate views that would mean AASB 15 would not apply:
- (a) many licences involve rights that are not associated with underlying assets or do not create performance obligations for the licensor, so may not be goods or services; and
 - (b) it is conceivable that some licences are not outputs of ordinary activities.

- BC50 Additionally, the Board acknowledged the possible development of future licencing arrangements that may not have the character of a ‘contract’, ‘goods or services’ or ‘ordinary activities’ in accordance with the Board’s current views.
- BC51 In light of the above, the Board decided that AASB 15 should be amended to specifically include revenue from licences issued by not-for-profit public sector licensors within its scope (other than those within the scope of AASB 16 and AASB 1059) without clarifying whether such licences would otherwise meet the scope requirement of AASB 15.

Allocating the transaction price to licences

- BC52 The Board noted that an entity could enter into a single transaction comprising of a licence and other economically different elements that are not contractually promised goods or services (such as a tax). In allocating the transaction price between the licence and other components of a transaction, the Board considered whether the implementation guidance relating to the allocation of the transaction price to performance obligations set out in Appendix F of AASB 15 [which arose from AASB 2016-8] should be applied.
- BC53 Paragraphs F28-F32 of Appendix F of AASB 15 set out implementation guidance for not-for-profit entities in allocating the transaction price where not-for-profit entities enter into transactions with a dual purpose of:
- (a) obtaining goods or services, which, in the context of this Exposure Draft, could be a licence element (accounted for under AASB 15); and
 - (b) to help the not-for-profit entity achieve its objectives, which, again in the context of this Exposure Draft, could be a tax element (accounted for under AASB 1058).
- BC54 Appendix F of AASB 15 states that the allocation should be based on a rebuttable presumption that the transaction price is treated as wholly related to the transfer of promised goods or service (in the context of this Exposure Draft, the licence), where the rebuttal is premised on the contract being partially refundable in the event the entity does not deliver the promised goods or services (licence).
- BC55 The Board noted the views that:
- (a) if the price of a licence far exceeds the level of work required to satisfy the performance obligation, consistent with GFS accounting for licences, the ‘excess’ over a reasonable price for the performance obligation may be a tax; and
 - (b) if an arrangement contains variable contingent consideration (eg a sales-based or usage-based royalty to provide the licensor with additional revenue where the licensee makes a ‘super-profit’), this component of the transaction price may be considered to be a tax in certain circumstances.
- BC56 The Board considered whether the GFS approach of accounting allocation between licence and tax revenue should be implemented, and concluded that the guidance in paragraphs F28-F32 of Appendix F of AASB 15 is more appropriate. The Board decided on cost benefit grounds that distinguishing between a tax element, based on excess over a ‘reasonable price’ for the licence operating costs, would be too subjective. Accordingly transaction prices should only be allocated between licences and tax when the rebuttable presumption in Appendix F of AASB 15 is met, and the licence fee is partially refundable in the event that the licence conditions are not satisfied, indicative that there is an element that is a tax component as it is not refundable. In that instance the licensor should apply the guidance in paragraphs F28-F32 to disaggregate the transaction price and account for the component that relates to the transfer of licence in accordance with AASB 15 (and any additional guidance contained in this Exposure Draft). The remainder of the transaction price, being the non-refundable component, is accounted for in accordance with AASB 1058.
- BC57 The Board noted that AASB 15 provides specific guidance for variable contingent consideration (ie sales-based or usage-based royalties) for IP licences and accordingly considered there to be no difference in economic substance between a public sector entity or private sector entity undertaking such arrangement as part of the licence agreement that would warrant a different accounting treatment. Therefore, a licence fee that includes, for example a sales-based or usage-based royalty is part of revenue earned from issuing the licence and not a tax.

Accounting for revenue from licences – alternatives considered

- BC58 When deciding what guidance might be included in AASB 15 to account for revenue from licences issued by not-for-profit public sector licensors, the Board sought to identify the various types of public sector licences. The Board also examined how the specific guidance in AASB 15 to account for revenue from IP licences (in paragraphs B52-B63B of AASB 15) might be applied to six examples of not-for-profit public-

sector licences. Paragraphs BC59-BC76 describe the process taken by the Board when considering the approach to take.

What are the types of public sector licences?

BC59 In order for the Board to decide on the best option for accounting for revenue from licences issued by not-for-profit public sector licensors, the Board needed to understand the main types of licences that are currently being issued by these licensors. Three possible types of public sector entity licences were identified:

- (a) **IP licences** – these licences involve the not-for-profit public sector entity (licensor) granting to a customer (licensee) rights over IP that the licensor is currently developing or has developed;
- (b) **Non-IP licences involving an asset or assets of the licensor** – these licences involve the licensor granting to the licensee rights over assets that the licensor controls. In these instances, the licensor would need to ascertain whether the arrangement is, or contains a lease, in which case it would be accounted for under AASB 16 (refer to paragraphs BC29-BC34) rather than AASB 15. To be in the scope of AASB 15, rather than AASB 16, the assets subject to licence would need to not be identifiable; and
- (c) **Non-IP licences involving the right to perform an activity** – these licences involve the licensor granting to the licensee rights to perform an activity that does not involve an asset or assets of the licensor (for example, a Driver’s licence).

BC60 However, it was difficult to identify non-IP licences involving assets of the licensor that were not leases. This is because, in most cases, non-IP licences which involve an asset of the licensor (but are not leases) are not distinct from other goods or services that the entity provides (ie in accordance with paragraph B54 of AASB 15). Accordingly these types of arrangements would be accounted for as sales of goods or provision of services, not licensing arrangements. The reason for trying to find examples of these types of licences was that one of the options considered was to apply the specific guidance in AASB 15 paragraphs B52-B63B (for IP licences) to licences issued by not-for-profit public sector licensors. The Board anticipated that it would be easier to apply this guidance to non-IP licences involving an asset of the licensor by analogy, compared to non-IP licences that did not involve an asset of the licensor.

BC61 The two following licensing arrangements involving an asset of the licensor, that are not leases were examined to:

- (a) utilise a specified capacity within a licensor’s fibre optic cable asset (discussed in paragraph BC62); and
- (b) fish for a licensor’s abalone/fish assets - see examples 3 and 4 in Appendices 1 and 2 (and discussed in paragraphs BC63-BC64).

In each of these cases, once examined, these licences did not appear to be distinct from other goods or services and therefore were not examples of non-IP licences involving an asset of the licensor. Instead, these were merely examples of a not-for-profit public sector entity selling goods or services. Analysis of these examples is outlined in paragraphs BC62-BC64.

Example: fibre-optic cable

BC62 The Board considered whether the right to utilise a specified capacity within a fibre-optic cable connecting two cities was an example of a licence that provides a licensee a right to access or use a licensor’s asset. The scenario considered was based on *Implementation Example 3 – Fibre-optic cable* from IFRS 16 *Leases* (which was determined not to be a lease as it was not an identified asset), where a customer is provided with specified capacity equivalent to them having the use of three fibre strands within a cable. In that example, the supplier makes decisions about the transmission of data (eg lights the fibres, makes decisions about which fibres are used to direct the customer’s traffic and makes decisions about the electronic equipment that it owns and connects to the fibres). The Board concluded that the nature and extent of activities performed by the supplier meant that they are effectively transmitting data for the customer. Therefore, the supplier is providing the customer with a service and the customer can benefit from the licence only in conjunction with that related service.

Example: abalone/fish

BC63 The Board also considered whether two examples of “fishing” licences were examples where the licensor grants the licensee rights over the licensor’s assets (the first one was a commercial licence to fish for abalone

and the other a recreational fishing licence)(detailed in paragraph BC67). In these examples, the bodies of water and the fish are arguably assets of the licensor, which the licensee has the right to access or use.

BC64 In these examples, the licensee has the ability to take or attempt to take abalone/fish (up to a maximum quota in the case of abalone). However, when examined, the Board concluded that abalone/fish are tangible goods and the licence is an inextricable part of those tangible goods and is therefore not distinct (refer paragraph B54 of AASB 15).

Applying specific guidance in AASB 15 to various examples of licences

BC65 As part of the process of developing options to account for revenue from licences issued by not-for-profit public sector licensors, the Board assessed the ease of applying specific guidance for IP licences within AASB 15 paragraphs B52-B63B to public sector licences. Six examples of licences issued by not-for-profit public sector licensors were considered (including two examples from each of the three types of licences described in paragraph BC59).

BC66 Despite the discussion and conclusion in paragraphs BC60-BC64 of the inability to identify non-IP licences involving an asset of the licensor that were not leases (because in the examples examined, the non-IP licences involving an asset of the licensor were not distinct from other goods or services that the entity provided), for the purposes of analysis, the abalone and fishing licences were included as examples of non-IP licences that involve a licensor's asset. This was done to consider how paragraphs B52-B63B of AASB 15 might apply to examples of non-IP licences that involve a licensor's assets. When doing so, the outcome of paragraph B54 in AASB 15 was ignored and the application of the remaining paragraphs continued as if these licences were distinct. This was done to demonstrate how the remaining requirements might be applied in cases where the licences were distinct.

BC67 The substantive details of the six examples analysed were as follows:

| | Type | What is being licensed | Consideration |
|------------------|-------------------------------|--|--|
| Example 1 | IP licence | Research results, as and when they are produced, throughout the licensing period | Cash upfront |
| Example 2 | IP licence | Research results that have already been produced | Cash throughout period |
| Example 3 | Commercial fishing licence | The right to access geographical zone C to take, or attempt to take, a maximum individual quota of abalone each year | Cash upfront |
| Example 4 | Recreational fishing licence | The right to take, or attempt to take, any species of fish by any method of fishing within geographical location C | Cash upfront |
| Example 5 | Casino licence | The right to operate a casino in geographical location C | Cash upfront plus a fixed amount in two years plus monthly variable commission |
| Example 6 | Working with children licence | The right to work with children | Cash upfront |

BC68 Based on the analysis performed, the Board observed the following after applying paragraphs B52-B63B of AASB 15 unamended to the six examples of licences issued by not public sector licensors:

- (a) IP licences – application appeared relatively straight-forward. This was evidenced when applying AASB 15 to Examples 1 and 2. This is because IP licences issued by not-for-profit public sector licensors appear to align comfortably with those IP licences issued by for-profit entities;
- (b) non-IP licences – application of many of the requirements was more challenging. This was evidenced when applying AASB 15 to Examples 3 to 6. Challenges were particularly notable where the licence didn't involve an asset of the licensor (noting that an example of this type of distinct non-IP licence (that is not a lease) had not been identified).

BC69 The main challenges of applying AASB 15 to non-IP licences were as follows:

- (a) many of the requirements (eg AASB 15 paragraphs B58-B59A, which are used to determine whether an IP licence transfers over time) require an assessment of whether the licensor's activities significantly affect the IP (ie the underlying asset). For most not-for-profit public sector non-IP licences, there is no underlying asset; and
- (b) in the case of some not-for-profit public sector non-IP licences, the licensor may conduct a number of actions throughout the licence period, such as monitoring licensees and their activities under their licences. However, the actions are performed more generally in the public interest. It is not clear whether these activities are undertaken to significantly affect the licensee's rights granted by the licence. The specific guidance in Appendix B of AASB 15 for IP licences does not explicitly address this matter as it is not written from a public sector perspective.

Options for amending AASB 15 to account for revenue from licences

- BC70 Based on feedback from targeted outreach activities with various state treasury departments, it was evident that most licences issued by not-for-profit public sector licensors are either IP licences or non-IP licences involving the right to perform an activity (and not non-IP licences involving an asset of the licensor). Based on this outreach and the analysis described in paragraphs BC65- BC69, the Board considered four options for accounting for revenue from licences issued by not-for-profit public sector licensors (refer to paragraph BC73).
- BC71 The Board also observed, based on examples seen to date, that the 'right to perform an activity' non-IP licences typically do not result in performance obligations of the licensor to the licensee. In the case of many of these types of licences, the condition or 'promise' by the licensor relates to protecting the licensee's rights (eg exclusivity) and those conditions set attributes of the promised licence, rather than determine whether the entity satisfies its performance obligation at a point in time or over time (refer to paragraph B62 of AASB 15). This is consistent with AASB 16, where continuing to make a leased asset available to the lessee is not regarded as a performance obligation for the lessor.
- BC72 The Board also noted that a key feature in Example 5, the casino licence (refer to fact pattern in paragraph BC67), was variable contingent consideration (ie a sales-based royalty), which would affect the measurement of the transaction price of the licence. If either Option 1 or Option 2 (described in paragraph BC73) are applied, the outcome would be for revenue to be recognised when the transaction price can be determined, which generally would be when sales are made by the licensee. The Board noted that under Option 1, determination of transaction price and recognition of revenue would be based on the specific requirements in paragraph B63 of AASB 15 whereas under Option 2, an entity would need to apply the general guidance in AASB 15 paragraphs 56- 57 ('Constraining estimates of variable consideration') to determine the transaction price for the licencing arrangement, which in turn would determine the timing of revenue recognition.

BC73 A summary of the options considered by the Board is detailed below:

| | Option 1 | Option 2 | Option 3 | Option 4 |
|------------------------------------|---|--|---|---|
| What is it? | All licences: (i) Apply (unamended) principles from paragraphs B52 to B63B in AASB 15 (ii) Add implementation guidance and examples to help licensors apply (i) to all licences | (i) IP licences: Apply principles from paragraphs B52 to B63B in AASB 15; (ii) Non-IP licences: Develop guidance based on general principles from AASB 15; and (iii) IP and non-IP licences: Add implementation examples to help licensors apply (i) and (ii). | All licences: Practical expedients Any one, or a combination of the following: (i) Recognise revenue for all licences (IP and non-IP) at a point in time (upfront when licence is issued); (ii) Recognise revenue for all licences (IP and non-IP) over time ² ; (iii) Recognise revenue for all short-term licences (<1 year) at a point in time (upfront) and all long-term licences (>1 year) over time ² ; or (iv) Recognise revenue for all low-value licences at a point in time (upfront) and all high-value licences over time. ² | All licences: Split all licence transactions between a licence and a tax (consistent with GFS accounting for licences), where the reasonable price for the performance obligation is considered a licence and accounted for under AASB 15 (which may need specific guidance) and the 'excess' over the reasonable price for the performance obligation is considered a tax and accounted for under AASB 1058 <i>Income of Not-for-Profit Entities</i> . |
| Likely revenue recognition outcome | <ul style="list-style-type: none"> IP: either over time or point in time Non-IP: most likely point in time (upfront) | <ul style="list-style-type: none"> IP: either over time or point in time Non-IP: most likely point in time (upfront) | <ul style="list-style-type: none"> IP and non-IP: either over time or point in time depending on the practical expedient chosen | <ul style="list-style-type: none"> Licence component: either over time or point in time Tax component: recognised under AASB 1058 |

Accounting for revenue from licences – the chosen option

BC74 After consideration of the four proposed options and using the results of analysis performed, the Board supported option 2 with some modifications for accounting for revenue from licences issued by not-for-profit public sector licensors. The primary reason for the decision was it was the comparatively easier to apply than option 1 (especially for non-IP licences) and option 4 and it was also a transaction neutral approach. The Board observed that because of challenges in applying option 1 to non-IP licences and applying option 4 to all licences, inconsistency could likely result if applied in practice. Option 3 offered convenient sub-options, each of which would result in consistency in practice. Therefore the Board decided to modify option 2 to allow licensees the option of adopting practical expedients for low-value or short-term licences, consistent with the precedent set in AASB 16. The Board also decided to clarify that in applying the low value option, arrangements with contingent consideration are not eligible.

BC75 The Board also decided that the following guidance be added for non-IP licences to AASB 15 as part of option 2:

- (a) examples or guidance should be included to help licensors determine when a licence is distinct or not distinct from other goods or services in the arrangement (ie similar to the discussion in paragraphs BC61-BC64 above); and

² As a further practical expedient, rather than requiring the licensor to apply paragraphs 39-45 of AASB 15 to select an appropriate method to measure its progress towards complete satisfaction of its performance obligation under the licence, revenue could be recognised using a systematic basis over the licencing period (eg on a straight-line basis).

- (b) provide clarification that ‘right to perform an activity’ type licences do not generally result in performance obligations for the licensor and that the condition or ‘promise’ by the licensor to protect the licensees’ rights (ie exclusivity) are attributes of the promised licence and do not determine whether the licensor satisfies its performance obligation at a point in time or over time (ie similar to the discussion in paragraph BC72).

BC76 The Board also considered whether the general guidance in AASB 15 should be amended to reflect for non-IP licences, the guidance for sales-based or usage-based royalties within 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, a decision was made to use the general guidance in AASB 15 to be consistent with the overall decision as part of option 2. The Board also decided to ask constituents a specific question, within the Exposure Draft, on whether AASB 15 paragraph B63 should be used instead of the general guidance in AASB 15 to account for sales-based or usage-based commission for non-IP licences.