



Australian Government

**Australian Accounting
Standards Board**

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Mr Ross Smith
Program and Technical Director
International Public Sector Accounting Standards Board
International Federation of Accountants
(submitted via the IPSASB website)

17 May 2021

Dear Ross,

IPSASB Request for Information – Concessionary Leases and Similar Arrangements

The Australian Accounting Standards Board (AASB) is pleased to provide information received from Australian constituents regarding the Request for Information *Concessionary Leases and Other Arrangements Similar to Leases*. Appendix B to this letter summarises information received on each of the questions outlined in the Request for Information.

Consistent with for-profit entities, Australian not-for-profit public sector entities were applying AASB 117 *Leases*, which incorporated IAS 17 *Leases*, prior to annual reporting periods beginning on or after 1 January 2019. Since then, both for-profit and not-for-profit entities have been applying AASB 16 *Leases*, which incorporates IFRS 16 *Leases*. For the IPSASB's information, Appendix A includes an overview of the amendments the AASB made to IFRS 16 for application by not-for-profit entities.

Based on the limited feedback we have received, there is significant diversity in how concessionary leases and leases for zero or nominal consideration are recognised in Australia. In particular, some Australian stakeholders commented that it is often unclear which entity has control of the leased asset. The AASB strongly supports the IPSASB gathering more information on concessionary leases and other lease-like arrangements before developing more substantive proposals.

It would be useful to provide guidance on whether arrangements that provide a right of access to an asset, but not a right of use, are considered a lease under the proposed definition of a lease in ED 75 *Leases*.

The Request for Information was not explicitly exposed for comment in Australia by the AASB, although it was linked to the AASB website to publicise its issue by the IPSASB. The AASB has consulted selected stakeholders in developing its submission. Some Australian stakeholders may comment directly to the IPSASB.

If you have any questions regarding this submission, please contact myself or Clark Anstis, Technical Principal (canstis@aab.gov.au).

Yours sincerely,

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

Dr Keith Kendall
AASB Chair

APPENDIX A

Overview of amendments made by the AASB to IFRS 16 *Leases* for Not-for-Profit Entities

When the AASB issued AASB 1058 *Income of Not-for-Profit Entities*, the AASB amended AASB 16 *Leases* to require right-of-use (ROU) assets arising from 'leases that have significantly below-market terms and conditions principally to enable a not-for-profit (NFP) entity to further its objectives' to be initially measured at fair value, with the difference between the value of the ROU asset and the lease liability recognised as income. This reflected the approach in Australian Accounting Standards generally of NFP entities recognising assets acquired on below-market terms at fair value. However, before the mandatory application date of AASB 16, the AASB decided to provide temporary relief from this fair value requirement.

After considering comments from NFP entities in both the private and the public sectors that measuring the fair value of such ROU assets is difficult (particularly when there are restrictions imposed on the use of the leased asset), the AASB decided that further guidance might be required to be developed to assist NFP lessees in measuring such ROU assets at fair value.

Therefore, the AASB further amended AASB 16 to provide temporary relief so that NFP lessees can choose to initially recognise ROU assets (or a class of ROU assets) arising from the abovementioned leases either at cost or at fair value (see paragraphs Aus25.1 and Aus25.2). NFP entities electing to measure such ROU assets at cost are required to include additional qualitative and quantitative disclosures about the nature of the concessionary leases under paragraphs Aus59.1 and Aus59.2 in AASB 16. The additional information should include information to assist users of financial statements to assess:

- (a) the entity's dependence on leases that have significantly below-market terms and conditions principally to enable the entity to further its objectives; and
- (b) the nature and terms of the leases, including:
 - (i) the lease payments;
 - (ii) the lease term;
 - (iii) a description of the underlying assets; and
 - (iv) restrictions on the use of the underlying assets specific to the entity.

APPENDIX B

The AASB's responses to the questions in the Request for Information

Information received from Australian stakeholders on each of the questions outlined in the Request for Information (RFI) is set out below.

Concessionary leases and leases for zero or nominal consideration

Question 1:

In your jurisdiction, do you have concessionary leases (or similar arrangements) as described in this RFI? If yes, please:

- (a) Describe the nature of these leases (or similar arrangements) and their concessionary characteristics; and
- (b) Describe the accounting treatment applied by both parties to the arrangement to these types of leases (or similar arrangements), including whether the value of the concession is reflected in the financial statements.

Question 2:

In your jurisdiction, do you have leases for zero or nominal consideration as described in this RFI? If yes, please:

- (a) Describe the nature and characteristics of this type of lease (or similar arrangement); and
- (b) Describe if and how the value of the concession is reflected in the financial statements of both parties to the arrangement.

The majority of the responding Australian stakeholders commented that most concessionary leases are for zero or nominal consideration. Therefore, responses to Question 1 and Question 2 have been combined. These two RFI categories have not been clearly distinguished in Australia in practice.

Leases of land/building for a specified purpose

Australian stakeholders have informed that majority of leases that are at below-market terms or for zero/nominal consideration are leases of land, buildings or land and buildings. Such arrangements usually require the lessee to use the land/building for a specified purpose. For example, using the building to operate a library, a childcare centre or as a community hall or using a parcel of land to support a jetty or as landfill.

This type of arrangement is very common between State governments and local governments (both as lessor or lessee) in Australia, as well as between public sector entities and entities in the not-for-profit private sector, where the private sector entity is the lessee. There are also arrangements between public sector entities within the same government.

In some cases, the lessee is responsible for all maintenance and insurance costs of the leased building or is required to pay rental payments at an amount similar to the amount of the maintenance costs.

Current accounting treatment

The majority of lessors and lessees of this type of lease recognise the lease payments as income/expenses when they are received/incurred. Reasons why public sector entities decided on this accounting treatment include:

- some lessors and lessees consider leases for zero or nominal consideration to be outside the scope of AASB 16 *Leases* due to failing the definition of a lease, e.g. no consideration in substance and so not a contract;
- some lessees consider these types of arrangements to be in the scope of AASB 16 and have applied the temporary exemption to not recognise right-of-use (ROU) assets arising under these leases at fair value, but, in effect, not recognising an ROU asset at all because an ROU asset measured at cost is immaterial to the lessee. Instead, a disclosure note is added to the financial statements about such leases. Some lessees include land rehabilitation costs in the cost measurement; and
- the transactional amounts involved are immaterial.

Long-term concessionary leases of land/building

There are instances where two public sector entities engage in a long-term concessionary lease arrangement (e.g. 50 years) of land/building, often with an option to extend the lease term.

Such long-term leases of buildings were recognised by both entities as a finance lease under the superseded Standard AASB 117 *Leases*, which incorporated IAS 17 *Leases*, where the lessor would derecognise the building and the lessee would recognise the building as its own asset. The carrying amount of these buildings (which is based on fair value, due to requirements in Australian Accounting Standards) is taken to be the deemed cost of the ROU assets by the lessee on transition to AASB 16.

There is diversity in how long-term concessionary leases of land are being recognised:

- View 1 – Recognise the transaction as a sale/purchase, for concessionary leases of land of 80 years or more, where the lessor derecognises the land; or
- View 2 – Recognise such land leases as an operating lease, so that the lessor would continue to recognise the land as its own asset.

Concessionary leases of land and improvements with an indefinite period for a specified purpose

There are instances where a public sector entity (the ‘lessor’) places the care and management of a parcel of land and improvements for an indefinite period to another public sector entity (the ‘lessee’) for a certain purpose, e.g. to provide a road on the land, for zero or nominal consideration. This is very common between State government entities and local government entities.

The ‘lessor’ does not recognise the improvements as its assets. The ‘lessee’ entity responsible for the management of the improvements recognises the improvements on the land as its own property, plant and equipment or else as an ROU asset under AASB 16, at fair value.

However, there is diversity in the accounting treatment of such concessionary leases of the underlying land:

- View 1 – Even though the ‘lessor’ retains the legal title of the land, the ‘lessee’ entity responsible for the management of the land has control over the land because the lessee is responsible for any rehabilitation of the land and for the maintenance of any improvements on the land and has the right to use the land and improvements to provide the required public service. In this case, the ‘lessor’ derecognises the land and the ‘lessee’ would recognise the land as its own property, plant and equipment;
- View 2 – In contrast to View 1, because the ‘lessee’ does not have the right to sell the land or improvements or change the usage or restrictions imposed on the land without the approval of

the ‘lessor’, it should not be required to recognise the land. The entity is in substance administering the land and improvements on behalf of the ‘lessor’; and

- View 3 – the ‘lessee’ entity recognises an ROU asset under AASB 16, generally measured at cost.

Access rights (or rights of access to property and/or land)

Question 3:

Does your jurisdiction have arrangements that provide access rights for a period of time in exchange for consideration? If yes, please describe the nature of these arrangements and how they are reflected in the financial statements of both parties to the arrangement.

Access rights to property and/or land are generally not recognised as a lease under AASB 16. Often no consideration is received/paid for these type of access rights. If there are any related income/expenses, they are generally recognised when earned/incurred. In some cases, access fee payments might be recognised as an intangible asset at cost.

Common types of such arrangements include:

- local councils provide rights of access to an asset to another entity to provide essential infrastructure (e.g. maintain telecommunication towers for mobile phone network). Some entities consider this type of arrangement to be a licence for accessing an asset rather than a lease;
- local councils have a right of entry to land in order to conduct maintenance and compliance inspections (e.g. underground inspection of sewerage systems, to facilitate the construction of buildings, to inspect contaminated sites for remediation or to get access to water bores). Typically there is no formal contract or agreement between local councils and asset owners, and there are usually no costs associated with such rights of access. Such rights are currently not being recognised by local councils or asset owners;
- some pastoral land owned by private parties is subject to public access rights to allow the public to traverse the land. Such rights typically arise in remote fishing, surfing, camping and other tourism-oriented locations;
- public sector entities engage in arrangements with entities in remote locations to provide a public service via a designated access point in a private building (e.g. to provide telephone facilities and internet-enabled computers to access public self-help services);
- public sector entities pay for or receive fees for agistment rights (rights to graze livestock) for an agreed period of time on a parcel of land;
- public sector entities pay for a commercial licence for specified persons (e.g. fishing tour operators) to enter the licence area for a fixed period of time; and
- arrangements with public sector entities for access to recreation centres, outdoor sport facilities, car parks and other facilities for a general or specific purpose (e.g. for a public school to run sports events on an oval).

Arrangements allowing right of use

Question 4:

In your jurisdiction, do you have arrangements with the same or similar characteristics to the one identified above [delivery of public services using private property]? If yes, please describe the

nature of these arrangements and how they are reflected in the financial statements of both parties to the arrangement.

Arrangements allowing right of use are generally not recognised as a lease under AASB 16. Often there is no consideration received/paid for these arrangements. If there are any related income/expenses, they are generally recognised when earned/incurred. Some of the right-of-use arrangements may in fact be service concession arrangements, with grantors subject to AASB 1059 *Service Concession Arrangements: Grantors* and operators subject to Interpretation 12 *Service Concession Arrangements*.

Common types of such arrangements include:

- public sector health entities pay for access to a room at an existing doctor's practice or other similar location in remote areas so they can see clients. These visiting sites are usually arranged on a month-to-month or short-term basis (less than 12 months). There is generally no formal lease agreement for these arrangements. [Stakeholders classified these as access rights, demonstrating the difficulty of distinguishing between types of arrangements.];
- a public sector entity responsible for managing office accommodation for all public sector entities in a jurisdiction enters into a legally binding lease contract with a property lessor – which is recognised as a lease under AASB 16 – and then allocates the office accommodation to other public sector entities through a Memorandum of Understanding (MOU) for a specified period (similar to a sub-lease). These MOUs are not legally enforceable – no economic or financial penalties are imposed on the parties to the MOU. For example, the public sector entity responsible for managing office accommodation has the right to terminate these MOUs and provide alternative accommodation instead. These 'sub-leases' are generally not recognised as a lease under AASB 16 because the managing entity has substantive substitution rights; and
- a local council obtains a right of use of car parks at railway stations owned by a State Government at a concessional rate. The local council is responsible for maintaining the site over the term of the arrangement, for example mowing and car park repairs. An ROU asset and lease liability generally is not recognised due to immateriality.

Social housing rental arrangements

Question 5:

In your jurisdiction, do you have arrangements involving social housing with lease-type clauses or other types of lease-like arrangements with no end terms? If yes, please describe the nature of these arrangements and how they are reflected in the financial statements of the social housing provider.

Arrangement where both parties can unilaterally cancel the lease

A public sector housing authority is responsible for administering housing schemes for public sector employees relocating to regional areas for work purposes. The housing authority leases a dwelling to another government entity (the employer), which then sub-leases the dwelling to its employees.

Where the dwelling is owned by the housing authority, both the leases from the housing authority to the employer and from the employer to its employees would usually be for an indefinite period. Either party to a lease can terminate the lease by giving prior notice (up to 60 days depending on circumstances) to the other party.

Where the dwelling is owned by a private sector lessor and leased to the housing authority, the lease between the housing authority and the employer would typically be for the same fixed term as that of

the lease between the private sector lessor and the housing authority. The sub-lease between the employer and its employee would still be for an indefinite period as a cancellable lease.

In either case, because the housing authority can cancel the lease with the employer and provide an alternative dwelling to the employer under a new lease, the housing authority and the employer treat those leases as cancellable leases and recognise the lease payments as revenue/expense as and when earned/incurred.

Long-term concessionary leases of land where the lessee is responsible for the construction and management of social housing on the site

A lessee leases a parcel of land for a long period, such as 40 to 50 years, at peppercorn rates. The lessee then constructs and manages social housing on the site. The public sector entity is the lessor of the land in some of these arrangements, and in others is the lessee, providing subsidised housing for the landowners.

The lease arrangements typically are recognised under AASB 16 at the peppercorn amount, which is generally immaterial.

Shared properties with or without a lease arrangement in place

Question 6:

In your jurisdiction, do you have arrangements involving the sharing of properties without a formal lease contract? If yes, please describe the nature of these arrangements and how they are reflected in the financial statements of both parties to the arrangement.

Some common shared-property arrangements are:

- bridges built over rivers or other water flows that provide the boundary for two governments (e.g. State or local governments). Maintenance responsibilities on the bridge typically would be shared by the two governments. These bridges are accounted for as property, plant and equipment with the value split between the two governments where the boundary runs through the middle of the watercourse. There could be a management agreement between the governments, but a lease is unlikely. A possible special case is where the boundary is on one bank of a river, as that could require specific arrangements for bridge approaches and supports on the boundary side of the river;
- some public sector-owned buildings may be occupied by different public sector entities with or without a lease arrangement. There may be common areas where different entities share the amenities in the building. Any lease payments are recognised when earned/incurred when the sharing arrangement does not reflect a physically distinct portion of a building;
- co-location arrangements between public sector entities may have a formal arrangement such as an MOU or a shared-premises agreement. The consideration paid may be based on an agreed accommodation rate according to the occupied floor area and may include a portion of overhead costs. These arrangements are generally not treated as a lease arrangement under AASB 16 because there is no specific underlying asset or they are considered to be a short-term agreement; and
- some government infrastructure (e.g. railway track) is built on land owned by other governments. There may be no formal lease contract or consideration for access to the land. These arrangements are usually not recognised in financial statements.

Other arrangements similar to leases**Question 7:**

In your jurisdiction, do you have other types of arrangements similar to leases not mentioned in this RFI? If so, please describe the characteristics of these arrangements and how they are presently being reflected in the financial statements of both parties to the arrangement.

None identified. The scope of the previous categories is very broad.