

Mr Ross Smith
Program and Technical Director
International Public Sector Accounting Standards Board
International Federation of Accountants
277 Wellington Street West
Toronto, ON M5V 3H2
Canada

Dear Mr Smith

Exposure Draft – IPSASB ED 75 and Request for Information (RFI)

The Heads of Treasuries Accounting and Reporting Advisory Committee (HoTARAC) welcomes the opportunity to respond to IPSASB Exposure Draft (ED) 75 and Request for Information (RFI). HoTARAC is an intergovernmental committee that advises Australian Heads of Treasuries on accounting and reporting issues. The Committee comprises the senior accounting policy representatives from all Australian States, Territories and the Australian Government.

HoTARAC members apply Australian accounting standards based on International Financial Reporting Standards (IFRS), including AASB 16 Leases which is the Australian equivalent to IFRS 16 Leases. These standards are modified for application to the not-for-profit sector and include specific requirements where necessary. IPSASs are only referred to where an Australian standard does not address a particular topic.

HoTARAC members enter into a wide variety of arrangements with terms that do not always fit into a single category such as a lease, an access right or a sharing arrangement. HoTARAC has allocated these arrangements to what we believe are the appropriate IPSASB questions, but can provide further information if clarification would be useful.

HoTARAC notes that further guidance on the distinction between leases, access rights and sharing arrangements would be helpful, as well as on:

- whether fair valuation of right of use (ROU) assets under peppercorn lease arrangements is practicable and whether legacy below-market leases may still need to be grandfathered once the fair value project has concluded; and
- impairment assessments on ROU assets for leases where scheduled market rent reviews occur.

HoTARAC appreciates that there may be circumstances where the IPSASB is unable to address specific issues due to differences in the Australian framework.

The attachment to this letter sets out HoTARAC members' response to the RFI. No comments have been made on ED 75 itself.

If you have any queries regarding HoTARAC's comments, please contact Rob Tkalcevic from the Australian Commonwealth Department of Finance on +61 6215 1312 or by email to rob.tkalcevic@finance.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Stewart Walters', written in a cursive style.

Stewart Walters
CHAIR
Heads of Treasuries Accounting and Reporting Advisory Committee

10th May 2021

Attachment: HoTARAC response to IPSASB ED 75 Leases RFI

Question	Australian (national) Government	State and Territory Governments
<p>Q1 In your jurisdiction, do you have concessionary leases (or similar arrangements) as described in this RFI? If yes, please:</p> <p>(a) Describe the nature of these leases (or similar arrangements) and their concessionary characteristics; and</p> <p>(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.</p>	<p><u>Commonwealth as lessee</u></p> <p>Concessionary leases are unusual. The Commonwealth does have land leases that have nominal consideration, which primarily relate to diplomatic obligations. Previously the leases were treated as owned assets and in some cases they are already recorded at fair value. However new land leases that have nominal consideration are reviewed to determine if they are owned or leased and if leased are accounted for at cost as per the requirements of AASB 16 and the Australian Government's reporting requirements outlined in Resource Management Guide (RMG) 110 (available on the internet).</p> <p>The Commonwealth also has some land access arrangements for geoscience programs, where use of land is non-commercial and rental payments are minimal. These arrangements are capitalised and depreciated as RoU assets measured at cost according to AASB 16 Leases (the Australian equivalent to IFRS 16) and RMG 110. The capitalised amount includes estimated make-good. Value of the concession is not reflected in the Commonwealth's financial statements.</p> <p><u>Commonwealth as lessor</u></p> <p>The Commonwealth provides some concessionary leases as lessor. For example, Commonwealth agencies sometimes provide concessionary leases to charitable organisations (eg. they may not pay rent but in some circumstances pay for outgoings). The value of the concessions are not reflected in the Commonwealth's accounting statements as it is immaterial.</p>	<p><u>As lessee</u></p> <p>(a) Concessionary lease arrangements vary, but are often land and buildings leased for nominal consideration. Arrangements include:</p> <ul style="list-style-type: none"> - leases in the health and education sectors, e.g. leased from local councils, schools, universities or other state entities, entered into in prior years and not repriced and therefore significantly below market price; - airport hangar leases provided by a local government or airport facility; - buildings leased from local governments to use for emergency services; - office buildings leased from the Commonwealth for legal services; - long-term land lease arrangements with traditional (Indigenous) owners of land where remote area public housing dwellings are situated (eg the lease contract specifies lease payments of \$1 per annum payable if and when demanded); and - stadium and car park facilities. <p>(b) Many of these leases have been recorded at cost and therefore the concession is not reflected in the financial statements. Where arrangements are for nil or nominal consideration, some states have applied the principle that it is not a contract, and therefore not a lease for the purposes of AASB 16. Some local governments lease land to state governments for a "peppercorn" amount as provided for in legislation and due to the length of the arrangement (80 years) the lessee and lessor governments have accounted for this as a purchase of the underlying asset.</p> <p>Some jurisdictions had long term concessionary leases that were accounted for as finance leases carried at fair value prior to the implementation of AASB 16. The carrying value of the right of use assets as at the transition date was then taken as the deemed cost as at the date of adopting AASB 16 in July 2019 (i.e. the concession impact had been effectively included in the revaluation surplus in the past).</p> <p><u>As lessor</u></p> <p>(a) Examples of concessionary leases include:</p> <ul style="list-style-type: none"> - crown lands leased at statutory minimum or market rates, but rebates and waivers are applied if the leases are eligible for concession (mainly to not for profit organisations); - premises leased to various community groups at below market rates (e.g. childcare centres, non-government health services, children-in-care providers, sporting/cultural organisations). Some community group tenants pay no lease costs, but are required to pay for some maintenance or improvement costs. - some state social housing agencies have head leases at discounted or zero rental with eligible community housing providers for social residential housing, which these community providers then lease to members of the public as low cost housing. - state social housing agencies may provide social housing tenants with subsidised housing directly (eg. the tenant is only required to pay 25% of their income towards rent regardless of the market rent for the properties). <p>(b) These lease assets are often recorded as operating leases or no income is recognised in the operating statement due to immateriality. Some social housing agencies referred above recognise net user charges revenue with financial statement note disclosure of the market rent and concessions.</p>
<p>Q2 In your jurisdiction, do you have leases for zero or nominal consideration as described in this RFI? If yes, please:</p> <p>(a) Describe the nature and characteristics of this type of lease (or similar arrangement); and</p> <p>(b) Describe if and how the value of the concession is reflected in the financial statements of both parties to the arrangement.</p>	<p>See above.</p>	<p>See above.</p>

Questions	Australian (national) Government	State and Territory Governments
<p>Q3 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.</p>	<p>The Commonwealth does have these arrangements, including:</p> <ul style="list-style-type: none"> - services may be provided to customers in remote locations through a network of agents and access points. Host organisations such as service stations are contracted annually using a standard funding framework and costs are reported under supplier expenses. Access Points provide free self-help facilities for customers to conduct their business with the agency (eg, internet-enabled computers and telephones to access the agency's self service options and multi-function devices). Agents offer the same facilities as an Access Point, but also have people trained to help customers (eg to register and access digital services and complete online forms). Agents are not Commonwealth employees and can't assess or vary customer's payments, issue Electronic Banking Transfers (EBTs), concession or Medicare cards. - health agencies may pay for access rights which don't satisfy the definition of a lease, such as "visiting sites" . These visiting sites are usually on a month to month basis or on a short term basis i.e. always less than 12 months. Agencies do not sign formal lease agreements for these visiting sites, but simply agree to use a room at an existing doctor's practice or other similar location so they can see clients. The Commonwealth may have full rights to this room for an agreed period. In some cases the landlord asks the Commonwealth to sign a "licence" agreement but on other occasions it could be a simple agreement or only an invoice. - land/building access rights, in order to carry out geoscience programs, such as accessing and operating on an earth observation site or accessing an infrasound station. The Commonwealth holds access rights only rather than the right to control the asset. Where assessed to not be a lease, payments and outgoings are reflected on the income statement as expenses. 	<p>State and Territory jurisdictions noted that the distinction between right to use asset arrangements accounted for under AASB 16 and right to access assets may be unclear.</p> <p>Examples provided where the states have been granted access rights include:</p> <ul style="list-style-type: none"> - agencies pay for agistment rights (right to graze cattle) for an agreed term on an external parties' land. Whilst having the right to access and use the land, the agency does not have the right to obtain substantially all of the economic benefits from the use of the land and does not have the right to direct the use of the land over the agreement period; - settlement deeds with land councils where agencies pay for a commercial license for specified persons (eg. fishing tour operators) to enter the licence area for a fixed period of time. The licensee does not have the right to obtain substantially all of the economic benefits from accessing the licence area and does not have the right to direct the use of the land over the agreement period; - access to private land to facilitate the construction of buildings or to inspect contaminated sites for remediation; and - access to a building or asset to provide services (eg. an agency may pay fees to access telecommunication towers). <p>These facilities are often provided by the private sector or local government. Many of these arrangements are joint use agreements with no or nominal consideration payable and are not considered to be leases. Any payments are expensed as incurred. Some access fee payments may be recognised as an intangible asset at cost. Some arrangements that the state can only use for specific services, e.g. public health, are accounted for as a lease in accordance with AASB 16.</p> <p>Examples where state and territory jurisdictions have granted access rights include:</p> <ul style="list-style-type: none"> - agencies agree to allow external parties to agist cattle. The external party pays consideration for an agreed term, in exchange for the right to graze cattle. Whilst having the right to access and use the land, the external party does not have the right to obtain substantially all of the economic benefits from the use of the land and does not have the right to direct the use of the land over the agreement period. - access to recreations centres, outdoor sport facilities, fields and ovals, car parks and other facilities used by government schools; - unallocated Crown land vested in a community group for cultural purposes under native title settlements; - agreements for use of water bores; - private suppliers are provided access to construction sites during the construction of state infrastructure assets; <p>Normally the access is provided for free and no accounting entries are made to reflect it. Where license /access fees are charged, fees are recognised as revenue.</p>
<p>Q4 In your jurisdiction, do you have arrangements with the same or similar characteristics to the one identified above? If yes, please describe the nature of these arrangements and how they are reflected in the financial statements of both parties to the arrangement.</p>	<p>See above.</p>	<p>See above.</p>
<p>Q5 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.</p>	<p>No.</p>	<p>Some state and territory jurisdictions do have social housing with lease-type agreements with no end terms. Housing agencies are required to comply with tenancy legislation and tenancy agreements are usually based on standard legislative terms and conditions. These leases are often accounted for by the states as lessor operating leases. One state has housing tenancy arrangements which have no non-cancellable period and thus are not accounted for as leases under AASB 16. Some arrangements involve land provided by the state governments as lessor under peppercorn terms with the social housing constructed upon the land by social housing providers (typically private sector entities or entities outside of the general government sector).</p> <p>One jurisdiction leases land as lessee in remote areas from indigenous communities for 40 to 50 years at peppercorn rates. The government then constructs and manages social housing on these sites. The land is recognised as a lease with a peppercorn amount as a lease liability. Some states have residential head leases with private landlords (eg. for fixed terms typically 1 to 3 years) to supplement the social housing portfolio.</p> <p>Some state and territory jurisdictions questioned whether some of these arrangements are service concessions.</p>

Questions	Australian (national) Government	State and Territory Governments
<p>Q6 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.</p>	<p>Commonwealth agencies have a range of co-location arrangements with other agencies. In some instances there is a formal arrangement such as memorandum of understanding or shared premises agreement. Consideration may be based on an agreed accommodation rate based on floor area and may include a portion of running costs. These arrangements may not be treated as lease arrangements where they do not relate to a specific underlying asset, are short term agreements or include non-lease services associated with facilities and accommodation.</p>	<p>State and territory jurisdictions noted that there are many properties that are used/shared without formal agreements and that this remains a significant issue in assessing the appropriate accounting treatment (i.e. lease or not).</p> <p>For example:</p> <ul style="list-style-type: none"> - agencies may lend out portions of office accommodation to local governments and other community groups (eg. in a number of regional offices to not-for-profit organisations). There may be no agreement, or an exchange of letters with no formal lease contract in place, in which case consideration received is recognised as income; - agencies may have 'license to occupy' arrangements with the Department of Defence, either providing or receiving the right to use property; - some state and territory jurisdictions' infrastructure assets (eg. railway) were built on another entity's land (eg. local government) without a formal lease contract. These arrangements have not been recognised for accounting purposes; - some state and territory jurisdictions' leased office accommodation from the private sector via a primary department, which then distributes accommodation space to other government entities. The primary department charges the other government entities as it is charged by the private sector lessor, with a small administrative fee. The arrangements are accounted for as fee for service arrangements rather than as leases, as the primary department has discretion to terminate the arrangements. The primary department provides lease incentives it obtains from the private sector lessors through to other government entities (incentives are offset against rent over the expected term of the arrangement by the primary department).
<p>Q7 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.</p>	<p>See above.</p>	<p>Some jurisdictions highlighted the volume and diverse nature of these arrangements within their sector.</p>