

17 May 2021

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

Submitted to: www.ifac.org

Dear Ross

IPSASB Request for Information: *Concessionary Leases and Other Arrangements Similar to Leases*

Thank you for the opportunity to comment on the IPSASB's RFI in relation to concessionary leases and other arrangements similar to leases.

As the RFI has been issued for comment in New Zealand, some New Zealand constituents may comment directly to you.

Based on the limited feedback we have received it is clear that there is significant diversity in the arrangements covered by the RFI and their related accounting treatment. We strongly support the decision of the IPSASB to gather more information on concessionary leases and other lease-like arrangements before developing more substantive proposals.

However, we do consider it important to draw to your attention our comment letter on ED 75. We do so to reinforce our recommendation that the IPSASB refrain from developing substantive proposals on concessionary leases until more progress has been made on related on-going projects (such as *Revenue, Transfer Expenses and Measurement*). We also want to highlight our concern that the scope of ED 75 is not clear enough that the accounting requirements for concessionary leases and arrangements similar to leases will be addressed by phase 2 of the leases project.

Our responses to the specific questions in the RFI are set out in Appendix 1. These responses reflect feedback received from New Zealand constituents based on formal submissions received and other outreach activities. Our responses are by no means reflective of the complete population of concessionary leases and other lease-like arrangements which exist in New Zealand. Rather, they are intended to provide an insight into the different types of arrangements we received feedback on.

If you have any queries or require clarification of any matters in this letter, please contact Jamie Cattell (jamie.cattell@xrb.govt.nz) or me.

Yours sincerely



Carolyn Cordery
Chair – New Zealand Accounting Standards Board

Appendix 1 – Detailed Responses to the RFI Questions

1. Our responses to the specific questions for respondents in the RFI are set out below. Where relevant, we have described the arrangements and their related accounting treatment in general terms.
2. We have also provided examples of concessionary lease arrangements and other arrangements similar to leases with specific characteristics, based on feedback received.
3. A summary of the main characteristics and the current accounting treatment of examples discussed in this submission is provided in Appendix 2.

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.

General comments

4. Feedback has highlighted that both concessionary leases and leases for zero or nominal consideration are common across the public and not-for-profit sectors in New Zealand. Most public sector entities will have at least one concessionary lease or an arrangement similar to a lease with zero or nominal consideration. It is not uncommon for some entities to have hundreds of leases with a concessionary element. One local government entity reports that it has in excess of 1,000 such leases.
5. Among these examples, we are aware of circumstances in which public sector entities act as lessee, lessor, or both.
6. These leases have significant variations in the period they cover with many leases for zero or nominal consideration being for exceptionally long periods. One example we are aware of is for a lease term of 1,000 years.
7. Where a public sector entity acts as lessor there are frequently restrictions on the purposes for which the property may be used and conditions on how it may be used toward that purpose.
8. For leases where nominal consideration is exchanged there is some variability in what is considered to be nominal. Among the examples we are aware of, consideration of between \$1 and \$1,000 is considered to be nominal by the related public sector entities.

9. There are various accounting treatments for these leases across the public sector. The most frequent treatment by both lessors and lessees of concessionary leases and leases for nominal consideration appears to be consistent with that for an ordinary operating lease on market terms. In these cases, the leased property is retained in the financial statements of the public sector entity as property, plant, and equipment and revenue/expenses are recognised for the nominal amount of the lease payment when received/paid.
10. Leases for no consideration most frequently appear not to be reflected in the financial statements at all by both public sector lessors and lessees (because they are accounted for at cost). However, in some cases the nature of the lease is disclosed in the notes to the financial statements or elsewhere in the annual report.
11. Except for one of the specific examples below, we are not aware of any common accounting treatment through which the concessionary elements of these leases are reflected in the financial statements of either party to the lease. In most cases, neither the lessee or lessor will recognise the concessionary element of a lease on below market terms (including leases for zero or nominal amounts). Instead, the lease arrangement is accounted for on a payments/cost basis.

Specific examples – Public sector entity as lessee

Iwi sale and leaseback arrangements

12. There are some circumstances in which public sector entities have sold Crown land to an iwi as part of a Treaty settlements programme.¹ This land is then leased back from the iwi to be used for public purposes.
13. These leases frequently have an undefined period either specified explicitly in the terms of the agreement or in substance due to the effect of other provisions in the agreement. One specific example we are aware specifies that only the public sector entity may terminate the lease and that they may continue to lease the land for as long as it is needed for their purposes. Whether these leases are concessionary in nature and the amount of the concession depends on particular arrangement and the attributed value, though we are aware that some of them are on less than market terms.
14. In relation to the sale, the public sector entity will generally:
 - (a) derecognise the land;
 - (b) recognise the cash received from the sale; and
 - (c) recognise any difference between the cash received for the sale and the carrying value of the land as revenue/expenditure.
15. In relation to the lease, the public sector entity will generally:
 - (d) recognise lease expenses in the financial statements for the lease payments as paid; and
 - (e) disclose an operating lease commitment in the financial statements based on the lease payments.

¹ Treaty settlements programmes are designed to resolve claims and provide redress for historical breaches of the Treaty of Waitangi (New Zealand's founding document) by the Crown. Settlements may sometimes involve the transfer of land to an organisation representing the descendants of Māori who historically governed the land. An "iwi" is a term which refers collectively to Māori who descend from a common ancestor.

Specific examples – Public sector entity as lessor

Leases of land to schools and tertiary institutions

16. We have many examples in New Zealand in which a public sector entity has leased land or buildings to schools or tertiary institutions to provide education services. These leases may be for a range of time periods and usually have rights of renewal. Examples include lease periods ranging from monthly to 21 years. Some leases include indefinite lease periods. These leases are generally for zero consideration.
17. There are several different accounting treatments for these leases. Some examples of leases for zero consideration we are aware of involve no accounting treatment by the public sector entity as lessor (except that they continue to account for the asset as property, plant and equipment) while the education provider recognises equal offsetting grant income and rental expense. The offsetting grant income and rental expense are calculated at a nominal yield on the underlying value of the land and buildings as determined by an annual valuation.
18. In another example of a lease of land for zero consideration, the public sector entity has derecognised the land and the education provider has recognised the land as though full ownership of the land has been transferred.

Specific examples – Leases of reserve land

19. We are aware of some leases where the public sector entity will lease reserve land to a not-for-profit entity such as a sports club or community group on which they will construct a building for public use. Upon termination of these leases there may be a requirement to remove the building or ownership of the building may transfer to the public sector entity.
20. These leases are typically for nominal consideration. The leases are usually for a longer term or for an indefinite term conditional on the lessee maintaining the facility for public access.
21. Frequently there is no particular accounting treatment for the leases beyond recognising revenue for the nominal lease payments received. However, in a few cases a contingent asset is disclosed by the public sector entity for the future right to the building if the lease is terminated

Access Rights Arrangements

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.

22. Feedback received highlights that access rights arrangements are common in New Zealand across the public sector with a significant diversity in arrangements. We are aware of many different examples which involve public sector entities both as the “lessee” and “lessor” in the arrangement.
23. In New Zealand it appears to be more common for the Crown to grant access rights to private entities or individuals than to receive access rights. We also note that frequently, these arrangements are not documented in any formal agreements and do not involve the payment of any consideration. For that reason, the characteristics of some of these arrangements may be broader than that described in the RFI.

Specific examples – Public Sector entity as “lessee”

Access rights arrangements and easements in exchange for consideration

24. Local government entities will often enter into easements or access rights arrangements which allow the public to have access over land controlled by other entities. Many of these arrangements are entered into for a defined term, however many are also entered into for an indefinite term. While some of these easements may involve payment of an annual fee, it is more common for them to involve only a one-off payment made on establishment of the easement. These amounts may be significant or nominal, in which case they may be waived or not collected.
25. These arrangements will generally be established through a formal agreement and may include additional obligations on either or both parties to the arrangement. For example, these arrangements commonly include a maintenance provision. Where an easement involves payment of a significant one-off fee, this fee may be determined by agreement or based on an independent valuation.
26. Accounting treatment for these types of arrangements varies. Three treatments we know of are:
 - (a) capitalisation of the costs related to the easement or access right as an intangible asset which is then tested for impairment on an annual basis;
 - (b) capitalisation of the costs related to the easement or access right as an intangible asset which is then amortised over the period of the right; and
 - (c) recognising an expense in relation to the payment to establish the easement.
27. Frequently, access rights arrangements will involve the transfer of only nominal consideration. In these cases it is common for the fee to be waived or otherwise not collected and therefore not be reflected in the financial statements of either party to the arrangement.

Easements established in title

28. On private residential or commercial property there are many easements which allow local government entities to access the property in order to maintain assets used to provide public utilities such as water and power.
29. Often, these rights are not afforded by a formal arrangement and are instead established in the title of the property. Due to this, most of these arrangements exist in perpetuity and do not involve the payment of any consideration by the public sector entity.
30. As no consideration is exchanged in relation to them, the easements themselves are not currently reflected in the related public sector entities' financial statements. However, as easements of this nature are typically created as part of a development project, they frequently relate to new infrastructure assets which vest in the relevant public sector entity upon completion of the development. These assets are recognised by the public sector entity as part of property, plant and equipment.
31. Our constituents frequently raised concerns regarding any potential accounting requirements which may apply to easements for access rights or easements for zero or nominal consideration discussed above. Due to their pervasive nature they noted that any attempt to capture and assess all of these arrangements would incur significant costs for public sector preparers. They also noted that they could not see any obvious value in the information it would produce and therefore that any benefit it did provide would be insufficient to justify these costs.

Specific examples – Public Sector entity as “lessor”

Easements over Crown Land

32. There are many schemes in which public sector entities will grant easements over Crown land to private sector entities for a wide range of activities and purposes. We note that while some of these arrangements confer simple access rights such as allowing right of way over the land others include an element of right-of-use allowing the placement of structures or facilities. These more substantial arrangements commonly involve entities such as telecommunications providers.
33. These arrangements tend to be entered as formal agreements and may be for a short or long term. Consideration for easements of this nature may involve payment of a fixed annual fee or a variable fee based on the revenue generated from the easement or the underlying value of the land on which the easement is granted.
34. We understand that the income for these arrangements is recognised as revenue at the amount received.

Encroachments

35. Common among local government entities, these arrangements are entered into when structures owned by private entities or individuals partially occupy space on public land. In these cases, the private entity or individual is required to pay an annual fee to the public sector entity based on the space occupied.
36. Encroachments are usually documented as a formal agreement and are generally billed up-front. The fees for these arrangements may be determined by reference to market rates or may be for a nominal amount. Typically, these arrangements allow for cancellation by the public sector entity with a notice period of between one and six months.
37. The fees from these arrangements are recognised as revenue by the public sector entity when received.

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? If yes, please describe the nature of these arrangements and how they are reflected in the financial statements of both parties to the arrangement.

38. We are not aware of many examples that fall solely within this category as described in the RFI, though we note that some of the examples provided above have characteristics in common with these arrangements.

Own-your-own unit scheme

39. One example we are aware of is a scheme operated by a local government entity to provide housing for the elderly. Under the scheme properties are offered at a concessionary rate subject to the purchaser entering into a buyback agreement which requires them to first offer the property back to the local government entity should they decide to sell it.
40. We understand the sale transactions are treated as ordinary sales of property, plant and equipment in which revenue is recognised for the sale with corresponding costs related to the properties recognised as an expense.

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.

41. We have a range of different arrangements which may be considered to be social housing rental arrangements. Some of these arrangements are essentially indistinguishable from ordinary residential tenancies being entered into for a fixed term with rent determined based on market rates for similar properties. Others more closely meet the definition of concessionary leases being established for a fixed term at less than market rates and some align with the definition set out in the RFI being established for an undefined or indefinite period.
42. New Zealand's primary public sector social housing provider enters into tenancies both at and below market rates. Tenancies entered into below market rates are generally subsidised by other public sector entities.
43. Our understanding is that most public sector entities who provide social housing recognise revenue for the tenancies at the amount paid as it becomes due.² They also disclose whether any of their social housing leases are cancellable in the notes to the financial statements.

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.

44. We have some arrangements in which public sector entities will share premises without having a formal lease agreement in place. In most cases, the lack of a lease agreement is often due to restrictions on the ability of public sector entities to enter into contracts. There may however be a memorandum of understanding or provisions within a broader shared services agreement that deals with similar issues to those expected in a formal lease agreement.
45. Where such arrangements may be considered to be a lease they often appear to be in substance an ordinary operating lease at market rates.

Community centres and halls

46. Some local government entities own properties which they make available for use by the community on an ad hoc basis. While there may sometimes be a charge for using the facility, often there is no charge or only a charge for a nominal amount.
47. Due to their ad hoc nature, there is often no formal agreement created with these entities. Generally, public sector entities will recognise revenue for any fees received when they are received.

² New Zealand's primary public sector social housing provider recognises revenue received (based on total expected lease payments) on a straight-line basis over the lease term.

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.

48. We are aware of many complex arrangements in which entities will operate collaboratively. While they have not been discussed here, we consider it important to raise that significant judgement is often involved in determining the true economic substance of these arrangements and therefore which accounting standard applies to them. For example, it can often be difficult to determine whether these arrangements are joint ventures, service concession arrangements, or leases.
49. For the same reason, we also cannot be sure we have captured the complete population of these arrangements in this letter.

Shared public workspace arrangements

50. We are aware of an example in which a local government entity provides shared workspaces for entrepreneurs and other start up entities through a subsidiary entity. It currently does so through two operating models. In one case, the subsidiary leases the workspaces to a private operator who then sub-leases the space to tenants. In the other case the subsidiary provides workspaces directly by making the space available to tenants collectively for a monthly membership fee.
51. Neither of the models described above are intended to provide a commercial return to the local government and instead aim only to cover the costs of operation.

Appendix 2 – Summary of detailed responses

Description	Nature	Characteristics	Accounting Treatments
Concessionary leases			
Concessionary leases	Mainly leases of land and buildings by public sector entities to not-for-profit entities or other community groups.	<p>Lease period: 1 to 70 years</p> <p>Lease payments: \$1,000 to market value</p> <p>Other specific conditions may include:</p> <ul style="list-style-type: none"> • The lease terms are generally renewable • Lease payments may be subject to review by the public sector entity. This may be up to market rate or a proportion thereof • Purpose for which premises can be used may be explicitly stated in the agreement • Conditions on how the premises can be used for the allowed purpose (for example, hours of operation, maximum occupancy, number and timing of events, maximum noise levels) • Exclusivity of use • Restrictions on alteration of the premises • Annual reporting requirements • Requirement to allow public access • Insurance requirements 	<p>Generally treated in a manner consistent with operating leases made on market terms in which:</p> <ul style="list-style-type: none"> • Property remains in the financial statements of the lessor; • Revenue is recognised when received at the nominal amount of the lease payments; and • Leases are disclosed as commitments in the notes to the financial statements

Iwi sale and leaseback arrangements	<p>Designated land is sold by a public sector entity to an iwi as part of a Treaty settlement scheme and leased back.</p> <p>Leases may or may not be concessionary depending on the payments required under each arrangement.</p>	<p>Lease period: indefinite and conditional upon the needs of the public sector entity.</p> <p>Lease payments: specific to each arrangement.</p> <p>Termination: only the public sector entity may terminate the lease.</p>	<p>The sale portion of the arrangement is treated as an ordinary sale of property, plant and equipment in which the public sector entity:</p> <ul style="list-style-type: none"> • derecognises the land; • recognises cash received for the sale; and • recognises any difference between the cash received and carrying value as revenue/expenditure. <p>The lease portion of the arrangement is treated in a manner consistent with operating leases made on market terms as described above.</p>
Leases for zero or nominal consideration			
Leases for zero or nominal consideration	Mainly leases of land and buildings by public sector entities to not-for-profit entities or other community groups.	<p>Lease period: 1 to 1,000 years</p> <p>Lease payments: \$0 to \$1,000 dollars</p> <p>Other specific conditions which may be described consistent with those described for concessionary leases above.</p>	<p>Leases for nominal consideration are generally treated in a manner consistent with operating leases made on market terms as described above.</p> <p>Leases for zero consideration most frequently not reflected in entities' financial statements at all. Some may disclose in the notes to the financial statements or elsewhere in the annual report.</p>
Leases to schools or tertiary institutions	Leases of land and buildings to schools or tertiary institutions for the purpose of providing education.	<p>Lease period: Monthly, 21 year fixed term, indefinite.</p> <p>Lease payments: Generally \$0</p>	<p>Example 1</p> <p>Public sector entity makes no accounting entry.</p>

			<p>Education provider recognises grant income and equal offsetting rent expense at a nominal yield on the underlying value of the land and buildings.</p> <p>Example 2</p> <p>Public sector entity derecognises land.</p> <p>Education provider recognises land at carrying value.</p>
Leases of reserve land	Lease of land by public sector entity to not-for-profit entity or community group on which they construct a building.	<p>Lease period: Indefinite</p> <p>Lease payment: Nominal</p> <p>Other conditions: Upon termination of the lease, ownership of the building may vest in the public sector entity</p>	<p>Lease generally treated in a manner consistent with operating leases made on market terms as described above.</p> <p>Some entities may disclose a contingent asset.</p>
Access rights arrangements			
Access rights and easements in exchange for consideration	Public sector entity receives right of access to property in exchange for consideration.	<p>Lease period: short term, long term, or indefinite</p> <p>Lease payment: may be nominal or at market rates</p>	<p>Public sector entity may:</p> <ul style="list-style-type: none"> • Capitalise costs related to the rights as an intangible asset which is then tested for impairment on an annual basis • Capitalise costs related to the rights as an intangible asset which is then amortised over the period of the right; and • Recognising an expense in relation to the payment to establish the easement.

Easements established in title	Public sector entity receives right of access to property for no consideration.	Lease period: Usually indefinite Lease payment: nil	No accounting entries made by either party to the arrangements.
Easements over Crown land	Public sector entity provides right of access over Crown land to private individuals or entities in exchange for consideration.	Lease period: Annual Lease payment: Dependent on the purpose for which access is needed.	Fees recognised as revenue at the nominal amount when received.
Encroachments	Public sector entity receives a fee from private individual or entity when their property “encroaches” into public space.	Lease period: Annual Lease payment: Dependent on the area and amount of encroachment Other conditions: Usually cancellable by the public sector entity with a six month notice period.	Fees recognised as revenue at the nominal amount when received.
Arrangements allowing right-of-use			
Own-your-own unit scheme	Units sold by public sector entity to private individuals as part of scheme to provide housing for older people.	Housing sold to the elderly at between 50 and 80 percent of the market value. When sold the buyer enters into a buyback agreement which requires properties to be first offered back to the public sector entity in the event of sale. Except for this, full rights to the property transferred to the buyer.	Sale transaction treated as ordinary sale of property, plant and equipment as described above.

Social housing rental arrangements			
Social housing rental arrangements	Rental of residential property to private individuals.	<p>Lease Term: 1 year to indefinite depending on need.</p> <p>Lease payment: May be at or below market rates.</p>	<p>Revenue recognised on a straight-line basis over the lease term based on the nominal value of the lease payments.</p> <p>Disclosed as operating lease commitments in the notes to the financial statements.</p>
Shared properties with or without a lease arrangement in place			
Shared properties with or without a lease arrangement	Shared use of office premises by different public sector entities in exchange for consideration.	<p>Both lease term and lease payments generally consistent with those found in ordinary commercial leases.</p> <p>However, rather than being established in the form of contracts, they may take the form of memorandums of understanding between public sector entities.</p>	Revenue/Expense recognised at the nominal amount of the lease payments when received/paid.
Community centres and halls	Use of community spaces provided to private individuals, not-for-profit entities or community groups on an ad hoc basis.	<p>Lease term: property accessed on an ad hoc basis.</p> <p>Lease payments: \$0 or nominal</p>	Fees recognised as revenue at the nominal amount when received.

Other arrangements similar to leases			
Shared public workspace arrangements	Shared workspaces made available by public sector entity for use by entrepreneurs and start up entities.	<p>Provided under two models:</p> <ol style="list-style-type: none"> 1. The public sector entity leases the workspaces to a private operator who then sub-leases the space to tenants. 2. The public sector entity provides workspaces directly by making the space available to tenants collectively for a monthly membership fee. 	Accounting treatment depends on which model is applied. The lease expense is generally recognised on a payments basis, similar to an operating lease.