



Comments due by 15 December 2016

ACCOUNTING STANDARDS BOARD

INTERPRETATION OF THE STANDARDS OF GENERALLY RECOGNISED ACCOUNTING PRACTICE

RECOGNITION AND DERECOGNITION OF LAND (ED 151)



ED 151

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RECOGNITION AND DERECOGNITION OF LAND

Introduction

Interpretation of the Standards of Generally Recognised Accounting Practice

The Accounting Standards Board (the Board) is required in terms of the Public Finance Management Act, Act No. 1 of 1999, as amended (PFMA), to determine generally recognised accounting practice referred to as Standards of Generally Recognised Accounting Practice (GRAP).

The Board must determine GRAP for:

- (a) departments (national, provincial and government components);
- (b) public entities;
- (c) trading entities (as defined in the PFMA);
- (d) constitutional institutions;
- (e) municipalities, municipal entities or any other entities under the ownership control of a municipality and boards, commissions, companies, corporations and funds; and
- (f) Parliament and the provincial legislatures.

The above are collectively referred to as “entities” in Standards of GRAP.

The Board has approved the application of International Financial Reporting Standards (IFRSs) issued by the International Accounting Standards Board for:

- (a) public entities that meet the criteria outlined in Directive 12 on *The Selection of an Appropriate Reporting Framework by Public Entities*; and
- (b) entities under the ownership control of any of these entities.

Financial statements should be described as complying with Standards of GRAP only if they comply with all the requirements of each applicable Standard of GRAP and any related Interpretations of the Standards of GRAP.

The Interpretation of the Standards of GRAP on *Recognition and Derecognition of Land* is set out in paragraphs .01 to .48. All paragraphs in this Interpretation of the Standards of GRAP



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have equal authority. The status and authority of appendices are dealt with in the preamble to each appendix. This Interpretation of the Standards of GRAP should be read in the context of its objective, its basis for conclusions if applicable, the *Preface to Standards of GRAP*, the *Preface to the Interpretations of the Standards of GRAP* and the *Framework for the Preparation and Presentation of Financial Statements*.

Standards of GRAP and Interpretations of the Standards of GRAP should also be read in conjunction with any directives issued by the Board prescribing transitional provisions, as well as any regulations issued by the Minister of Finance regarding the effective dates of the Standards of GRAP, published in the Government Gazette.

Reference may be made to a Standard of GRAP that has not been issued at the time of issue of this Interpretation of the Standards of GRAP. This is done to avoid having to change the Standards already issued when a later Standard is subsequently issued. Paragraph .11 of the Standard of GRAP on *Accounting Policies, Changes in Accounting Estimates and Errors* provides a basis for selecting and applying accounting policies in the absence of explicit guidance.

Interpretation of the Standards of GRAP on *Recognition and Derecognition of Land*

References

- The Framework for the Preparation and Presentation of Financial Statements
- The Standard of GRAP on *Presentation of Financial Statements* (GRAP 1)
- The Standard of GRAP on *Interests in Joint Ventures* (GRAP 8)
- The Standard of GRAP on *Inventories* (GRAP 12)
- The Standard of GRAP on *Leases* (GRAP 13)
- The Standard of GRAP on *Investment Property* (GRAP 16)
- The Standard of GRAP on *Property, Plant and Equipment* (GRAP 17)
- The Standard of GRAP on *Revenue from Non-Exchange Transactions (Taxes and Transfers)* (GRAP 23)
- The Standard of GRAP on *Heritage Assets* (GRAP 103)
- The Standard of GRAP on *Accounting by Principals and Agents* (GRAP 109)

Objective

- .01 In the South African public sector there are numerous legislative requirements that govern immovable assets. Questions have arisen as to how these legislative requirements impact the recognition and/or derecognition of land when the accounting principles in the Standards of GRAP are applied.
- .02 This Interpretation of the Standards of GRAP provides guidance on when an entity should recognise and derecognise land as an asset in its financial statements.

Scope

- .03 This Interpretation of the Standards of GRAP applies to the initial recognition and derecognition of land in an entity's financial statements. It also considers joint control of land by more than one entity.
- .04 When an entity concludes that it controls the land after applying the principles in this Interpretation of the Standards of GRAP, it applies the applicable Standard of GRAP, i.e. the Standard of GRAP on *Inventories, Investment Property, Property, Plant and Equipment* or *Heritage Assets*. As this Interpretation of the Standards of GRAP does not apply to the classification, initial and subsequent measurement, presentation and disclosure requirements of land, the entity applies the applicable Standard of GRAP to account for the land once control of the land has been determined. An entity also applies the applicable Standards of GRAP to the derecognition of land when it concludes that it does not control the land after applying the principles in this Interpretation of the Standards of GRAP.
- .05 In accordance with the principles in the Standards of GRAP, buildings and other structures on the land are accounted for separately. These assets are accounted for separately as the future economic benefits or service potential embodied in the land differ from those included in buildings and other structures. The recognition and derecognition of buildings and other structures are not addressed in this Interpretation of the Standards of GRAP.

Recognition and derecognition of land

Issues

- .06 Legislation or similar means governs the ownership, custodianship and/or the use of land in the public sector. The following situations as outlined in legislation or similar means, may have an impact on the recognition and derecognition of land:
- (a) an entity may be required to act as the custodian of the land;
 - (b) an entity may be the legal owner of the land;

- (c) an entity may be required to use the land or may be granted a right to use the land to meet its service delivery objectives; or
 - (d) restrictions may be imposed on an entity in relation to the transfer of the land.
- .07 This Interpretation of the Standards of GRAP addresses the following issues in relation to the recognition and derecognition of land:
- (a) Should the legal owner of the land always recognise the land as its asset in the financial statements?
 - (b) How will a right granted to an entity through a binding arrangement, which enables it to direct access to the land, and to restrict and deny the access of others to the land, affect whether it recognises the land?
 - (c) Should the legal owner or the custodian of the land recognise the land as its asset?
 - (d) When should the land be derecognised from an entity's financial statements?
 - (e) How should the land be accounted for when there is joint control of land?

Consensus

Assessment of control of land

- .08 The *Framework for the Preparation and Presentation of Financial Statements* (the Framework) requires that an item should be recognised in the statement of financial position or statement of financial performance when it meets the definition of an element in the financial statements, and satisfies the recognition criteria.
- .09 The definition of an asset is met when the resource is controlled by the entity as a result of past events and from which future economic benefits or service potential is expected to flow to the entity. To satisfy the recognition criteria, it should be probable that future economic benefits or service potential associated with the item will flow to the entity, and the cost or fair value of the item can be measured reliably.
- .10 An entity must control the resource. Control of the resource is evidenced by the entity's ability to use the resource, or direct other parties to use it, so as to benefit

from the future economic benefits or service potential embodied in the resource.

- .11 The Framework indicates that if information is to represent faithfully the transactions and other events that it purports to represent, it is necessary that the transactions or other events are accounted for and presented in accordance with their substance and economic reality and not merely their legal form.
- .12 The principle of substance over form acknowledges that the substance of transactions or other events is not always consistent with that which is apparent from their legal form. Legal ownership is one method to demonstrate control of land, but the ability to generate future economic benefits or the right to service potential, may exist without legal ownership of land. As a result, although the capacity of an entity to control benefits is usually the result of legal rights, an item may nonetheless satisfy the definition of an asset even when there is no legal ownership. This is because the right of ownership is not essential, but merely an indicator of control.
- .13 The indicators in paragraph .14 reflect situations when an entity controls land. An entity applies judgement to assess whether the indicators of control are met.
- .14 Control of land is evidenced by the following indicators :
- (a) legal ownership; or
 - (b) the right to direct access to land, and to restrict or deny the access of others to land.
- .15 The indicators of control are usually evidenced through a binding arrangement entered into between parties. A binding arrangement is an arrangement that confers enforceable rights and obligations on the parties to the arrangement as if it were in the form of a contract. It includes rights from contracts or other legal rights and can be evidenced in several ways:
- (a) a contract concluded between the parties;
 - (b) legislation, supporting regulations or similar means including, but not limited to laws, regulation, policies, decisions concluded by authorities such as cabinet, executive committees, boards, municipal councils and ministerial orders

(referred to as legislation or similar means for purposes of this Interpretation of the Standards of GRAP); or

(c) through the operation of law, including common law.

A binding arrangement is often, but not always, in writing, in the form of a contract or documented discussions between the parties.

- .16 An entity needs to assess whether it controls land, using the indicators of control in paragraph .14, when it enters into a binding arrangement with another party in relation to the land. At each reporting date, an entity needs to assess whether there are any changes to the binding arrangement that may impact its assessment of control.

Substantive and protective rights

- .17 In assessing whether the rights that an entity holds result in control of the land, it is important to distinguish between substantive rights and protective rights.
- .18 Substantive rights are those rights that demonstrate an entity's control of an asset or rights to the asset because it has the ability to make decisions about, and benefit from, certain rights and assets, such how to use the land to provide services, and when to dispose of the land, to whom and at what price. For the right to be substantive, the holder of the right must have the present ability to exercise that right.
- .19 Protective rights serve to protect particular rights or assets in the public sector, and often require that specific approval be obtained to undertake certain transactions or in making key decisions. Substantive rights and protective rights may be granted to entities in terms of legislation or similar means.
- .20 As the reason for granting an entity a protective right is merely to protect the rights of the holder without giving it power over the land to which the right relates, an entity needs to consider whether it has a substantive right for purposes of assessing control of the land.
- .21 An entity needs to apply judgement to determine whether it has a substantive or a protective right by considering all facts and circumstances to make the assessment.



Legal ownership

- .22 Legal ownership refers to the owner being the registered title deed holder of the land. Legal ownership also arises where the land is transferred from the legal owner to another entity or party, usually through legislation or similar means. Legal ownership also arises when a change in ownership is recorded by way of an endorsement on the existing title deed, rather than a formal transfer or change in ownership reflected on the title deed. References to legal owner or legal ownership in this Interpretation of the Standards of GRAP include both situations.
- .23 In the absence of an entity demonstrating that it has granted the right to direct access to and restrict or deny access of others to land to another entity, the legal owner controls the land.

The right to direct access to land, and to restrict or deny the access of others to land

General application

- .24 If one entity has the right to direct access to, and restrict or deny the access of others to land while another is the legal owner of land, substance over form determines that the land is controlled by the entity that has the right to direct access to land, and to restrict or deny the access of others to land.
- .25 The right to direct access to land, and to restrict or deny the access of others to land, is an essential element of control that distinguishes an entity's assets from those public goods that all entities have access to and benefit from. The right to direct access to land and to restrict or deny access includes the ability to decide how, and by whom the land can be used. The right demonstrates an entity's ability to direct the future economic benefits or service potential associated with the land and is not limited to restricting or denying physical access to the land.
- .26 An entity must have an existing right that gives it the present ability to direct access to land, and to restrict or deny the access of others to land, even if the entity has not yet exercised these rights.



- .27 To demonstrate that the entity has the right to direct access to land, and to restrict or deny the access of others to land, it considers whether it can:
- (a) directly use the land's future economic benefits or service potential benefits to provide services to beneficiaries; or
 - (b) exchange, dispose of, or transfer the land; or
 - (c) use the land in any other way to generate future economic benefits or service potential.
- .28 When an entity directs the use of the land to provide services to beneficiaries, either itself or through directing another entity to provide specific services, the entity will conclude that it has the right to direct access to land and to restrict or deny access of others to land.
- .29 Where one entity uses the land to provide future economic benefits or service potential while another entity has the right to exchange, dispose of, or transfer the land, the entity needs to assess its ability to exercise the right to exchange, dispose of, or transfer the land to determine if it is able to direct or restrict or deny access to the land.
- .30 An entity may be granted a right to use the land for a period of time. Control of the land will be demonstrated if the entity has substantive rights to the land that enable it to direct access to the land, or to restrict or deny the access of others to land. For the entity to demonstrate control in terms of this Interpretation of the Standards of GRAP, the right of use needs to be for an indefinite period time and the entity should have other substantive rights that enable it to direct access to the land, or to restrict or deny the access of others to the land.
- .31 The existence of a binding arrangement to use a structure or building on the land should not be considered when an entity assesses the period over which it is granted a right to use land. This is because the rights granted to use the structure or building is likely to be significantly different from the right granted to an entity to use land.

- .32 An entity considers the indicators in paragraph .27 to assess whether it has substantive rights to the land. If an entity is unable to dispose of the land because a restriction is imposed by the legal owner, legislation or similar means, the entity may still conclude that it controls the land when the restriction is a protective, rather than a substantive right.
- .33 Where an entity has been granted a right to use land, it needs to consider whether the right needs to be accounted for in terms of the Standard of GRAP on *Leases*. If the entity concludes that the Standard of GRAP on *Leases* is not applicable, it needs to apply another Standard of GRAP to account for the right to use land.

Application by a custodian

- .34 Where one entity is, in terms of legislation or similar means, the custodian of land while another entity is the legal owner, the custodian has the right to direct access to and restrict or deny access of others to land. Legislation or similar means indicates that the custodian is the entity that is responsible for acquiring the land, managing it throughout its life cycle, and disposing of land subject to the relevant legislative requirements. In these instances, the custodian, rather than the legal owner, controls the land.

Recognition and derecognition of land

Recognition of land

- .35 Where the entity concludes that it controls land after applying the indicators of control in paragraph .14, the land is recognised as an asset in the statement of financial position in accordance with the applicable Standard of GRAP.

Derecognition of land

- .36 If the entity concludes that it does not control land after applying the indicators of control in paragraph .14, but land is currently recognised as an asset in its statement of financial position, the land is derecognised. Land is derecognised as an asset from the statement of financial position in accordance with the applicable

Standard of GRAP.

- .37 Legislation or similar means may impose conditions or restrictions on an acquirer of land. When any of these conditions or restrictions are breached by the acquirer, the entity re-assesses, at the time of the breach, whether it has gained control of land by applying the indicators of control in paragraph .14. If the entity concludes that it controls land after applying these indicators, it recognises the land as an asset in its financial statements.

Joint control over land

- .38 The Framework indicates that a particular right or other access to future economic benefits or service potential of an asset will appear in only one set of single entity financial statements, because such rights or access can be directly controlled by only one entity. However, an entity can enter into a binding arrangement with another entity where the sharing of control is established over an asset.
- .39 When joint control over land is established through a binding arrangement, no single entity is in a position to control the land unilaterally.
- .40 When the entity demonstrates that it has joint control of land as defined in the Standard of GRAP on *Interests in Joint Ventures*, each entity recognises its interests in the jointly controlled asset, i.e. the land, classified according to the nature of the land, as required by the Standard of GRAP on *Interests in Joint Ventures*.

Disclosure

- .41 Where an entity is not the legal owner or the custodian appointed in terms of legislation (see paragraph .34) of land but assesses that it controls land, the following disclosures shall be provided:
- (a) the carrying value of land that is recognised in accordance with the relevant Standard of GRAP; and
 - (b) key judgements made and assumptions applied to conclude that it controls

land.

- .42 Where an entity is the legal owner, or the custodian of land appointed in terms of legislation (see paragraph .34), but concludes that it does not control land, the entity shall disclose key judgements made and assumptions applied to conclude that it does not control land.
- .43 The disclosures in paragraphs .41 and .42 may be made in total, individually, or for groups of land that provide relevant information to the users of the financial statements for accountability and decision-making purposes.

Transitional provisions

- .44 This Interpretation of the Standards of GRAP is applied prospectively to binding arrangements relating to land that exist on initial of adoption of this Interpretation of the Standards of GRAP.
- .45 Any adjustments that result from the initial adoption of this Interpretation of the Standards of GRAP to land that exists on the date of adoption, should be made against the opening balance of accumulated surplus and deficit.
- .46 If, on initial adoption of this Interpretation of the Standards of GRAP, the acquisition cost of land is not available for those binding arrangements that exist on the date of adoption, a deemed cost (see Directive 7 *The Application of Deemed Cost*) may be determined to be the fair value of land on the date of adoption of this Interpretation.
- .47 This Interpretation of the Standards of GRAP is also applied to any new arrangements relating to land that are entered into after the date of adoption of this Interpretation.

Effective date

- .48 An entity shall apply this Interpretation of the Standards of GRAP for annual financial statements covering periods beginning on or after 1 April 2019. Earlier application is permitted.

Appendix A - Illustrative examples

This appendix is illustrative only and does not form part of the Interpretation of the Standards of GRAP. The purpose of the appendix is to illustrate the application of the Interpretation of the Standards of GRAP and to assist in clarifying its meaning.

Application of the indicators of control

Example 1: Right to direct access to land and to restrict or deny access of others to land

A municipality enters into a long term binding arrangement with a third party in terms of which the third party is granted the right to use the land for the development and operation of a golf course for an indefinite period of time. In terms of the binding arrangement, the municipality has the right to cancel the binding arrangement at any time during the lease period.

After applying the indicators of control in the Interpretation of the Standards of GRAP on the *Recognition and Derecognition of Land*, the municipality concludes that it controls the land. Even though a right has been granted to a third party to use the land, the municipality retains substantive rights as it has the ability to cancel the arrangement at any point in time. This demonstrates that the municipality has the right to direct access to land or to restrict or deny access of external parties to land. The municipality should therefore recognise the land as an asset in its financial statements.

Example 2: Substantive rights versus protective rights

A municipal council has the right to sell portions of the land under its control, but for the sale to be effected, regulatory approval from the provincial government is required. The municipality has a substantive right over the land as it can decide to whom the land can be sold, and at what price. The provincial government merely has a protective right over the land to ensure that, for example, the municipality does not dispose of the land when it could be used to achieve a specific service delivery objective.

As the municipality has a substantive right over the land, the municipality controls the land. The municipality should therefore recognise the land as an asset in its statement of financial position.



Example 3: Legal ownership versus custodial responsibility

(a) Custodial responsibility granted to the Department of Public Works

The Department of Public Works is, in terms of legislation or similar means, the custodian of government owned land in province X. The provincial government is the registered title deed holder of land in the province.

As the Department of Public Works is, in terms of legislation or similar means, responsible for making decisions about the disposal of land, as well as for the management of land throughout its use and life cycle, the Department of Public Works, rather than the provincial government should recognise the land as its asset.

(b) Custodian grants an enforceable right to use the land to another entity

In addition to the facts set out above, the Department of Public Works enters into a binding arrangement with the Department of Defence, in terms of which the Department of Defence is granted a right to use the land as a testing facility for an indefinite period.

Even though the Department of Public Works, as the legislative custodian of land, has granted the Department of Defence a right to use the land for an indefinite period of time to generate service potential, the Department of Public Works cannot transfer the land or its associated rights to another entity unless that entity is also a custodian in terms of legislation. Control of the land therefore remains with the Department of Public Works.

Appendix B – Amendments to other Standards of GRAP

The purpose of the appendix is to identify the consequential amendments to other Standards of GRAP resulting from the issue of the Interpretation of the Standard of GRAP on Recognition and Derecognition of Land.

Amended text is shown with new text underlined and deleted text struck through.

Amendments to the Standard of GRAP on Leases

A1. Paragraph .81 is amended and paragraph .78A is added as follows:

Transitional provisions

Amendments to other Standards of GRAP

.78A Paragraph .17 was amended by the Improvements to the Standards of GRAP issued in February 2015. This amendment is effective for annual periods beginning on or after Day Month Year [proposed as 1 April 2019]. An entity shall apply this amendment as follows:

(a) The amendment shall be applied prospectively to lease arrangements that exist on the effective date of the amendment in accordance with the Standard of GRAP on Accounting Policies, Changes in Accounting Estimates and Errors. Any adjustments that result from the initial adoption of the amendment should be made against the opening balance of accumulated surplus and deficit.

(b) The amendment shall be applied to any new lease arrangements that are entered into after 1 April 2019.

Effective date

Entities already applying Standards of GRAP

~~**.81 Paragraph .17 was amended, and paragraph .16 of the original text (2004) was deleted by the Improvements to GRAP issued in February 2010. An entity shall apply those amendments for annual periods beginning on or after [date to be determined]. If an entity applies this Standard for a period beginning before [date to be determined], it shall disclose that fact.**~~

Basis for conclusions

Introduction

The Basis for conclusions summarises the Accounting Standard Board's considerations in reaching consensus on the issues outlined in this Interpretation of the Standards of GRAP.

Background

- BC1. During the Post-implementation Review of the Standards of GRAP on *Investment Property* (GRAP 16) and *Property, Plant and Equipment* (GRAP 17), respondents highlighted issues on the recognition and derecognition of land. It was specifically questioned whether land should be recognised and derecognised by an entity based on legal title or control. Respondents also questioned when land should be derecognised from an entity's financial statements where it is transferred to a beneficiary in a housing arrangement.
- BC2. Based on the comments received, the Board agreed to include a project on its work programme to develop an Interpretation of the Standards of GRAP that deals with the recognition and derecognition of land.

Existing legislative requirements in relation to land

- BC3. In South Africa, a number of laws and regulations govern immovable assets in the public sector. The Board considered all the applicable legislative requirements to address the questions raised by respondents. In particular, the Board considered whether land should be recognised when an entity is a custodian of land, when an entity has legal title of land, or when an entity has control from an accounting perspective. Likewise, the legislative requirements were considered to assess when the land should be derecognised as an asset from an entity's statement of financial position.
- BC4. To understand the legislative requirements, the Board obtained a legal opinion on aspects that impact the recognition and derecognition of land.

BC5. The requirements of the following legislation were considered:

- The Constitution of the Republic of South Africa, Act No 108 of 1996;
- Government Immovable Asset Management Act, Act No 19 of 2007 (GIAMA);
- Land Administration Act, Act No 2 of 1995 and provincial Land Administration Acts; and
- The Housing Act, Act No 107 of 1997.

The Constitution of the Republic of South Africa, Act No 108 of 1996

BC6. The Constitution addresses the registration of immovable assets owned by the state. It provides that immovable assets can be owned by government, which includes the national government, a provincial government or a municipality. Even though each government is constitutionally a distinct legal entity that can own an immovable asset in its own name, a national or provincial government department is not seen to be a distinct legal entity. As it is a component of the national or provincial government of which it forms part, it cannot own an immovable asset in its own name.

BC7. Thus, irrespective of which department uses a particular immovable asset, the immovable asset is registered in the name of the national or provincial government rather than in the name of the particular department that uses the immovable asset. When the immovable asset is registered at the deeds office, it is registered in the name of a government.

Government Immovable Asset Management Act, Act No 19 of 2007 (GIAMA)

BC8. The GIAMA provides a uniform framework for the management of immovable assets held, or used by entities. This framework ensures that entities use assets in a coordinated way to achieve their service delivery objectives. In terms of GIAMA, the Department of Public Works (DPW), Department of Rural Development and Land Reform (RDLR) and the Premiers in provinces or Members of the Executive Committee (MEC) designated by the Premier, have a custodial responsibility over all government's immovable assets. GIAMA requires the custodian to execute all



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activities that are associated with common law ownership. These include the management of the immovable asset throughout its life cycle, including the acquisition and disposal of immovable assets, and allowing the custodian to enter into binding arrangements with others to transfer the right to use the immovable asset for a period of time.

Land Administration Act, Act No 2 of 1995 and provincial Land Administration Acts

- BC9. In terms of the Land Administration Act, a Premier may acquire or dispose of provincial land. Each province has established its own provincial Land Administration Act, which has similar provisions to that of the Land Administration Act. In terms of the provisions of these Acts, land acquired must be registered in the name of the provincial government, and the Premier must ensure that a register is kept and maintained to reflect all provincial land registered in the name of government.
- BC10. The Acts also allow Premiers to impose conditions on acquirers when provincial land is transferred or sold. These include that the acquirer, or his or her successors in title, is not permitted to sell or otherwise alienate land within a maximum period of five years from the date of initial registration into the name of the acquirer, unless it is first offered to the provincial government.

Housing Act, Act No 10 of 1997

- BC11. The Housing Act determines that when a beneficiary is entitled to receive a house after meeting the eligibility criteria in the national housing programme, the house can be occupied by the beneficiary when it is ready for occupation. Transfer of legal title into the name of the beneficiary will then commence. The beneficiary may not within a period of eight years after occupation of the house, dispose of, or transfer it to another person or entity. If the beneficiary intends to sell the house during the eight year period, ownership will automatically revert to the provincial housing department who is then deemed to be the owner thereof.
- BC12. If the house is sold after eight years, the provincial department of housing is given the first opportunity to acquire the house from the beneficiary so that the



department may transfer the house to another eligible beneficiary.

Basis for consensus

- BC13. The Board agreed that the Interpretation of the Standards of GRAP should be developed using the principles in the *Framework for the Preparation and Presentation of Financial Statements* (the Framework), as well as the existing guidance in the Standards of GRAP.
- BC14. The approach taken in developing the Interpretation is that control is considered in relation to the asset, i.e. the land as a whole, rather than accounting for the asset as a “bundle of rights”. Accounting for the various rights in a binding arrangement may result in the recognition of different rights by different entities, whereas the objective of this Interpretation of the Standard of GRAP is to account for land based on control. The Board therefore concluded that an entity should not recognise the individual rights. Instead, an entity should consider the substance of the binding arrangement before concluding whether or not the land should be recognised as its asset.
- BC15. The Framework requires that an item should be recognised in the statement of financial position or statement of financial performance when it meets the definition of an element and satisfies the criteria for recognition.
- BC16. The Standard of GRAP on *Revenue from Non-exchange Transactions (Taxes and Transfers)* explains that control of an asset arises when an entity can use or otherwise benefit from the asset in pursuit of its objectives and can exclude or otherwise regulate access of others to that benefit.
- BC17. To meet the definition of an asset, control of the asset must be demonstrated by the entity. Substance over form requires that information should represent faithfully the transactions and other events that it purports to represent. Transactions and events should therefore be accounted for and presented in accordance with their substance and economic reality and not merely their legal form. Even though legal title and physical possession are indicators of control, the right of ownership is not essential.

- BC18. The legal opinion noted that the concept of the state acting as custodian, whereby the custodian holds land and other natural resources in trust for the public at large, is used in different pieces of legislation. Although an entity may act as the custodian of land in terms of legislation, it is not in all instances the legal owner of that land.
- BC19. The custodian is required to acquire, manage the land throughout its life cycle and dispose of the land subject to the legislative requirements. Even though legislation or similar means can require an entity to be the custodian, it may not be the legal owner of the land.
- BC20. The Board concluded, based on the legal opinion and the principle of substance over form, that when legislation or similar means requires that one entity is the custodian while another is the legal owner of the land, the entity that is the custodian of the land rather than with the legal owner, controls the land.

Binding arrangement

- BC21. In developing the proposed IGRAP on *Recognition and Derecognition of Land* (ED 139), the Board concluded that, in assessing the indicators of control, a binding arrangement needs to be in place. It concluded that it is highly unlikely that an entity will be granted a right to direct access to land, or will be able to restrict or deny others to land without an arrangement that sets out these rights. Consequently, the Board agreed that the existence of a binding arrangement is critical to identify an entity's rights in relation to the land and to assess the indicators of control.
- BC22. A number of respondents to ED 139 made the observation that a binding arrangement may not always be in place due to the lack of formal arrangements, specifically in relation to arrangements between public sector entities and traditional authorities. Respondents suggested that past actions should be considered where no binding arrangement, as defined, exists.
- BC23. Based on this observation, engagements were undertaken with appropriate stakeholders to understand the nature of the arrangements in place between these entities. At these discussions, it was noted that a binding arrangement exists in the



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majority of instances, whether in the form of legislation, a Permission to Occupy (PTO), minutes or recordings of discussions between the national or provincial government and the traditional authority and/or the community.

- BC24. As the existence of a binding arrangement is critical to assess an entity's rights and obligations in relation to land, the Board concluded that it should not amend the requirements in ED 139 to allow an entity to consider past actions in determining its rights and obligations in relation to land. The Board concluded that where an arrangements does not exist, an entity should take the necessary action to establish its rights and obligations.

Substantive rights and protective rights

- BC25. Legislation or similar means may grant entities substantive or protective rights over land. The Board concluded that an entity should only consider substantive rights, which are presently exercisable, in assessing whether it controls land. This is because substantive rights will enable an entity to direct or restrict the future economic benefits or service potential associated with land. Protective rights by their nature are merely designed to protect an entity's interests in land without giving an entity power to direct or restrict access the benefits associated with land.

- BC26. The concept of substantive and protective rights is introduced in the proposed Standard of GRAP on *Consolidated and Separate Financial Statements*. These rights are described differently in this Interpretation so that they are relevant to understanding whether control over land exists.

Indicators of control

- BC27. The Board noted that control may be evidenced by a number of indicators. As a result, the Board developed the following three indicators of control in ED 139 that demonstrate that an entity controls land:

- legal ownership; or
- the right to access the land, and to restrict or deny the access of others to the land; and/or



- the existence of an enforceable right to service potential or the ability to generate future economic benefits arising from the land.

The indicators of control were based on the principles in the Framework, and the IPSASB's Conceptual Framework for General Purpose Financial Reporting by Public Sector Entities.

The right to direct access to land, and to restrict or deny the access of others to land

- BC28. A number of public sector entities have the right to direct access to land, and to restrict or deny the access of others to land, even though they do not intend exercising this right in the foreseeable future. The Board concluded that, irrespective of whether an entity may in future decide to exercise its right to direct access to land, and to restrict or deny the access of others to land, control of land should be assessed based on the existence of the right, and not on the likelihood of the entity exercising the right.
- BC29. In terms of legislation or similar means, an entity may be required to act as custodian of the land. The Board noted that as the custodian is responsible to acquire land, manage it throughout its life cycle and dispose of the land subject to the relevant legislative requirements, it has the right to direct access to land, and to restrict or deny the access of others to land. As the legal owner's rights are effectively transferred from the legal owner to the custodian through legislation or similar means, the Board concluded that the custodian, and not the legal owner of the land, should recognise the land as its asset.

The existence of an enforceable right granted to an entity to use the land to generate future economic benefits or service potential arising from the land

- BC30. The Standard of GRAP on *Leases* explains that in some agreements, even though the legal form of an agreement is that the lessee may not acquire the legal title of the leased asset, the substance and financial reality of the agreement are that the lessee acquires the future economic benefits or service potential from the use of the leased asset. These future economic benefits or service potential are acquired for the major part of the asset's economic life in return for entering into an obligation



to pay for that right.

- BC31. Even though the form of the long-term lease agreements may not be that of a finance lease, the substance and financial reality of the agreement is that the lessee controls the future economic benefits or service potential associated with the asset for the lease period.
- BC32. In developing ED 139, the Board drew from the principles in GRAP 13 in assessing whether control exists. The Board concluded that an entity recognises that land as an asset in its financial statements if it is able to demonstrate that it uses land, and has an enforceable right to generate future economic benefits or service potential arising from the land for a significant period of time, irrespective of whether the legal ownership is transferred to the entity.
- BC33. Respondents to ED139 expressed concerns with the requirement that the use of land needs to reflect a significant period of time, as what is deemed “significant” can result in different views and interpretations. Respondents also requested that the difference between the indicators relating to an entity’s right to direct access to land, and to restrict or deny the access of others to land, and the indicator on an enforceable right granted to an entity to use the land, should be explained.
- BC34. The Board reconsidered the proposed indicator on the existence of an enforceable right to generate future economic benefits or service potential arising from the land. The Board noted that where an entity has the right to use the land for a period of time, this right of use should be for an indefinite period of time. The Board also noted that because it may be difficult to assess whether indefinite use has been granted without assessing either parties’ intentions in the arrangement, the entity should also be able to demonstrate that it has certain substantive rights in order for it to control the land.
- BC35. The Board noted that, for an entity to demonstrate that it has substantive rights, the indicators listed in paragraph .27 should be considered. As a result, the Board agreed to combine the indicators of control that address the right to direct access, and to restrict or deny access, and the indicator that deals with an enforceable right granted to another entity.

Joint control over land

- BC36. In some instances, entities can enter into a binding arrangement to share control over an activity. To assess whether two or more entities have joint control over land, the principles in the Standard of GRAP on *Interests in Joint Ventures* should be considered. The Standard of GRAP on *Interests in Joint Ventures* defines joint control as the agreed sharing of control over an activity in accordance with a binding arrangement, and exists only when the strategic financial and operating decisions relation to the activity require the unanimous consent of the parties sharing control.
- BC37. The Standard of GRAP on *Interests in Joint Ventures* determines that some joint ventures involve the joint control, and often the joint ownership, of one or more assets contributed to, or acquired for the purpose of, the joint venture and dedicated to the purposes of the joint venture. These assets are used to obtain benefits for the venturers. Each venturer may take a share of the output from the assets and each bears an agreed share of the expenses incurred.
- BC38. When two or more entities are committed to undertake an activity involving land that are subject to joint control, no single entity controls the land alone. The Board therefore agreed that the principles in the Standard of GRAP on *Interests in Joint Ventures* should be applied where control of the land is demonstrated by more than one entity. Once the entities have demonstrated that joint control exists, each entity should recognise its interests in the jointly controlled asset, classified according to the nature of the assets.

Disclosure requirements

- BC39. Some respondents to ED139 noted that the disclosure requirements proposed in the Exposure Draft are too onerous to apply to land on an individual basis. The Board noted, however, that the intention of the disclosure requirement is not to provide information on an asset-by-asset basis.
- BC40. The Board clarified that the disclosures in paragraphs .41 and .42 can be made in total, individually, or for groups of land, to provide relevant information to the users of the financial statements for accountability and decision-making purposes. An



amendment has also been made to require that the disclosure requirements should be applied by both the legal owner and the custodian.

Transitional provisions

- BC41. The retrospective application of this Interpretation of the Standards of GRAP will result in the application of hindsight to binding arrangements that existed on the date of adoption. As a result, the Board agreed that the prospective application of this Interpretation of the Standards of GRAP is more appropriate.
- BC42. A number of respondents to ED 139 made the observation that the Board should consider the effective date of this Interpretation of the Standards of GRAP in relation to financial management reforms that are currently being undertaken in the public sector. In addition, observations were also made that additional time may be required to implement the principles in this Interpretation of the Standards of GRAP.
- BC43. The Board considered whether additional relief should be provided for the adoption of the Interpretation of the Standards of GRAP. The Board concluded that it should defer the effective date to allow entities time to comply with the requirements of the Interpretation. The Board also noted that relief for measuring the land is provided by allowing entities to determine deemed cost where the acquisition cost of land is not available for those binding arrangements that exist on the date of initial adoption of the Interpretation of the Standards of GRAP.
- BC44. The Board also noted that deferring the effective date allows other stakeholders time to update existing guidance that are applied by entities in accounting for the land, such as the *Guidance on Accounting and Reporting for Immovable Assets (Property)*.