



## Andrew Barr MLA

### Chief Minister

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Mr Greg Smith  
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Dear Chairperson

I am writing to convey to you the ACT's Rejoinder Submission to matters raised in the Workplace Discussions conducted in Canberra on 15-17 August 2018, as part of the 2020 Methodology Review of GST Revenue Sharing Relativities (2020 Review).

As reflected during the discussions, my Government places a high priority on the review process including presenting the ACT's claims for allowances which recognise the unavoidable extra costs incurred by the ACT because of Canberra's status as the national capital. Allowances for national capital costs have been recognised by the Commission from the time that the ACT was granted self-government and have become an integral part of the system of fiscal equalisation administered by the Commission. These allowances have ensured that the citizens of the ACT do not, either directly or indirectly, absorb unintended financial consequences of our unique charter as the home of the national capital. In particular, these arrangements have acknowledged the impact of the National Capital Plan on the ongoing administration of the ACT.

During the recent Workplace Discussions the Commission expressed the view that the ACT Government has had sufficient time since the establishment of self-government to adapt its practices to the financial impact of the National Capital Authority (NCA) and National Capital Plan (NCP) on the ACT's planning, land management and other matters inherited from the Commonwealth. I cannot agree with this view. While legacies inherited from the Commonwealth have been, for the most part, dealt with over the intervening time, the roles of the NCA and NCP are a fundamental, ongoing structural feature of the governance of the ACT. They are not legacies which will dissipate over time, because they have a vital ongoing role to play in Canberra's role as the nation's capital.

However, the long-standing planning rules imposed by the Commonwealth are restricting the growth of the city and I have raised this matter with the new Prime Minister in correspondence seeking a more holistic form of engagement between our respective Governments which would adapt these

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outdated rules. Such an approach would enable the effective development of our city, while at the same time safeguarding the intentions of the National Capital Plan. While such changes would reduce the cost impacts of the NCP on the ACT in the longer term, they will not be eliminate them entirely. Accordingly, the ACT must continue to draw on the equalisation framework to address the continuing cost impacts of the national capital.

The submission also presents a series of claims in relation to the impact of cross border use of ACT Government services by non-residents, principally from the adjoining regions in New South Wales (NSW). While cross-border impacts are not unique to the ACT, the extent of non-residential use of ACT services far exceeds that experienced by any other jurisdiction.

In addition, the submission includes responses to a range of issues across the spectrum of revenue and expense assessment categories which were raised during the Workplace Discussions.

I look forward to ongoing engagement between the Commission and the ACT as you continue to progress the 2020 Review.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Barr', written in a cursive style.

Andrew Barr MLA  
Chief Minister

**23 NOV 2018**



# **COMMONWEALTH GRANTS COMMISSION 2020 REVIEW OF GST REVENUE SHARING RELATIVITIES**

## ***REJOINDER SUBMISSION TO WORKPLACE DISCUSSIONS***

**ACT Government submission**

ACT GOVERNMENT SUBMISSION

NOVEMBER 2018

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## FOREWORD

This Rejoinder Submission has been prepared in response to the Commonwealth Grants Commission's (the Commission) further invitation to address a number of issues arising from the Commission's Draft Assessment Papers for the *2020 Methodology Review of GST Revenue Sharing Relativities* (2020 Review), the ACT Submission in response and subsequent ACT Workplace Discussions convened in Canberra from 15 to 17 August 2018.

For the first time since the *2004 Review of State Revenue Sharing Relativities*, it comprehensively outlines the ACT Government's claims for consideration of special circumstance disability allowances in the form of national capital adjustments. These unique claims arise from a comprehensive audit of past allowances and drawing conclusions as to their applicability today and importantly into the future. The underlying presumption from an equalisation perspective, is that Canberra was from its very beginning, and still is today, a planned national capital, reflecting the aspirations of the nation. This is in contrast with the usual Australian experience whereby cities have grown organically from the original settlement. The principle underlying Canberra's foundation is to provide the Commonwealth with a capital city reflecting our national identity and shared by all Australians and the ACT Government is charged with its administration and development.

Similarly, the submission also presents a series of claims in relation to the impact of cross border utilisation of ACT Government services by non-residents, principally from the adjoining regions in New South Wales (NSW). While not unique to the ACT, it is the extent of the non-residential use of ACT services not covered by appropriate intergovernmental agreements which is material and warrants the attention of the Commission.

It also reflects a compilation of individual responses to a range of issues across the spectrum of revenue and expense assessment categories. Each response is aimed at either clarifying a particular ACT position at the request of the Commission or providing further data and guidance to the Commission staff on some complex but important considerations warranting further attention going forward.

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## DISABILITY ASSESSMENTS

### NATIONAL CAPITAL

Since the time of ACT self-government, national capital assessments by the Commission have recognised the unavoidable costs incurred by the ACT as a result of Canberra being the National Capital and seat of the Commonwealth Government.

Most recent assessments have recognised the ongoing impacts of the National Capital Plan (NCP) and National Capital Authority (NCA) on ACT planning and capital works, the maintenance of 'above-standard' arterial roads inherited by the ACT at self-government and the premium paid by the ACT for the services of the Australian Federal Police (AFP) in the mandatory provision of policing in the ACT.

The Commission has suggested in its *Other Disabilities* Staff Draft Assessment Paper that, nearly three decades on, the ACT Government has 'had time to adjust to NCP related requirements and other circumstances inherited at self-government'. On this basis and following subsequent Commission comments that other jurisdictions also have 'special circumstances', the Commission has indicated that it is not minded to continue the national capital assessment, apart from the police allowance, in the absence of a re-prosecuted case for its continuation.

The ACT considers there to be a strong case for continuation of this allowance. The additional costs imposed on the ACT Government have been grounded in legislation since the time of self-government, remain in place and show little prospect of change.

Indeed, the NCP related costs imposed on the ACT are increasing as the ACT grows – both in terms of its population and economy.

The requirement for the Commission to assess national capital issues remains legislatively based, both in the *ACT (Self-Government) Act 1988* and in the Commission's legislation itself. Any special circumstances of other jurisdictions should be separately assessed in relevant assessments on their merits.

In this submission the ACT outlines the clear case for a continued national capital allowance. As outlined below, the circumstances of the ACT are unique within the Federation and their history and basis cannot be overturned on the basis of the passage of time as the Commission has suggested.

### Continued Relevance of National Capital Allowances

#### ***History and Legislative Grounding of National Capital Allowances***

Canberra became the nation's capital in 1911, establishing a 'neutral' territory between the cities of Melbourne and Sydney but situated wholly-within the boundary of NSW.

Canberra was granted self-government in 1989 – a body politic city/state under the Crown – to administer the ACT on behalf of the Commonwealth.

The second reading speech to the *Australian Capital Territory (Self-Government) Act 1988*, delivered by the then Minister for Territories, the Hon Clyde Holding on 19 October 1988, made clear:

*“The territory is unique. Virtually all its residents live in the one city – Canberra. It needs a form of government that acknowledges its unique nature and this is what is proposed; one level of government appropriate to the City-State of the ACT. It needs a form of government that also recognises its situation as the nation’s capital. This proposal has been designed to ensure that the Commonwealth will look after the national aspects and the ACT, the territorial and local aspects, in a manner that protects the interests of both.*

*The Commonwealth Grants Commission Act 1973 will be amended to recognise the ACT's financial autonomy and national capital aspects, as well as to allow for direct access by the ACT to the Grants Commission, at the ACT's request.*

*Commonwealth funding to the ACT will fully recognise the effects of Canberra's role as the national capital and seat of Commonwealth government on such things as the standards and costs of works and services. This Bill explicitly provides that these special circumstances be taken into account.*

*The Commonwealth will retain responsibility for financing its functions within the Territory and the Bill provides that the ACT will not be liable for the cost of administering any function retained by the Commonwealth. The Commonwealth will provide additional assistance to the ACT for any further functions transferred from the Commonwealth in future years.”*

And so, section 59(1) of the Self-Government Act provided that:

*... “the Commonwealth shall conduct its financial relations with the Territory so as to ensure that the Territory is treated on the same basis as the States and the Northern Territory, while having regard to the special circumstances arising from the existence of the national capital and seat of Government in the Territory”.*

The special circumstances protections were specifically designed to overcome the notion (reflected in the self-government referendum outcome a decade earlier) that the ACT would not be protected from the costs associated with administering the national capital - as opposed to running a city for the local population.

Consequent upon passage of the self-government legislation, the Commission’s enabling legislation was amended, with effect from 13 March 1989, to provide that:

*“The Commission shall inquire into and report to the Minister upon:*

*(a) any application made by the Australian Capital Territory to the Commission for a grant of special assistance to that Territory; .....”*  
*(s16AA)*

*(1A) References in this Act to the grant of special assistance to the Australian Capital Territory shall be read as references to the grant of financial assistance to that Territory for the purpose of making it possible for that Territory, having regard to the special circumstances arising from the location in it of the national capital and the seat of Government of the Commonwealth, by reasonable effort, to function in respect of matters for which the Australian Capital Territory Executive has responsibility, at standards not appreciably below the standards of the States and the Northern Territory."*

The passage of these Bills and commencement of self-government on 11 May 1989 eventually led to the Commonwealth Government decision, culminating in the 1992 Premiers' Conference, agreeing to base the ACT's general revenue assistance on the per capita relativity assessed by the Commission commencing from 1993-94.

And so since, as the Commission notes and recognises in its Draft Staff Assessment Paper CGC 2018-01/25-S covering *Other Disabilities* for the current Review:

*"National capital allowances recognise the unavoidable extra costs incurred by the ACT because of Canberra's status as the national capital or because of legacies inherited from the Commonwealth at self-government."*

The Commission has been foundational to the development and prosecution of these arrangements through four separate (including three pre self-government) Commission inquiries into the ACT which set about the task of establishing *inter alia*, the protective measures and subsequently by upholding them in the 1994, 1999, 2004 and 2010 Reviews.

Common to each of the four inquiries was an underlying requirement to have regard to the implications of Commonwealth national capital and seat of government responsibilities. Over the course of its deliberations, the Commission effectively oversights the identification, transition and adoption of the ACT into the system that sought to ensure that the people of the ACT were not encumbered with the costs of maintaining the unique dual status of the ACT as both a community of people and the national capital.

It is also important to note that the Commission in the past has exercised a degree of broad judgment in arriving at a raft of different special needs allowances which has provided successive ACT Governments with a high degree of confidence in the system now in place.

This background, including the Commission's role in it, is particularly relevant in the context of Commission staff now proposing that all National Capital allowances (apart from policing) cease in the 2020 deliberations.

This proposal is at odds with the fundamental tenet of the self-government model imposed on the ACT by the Commonwealth and does not recognise that the characteristics of the ACT, still reflected in the founding legislation, are different to those encountered by other jurisdictions and are, indeed, unique and systemic within Australia's system of government.

The national capital aspects of Canberra include much of the ACT's open space and the hill tops of the urban areas; whilst the principal avenues leading up to Parliament House were also a key part of Griffin's plan and therefore a Commonwealth responsibility. But clearly, some of these are major commercial thoroughfares and fully integrated with neighbouring land uses, which impacts on the ACT's planners, government and future developments.

The Commission has rightly recognised in the past that these matters are not as simple as drawing a line on a map and declaring a specific area to be subject to Commonwealth or Territory control.

The ACT therefore has to question what has changed that the Commission should now overturn the history of past recognition of the ACT's special circumstances.

### ***The Commonwealth's Influence in the ACT***

The framework in place to recognise the ACT's special circumstances and the Commonwealth's responsibilities to fund national capital/seat of government requirements is outlined above. To understand what this means in practice, it is instructive to also consider those areas of direct Commonwealth influence on the ACT's daily life. They show that the ACT's self-government arrangements are far more restrictive than those of the Northern Territory (NT) and even more so compared with State constitutions.

The daily influences of the Commonwealth on the operation of the ACT economy and government today are many and varied:

- Despite self-governance, Section 122 of the Constitution allows the Commonwealth Parliament to override the laws of the ACT at any time, in contrast to the full legislative independence provided to the States and Territories.
  - Indeed, Section 122 has recently been shaping debate across a number of contemporary policy issues in Canberra (including Mr Fluffy, marriage equality, euthanasia, Jervis Bay withdrawal and, most recently, pill testing).
- The Commonwealth remains the ultimate owner of all land in the ACT, requiring the ACT to operate a leasehold system of land allocation.
- At the time of granting self-government, the Commonwealth also granted itself significant holdings of land that are quarantined from the reach of the ACT Government in terms of planning, use and regulation. Subsequent use of this land by the Commonwealth (such as commercial development at the airport precinct and proposed redevelopment of current CSIRO land) has at times been inconsistent with ACT Government development plans for the ACT – which seek to encourage development in Civic and the town centres.
- The higher standards required as a result of the NCP and its management by the NCA remain pervasive across the ACT in determining its form and development in areas of ACT responsibility:
  - The operation of the NCP has the effect of making ACT laws and policies on 'Territory Land' subordinate to the planning policies of a Commonwealth Authority; and
  - The planning powers retained by the Commonwealth are unique in Commonwealth/State arrangements.
- The Commonwealth has legislative control over ACT police services provided by the AFP.

- Unlike other self-governing Australian territories (including the NT) the ACT does not have an Administrator. The Crown is represented by the Australian Governor General in the government of the ACT. Until 4 December 2011, the decisions of the assembly could be overruled by the Governor-General (effectively by the national government) under section 35 of the Australian Capital Territory (Self-Government) Act 1988, although the Commonwealth Parliament voted in 2011 to abolish this veto power, instead requiring a majority of both houses of the Commonwealth Parliament to override an enactment of the ACT.

This list does not extend to general Commonwealth policy influences pervasive across jurisdictions. Rather, each of these issues is relevant in considering the extent to which the ACT Government can exercise a comparable degree of policy influence as the governments of the States and Territories.

The ACT seeks (in a national capital context) assessment by the Commission of those legal and geographic circumstances, imposed by the Commonwealth and out of its control, that continue to have a special, unique or predominant impact on the ACT.

This is not, of course, to suggest that national capital interests should not be reflected in the functioning of the ACT; clearly the Self-Government Act contemplates that they should and appropriately so. Rather, the point is that the Commonwealth needs to uphold responsibility for the special circumstances which remain in place – reflecting its national capital responsibilities.

It is sensible for discussions to take place about what is reasonable in terms of enhancements to reflect the national capital elements of the city, however it is appropriate that the ACT is compensated for any resulting costs.

In summary, the ACT faces special circumstances arising from the role of the Commonwealth Government in the ACT which can and do override deliberations of the ACT Legislative Assembly on a daily basis. The Commission's role, reflected in its consideration of National Capital allowances, is critical to ensuring that the ACT is compensated to the extent that the Commonwealth imposes costs that rightly relate to National Capital considerations.

It is, in fact, the only institution that recognises these costs and any loss of the transparency this brings could have significant flow-on consequences in relation to the role the Commonwealth plays in the ACT in the years ahead.

Failure to assess the ACT's national capital influences would not only violate the legislative requirement to do so; it would also imply that the ACT does not incur any costs in respect/as a result of the Commonwealth's national capital responsibilities in the ACT in respect of State-like services – which the claims below demonstrate very clearly it does.

In the meantime, the ACT continues to get on with the job by undertaking activities that add value to the national capital and are not included in this claim.

All of these issues again go to the key fact that it is not the ACT Government's role to adhere to and pay for those features which express the city's primary role as the National Capital. This is a federal obligation.

### ***Influence of the National Capital Plan***

The focus of the ACT's national capital claims in the past has been the cost impacts of the NCP and its implementation by the NCA.

The Commission staff's draft approach to the 2020 Review seems to suggest that there are no longer any ongoing systemic legacies arising from the ACT's self-government history – and that it has been within the ACT's remit to have ameliorated over the course of the past 30 years those special circumstances for which the ACT has made claims in the past.

The Commission has indicated in its *Other Disabilities* Staff Draft Assessment Paper that;

*“Nearly three decades have passed since the introduction of self-government in the ACT. Commission staff consider that the ACT has had time to adjust to the requirements of the NCA and the NCP, and other circumstances inherited at self-government.”*

This, in the ACT's view, is not a realistic assessment.

From the very beginning, Canberra was and still is a 'planned city' in an artificial environment (the so-called 'Griffin Legacy') as opposed to previous Australian experience whereby cities have usually extended organically from the original settlement.

The ACT and NCA have different objectives and face different incentives leading to conflicting visions for Canberra. Each 'vision' prioritises different aspects which at times are mutually exclusive.

As highlighted below the NCA, as custodian of the legacy, remains at the forefront of governing the national capital aspects of the city. Much of what is done in the ACT as a 'self-governed' territory remains subject to the required enhancements of the NCP. In executing its powers, the NCA is more or less obligated to get involved in many aspects of the ACT – even if it does not always exercise its powers. However, this involvement nonetheless creates additional costs for the ACT.

And there is no sense that that this will moderate in the near future, as evidenced by recent events in relation to the further development of the ACT light rail project – which is covered in detail in this submission.

If relevant controls have not changed over time and the ACT continues to bear fiscal impacts, so the national capital assessment areas should not change.

### ***Special Circumstances of Other Jurisdictions***

It concerns the ACT that the Commission may, in the name of system simplification, be considering no longer assessing the special circumstances of the ACT on the basis that other jurisdictions also have special circumstances that might, effectively, offset those of the ACT.

Along with the legislative basis for national capital allowances needing to be assessed, it is also the case that these unavoidable costs are unique to the ACT. As the Commission's 2015 Review noted (p533) clearly:

*“The National Capital Plan] places restrictions on some of the planning and development decisions in the ACT and can lead to higher costs for the ACT Government. These additional costs are not incurred by the other States.”*

The ACT's position is that, in addition to the clear legislative basis for national capital claims, the ACT's special circumstances are not substitutable with – and should not be negated by – any special circumstances of the other jurisdictions.

The ACT accepts that other jurisdictions may have special circumstances. However, these should be considered on their merit as part of other relevant assessments; they should not be conflated with the ACT's national capital impositions.

The ACT would like, in particular, to address comments made by Commission staff that other State Governments incur high development costs arising from special circumstances in order to enhance their economic growth. Staff have suggested that Western Australia (WA) incurs very high planning imposts in facilitating the development of their resources sector in remote WA geographical areas and that these are no different conceptually from the ACT National Capital claims/imposts.

The ACT considers this characterisation a misrepresentation of the concept of special circumstances:

- WA embarks on development of its resources for a direct economic gain via direct revenue imposts (royalties) and indirect gains via the location/operation of international conglomerates/staff in its capital city and regional centres, adding to activity and, hence, revenue streams.
- The ACT has a legislated framework imposed over it – “the Dome Effect” – when attempting to utilise its most significant resource – land development – which has been pursued with the same economic drive as WA does with its endowments.

However, the difference is that WA can pursue its development policies largely unencumbered, as can any other State – unlike the ACT which has a legislated framework (the NCP) detailing controls over how/where/when and why the ACT goes about its task.

The ACT is concerned with the prospect of the CGC addressing the planning/development costs imposed on the ACT by the National Capital Plan through the Services to Industry category, rather than as part of a separate National Capital category, on the basis of its views on resource developments as stated above.

Bringing these costs into the Services to Industry category is likely to have the effect of eliminating any potential gain to the ACT, due both to the averaging effect of the assessment and because the driver (disability) for the major infrastructure projects component of this category is State shares of private non-dwelling construction expenditure. In our submission on the CGC's Draft Assessment Papers, the ACT argued that the significance of the Commonwealth government in the ACT's economy meant that private expenditure would not provide a fair measure of the ACT's expense needs, and that the driver should instead be non-State/Territory non-dwelling construction expenditure (i.e. picking up Commonwealth government infrastructure spending as well as private infrastructure spending).

Even if the suggested modified driver were adopted by the CGC, it would still be applied to an average per capita level of cost. However, the key argument is that the ACT faces a layer of costs imposed by the NCA which is unique to this jurisdiction because it relates solely to its role as the host of the national capital. Therefore, a separate adjustment is required for the ACT to reflect these costs.

### ***Local Government in the ACT***

Commission staff have made the claim that the costs incurred by the ACT Government in relation to its engagement with the NCA are similar to the interaction of State governments with their municipal councils. The argument appears to be a general one about the costs to State governments of interaction with other levels of government, and of land and water planning and management which is outside their control (generally, under Commonwealth control). In this context, the ACT is not unique.

However, in applying the Australian framework to the ACT, a deeper understanding of what was created must recognise that the result was neither a state nor a municipality, but a unique entity in the Australian context. Because the ACT is an integrated urban community, there was no justification for the fragmentation between 'State' and 'Local' responsibilities which exists in other jurisdictions. It must be acknowledged the ACT does not operate a separate municipal entity with its own budget. Rather, through the ACT Legislative Assembly and its supporting public service, it operates as a City/State which automatically subsumes the interplay between State and Local Government in other jurisdictions. Similar to the States and the NT, the ACT government has to comply with (and bear the costs associated with) local government style regulation – such as statutorily independent development assessments when it wishes to, say, undertake large scale infrastructure projects such as the public housing renewal program.

The combination of State and local government functions in a single territorial administration could be seen as generating efficiencies and associated cost savings. On the other hand, the devolution of planning and approval roles to local governments for smaller projects, with State governments setting overall planning policy and approving only major projects, could be seen as more efficient, by keeping many, smaller decisions as close as possible to the citizens who are directly affected.

The key difference is almost certainly the relative size, in terms of both population and area, of the jurisdictions concerned. The difference between the ACT and the NT in their local government structures is illustrative – the former has an integrated State and local government, while the latter has separate State and local government tiers – although both territories have small populations (the NT being even smaller than the ACT), the geographic dispersion of the NT with a number of distinct communities makes its very different government structure equally appropriate to that of the ACT.

What is absolutely distinctive about the ACT is the presence of the National Capital within its boundaries – no other State or Territory has this. This is one Commonwealth constraint which does not apply to all States and Territories, whereas other Commonwealth responsibilities impact on a number of, if not all, State and Territory jurisdictions. Therefore, analogies with World Heritage sites or the Murray-Darling Basin agreement are not relevant as suggested by CGC staff. The ACT faces most, if not all, of the latter constraints, as do other jurisdictions, not because it hosts the national capital, but because it is part of the Commonwealth of Australia.

The ACT contends the CGC staff have rather inappropriately quoted the example of separate authorities established by States to manage locations with particular environmental or cultural values (e.g. the Sydney Harbour Foreshore Authority). However, the Draft Assessment Paper acknowledges that establishment of such bodies is a policy choice of the States. The establishment of the NCA was, of course, not a policy decision of the ACT Government and the responsibilities of that body clearly fall within the Commonwealth sphere, not that of a State or Territory government.



The key question is whether the approval of developments in the ACT for example, requires separate agencies or departments to be involved, as in other States e.g. the Housing Department may initiate a new public housing project but the Environment Agency may have to give the required environmental approvals. The answer is affirmative.

In other States, it may be a local council initiating a smaller road or housing project, but requiring a State government agency to approve. Although there is nominally one tier of government involved in the former case and two in the latter, in practice there is a clear division of responsibilities and legislated powers in both cases, so it is not the case that the ACT gains from having both agencies within a single tier of government.

The additional imposts of the NCP, however, are a different kind of regulation altogether – and are on top of and separate from State/local government style regulatory costs. The ACT's contention is that the National Capital Plan as administered by the National Capital Authority does apply an additional highly prescriptive land use restriction on the ACT Government in fulfilling the interests of the Commonwealth in maintaining Canberra as the National Capital of Australia. A very simple illustration has the NCA in its role as custodian of the NCP adding a substantial layer of cost on top of the already embedded regulatory costs associated with the light rail project – highlighted not by public safety driven regulatory costs but by instructions to increase the quality of aspects such as landscaping and fixtures (e.g. all vertical elements such as street lights and overhead wire poles need to be bronze-finished) or install expensive wireless running capability.

These observations and resulting claims developed by the ACT for the Commission's consideration are outlined later in the submission.

### ***Materiality***

The ACT considers that materiality thresholds should not come into play in assessing national capital issues as the needs arising from *national capital* have no counterpart in the States or the NT and come about because the Commission is charged by the Commonwealth Government under the legislation outlined above to report on the veracity or otherwise of the ACT claims in or outside the scope of equalisation.

The ACT's specific national capital claims are presented below. They serve to demonstrate that national capital influences are as pervasive and entrenched today as they were at the time of self-government. That is, they are having consequences and impacts on a daily basis as decisions are taken by the ACT Government, within its areas of responsibility, affecting the development and wellbeing of the ACT and its residents.

These enduring legacies are fundamental to the legal and institutional design of the ACT and so are different to those faced by the States and the NT. Being so, they continue to exert a major influence on the economic and fiscal management of the national capital.

The ACT therefore seeks the Commission's continued assessment of them.

### National Capital Allowances – Current and 2020 Values

Table 1 below shows the national capital allowances assessed by the Commission in its 2018 Update and their respective values at the time of the 2004 Review. It also summarises the national capital claims made in this rejoinder submission.

Table 1: National Capital allowances – current and 2020 claim

	<b>2016-17</b>	<b>2020</b>
	\$m (2018 Update)	\$m (Est cost)
<b>Planning</b>		
The impact of the National Capital Plan on planning and development activities	2.3	1.8
The impact of the National Capital Plan on the ACT's Light Rail project	-	5-7
The impact of the National Capital Plan on the ACT's capital works program (other than Light Rail)	1.5	10
The impact of the National Capital Plan on the costs incurred by the ACT in operating a leasehold land management system	3.8	2.5
<b>TCCS</b>		
The additional costs incurred by the ACT in managing and maintaining above average urban open space and land classified as Designated Land Areas under the National Capital Plan	7.5	5.1
The impact on ACTION pricing subsidies of the ACT's urban form	1.5	TBC*
<b>JACS/EPSP</b>		
The above average areas of urban/bush interface	0.8	TBC*
Protective services provided to the Commonwealth – suspicious packages response	-	1.5
<b>Police</b>	9.0	TBD**
<b>Roads</b>		
Wider arterial roads and main avenues	4.0	2.8

Source: 2018 Update and 2015 Review and the ACT Government

TBC\* - The ACT intends to articulate claims in this regard in a follow-up submission and is looking for fit-for-purpose and high quality data.

TBD\*\* - To be determined by the Commission as a part of the current assessment process.

## National Capital Claims for the 2020 Review

### ***Planning, Development and Capital Works***

#### **Context**

The ACT has received national capital allowances since the 1999 Review for the additional costs it incurs associated with the restrictions placed on it by the NCP and its administration by the NCA. The ACT would prefer not to have to make a claim in 2020 for these costs, but the passage of time has not ameliorated the ongoing impacts. A number of reviews and evaluations of the so-called dual planning systems in the ACT since 2004 have failed to meaningfully address the issues. For instance, the important 2011 Hawke report on ACT Public Sector Structures and Capacity noted the following.

*The urban form from the NCP and the so called Y-Plan (first introduced in 1967) have reinforced growth in a particular pattern, influencing service planning, such as public transport, road networks and other infrastructure. These issues are reinforced by certain limits on height, density and location of permitted development.<sup>1</sup>*

*While the ACT Government is responsible for providing social services and public infrastructure, it does not have strategic planning responsibility for the whole of the ACT. As a consequence, the ACT Government is limited in how it can respond to urban development pressures. Before the ACT can implement any strategic change it must be assessed by the NCA as consistent with the General Metropolitan Plan in the NCP or the NCA has to agree to prepare and sponsor an amendment to the NCP.<sup>2</sup>*

From a planning and development perspective, the constraints of the NCP continue to impose additional direct staffing costs on the ACT Government chiefly in relation to consultation regarding individual project elements to ensure they (in the view of the NCA) conform with the NCP. Additional staff resources are also required to obtain NCA approval for amendments to the Territory Plan.

To provide a sense of the growth in imposition in dealing with NCP matters:

- In 2004 the NCA had 17 Development Control Plans before it in respect of the Special Requirement Areas of the city; whereas
- In 2018, the NCA has 58 Development Control Plans before it.

These plans are mostly made at the request of proponents - however they are not constrained by NCA assessment timeframes nor subject to any merits appeal process. The Environment, Planning and Sustainable Development Directorate is required to work with developers and the NCA throughout the application and decision-making process.

While these various impositions entail additional direct cost to the ACT government, the indirect (or knock-on) effects are far more substantial.

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<sup>1</sup> [http://www.cmd.act.gov.au/\\_data/assets/pdf\\_file/0011/224975/Governing\\_the\\_City\\_State.pdf](http://www.cmd.act.gov.au/_data/assets/pdf_file/0011/224975/Governing_the_City_State.pdf) Page 50.

<sup>2</sup> Ibid, Page 50.

- The implementation of the NCP imposes constraints on the ACT's urban form that are arguably inappropriate for a growing modern city and contrast starkly with other cities that do not have to navigate such oversight by another and higher, level of government.
  - A summary of the building height restrictions within special requirement areas imposed by the NCP (being but one set of restrictions on the form of activity undertaken in the city) is at Attachment A (A).
  - Development in the Canberra Central Business District is effectively constrained to small country town dimensions rather than allowing it to evolve in a similar way to other large cities where intensive urban infill has rejuvenated urban public spaces and facilitated economic development more generally. At the recent Workforce Discussions the ACT mentioned the extent of underutilisation of land (around 30 per cent in the case studies cited) and consequent loss of yield (again around 30 per cent) to developers. Further details are at Attachment A (B).
  - The ACT also understands that developers factor in an additional three months as part of ensuring that they receive NCA support before proceeding to the development application stage.
  - In Canberra's case, development opportunities lost through NCP-imposed height limitations are in all cases truly lost. Areas adjacent to the Northbourne Avenue corridor are predominantly low rise as required by the NCP 'to give continuing effect to the City Beautiful and Garden City characters of the city'.
  - The loss of potential for the portion of the Northbourne Avenue corridor (north of Haig Park and south of Mouat/Antill Street) translates to an estimated loss of accommodation of between 2,600 and 4,000 households.
  - This stands in contrast to the 'hierarchical principle' adopted by the NCP which sees 'Canberra Central' as the main location of both employment and economic activity.
- In the face of rapid population growth, the ACT's urban footprint has had to expand out (rather than up) with more Greenfield sites rather than increased density of the housing stock through more intensive infill developments.
  - The direct cost to replace 2,600 dwellings in a Greenfield's scenario (one or two suburbs such as Taylor, Moncrief or Whitlam) ranges between \$143 million and \$307 million, whereas the comparator cost in a Brownfield's scenario would range between \$31.8 million and \$86.5 million.
  - These are in fact direct costs to the ACT, in its particular circumstances, as a result of ongoing Commonwealth policy. And whilst they may play out elsewhere in the Commission's assessment processes (through impacts on land values etc.) they are very much real from the ACT's point of view.

- The consequence of all these effects is that the ACT economy is less able to achieve the agglomeration benefits common in other CBDs, which influences the kind of investment businesses are willing to make (including in relation to scale) and affects the potential returns to large-scale infrastructure projects such as Light Rail. These impositions are not imagined.

While the indirect costs faced by the ACT and the private sector are not strictly ‘in-scope’ for the purposes of the 2020 Review, they are highlighted here to underlie the wider impact of the NCP being experienced by the ACT community. In other words, the cost ripples caused by the NCP at the planning stage are often felt as large waves by the ACT community and private businesses.

From a capital costs perspective, the constraints imposed by the NCP also continue to impose additional costs on the ACT Government mainly in terms of higher design and materials specifications but also in terms of delays that can occur in capital works projects through variations in NCA decisions or in those decisions being made ‘after the event’ – which the NCA asserts a right to impose.

#### Commission Position

The Commission proposes to remove the planning, development and capital works related allowances unless the ACT makes an appropriate case for their continuation.

In its *Other Disabilities* Staff Draft Assessment Paper, the Commission makes various claims in support of removal of the current allowances in respect of planning, development and capital works. It claims that the ACT’s circumstances have changed since the planning allowances were first introduced and that the ACT government has had time to ‘*adapt its practices to reduce the financial impact of the NCA and NCP on the ACT’s planning, land management and other matters inherited from the Commonwealth*’.<sup>3</sup>

However, many of its claims are either inaccurate or not a true reflection of the circumstances faced by the ACT.

- **The NCA is being modernised** – drawing on a 2015 proposal to update the NCP and amend the working arrangements between the two levels of government.
  - The ACT welcomes proposals to reform the working arrangements between the two levels of government, but notes that there have been many reviews of the NCP over the years, but little actual reform of the governance arrangements of the institution. The NCA retains opaque decision making processes (e.g., no set time frames and after-the-event decisions with cost implications are part of its standard practice) and lack of a review or appeal mechanism. The Hawke report also noted:

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<sup>3</sup> CGC 2018 2020 Review *Other Disabilities: Cross-Border National Capital*. Staff draft assessment paper CGC 2018-01/25-S. Paragraph 71.

- *The overall aim of those ongoing discussions should be to align planning responsibilities with land administration responsibilities and reduce overlap, duplication and complexity. In this model, the Commonwealth should, of course, properly, retain planning and development control in areas of genuine national significance.*<sup>4</sup>
- A National Capital Design Review Panel (NCDRP) was established in September 2017 to support a consistent city-wide approach to improve the design quality of the built form across Canberra. This joint process between the ACT Government and the NCA is intended to provide an efficient and consistent approach to delivering design advice and guidance to decision-makers, developers and designers on major development and redevelopment proposals.
- The Panel reviews proposals under the supervision of the ACT Government Architect and, for proposals under the jurisdiction of the NCA, also the NCA's Chief Planner.
- However, the ACT Government's experience to date has been that the NCA's involvement on the Panel has resulted in additional complexities and costs imposed on the ACT, for which there is no scope to argue against.
  - The ACT Government provides the secretariat function for the NCDRP and has also committed funding for this service since its commencement. Throughout the past year, additional costs have been imposed on the ACT Government particularly in relation to panel members. Despite assurances made, contributions to the provision of the NCDRP service by the NCA have not been forthcoming.
  - Recently, the NCA suggested that a design review process for a prominent city redevelopment be relocated to Sydney. Holding design review processes interstate will attract unanticipated additional costs against the design review budget allocation, create resourcing implications for other key stakeholder government agencies and detract from the transparency and integrity of the design review process.
- Since its inception in 1990, the NCP has been amended on 90 occasions. 43 amendments occurred in the first fourteen years (1990-2004) and 47 amendments have occurred in the past fourteen years (2004-2018). However only six amendments have occurred in the past four years.
- Attachment A (C) sets out the protracted path required to be followed by the NCA in submitting possible amendments to the Commonwealth Minister, followed by tabling in both Houses of the Commonwealth Parliament. Outside this process, there is no recourse for the ACT and no formal avenue for the ACT to require the NCA to undertake an amendment. This is not a process within the ACT's control.

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<sup>4</sup> Hawke Report, Op Cit. Page 50.

- This contrasts, for example, with current moves in NSW to simplify the NSW planning system and to reduce complexity without reducing the rigour necessary in considering matters of state and regional significance.
  - The NCA is simply doing what it has been tasked to do. The result of many of its interventions, however, has been to distort efficient economic outcomes and limit investment – and the associated employment and productivity growth.
- **Costs related to planning, land management and capital works are incurred by the States and NT in respect of their interactions with other levels of government** – noting the ACT is not the only jurisdiction that has to incur these kinds of costs.
  - The local government related costs faced by the States and NT are also faced in the ACT on a daily basis. As flagged earlier, those costs are accepted as a part of the business of government. They are not relevant, however, to the national capital matters under consideration that are not faced by the States and the NT. In its 2015 assessment, the Commission noted that the NCP related impost on the ACT creates *'additional costs that are not incurred by other States'*.<sup>5</sup>
  - The states and territories guide all strategic planning and development in their jurisdictions and mandate the role of local governments in their respective planning framework. They are not answerable or subject to the decisions of their local governments in relation to State planning and development outcomes.
- **The States and the NT face Commonwealth imposed costs in respect of planning, land management and capital works** – including world heritage sites and the Murray-Darling Basin agreement.
  - Hosting a world heritage site is not the same as hosting the national capital. The States and the NT have physical room to minimise the impact of such impositions – that is, in a way that doesn't impact on their abilities to plan and develop their cities, including city centres.
- **Other jurisdictions need to deal with legislation and authorities that regulate the use and management of some locations within a state** – such as the Sydney Harbour Foreshore Authority.
  - A major aspect of the appeal of Sydney harbour relates to the economic development of harbour side land – something the ACT is currently prohibited from doing in relation to Lake Burley Griffin, its foreshore and the surrounding hills and open spaces. In the event that the NCP was reformed to enable economic development on the shores of Lake Burley Griffin, the ACT would welcome the creation of a body to oversee the protection of historically and culturally significant land and buildings in the water side precinct.
  - Other jurisdictions deal with dual planning systems but those systems generally facilitate rather than hinder development.

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<sup>5</sup> CGC 2015 Report on GST revenue sharing relativities: 2015 Review. Page 3, Paragraph 2. Accessed at: <https://www.cgc.gov.au/sites/g/files/net5366/f/documents/2015%20Review%20Report/Report/R2015%20Report%20-%20Volume%202%20-%20Assessments.pdf>

- The ACT notes that the Sydney Harbour Foreshore Authority's functions were consolidated with Government Property NSW (a NSW State Government entity) in September 2015, as part of a move by the NSW Government to consolidate government approaches to property and precinct management, including removing duplication of functions.<sup>6</sup>
- **Presence of national institutions may in fact reduce costs by not having to provide like institutions** – such as the State-type libraries and museums.
  - The ACT acknowledges the benefits of hosting national institutions and actively promotes them to leverage sectors such as tourism. Any benefits (including reduced costs of government), however, do not come anywhere near offsetting some of the challenges associated with being the national capital in the ACT – including a far narrower economic base than the States and the NT and a reliance on the Commonwealth as the largest employer in the ACT.
  - It is also not the case that the ACT does not incur costs for state-type institutions. The ACT maintains its own art gallery and museum, each hosting a number of major works.
    - The ACT notes that an expenditure review into ACT institutions concluded that national institutions do not provide the same services as State institutions. Indeed, the Commission's administrative scale draft assessment paper also highlights this fact.
  - Further, the ACT is required to directly contribute to the maintenance/betterment of national institutional assets. For example, the ACT has been left with almost exclusive responsibility for maintenance of the extensive tract of land in Commonwealth Park it hires for the annual Floriade display. The ACT is required, for example, to fully re-turf this area following Floriade.

#### **ACT Position**

The ACT continues to face unreasonable cost impositions in respect of planning, development and capital works on account of the operation of the NCP.

#### ***Planning and Development Costs***

In 2004, the Commission accepted the ACT's claim for an allowance for the impact of the NCP on the planning and development activities. The claim was based on the extra ACT government staff required to deal with a number of NCP related activities – including variations to the Territory Plan, changes to the NCP, policy reviews and master and other plans.

The table above sets out those claims and updates them for the current impost, including staffing remuneration costs and numbers of staff required to manage the full range of NCP related interactions including the Review Panel. The table shows that the direct staffing costs of dealing with the NCP in respect of planning and development activities is \$1.8 million per annum. Attachment A (D) provides further detail on this costing.

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<sup>6</sup> <http://www.shfa.nsw.gov.au/>



### ***Capital Costs***

In 2004, the Commission accepted the ACT's claim for an allowance for the impact of the NCP on capital-related expenditures. The claim was based on the extra capital costs associated with a number of ACT Government developments that could be linked directly with additional NCP requirements. The Commission agreed to grant an allowance that was two thirds of the additional costs cited, recognising that the ACT would face an extra ongoing annual cost impost in respect of its capital program, but needing to annualise the cost in respect of a number of specific case studies. The ACT continues to face unreasonable cost impositions in respect of planning, development and capital works on account of the operation of the NCP.

In reconsidering the capital cost impact of NCP related processes in the context of the 2020 Review, the ACT has decided to separate its claim into two sections – the first covers the extensive additional costs related to the both stages of the ACT's light rail project and the second draws on detailed work undertaken by consultants that outlines various costs associated with the so-called dual planning system in the ACT. For both sections, an estimate of the additional annual cost impost on the ACT is provided in annual terms to assist the Commission's consideration of an appropriate claim amount.

### ***Light Rail***

#### **Background**

At the recent Workplace Discussions ACT officials provided background to the ACT's light rail master plan and initial stages of project delivery. Officials undertook to come back to the Commission with examples and estimates of the time and cost implications of delivering, operating and maintaining light rail infrastructure within the context of the NCP.

The light rail is a textbook example, in a contemporary investment context, of the extent to which meeting the NCP related requirements (including interactions with the Commonwealth Parliament) continues to have a negative cost impact on the ACT. The NCA's interest in this project stems from the fact that the project is being undertaken down the Northbourne Avenue boulevard and in the designated areas of the Parliamentary Triangle.

The process of adhering to NCP related planning requirements around the light rail project has been difficult and costly for the ACT (see [Attachment B](#) for more detailed background). The light rail project highlights the concerns the ACT has with the proposition in the Commission's Draft Staff Assessment Paper that the ACT has had time to adjust to the requirements of the NCP and other circumstances inherited at self-government. These are Commonwealth Government matters. NCP related issues have been 'live' during stage 1 of the project and are likely to be even more prominent in respect of stage 2 given the application of section 5(b) of the *Parliament Act 1974* (Cwlth) as it relates to works within the Parliamentary Zone.

The ACT would prefer not to be using the Commission process to remedy the costly NCP related influences on Canberra's significant infrastructure projects. The ACT would much rather be negotiating the parameters of its PPP contract with a business partner on regular commercial terms in line with standard business practices. In such circumstances, the various risks could be confidently put in the hands of the party best placed to manage those risks. The specific NCP related planning requirements in relation to light rail has made it problematic to follow those standard business practices.

The recently released Joint Standing Committee Report finding/recommendation that the NCP would need to be amended to enable the proposed route of the second stage of the project to go ahead is an example of the unique costs imposed on the ACT Government.

**Costs – Stage 1**

- The ACT Government has been required to participate in numerous CWA processes for the project which covered a range of aspects including track alignment, stop locations, landscaping, roadworks and major earthworks.
  - This work was in addition to regulatory compliance work done in respect of ACT-imposed regulations. Additional resources were involved in preparing and submitting documentation for 46 separate works approvals. The cost of this was in excess of \$1m.
- The NCA also required through the ACT to make a number of changes in respect of the design process.
  - This work required a number of modifications to specific items within the project, including stop design. The cost claimed by the design and construction contractor for this was \$3.9m.
- Developments in designated areas are held to a higher standard of quality, due to the requirements stipulated in the NCP and arising as conditions from approval processes.
  - Extra requirements meant that higher quality materials had to be used for all vertical elements (including a bronze finish for all street lights, overhead wire poles), bluestone for all paving and alternative track slab surface treatments. This cost of this work was \$24m.
- The first stage of the light rail line will need to be integrated with the second stage (City to Woden) component and will need to provide a seamless service to passengers with full LRV interoperability.
  - This requirement means that all LRVs will need to be equipped with an On Board Energy Storage System (OESS) in addition to having capability to work with Overhead Line Equipment (OLE). This is in order to meet the requirement of no overhead wires in the Parliamentary Triangle zone. The related costs for retrofitting the stage 1 LRVs have involved battery procurement and installation. The cost of this was around \$8m.

**Costs – Stage 2**

- ACT officials were required to prepare documentation for and participate in Joint Standing Committee (JSC) hearings.
- As with Stage 1, ACT officials anticipate further CWA processes for the project which will require additional resources to manage the related regulatory compliance work.
  - Additional costs were incurred in servicing the requirements of the JSC. The cost of this was around \$0.5m.

- Additional resources will again be required with continuing CWA process work. This cost of this will be in the order of \$1m.
- As for Stage 1, developments in designated areas – especially in relation to the sections of the route traversing the Parliamentary Zone – will be held to a higher standard of quality.
  - Wireless running capability will need to be a feature of the Parliamentary Triangle sections and differently designed and finished stops may be required to address heritage aspects raised by the NCA and JSC.
  - This is in addition to the higher quality materials for all vertical elements, bluestone for all paving and alternative track slab surface treatments. The combined extra cost of these changes is expected to be around \$24m.
  - The requirement for wireless running through the Parliamentary triangle (related to the NCP and recommended by the JSC) results in reduced operating speeds and therefore requires the addition of two extra LRVs to the LRV fleet. The cost of this was around \$10m.
  - This requirement also involves additional operating (including labour) and maintenance costs arising from the reduced operating speeds. The cost of this will be around \$0.5m per annum.

The total additional costs in respect of both stages of light rail as a result of the operation of the NCP are nearly \$73 million (see table 2 below). Spread out over the 20 year life of the PPP, the annual increase to service payments to the contractor are in the order of \$5-7 million per year.

Table 2: Cost impositions associated with the two stages of the Light Rail project

<b>Light Rail 1</b>	
Extra staff required to deal with CW Works Approval processes	1,000,000
Design modifications	3,900,000
Enhancements to Designated Areas	24,000,000
Conversion of LRVs to wireless running	8,000,000
<b>subtotal</b>	<b>36,900,000</b>
<b>Light Rail 2</b>	
Extra staff required to deal with various CW approval processes (incl JSC)	1,500,000
Extra LRVs due to low running speeds	10,000,000
Enhancements to Designated Areas	24,000,000
Additional operating costs (recurrent)	500,000
<b>subtotal</b>	<b>36,000,000</b>
<b>Total case studies (at least)</b>	<b>72,900,000</b>
<b>Annualised estimate</b>	<b>\$5-7m</b>

Source: Transport Canberra and City Services Directorate.

Note: The ACT is willing to discuss the detailed derivation of costings with the Commission, noting that claims contain some information of a commercial nature.

## ***Other Capital Costs***

### **Background**

The claim is based on the extra capital costs associated with a number of ACT Government projects that can be linked directly with additional NCP related requirements – this is in line with the approach previously taken by the Commission to account for NCP related costs. The projects selected were analysed in 2016 in a process that went to the cost of the dual planning system in the ACT.

The analysis covered a range of projects that are included below – with the exception of the light rail project due to it being described above and the fact that the estimated cost increase or delay was substantially greater than the quantum anticipated in the 2016 analysis.

The analysis looked at overlaps between the NCA and ACT planning arrangements leading to inefficiencies in the operation of the planning system, such as longer timeframes, higher costs or less efficient restrictions on land use.

### **Costs**

The analysis examined a number of case studies seeking to highlight the NCP related costs in terms of specification and approval processes (see table 3 below):

- In response to community safety concerns, the ACT Government proposed a number of minor safety measures to be introduced at Haig Park. However, prior to allowing the measures to be undertaken, the ACT Government was required to prepare a Master Plan for Haig Park, doubling the cost of the project and delaying it by around two years.
- Increased specification requirements on intersection works across Commonwealth Avenue, estimated to increase project costs from \$1 million to \$2-3 million; and
- City to the Lake and West Basin (Henry Rolland Park); with the analysis noting the requirement for full design and development details prior to works commencing (rather than as a staged process) and the extent of the investment required in negotiation, design and preparation tasks. The analysis also notes that, whilst the project was ongoing at the time of writing, as a result of NCP related processes 'costs could be in the vicinity of 40 per cent higher than would otherwise be expected'.
  - This finding is consistent with that of another more recent study (commissioned by the City Renewal Authority) by Rider, Levett, Bucknall – which found significantly higher costs in respect of NCA parks compared with standard ACT parks (see a copy of that study at [Attachment C](#)).

The predominant driver of the cost premium was seen to be the 'operation of a planning system that is uncertain and subjective and not aligned to leading practice planning principles.'

Overall, the analysis found that the NCP related cost increases were in the order of 17 per cent on development undertaken by the ACT Government that requires NCA approval. Across the NCP related portfolio of projects, this is equivalent to \$13 million per year, broken down as follows:

- 15 per cent of the cost premium is associated with additional administrative requirements on developments;
- 23 per cent is due to time delays imposed on developments; and
- 62 per cent is associated with higher design and materials specifications.

However, the analysis suggested that NCP related processes also led to some degree of improved amenity and design outcomes (in the order of \$3 million per year) and was inclined to therefore net out the value of these factors against the direct costs imposed. It settled on a net cost to the ACT of \$10 million per year – which is the basis of the ACT's claim in respect of other capital costs.

Table 3: Indicative case study costs of NCP related requirements

Project	Type of cost increase	Amount of cost increase or delay	As a share of project value
Haig Park	Requirement to develop a Master Plan for Haig Park	\$200,000 plus 1.5 years delay	50%
Commonwealth Ave intersection (part of City to the Lake)	Intersection upgrades in place earlier than originally planned Higher design specifications	Approximately \$1,000,000	100%
City to the Lake (Point Park and wider project)	Full design and planning prior to approval, plus aborted work by consultants	\$2,000,000	25%
Majura Parkway	Higher design specifications, delays in review and approval of revised designs	9,437,500	23%
West Belconnen	Duplicated documentation reviews and approval, introducing delays and impacting on land release timing	4,300,000	10%

Source: 2016 analysis of the implications of the dual ACT and NCA planning regimes

- Haig Park – the Haig Park Master Plan process commenced in mid-2016 and community engagement started in February 2017. The master planning process is still underway.
- City to the Lake, Point Park and Commonwealth Avenue – in February 2015, the former Land Development Agency proposed public realm works for the construction of ‘Point Park’ and associated intersection upgrades at Commonwealth Avenue. The NCA sought public comment in October 2016 and approved the works in May 2016.<sup>7</sup>
- Majura Parkway – this project was a \$288 million investment that was funded in 2011 and completed in April 2016.
- West Belconnen – West Belconnen is a development that straddles the ACT and NSW borders that will eventually accommodate 11,500 dwellings. This development required a variation to the NCP to proceed. The NCA undertook community consultation on the development in May to June 2015 and approved the Variation in July 2016.

### ***Leasehold System***

In 2004, the Commission accepted the ACT’s claim for an allowance for the impact of the leasehold system in the ACT. The claim was based on the additional ACT government staff required to administer the leasehold system in the ACT.

<sup>7</sup> <https://www.nca.gov.au/consultation/west-basin-waterfront-sections-33-75-89-95-acton-and-part-section-44-parkes>

The table at [Attachment A \(D\)](#) sets out those claims and updates them for the current impost, including staffing remuneration costs and recalculates the number of staff required to administer the leasehold system in the ACT.

Administering the Territory's leasehold system requires work such as: renewing leases when they expire; transferring leases; providing advice to the public on leases (generally on what is permitted); making determinations on concessional leases; and providing leasing advice as part of the Development Application process.

- In 2017-18: 239 Development Applications were lodged with a Lease Variation component; 207 determinations were made on Lease Variation Charges; 71 new leases were granted; 41 lease rent re-appraisals were conducted; 490 lease transfer requests were received and 476 granted; 207 land rent payouts were executed; and 42 sub-lease transfer requests were received and 34 were granted.

All of the functions listed above are solely dedicated to maintaining a leasehold system and there is no equivalent in a freehold system.

The ACT Government has 24 staff dedicated to running the Territory's leasehold system. However these leasing administration staff are responsible for two functions that do exist in a freehold system. These two functions are managing licences, which are contracts for temporary use of government land and managing community title applications. These two functions are estimated to be responsible for 4 out of the 24 total staff.

As a result the ACT estimates that 20 dedicated staff are required to administer the Territory's leasehold system. This number will inevitably increase over time as the Territory grows and the number of leases increases. The table at [Attachment A \(D\)](#) shows that the cost of dealing with the NCP related matters in respect of administering the leasehold system in the ACT is \$2.5m per annum.

### ***Urban Open Space and Designated Land***

#### **Context**

The Commission has previously determined a national capital factor reflecting the additional ACT costs associated with maintaining urban open spaces and designated land that reflect 'above standard' amounts in relation to the NCP.

An agreed formula was used in the calculation in 2004 and the amount so determined has been indexed annually since. The formula sought to:

- Capture the extent of designated land/open space in Canberra over and above typical levels of open space in comparable jurisdictions;
- Distinguish territorial land from municipal land; and
- Determine the proportion of the overall open space maintenance budget attributable to the area so determined.

The national capital factor for 2016-17 (2018 Update) was \$7.5 million, based on annual indexation of the 2004 factor.

#### **Commission Position**

The Commission proposes to remove the planning, development and capital works related allowances unless the ACT makes an appropriate case for their continuation.

#### **ACT Position**

The ACT requests the continuation assessment of this factor, within a broader national capital allowance. The Transport Canberra and City Services (TCCS) Directorate has confirmed the continuing above average amount of open space in the ACT compared with the east coast capital cities.

However, considering the lack of a reliable national data-set for measuring open space, the ACT recommends the use of greenspace per capita available in the State of the Environment Report 2016 as a proxy for open space. The ACT notes the report mentions that the quality of data is 'variable' but considering that the data has been compiled by ABS, we deem it to be the best quality data available.<sup>8</sup>

Table 4 below shows that Greenspace per capita in the ACT is 353.6 square metres – or 2.59 times higher than the average of all the capital cities – which is 136.5 square metres.

This translates to an 'above average' multiple for the ACT of 2.59. The multiple used in the 2004 review was 1.65. Based on the above arguments, the ACT suggests that the 'above average' factor be increased to 2.59.

Table 4: Greenspace areas: eastern capital cities (2016-17)

City	Greenspace per capita <sup>a</sup> (m <sup>2</sup> )	Population 2011 <sup>b</sup>	Total Green Space (m <sup>2</sup> )	City to Average Ratio (per capita greenspace)
Adelaide	94.0	1,266,685	119,068,390	0.69
Brisbane	112.4	2,153,696	242,075,430	0.82
Canberra	353.6	369,642	130,705,411	2.59
Darwin	285.4	130,022	37,108,279	2.09
Hobart	298.0	215,410	64,192,180	2.18
Melbourne	116.5	4,153,305	483,860,033	0.85
Perth	302.1	1,864,071	563,135,849	2.21
Sydney	81.0	4,587,902	371,620,062	0.59
Totals		14,740,733	2,011,765,634	
<b>Average greenspace per capita in Australian capital cities</b>			<b>136.48</b>	

Sources:

- State of the Environment Report 2016 (using ABS 2011 data), <https://data.gov.au/dataset/d79245f3-fc52-4b11-afca-343eb1034c7a?v=1488844871>; and
- ABS Cat. 1410.0, POPULATION AND PEOPLE, Australia, State and Territory, Statistical Area Levels 2-4, Greater Capital City Statistical Area, 2011-2017.

Note: The populations for 2011 have been calculated assuming that the growth between 2011 and 2012 was equal to the average growth between 2012 and 2017.

TCCS has advised that the proportion of open space/designated land classed as territorial (rather than local) in nature has fallen from 18 to 14 per cent since 2004.

<sup>8</sup> Refer <https://soe.environment.gov.au/theme/built-environment/topic/2016/livability-urban-amenity#built-environment-figure-BLT22>



#### **Costing Parameters**

- Total area managed and maintained by TCCS = 6,556 sq. km
- Designated area/open space (territorial) = 935 sq. km
- Territorial land as proportion of total area = 14 per cent
- Total TCCS maintenance budget for open spaces = \$59.6 million
- Multiple representing ACT designated land/  
open space compared with greater city area of Australian capital cities = 2.59

#### **Estimated Cost**

Applying the above parameters, the current estimated above average cost to the ACT for 2018-19 is:

- $\$59.6 \times .14 \times (159/259) = \$5.1$  million.

The ACT notes that the equivalent formula in the 2004 Review applied the 1.65 'multiple' as (65/100). The ACT does not consider that this was a correct application, producing an overly generous outcome and so has used a factor of (159/259) for this claim.

Application of the proposed approach yields a 2018-19 claim of \$5.1 million.

### ***Urban/Bush Interface***

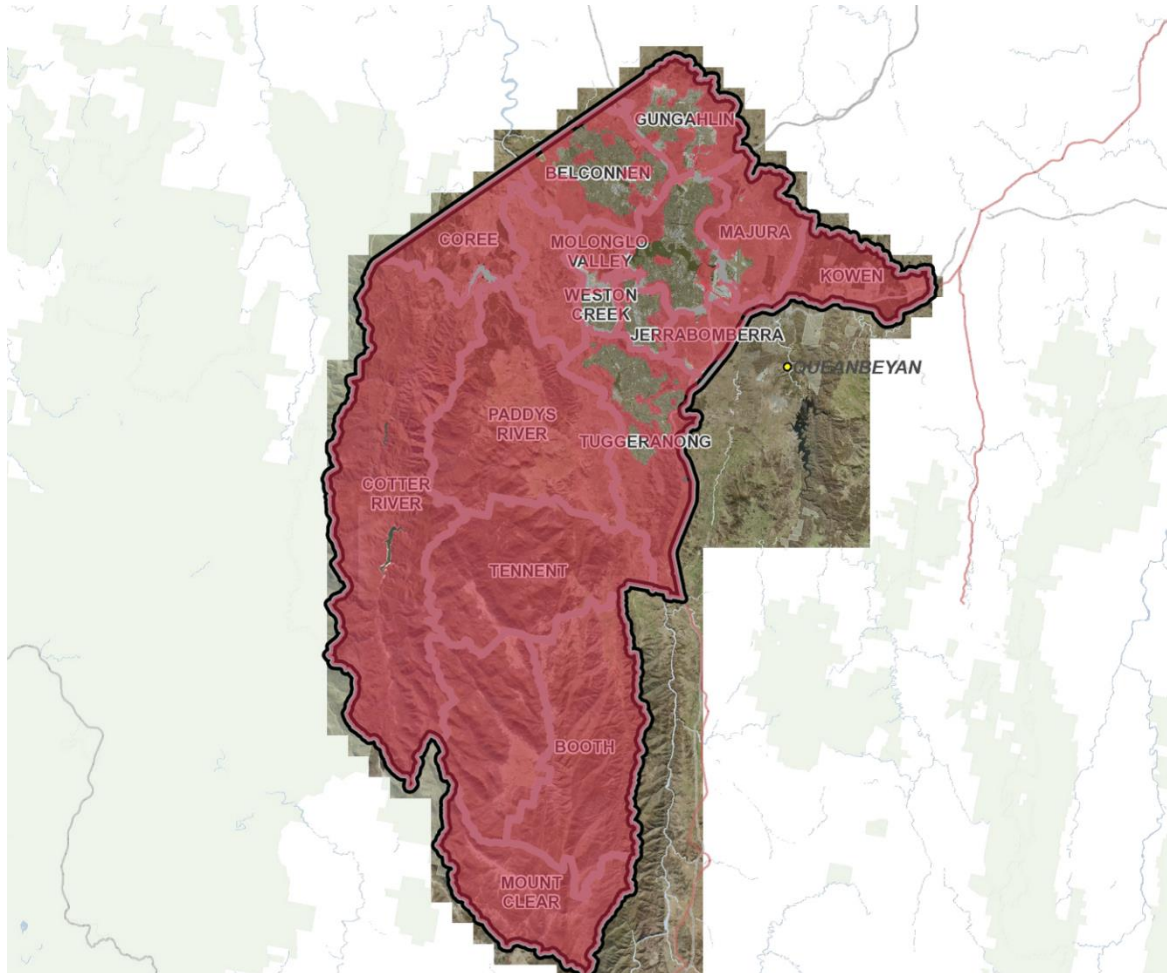
#### **Context**

The ACT's ever-growing urban footprint presents an extensive urban/rural bushfire prone interface which has grown to 570 kilometres – for which the Commission has long recognised through the granting of a national capital allowance.

The extent of the interface is a direct function of the 'bush capital' requirements of the NCP which see three quarters of the ACT held as national parks and forested lands and greater exposure due to the extent of the ACT's open spaces. These features are unique to the ACT and have resulted in a system of nature reserves and urban open spaces which is embedded throughout the urban environment.

The allowance – first determined in 2004 – partly offsets the huge costs associated with managing the ACT's substantial bushfire abatement zone (BAZ) which totally surrounds Canberra and extends west towards the Murrumbidgee River (see image below).

Figure 1: The ACT's Bushfire Abatement Zone



Source: ACT MAPi database

The BAZ is declared by the ACT Emergency Services Commissioner to guide land management to reduce fuel loads.

The BAZ is used to identify rural areas where specific measures are required to reduce risk to life and property to the built-up area of Canberra. These measures include land-use constraints, planning requirements for land managers (both public and private) and pre-incident planning for bushfires.

#### **Commission Position**

The Commission has determined a national capital factor for the above average extent of this interface since 2004, initially at \$0.5 million in 2002-03 which has grown through indexation to \$0.8 million in 2016-17 (the 2018 Update).

The Commission proposes to remove the urban/bush interface national capital factor unless the ACT makes a case for its continuation.

#### **ACT Position**

The ACT seeks retention of this factor within a broader national capital assessment.

No other capital city in Australia faces fire risks quite like Canberra – where 98 per cent of its residents live within 400 metres of green space (compared to an average of 88 per cent for the other capital cities excluding the ACT). At 354 square metres per capita in the ACT, that green space is significantly higher than the average of 136.5 square metres in the other capital cities (excluding the ACT). This means that not only do most ACT residents live and work in an area ringed by potential bushfire fuel – but they also live nearer to it – on average – than residents of the rest of Australia’s capital cities.

The ever present threat of bushfire on account of the location and form of the ACT is reflected in the growth in bushfire preparedness related expenditures over recent years, from \$9.6 million in 2015-16 to \$12.9 million in 2017-18. These expenditures cover the full gamut of mitigation activities; including fuel management, fire access, fire infrastructure, fire equipment acquisition, training, monitoring and auditing, education, planning and research and unforeseen fire management.

This investment currently accounts for 9 per cent of the emergency services budget, which the ACT considers is considerably higher than in other jurisdictions. The ACT was unable to locate comparable jurisdictional data but will seek to do this as soon as possible.

### ***Bus Subsidies and Urban Form***

#### **Context**

The ACT’s urban form has cost implications for the provision of bus services. This has been recognised by the Commission in the past with the assessment of a national capital disability factor reflecting the ACT’s comparative lower population density due to the operation of the NCP planning restrictions.

This factor was assessed at \$1.0 million in 2002-03 (the 2004 Review) and indexed thereafter, giving a current factor of \$1.5 million in 2016-17 (the 2018 Update). The calculation of the factor in 2004 was based on econometric modelling at the time which sought to gauge how much further buses had to run per passenger in the ACT due to the ACT’s urban form.

#### **Commission Position**

The Commission proposes to remove this national capital factor in the absence of a case for its continuation.

#### **ACT Position**

The Commission has more recently engaged Jacobs Australia Pty Ltd to refresh the earlier analysis and, in a two-stage process, has just released the Stage 2 Final Report to jurisdictions. The ACT is examining the report with a view to determining how its findings have bearing on the ACT’s continuing claim in this area. The ACT will respond further to the Commission once the report has been assessed.

### ***Use of the Australian Federal Police***

#### **Context**

The AFP provides policing services to the ACT pursuant to a Policing Arrangement between the Commonwealth and ACT Governments and an associated five-year Purchase Agreement.

Section 22(1) of the Australian Capital Territory (Self Government) Act 1988 provides that the Legislative Assembly has a plenary power to make laws for the peace, order and good government of the ACT.

However s23(1)(c) excludes from that power the Legislative Assembly's ability to make laws for the provision of policing services in relation to the Territory. The AFP is responsible for providing police services to the ACT under s9 of the AFP Act 1979 and responsibility for ACT policing operational matters rests with the AFP Commissioner.

Under the AFP Act, all AFP members remain officers of the Commonwealth and the AFP Commissioner retains responsibility for the general administration and operations of all AFP functions and officers. As such, their pay and conditions are determined by the AFP's Enterprise Agreements. These typically include higher superannuation contributions, overtime and leave accrual than an ACT officer.

The provision of policing services to the ACT provides direct benefit to the Commonwealth, as they enable the AFP to operate and maintain a community policing business unit within its structure and this is a significant portion of its business. The community policing skills developed by the AFP officers whilst attached to ACT Policing are regularly drawn upon within an AFP National and International context to support domestic and international peace keeping and policing operations.

Total funding for AFP services in 2018-19 is estimated at \$168.7 million and is expected to remain steady over the forward estimates period. In 2015 an Enabling Services rebasing exercise was undertaken by the ACT Government and the AFP. The results of this exercise added a further \$1.7 million per annum to the costs of policing services.

This assessment, which dates back to the time of self-government, seeks to compensate the ACT for the above average costs incurred in engaging AFP officers, whose wage costs are determined under Commonwealth arrangements.

This matter was assessed through application of a formula at \$9 million in the Commission's 2018 Update.

#### **Commission Position**

The Commission has proposed in its *Other Disabilities* Staff Draft Assessment Paper to retain the police allowance and the 2015 Review method for calculating it. It notes that the legislation underpinning the assessment remains unchanged, with no evidence of intention of change in prospect.

The Commission notes that the assessment for the 2018 Update was itself not material and that the assessment can fluctuate from year to year. The Commission is proposing that the police allowance be assessed going forward as a separate factor within the Justice category. Whilst embedded in the Justice assessment, this factor will be recognised as a national capital influence.

#### **ACT Position**

The ACT supports this position. The current methodology has been reviewed and is supported.

The ACT understands that the assessment of this allowance as part of the Justice category would not preclude its inclusion as part of a national capital disability.

### ***Maintenance of Wide Main Avenues and Arterial Roads***

#### **Context**

In its 2004 Review, the Commission agreed a roads allowance to reflect the additional costs the ACT incurred because, at self-government, it inherited main avenues and arterial roads that were wider than Australian standards. These roads are identified in the NCP.

This factor was assessed at \$2.6 million in the 2004 Review and has been indexed to \$4.0 million in 2016-17 (the 2018 Update).

#### **ACT Position**

The ACT considers that the Commission's position does not reflect the practical reality in relation to these roads.

The Commission's argument that the roads in question must, by now, have come to the end of their useful life – and that the ACT has had time to rebuild or restructure them in its own fashion - is a false assumption.

Given their prominence and importance, the maintenance of these roads has been and continues to be, an ongoing process. The ACT spends over \$8 million per annum in overall maintenance costs on these roads. This is not markedly higher than the costs back at the time of the 2004 Review, not reflecting reduced effort but rather improvements in related technology. But the task itself is no different to that which gave rise to the claim in this area originally.

Regarding the claim that the ACT should, by now, have been able to restructure this road network to its own liking, this of course could only come about with the agreement of the NCA given that the roads fall under the purview of the NCP.

No such agreement has ever been forthcoming from the NCA. Indeed, only last year in the context of discussions regarding the routing of Light Rail Stage 2, the NCA ruled against a reduction in lanes on Commonwealth Avenue from six to four.

To the extent that these roads ever did come to their end-of-life, but the standards around them remained unchanged, the ACT Government would in fact be faced with additional costs in relation to rebuilds (as distinct from maintenance).

Drawing on the approach taken in the 2004 review the following method has been adopted to calculate the additional costs faced by the ACT for this particular network of wider than average roads:

- Additional cost = (road maintenance cost per lane-km/average lane width in metres) x excess width in metres x road length in lane-kilometres.
  - $(\$5,025/3) \times 0.96 \times 1,712 = \$2.75\text{m}$

The maintenance costs have been updated with data from the 2017-18 resurfacing program. The affected lane kilometres, excess road width and average road width remain the same as new roads built by the ACT Government [which] are to current standards.

**Claim**

The ACT estimates its actual additional expense in 2017-18 for wider than average roads to be \$2.75 million.

***Protective Services Provided to the Commonwealth – Suspicious Packages***

**Context**

The ACT provides protective services, comprising police call out and surveillance services and fire protection, for Commonwealth assets in the ACT. All jurisdictions provide a similar range of services, with the Commonwealth offering funding support via a multilateral Memorandum of Understanding (MOU).

The presence of the Australian Parliament, Commonwealth security organisations, foreign embassies and high commissions and headquarters to most Commonwealth departments (including Prime Minister and Cabinet and Attorney Generals) means that Canberra is a potential target.

As part of the ACT's protective effort, the ACT Emergency Services Agency is resourced to respond to acts of terrorism in Canberra. The threat level in relation to Chemical, Biological, Radio-logical and Nuclear (CBNR) weapons currently sits at 'Probable'.

ACT policing and the ACT Emergency Services Agency are often called upon to respond to incidents involving 'white powder' or suspicious packages in relation to Commonwealth buildings.

A report to the ACT Government in October 2014 from consultants KPMG, undertaken in the context of a review of service costs, provided cross-jurisdictional evidence regarding the impact of the Commonwealth in the ACT as it relates to fire and emergency services issues, including the impact of white powder and like incidents on a per-head of population basis.

As the KPMG report noted: 'The relative size of the Commonwealth in the ACT suggests that the provision of services requires more than marginal additional effort and resources. Rather, the presence of the Commonwealth requires a step change in the cost of the fire and emergency capability in the ACT.'

Unfortunately these incidents occur at a much higher frequency in the ACT than they do in other jurisdictions, given the ACT's status as the National Capital. In 2014, the ACT was required to respond to 270 reports of suspicious packages which, on a per head of population basis, is more than 22 times the average rate of such incidents in other jurisdictions (67.7 in the ACT versus 3.0 in the other jurisdictions excluding the ACT) – see table 5 below.

The remarkably high frequency of these incidents has significant implications for how the ACT goes about resourcing its emergency services – including in terms of the advanced and costly apparatus required and the nature of training required to be undertaken by emergency services personnel.

Unfortunately for the ACT, the Commonwealth changed the way it funds the States and Territories for these services to a basis proportional to the relationship between unimproved land value on which Commonwealth assets are situated and the value of associated buildings in each jurisdiction. As a result of the change, the ACT's share of overall funding declined which meant that its funding declined from \$10.1m in 2011-12 to \$4.6m in 2012-13.

Table 5: Reports of suspicious packages in Australian capital cities

State/Territory	% of APS in workforce <sup>2</sup>	Reports of suspicious packages – per 100,000 pop	2013-14 MOU funding (% of total Cwth funding of \$17.7m)
<b>ACT</b>	<b>30.44</b>	<b>67.7</b>	<b>\$4.6 (26.1)</b>
NSW	0.88	1.6	3.8 (21.6)
VIC	0.93	1.9	2.7 (15.3)
QLD	0.79	2.1	2.7 (15.3)
WA	0.57	6.5	1.2 (6.8)
SA	1.22	0.0	0.9 (5.1)
Tas	1.83	5.7	0.2 (1.1)
NT	2.04	3.5	1.5 (8.5)

Source: Confidential KPMG report

### Commission Position

The Commission staff have not commented on this proposal, as it is not a current national capital factor. A similar allowance for terrorist mitigation costs was removed in the context of the 2010 Review due to the fact that this issue had become one to be addressed by all jurisdictions, not just the ACT as the nation's capital.

### ACT Position

The ACT is making a claim as part of the 2020 Review which revisits the issue from 2010, based on the above analysis which shows far greater prevalence of these incidents per capita than in other jurisdictions.

Operational capabilities required to respond to events of these types are costly to develop and maintain in terms of equipment and training.

The costing is calculated as the difference between the actual Commonwealth Government funding received by the ACT for responding to suspicious packages (expressed as a percentage of all funding received for non-medical related calls for assistance) and the actual cost of providing the services.

- It costs the ACT Emergency Services Agency \$14.3 million per year to maintain the capability respond to (non-medical related) calls for assistance. Approximately 16 per cent of the related responses are in relation to suspicious packages – which equates to \$2,292,000.
- Annual Commonwealth Government funding received by the ACT (for 2017-18) is \$4,982,000 – 20 per cent of this amount is \$797,000.
- The costing is therefore calculated as \$2,292,000 – \$797,000 = \$1,495,000.

## **CROSS BORDER**

Cross border service delivery is a major issue for the ACT.

Being located wholly within the state of NSW, so proximate to many NSW cities and towns and delivering a range of services commensurate with being the National Capital, it is not surprising that a substantial proportion of people accessing ACT Government services do not reside within the ACT's borders.

The ACT is increasingly engaging within the region at a numbers of levels, keen to contribute to more effective service delivery from a regional perspective. The ACT now has a city with an economy larger than Tasmania's (TAS), as well as a greater service reach given the 650,000 strong population of the southern NSW region.

This rejoinder submission provides contemporary data to assist the Commission in making its cross-border assessments. This is particularly the case in areas such as community health and welfare where the Commission has drawn on service data originally provided in the context of the 2010 Review to apply the General Method since that time.

Our submission takes issue with a number of assumptions underlying the Commission's position on individual assessments and notes that these may have resulted in under-provisioning in recent years in some areas. The ACT is making a child protection claim as a result.

The ACT was heartened with the Commission's willingness at the Workplace Discussions to consider aspects of hospitals' funding in the context of the ACT's cross border arrangements with NSW. Data are provided below to support a further claim.

### **Significance of the ACT's Cross Border Engagement**

#### **Context**

The Commission has recognised the significance of cross border issues for the ACT in previous reviews and updates, with cross-border disabilities assessed when net flows of services have resulted in the ACT incurring additional costs not reimbursed by NSW. Commission analysis over the years has revealed that only ACT/NSW cross border activity has been material in overall assessment terms.

A number of cross border factors/allowances in the past have been based on firm data (provided to the Commission by the ACT or determined by the Commission from national data sets) whilst others have been determined under the General Method (i.e. partial data being used to approximate cross border usage across a range of sectors, with that proxy scaled at each Update for population growth in the ACT proper and the surrounding region.

This submission provides contemporary data for all claim areas. In some cases data can only be provided for one year and will require data system changes to capture on an ongoing basis. The availability of some welfare data is dependent on survey responses by cross border recipients, which creates challenges where recipients may assume that responding to questions regarding their residency will cause loss of eligibility – even if not the case.

The 2020 Review comes at a time when the ACT is heavily engaged in building regional partnerships and working towards improved public policy outcomes from a broader regional perspective. The very nature of the ACT's geographic position means that it needs to do so –



borders only serve to create barriers to activity and better outcomes. However, such engagement needs to be balanced with an appropriate sharing of relevant costs.

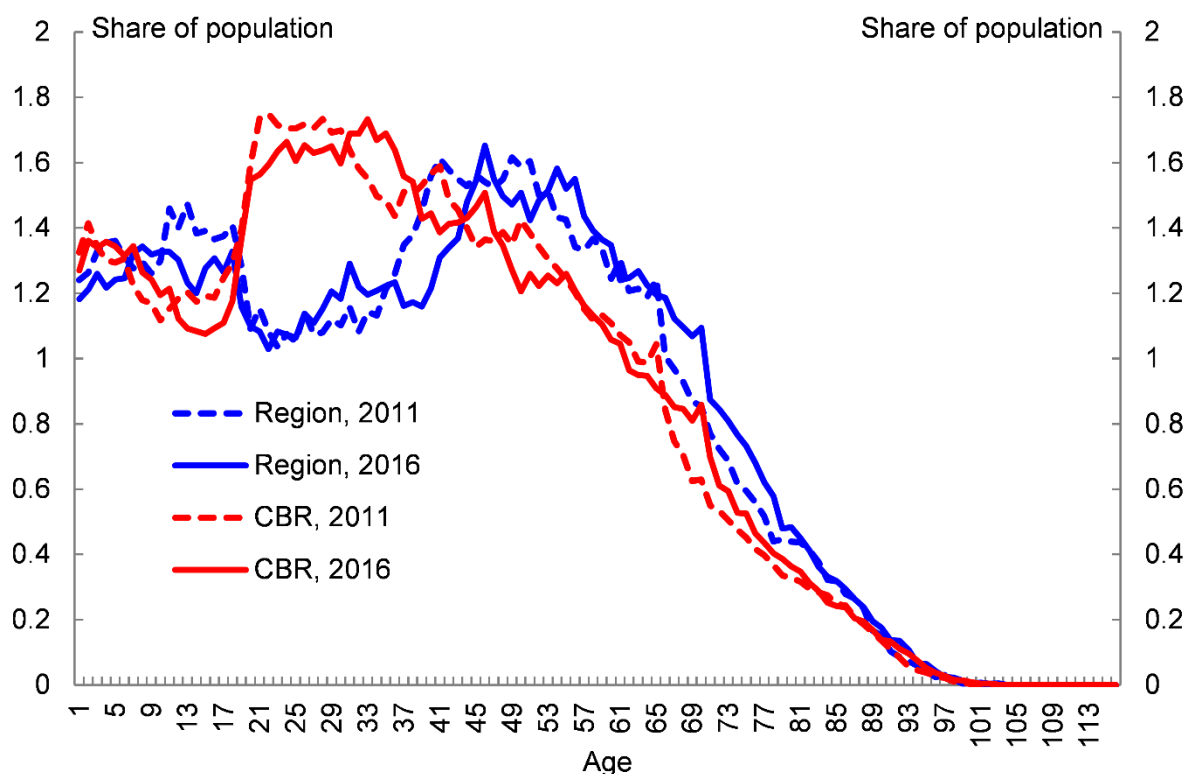
The ACT's engagement is framed primarily through its Memorandum of Understanding for Regional Collaboration with NSW, signed in 2016 and its associated work program across a wide range of policy fronts – some associated with areas in this submission. As these and other policy areas evolve, so will the breadth of cross border funding issues.

Whilst determined to engage actively in the region, for the ACT this comes with its challenges. The location of the ACT, as a small jurisdiction wholly-within the State of NSW creates a range of issues and pressures, including uncertainties as to funding in cases where there is no defined agreement and limited or no control over cross border flows.

In the case of provision of hospital services to NSW patients (which operates separate from the broader MOU) the application of the Medicare principles coupled with high levels of NSW patients with high acuity and complexity needs, means that the 'levers' open to the ACT Government in dealing with increasing cross border flows are limited. The same factors bear on the ACT's ability to broker more reasonable outcomes in the ACT's bilateral health agreements with NSW.

Broadly speaking, the ACT has a comparatively youthful demographic profile when measured against the broader region (see figure 2 below). Population density currently peaks between approximately 25-35 years of age in Canberra, compared to around 45-55 in the wider region. This suggests continued pressures on the ACT's health and hospital system in the years ahead from the region. This is in the context where around 24 per cent of hospital costs in the ACT are already attributable to NSW residents, who only comprise 10-12 per cent of patient services.

Figure 2: Demographic profile, ACT and surrounds (2011 and 2016)



Source: 2011 and 2016 Census

The small size of the ACT and the fact that it is entirely surrounded by NSW means that a substantial proportion of the ACT labour force resides outside the ACT's borders. The wider ACT region is by far the primary source of cross-border workforce flows to the ACT, with more than 24,000 people (over 10 per cent of the ACT's 229,000 workforce) commuting to work in the ACT from the region at the 2016 Census. This regular flow, of itself, is a source of pressure on ACT services.

### **Commission Position**

The Commission's draft staff assessment notes a preference for the 2020 Review to use actual service use data to measure cross-border disabilities where possible.

This would see the 2020 Review retain the 2015 Review approach to cross-border disabilities for schools, post-secondary education, roads and hospitals. The Other Disabilities Staff Draft Assessment Paper suggests that the existing Commonwealth and NSW funding of ACT hospital services (via multi-lateral and bi-lateral agreements) obviates the need for a cross border assessment of net NSW usage of the ACT's hospital services. However, this position seemed to be modified at the Workplace Discussions in relation to the cross-border treatment of capital and hospital services above the 2 per cent growth cap in the most recent ACT-NSW bilateral agreement.

The Commission proposes to retain a cross-border assessment for community health expenses, but requires updated evidence regarding net cross border activity.

The Commission is not proposing cross-border assessments in any other areas unless conceptual arguments can be made, supported by current data. The Commission makes a number of assumptions in relation to cross-border service eligibility (outlined below) to support its approach.

### ***ACT Position***

The ACT accepts the Commission's proposals in relation to schools, post-secondary education and roads.

The ACT disagrees with the Commission's Staff Draft Assessment Paper position in relation to hospitals and considers that the Commission should reflect in its assessment both the absence of consideration of capital in the ACT-NSW agreement and the impact of the 2 per cent volume growth cap contained in that agreement.

The agreement between the ACT and NSW is currently being renegotiated, however the ACT has not been given any comfort that NSW is likely to agree to modification in these areas. This reflects the poor bargaining position of the ACT historically in this relationship – framed by the Medicare principles which limits the ACT's policy autonomy in dealing with interstate patients.

The ACT agrees with the continued assessment of community health and provides in this submission data showing significant use by NSW residents of ACT provided community health services.

The ACT also provides in this submission a case and data to support a cross-border claim for certain welfare services. The ACT agrees that the NDIS does not require an explicit cross border factor and non-NDIS cross border expenses in the ACT's case are limited to community health services, to be captured in the community health cross border assessment.

However, there is a strong basis for cross-border assessments of homelessness (10 per cent cross border usage) and out of home care services (20 per cent cross border usage) and the ACT notes below some inaccuracies in the Commission's assumptions in regard to eligibility for these services.

### **Cross Border Allowances – Current and 2020 Values**

Table 6 below shows the current cross-border allowances assessed by the Commission in its 2018 Update and their respective values at the time of the 2004 Review. It also summarises the cross border claims made in this rejoinder submission.

Table 6: Cross border allowances – current and 2020 claims

	<b>2016-17</b>	<b>2020</b>
	\$m (2018 Update)	\$m (Est cost)
<b>NSW students attending ACT public and non-public schools</b>	N/A	TBD*
<b>Vocational education and training</b>	18	TBD*
<b>Hospitals</b>		
Annual 2 per cent volume cap		3.5
Capital contribution	-	10.5
<b>Roads</b>		TBD*
<b>Community health</b>	21	TBC**
<b>Welfare services</b>		
Homelessness	2	3.5
Out of home care		9
<b>Justice services</b>		8.3***

TBD\* - To be determined by the Commission as part of the current assessment process.

TBC\*\* - The ACT is continuing to assess service data to determine a final claim.

\*\*\* - Excludes expenses for policing services related to cross-border offenders.

Source: 2018 Update and 2015 Review and the ACT Government.

## ACT Claims for the 2020 Review

### Schools

#### Context

The ACT Education Directorate conducts a census of enrolled students in both ACT public schools and in ACT non-government schools each February. The data collected in this census includes the home address of each student. As a consequence, administrative data held by the Education Directorate with regard to student families is accurate, timely and has a high confidence level.

Table 7 below shows the numbers of NSW domiciled students enrolled in both ACT public schools and in ACT non-government schools for the three calendar (school) years to 2018. The table shows the enrolments converted to financial year for the three financial years to 2017-2018.

Table 7: NSW students enrolled in ACT schools – both public and non-government

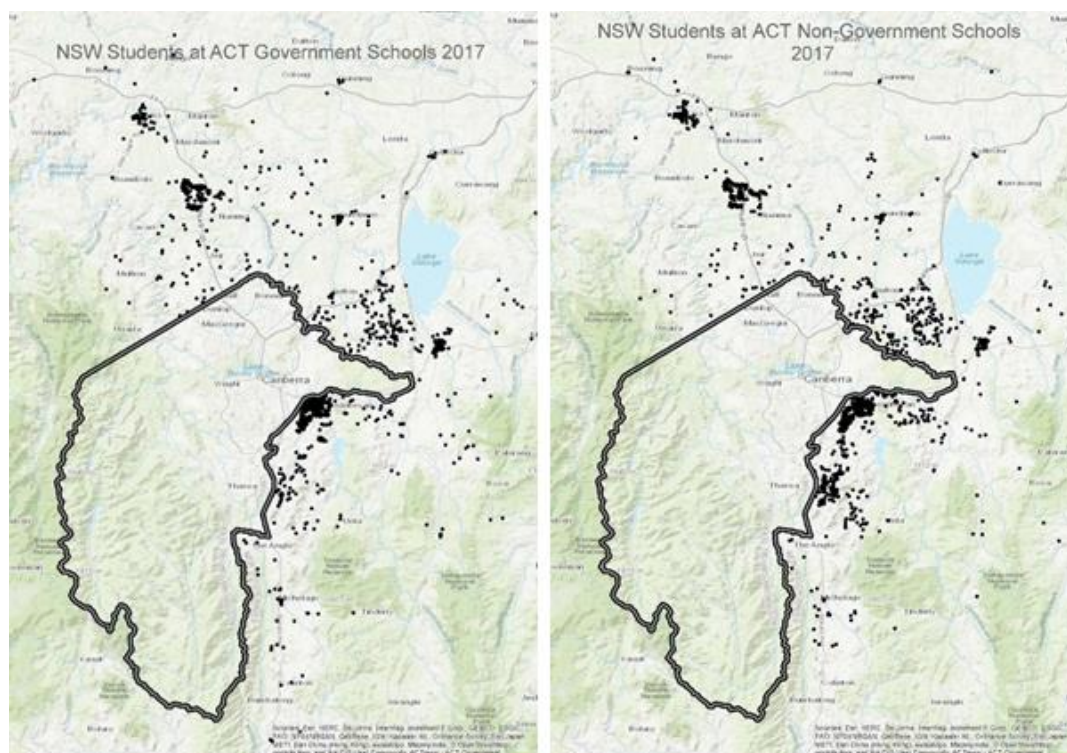
NSW Student Enrolments - By Year	Public Schools	Non-government Schools	Total
2018	1,684	3,694	5,378
2017	1,809	3,598	5,407
2016	1,872	3,699	5,571
By Financial year			
2017-18	1,747	3,646	5,393
2016-17	1,841	3,649	5,489
2015-16	1,895	3,677	5,572

Source: ACT Government

The 2018 data reveals a cross border percentage of 4.1 per cent in public schools (42,575 enrolments) and 13.3 per cent in non-government schools (27,379 enrolments). This gives an overall weighted cross border percentage of 7.7 per cent. Cross border attendance at non-government schools is currently approximately twice that of public schools.

NSW domiciled students attending ACT schools, both public and non-government are drawn from the surrounding NSW region, with the major concentrations of students coming from the north and the west of the ACT. The maps below show the locations in NSW from which NSW students were drawn in 2017.

Figure 3: NSW students enrolled in ACT schools – both public and non-government



Source: ACT Education

### **ACT Student Cross Border Flows**

The number of ACT students attending NSW schools is quite small – less than 200. And a significant number of these are understood to be students whose families have moved to NSW but have yet to complete transfer of address arrangements. These numbers are not material to the cross-border story.

### **Bilateral Arrangements**

There is no bilateral agreement with NSW covering the numbers, placements and costs of students attending schools across the border. NSW has not been receptive in the past to initiating an agreement.

However, the Memorandum of Understanding for Regional Collaboration between NSW and the ACT provides that the ACT Education Directorate will work with Education NSW through 2018-19 on 'priority actions', including in relation to the more active exchange of student and demographic data. Other high-level objectives are to better facilitate access for NSW students to ACT facilities and enhance strategic planning. A cross-border working group has been established to this end.

### **Commission Position**

The Commission is proposing continued assessment of cross border directly through the schools education assessment – that is, no explicit cross border factor consistent with the current approach.

### **ACT Position**

The ACT supports the continued assessment of cross border school enrolment – both government and independent schools - through the schools education assessment.

Tables 8 and 9 below show that, at the per student costs identified, the total actual cost to the ACT of hosting NSW students is estimated at \$34.5 million for 2017-18. These costs have been relatively steady in recent years.

Table 8: NSW Students in ACT public schools

NSW Students in ACT public schools	Per student cost	Enrolment 17-18	2017-18 Cost
	14,833	1,747	\$25,913,251

Source: ACT Government

Table 9: NSW Students in ACT non-government schools

NSW Students in ACT non-government schools	Per student cost	Enrolment 17-18	2017-18 Cost
	2,354	3,646	\$8,582,684

Source: ACT Government

The ACT acknowledges that the cross border element determined by the Commission will differ from the full cost to the ACT outlined above due to use of average cost data in the calculation.

Advice from the NSW Government under the ACT-NSW MoU indicates that the NSW Government expects a significant increase in the NSW population in the region surrounding the ACT over the next twenty to thirty years. While data on projected dwellings is not available to the ACT Government, the scale of the planned developments are such that an increase in cross-border enrolments can be expected, should the increasing population make choices about their education in the same ratio between NSW and the ACT that current families make.

Potentially offsetting an increased flow of cross-border enrolments, the NSW Government has recently announced an intention to construct three additional primary schools in the Canberra region on the NSW side of the border. While these schools will increase the choices available to NSW families, they will not be delivered for several years. The ACT expects that, given the planned population growth on the NSW side of the border, the total number of cross-border enrolments is likely to be maintained or to increase even if the proportion of cross-border enrolments declines as a share of the total student population in the surrounding region.

Current cross-border enrolments of two thirds non-government schools to one third public schools has reflected the popularity of small holdings in the Canberra region owned by families with considerable means. The nature of the current and planned developments on the NSW side of the border are such that a much larger proportion of an increased regional population is likely to be of more modest circumstances and the ACT expects that a higher proportion of these families will choose a public school education, including in the ACT. As shown above, such choice would have a significant bearing on costs incurred by the ACT Government.

The ACT has been experiencing very strong school enrolment growth in recent years. This growth has been driven by underlying population growth, but has been accelerated by a strong shift in public system affiliation. The strong enrolment growth is driving a significant program of investment in increased school capacity. The strong enrolment growth is also responsible for a change in administrative arrangements with relation to NSW enrolments in ACT public schools.

These adjustments, commencing in 2018, have been made to recognise the impact of strong enrolment growth in ACT public schools and the consequent diminishing capacity of many public schools in the ACT to accept any out of area students, including those from NSW. Enrolment applications from NSW students are now accepted only in selected schools in two zones in the ACT, a northern zone centred on Belconnen and a southern zone centred on Tuggeranong. There is no restriction on the number of NSW students that can be accepted in these zones and current enrolments in ACT schools outside this arrangement will be honoured for existing students and for their siblings. The new arrangements are not considered likely to have an impact on overall cross-border enrolments.

The NSW Government decision to construct new schools on the NSW side of the border stems in part from the ACT's decision to locate NSW students on a more selective basis. Whilst the ACT's decision has been taken for policy reasons other than mitigating cross border flows, there has been some flow-on consequences of that decision.

This example demonstrates that, where the ACT has the capacity to impact on arrangements affecting cross border recipients, these can act as a driver (albeit indirect) of NSW Government policy response.

Further details in relation to this assessment, including derivation of ACT costs, are at Attachment D.

## ***Post-secondary Education***

### **Context**

The ACT experiences significant cross-border usage of its vocational education and training system. Table 10 shows cross border usage based on enrolment data and reveals a step-up in cross border activity in recent years.

Table 10: Cross-border usage of the ACT vocational education and training system

		2014	2015	2016	2017	TOTAL
State/Territory of data submitter	State/Territory of residence					
ACT Canberra Institute of Technology	ACT	20313	16279	15969	15190	67483
	NSW	4633	3741	4101	3859	16366
	<b>Percentage</b>	<b>22.8</b>	<b>23.0</b>	<b>25.7</b>	<b>25.4</b>	<b>24.3</b>
NSW TAFE	NSW	455,839	348,218	458,533	413,407	1,676,001
	ACT	1905	2375	2704	1627	8604
	<b>Percentage</b>	<b>0.4</b>	<b>0.7</b>	<b>0.6</b>	<b>0.4</b>	<b>0.5</b>

Source: NCVER Vocstats

A separate cross border factor is currently incorporated in the post-secondary education assessment, based on relevant data provide by the National Centre for Vocational Education Research. This factor was estimated at \$18m in the 2018 Update.

### **Commission Position**

The Commission has indicated its intent to continue assessing this cross-border factor as part of the post-secondary assessment.

### **ACT Position**

The ACT supports this approach.

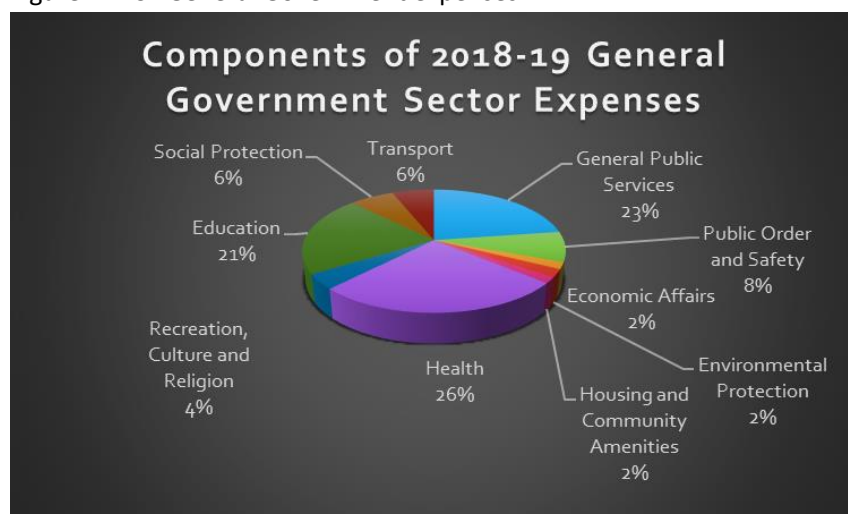
## ***Hospitals***

### **Context**

The most significant component of the ACT Government's \$5.8 billion budget spending in 2018-19 relates to delivering healthcare, with approximately 26 per cent of total General Government Sector expenses being used to fund hospitals, community healthcare and health research (see figure 4 below).



Figure 4: ACT General Government expenses



Source: ACT Budget

The ACT is facing some of the strongest population growth pressures in Australia<sup>9</sup> – a trend that is expected to continue into the future. With an extra 8,500 residents in the ACT every year, this will place ongoing pressure both on recurrent and capital health related expenditure. This growth is compounded by nearby regional population growth, in particular as the regional population is relatively older than that of the ACT.

These older interstate health service users account for a quarter of all expenditure in the ACT health hospital system, costs that are only partially recovered in relation to recurrent expenditures and not at all recovered in relation to capital expenditures.

Health spending in the ACT is estimated to grow at over 5 per cent on average over the latest Budget forward estimates, though strong population growth (including interstate population) and rising cost pressures, will place downward pressure on the real per capita spend. This health expenditure growth reflects, in part, increasing regionalisation of the ACT's service reach and the higher case complexity of NSW patients compared with ACT patients.

The ACT accepts that it plays an important role in the region in providing health services and has engaged with NSW as partners in providing services to the region.

It is important to note that the policy levers open to the ACT Government in any dialogue regarding cross border hospital services is more limited than in other policy areas. The Medicare principles, agreed by all Australian Governments under the National Health Reform Agreement (NHRA) constrain the ACT's ability to moderate cross-border demand.

The Medicare principles clearly set out that eligible public patients are to receive equitable access to free health and emergency services on the basis of clinical need and within a clinically appropriate period, regardless of their place of residence.

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<sup>9</sup> ACT's population growth was 2.1 per cent over the year to March 2018, slightly below Victoria's (VIC) growth of 2.2 per cent. The national average is 1.6 per cent.

The nature of the public health system further constrains the ACT in implementing other policy levers common to other industries such as imposing price signals, capping service provision, refusing to provide health services or directing medical practitioners in respect of their clinical autonomy around treatment and patient referral decisions. As a result of these constraints, the ACT has limited scope to negotiate an agreement with NSW that accurately reflects the costs of health services.

The ACT bears an unreasonable financial load in respect of treating NSW resident hospital patients given the following:

- NSW's insistence of an annual 2 per cent volume growth cap to limit its funding commitment and shift significant financial risk to a small jurisdiction with a small funding base and cash reserves;
- NSW limiting its contribution towards any services to the national efficient price rather than the actual cost of delivering services; and
- NSW's unwillingness to make any contribution towards capital costs.

With capital expenditure not part of the pricing structure of the National Health Reform Agreement, the only avenue available to the ACT is to raise this matter bilaterally with NSW; however the most recent funding agreement does not make such provision, nor does it encourage NSW to actively engage in a more equitable funding agreement and NSW has indicated its intention not to pursue the issue in further negotiations of a new agreement.

The ACT, however, must invest for the reality of continued cross-border growth in light of the NHRA arrangements in respect of public health service provision and the expected increase in demand for health services from NSW residents in the years ahead – and given the region's relatively older demographic composition. Moreover, even in statistical areas with relatively young demographic profiles such as Bungendore and Googong, the demand for higher cost specialist hospital services such as obstetrics is expected to remain high.

The ACT understands that NSW has committed to a number of hospital upgrades in the region surrounding the ACT. However, it is unlikely that the proposed upgrades would materially reduce the demand by NSW residents for tertiary level services in the ACT and it is quite plausible that given the important tertiary health role that the ACT has in the region, this will in effect increase the demands on the ACT to support any increased service provision delivered in surrounding NSW health facilities.

An appropriate outcome in the 2020 Review is therefore of great importance to the ACT.

#### **Commission Position**

The Commission proposes in its *Other Disabilities* Staff Draft Assessment Paper to retain its current assessment method of relying on the combination of Commonwealth and direct NSW funding as compensation to the ACT for ACT-NSW cross-border activity.

The ACT notes that the Commission Paper indicates (footnote to paragraph 10) that the bilateral agreement between the ACT and NSW includes a component for the opportunity cost of capital. This is not correct as of the most recent agreement (2015-16).

The ACT notes that this issue was discussed at the recent Workplace Discussions, at which the Commission recognised and seemed willing to give thought to the fact that capital investment/utilisation is not recognised in the bilateral agreement with NSW.

The Commission also flagged a willingness to give consideration of the impacts of the 2 per cent service growth cap – which can restrict in any given year the volume of services for which the ACT is compensated by NSW – and vice versa.

#### **ACT Position**

The ACT is seeking the Commission's consideration of both of these important issues.

In relation to NSW use of ACT services, recent unfunded use of ACT hospital services by NSW residents is significant.

- Around one quarter of hospital service activity in the ACT (based on NWAUs) relates to NSW residents.
  - This activity corresponds to only 10-12 per cent of occasions of service (meaning NSW patient cases are around twice as complex as ACT patients).
- This cross-border activity equates to a similar proportion of recurrent costs of the ACT hospital system – on account of the more complex level of presentations by NSW patients compared with an average ACT patient.

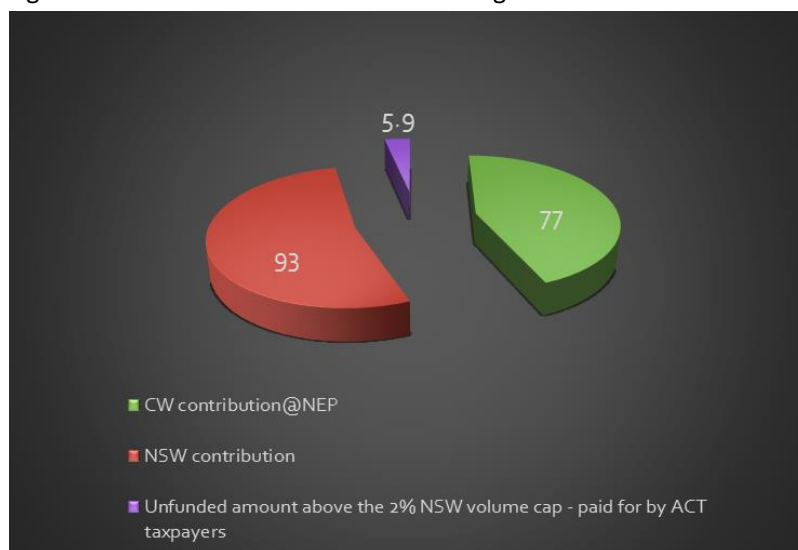
Conversely, data for recent years indicate that ACT payments to NSW in respect of ACT patients utilising NSW services of around 20 per cent of the payment flow from NSW to the ACT.

In relation to the two per cent growth cap, unfunded cross border activity with NSW is variable from year to year with activity in some years (up to around 2,700 NWAU) not currently compensated at all by NSW due to the operation of the 2 per cent growth cap in the ACT's bilateral agreement – which at national efficient price corresponded to under-compensation to the ACT in the order of \$5.9 million in 2016-17 (see figure 5 below) and at the actual ACT cost of treating NSW patients corresponds to under-compensation of more than \$28 million in 2016-17 (see figure 6 below).<sup>10</sup>

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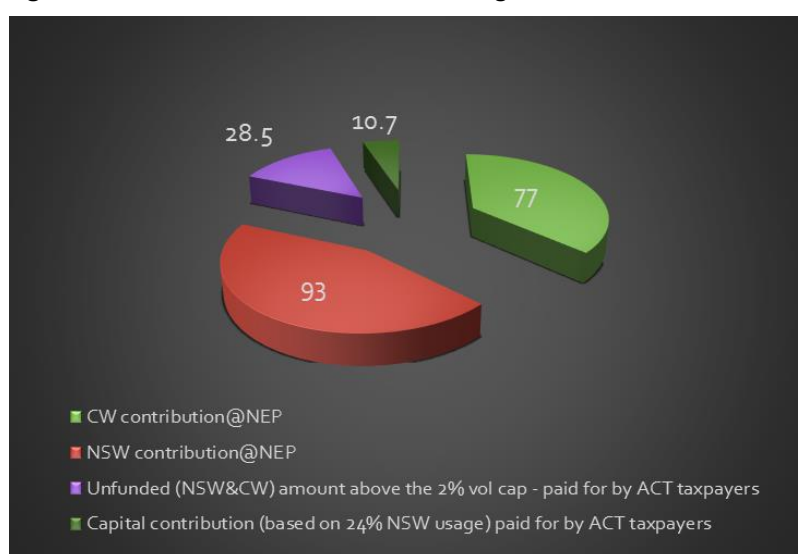
<sup>10</sup> The Commonwealth has a 6.5 per cent cap in respect of its funding which allows for significantly more growth in volumes.

**Figure 5: 2016-17 Unfunded cost of treating NSW residents in ACT hospitals @NEP (\$m)**



Source: ACT Health

**Figure 6: 2016-17 Unfunded cost of treating NSW residents in ACT hospitals @ACT cost (\$m)**



Source: ACT Health

Table 11 below summarises the unfunded use of ACT hospital services by NSW residents.

Table 11: Unfunded use of ACT Hospital services by NSW residents

Service year	Health service type (hospital)	Actual Volume (NWAU)	NSW Cross Border patient Actual Volume (NWAU)	NSW Cross Border %	NEP per NWAU \$	ACT Cost per NWAU for all patients	Volume above existing NSW 2% Cap	NSW payment gap \$ @NEP	Capital costs \$
2014-15	Other (Admitted & ED)	116,580	29,754		5,007	6,532	2,534	7,531,627	
2014-15	Non-admitted	20,668	2,745		5,007	6,753	234	694,842	
		<b>137,248</b>	<b>32,499</b>	<b>24%</b>			<b>2,768</b>	<b>8,226,468</b>	<b>11.2</b>
2015-16	Other (Admitted & ED)	125,603	30,496		4,971	6,287	191	552,179	
2015-16	Non-admitted	22,932	2,863		4,971	7,513	18	51,836	
		<b>148,535</b>	<b>33,358</b>	<b>22%</b>			<b>209</b>	<b>604,015</b>	<b>9.5</b>
2016-17	Other (Admitted & ED)	133,260	33,488		4,883	5,562	2,005	5,498,902	
2016-17	Non-admitted	20,415	2,705		4,883	7,020	162	444,126	
		<b>153,675</b>	<b>36,192</b>	<b>24%</b>			<b>2,167</b>	<b>5,943,028</b>	<b>10.7</b>

Source: ACT Health

The average of the three years of unfunded use of ACT hospital services by NSW residents (for which reliable/final data is available) at NEP is \$4.9 million.

- However, adjusting that figure for unfunded use of NSW hospital services by ACT residents (using preliminary and partial data) suggests that the average net amount is closer to \$3.5 million – which is the basis on which the ACT is making a claim for an allowance related to the operation of the 2 per cent cap in this submission.

As noted, the ACT-NSW Health Services Cross Border Agreement makes no explicit provision towards ACT Health's infrastructure costs. NSW patients tend to be higher complexity cases and as such utilise tertiary level services and infrastructure.

The ACT infrastructure program is significant as the system needs to respond to the growing demand in emergency department and surgery activity, including that generated by such substantial cross border usage. The infrastructure program for the four years commencing in 2018-19 is \$268.3 million, with an additional capital provision of \$487.5 million.

As discussed at the Workplace Discussions, it is appropriate that NSW, as a major user of the ACT's hospital services, makes a contribution to capital costs as it does for non-capital costs. In this regard, the ACT requests that the Commission consider adding a cross border factor to the current infrastructure assessment.

To underline the importance the ACT places on this issue Chief Minister Andrew Barr, in a letter to the Prime Minister following his elevation to the role, noted the inequity of current arrangements for capital in the ACT's bilateral agreement with NSW.

There are a number of ways that capital usage could be calculated for this purpose, including a proportion of the forward annual capital program, a measure of depreciation and amortisation, or user cost of capital. For simplicity, the ACT suggests that the actual additional costs incurred by the ACT are measured by the ACT's depreciation and amortisation costs in respect of relevant inputs in to the hospital process – in accordance with existing accounting standards.

Table 12 below sets out the ACT's depreciation and amortisation costs for 2015-16, 2016-17 and 2017-18; as well as an estimate of NSW's share of costs based on usage (on an NWAU basis).<sup>11</sup>

Table 12: Cross border usage of ACT health related capital by NSW

	2015-16	2016-17	2017-18
Depreciation/ amortisation (\$m)	42.9	45.2	48.2
Cross border usage (NWAU %)	22	24	24
Cost (\$m)	9.5	10.7	11.3

Source: ACT Health

Applying the NSW cross border usage to the ACT's depreciation/amortisation expenses suggests an **average** annual unfunded cost (and therefore a new claim) of \$10.5 million.

## Community Health

### Context

In 2015 the Commission took a General Method approach to calculating cross border usage of community health and assumed a net 7-10 per cent NSW usage rate of ACT community health services – using data provided in the 2010 Review. It applied the 7-10 per cent factor to the 2015 ACT population (380k) to infer 33k extra residents – then removed this number from the surrounding SLAs for NSW (which equated to about 30 per cent of the population of the SLAs that were largely within an hour's drive from Canberra) and added them to the ACT population.

The Commission noted in its *What States Do – Community Health Staff Research Paper*, that the so-called community health sector includes a wide and varied range of services and that '*government finance statistics data do not appear to be reliable and comparable across States*'.<sup>12</sup> In its *Other Disabilities Staff Draft Assessment Paper* the Commission acknowledged that community health may be in the category of 'services where no comprehensive data exists'. Nonetheless, the Commission requested that cross border usage data in respect of community health be updated.

### Commission Position

For the purpose of the 2020 Review the Commission has a strong preference to assess the disability on the basis of updated actual usage data.

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<sup>11</sup> Assuming that most (80 to 90 per cent) of depreciation and amortisation costs are in respect of health services components (hospitals, outpatient services and community health) accessed by NSW residents.

<sup>12</sup> CGC 2016, *What States Do – Community Health CGC Staff Research Paper*. CGC2016-13-S. Page 1.

### **ACT Position**

Even though community health is clearly a significant expenditure item, the ACT agrees that it is an area where further work is required to develop a better understanding of the full range of services delivered in respect of the various components. The ACT is pursuing this as part of its response to an ACT Health System-wide Data Review concluded in August this year. Part of this effort is to build a new data repository leading to higher quality and more timely information for, among other purposes, the process of policy development.<sup>13</sup>

The ACT also notes that the overall sector has undergone significant changes in recent years – including changes to service delivery models and the introduction of the National Disability Insurance Scheme (NDIS).

In undertaking the task of updating estimates of cross border usage a number of issues were identified.

- It is difficult to replicate the size and scope of the full range of community health components in the Commission's 'What States Do – Community Health staff research paper' due to different approaches to classifying (and funding) individual service categories.
  - The 'cashing out' of some services as part of the NDIS reduced the community health basket of services from that at the time of the 'What States Do' paper.
- The ACT is still bedding down some of the changes that have taken place to service delivery models and detailed cross border usage data is not yet included amongst the range of key performance indicators collected.
- As noted in the welfare section of this submission, it may not be possible to fully appreciate the actual level of cross border usage of community health services because a proportion of service users may be reluctant to disclose where they live for fear of being turned away.
- Many community health providers actively market their services to clients who live in the ACT or Southern NSW – which means there are services where there are no explicit ACT residency requirements.

Nonetheless, three sub categories of community health services were identified where data on significant usage by NSW residents is available - breast screening, community nursing and mental health counselling.

Cross border utilisation of these services by NSW residents has been growing over the last four years.<sup>14</sup>

- Community nursing usage by NSW residents has risen from around 5 per cent in 2014-15 to nearly 8 per cent in 2017-18.

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<sup>13</sup> [https://www.cmtedd.act.gov.au/open\\_government/inform/act\\_government\\_media\\_releases/meegan-fitzharris-mla-media-releases/2018/act-health-system-wide-data-review-report-released-reform-ahead](https://www.cmtedd.act.gov.au/open_government/inform/act_government_media_releases/meegan-fitzharris-mla-media-releases/2018/act-health-system-wide-data-review-report-released-reform-ahead)

<sup>14</sup> The findings on cross border usage are broadly consistent with analysis done in 2016 for ACT Health on community services options.

- Usage of mental health counselling services by NSW residents has risen from around 4 per cent in 2014-15 to nearly 6 per cent in 2017-18.
- Usage of breast screening services by NSW residents has risen from around 2 per cent in 2014-15 to around 2.6 per cent in 2017-18.

This data implies an average cross border usage rate by NSW residents of 5.3 per cent for 2017-18.

The ACT has also identified a number of community health services delivered by NGOs where NSW residents are able to access services (see [Attachment E](#)). The ACT was able to identify the cost of these services (see below) but arrangements with the providers mean that no cross border usage data are currently available – and it is reasonable to expect a significant level of cross border use. The main services comprised five subcategories: mental health, Community Assistance and Support Program (CASP), community health, the Windana Youth Community House and the Aboriginal and Torres Strait Islander Practice Centre.

The cost of providing the three sub categories of services delivered by ACT Health varied according to yearly changes in demand (averaging around \$40 million per year from 2014-15 to 2016-17)<sup>15</sup>.

Table 13: Usage and cost of selected ACT community health services by NSW residents

Year	Description	Services delivered	NSW count	NSW usage rate
2014-15	Breastscreening	7,272	157	2.2%
2014-15	Community nursing	183,421	8,975	4.9%
2014-15	Mental health counselling	2,816	113	4.0%
2015-16	Breastscreening	17,927	414	2.3%
2015-16	Community nursing	146,059	9,488	6.5%
2015-16	Mental health counselling	5,389	292	5.4%
2016-17	Breastscreening	17,176	465	2.7%
2016-17	Community nursing	149,761	10,743	7.2%
2016-17	Mental health counselling	5,863	402	6.9%
2017-18	Breastscreening	18,123	476	2.6%
2017-18	Community nursing	161,343	12,477	7.7%
2017-18	Mental health counselling	4,642	263	5.7%

Source: ACT Health

The total cost of providing the NGO-delivered services is estimated at more than \$40 million for 2018-19. It is reasonable to expect a similar NSW resident usage rate (5.3 per cent for 2017-18 from the three sub categories of services delivered by ACT Health) would also apply to these NGO services.

The broader issue of the classification of the different services currently delivered in a community setting is addressed later in this submission, under the Expense Assessments – Health heading.

<sup>15</sup> Cost data for 2017-18 was not available.



## Welfare Services

### Context

Currently assessed welfare services include those in respect of disability (50 per cent of non-NDIS disability expenses) and other general welfare expenses, which mainly relate to homelessness expenses. On this basis, the existing cross border factor was assessed as \$2m in the 2018 Update.

The calculations are based on the General Method, whereby the ACT population is increased for the purpose of the category to reflect usage of ACT services by NSW residents at a point in time – and this amount is updated annually to account for relative population changes. The assessed per capita amount is multiplied by the change in population to determine a dollar amount of redistribution.

- Services such as out of home care (child protection) and aged care are not currently assessed because the Commission asserts that people must be resident in the ACT to access the services.

In the 2010 and 2015 reviews, the Commission acknowledged the difficulty of collecting actual data on cross border usage for some welfare services because of a likely reluctance by service users to reveal their NSW address because *‘many had concerns that their eligibility for access to services would depend on their address and were unwilling to provide an accurate response’*.<sup>16</sup>

In terms of other possible sources of funding for cross border usage of ACT welfare services, the ACT can confirm that in terms of the National Housing and Homelessness Agreement (NHHA) NHHA funding does not cover cross border activity (i.e. it is based on 2006 ABS data which excludes people whose place of usual residency is outside of the ACT).

- This means there are no provisions in the funding model for the NHHA, nor in the agreement itself, that relate to cross-border service usage. Funding is based on the homeless count in the 2006 ABS Census data – this data excludes people who identified a ‘usual’ place of residency in another jurisdiction. It also does not account for people travelling into the ACT from surround regions during the day who access homelessness services.

### Commission Position

In its staff draft assessment paper<sup>17</sup>, the Commission suggested that there was no longer a need to apply a cross border factor for expenses related to the two subsectors of the welfare services element of the cross border assessment – homelessness and disability – unless the ACT provides evidence of significant cross-border use that leads to material costs for the ACT.

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<sup>16</sup> CGC 2010 *Report on GST Revenue Sharing Relativities*, page 546; CGC 2015 *Report on GST Revenue Sharing Relativities*, page 538.

<sup>17</sup> CGC 2018-01/25-S 2020 *Review: Other Disabilities – Cross Border and National Capital*.

- In relation to *homelessness services*, the Commission asserts that homelessness services are restricted to ACT residents and that homeless people from NSW would be included in the Census estimated resident population of the ACT. For these reasons, the Commission is not minded to assess these services.
- In terms of *disability services*, the Commission considers a cross border assessment will not be required for disability services once the NDIS is fully implemented, since NDIS services do not attract cross-border use. Any residual State services are expected to be negligible but it would be up to the ACT to prove otherwise.
- The Commission considers other welfare services (such as out of home care services) to be unlikely to be available to non-ACT residents and that, in any case, the related expenses would be small (indeed, the Commission states that it has not been assessing child protection services in current updates for this reason).

#### **ACT Position**

The ACT continues to incur costs in respect of NSW residents accessing welfare services in the ACT and therefore does not agree with the Commission position on homelessness and disability services. As noted earlier, non-NDIS disability expenses for cross-border clients are covered in the community health cross border assessment above.

As noted above, a key argument previously accepted by the Commission for assessing a cross border disability for welfare services not based on a complete data set is the likelihood that NSW users of ACT welfare services would be reluctant to reveal their NSW addresses for fear of losing access. This argument is not mentioned by the Commission in its staff draft assessment paper and yet it still impacts on the demand for ACT welfare services – likely reflecting the relative attractiveness of the ACT system *vis-a-vis* the NSW system.

The Commission considers other welfare services (such as out of home care services) to be unlikely to be available to non-ACT residents and that, in any case, the related expenses would be small (indeed, the Commission states that it has not been assessing child protection services in current updates for this reason). The ACT disagrees with this assertion. Non-ACT residents are able to access welfare services such as out of home care and (as highlighted below) the related costs have been substantial in the past and continue to be borne by ACT taxpayers.

The demand for out of home care services has grown steadily over recent years. Care and protection orders issued in the ACT by the ACT Children's Court have grown steadily from 164 in 2001-02 to 1007 in 2016-17 – perhaps reflecting the increasing awareness in the community of the importance of protecting vulnerable children.

#### **Homeless Services**

Homelessness remains a legitimate cross-border claim for the ACT. The ACT can confirm that homelessness services are not confined to ACT residents (as distinct from public housing which involves a six month residency test) – contrary to the claim by the Commission that '*homelessness services are restricted to ACT residents*'.

Moreover, the Commission's comment about homeless people from NSW being included in the Census estimate of resident is also factually incorrect. The ABS enumeration methodology clearly states that the Census population count is based on place of usual residency. Therefore, the ACT's homelessness count will exclude persons who travel from surrounding NSW regions to access homelessness services.

Underpinning these facts, the ACT notes that homelessness rose in NSW by 37 per cent between 2011 and 2016, whilst resident homeless numbers in the ACT fell by 8 per cent – suggesting increased pressure on services in the ACT driven by increasing demand by NSW residents for homelessness services.

Data from the AIHW's Specialist Homelessness Information Platform (SHIP) shows around 6 per cent of clients who accessed homelessness services from 2014-15 through to 2016-17 came from interstate (i.e. they identified another state as their home one week before seeking assistance in the ACT). Over the three years from 2014-15 to 2016-17, on average, 78 per cent of these interstate clients came from NSW.

These estimates, however, likely underestimate the true usage by NSW residents of ACT services for two main reasons:

- They only count those who identified that they lived elsewhere one week prior to presenting. In that same year, 508 people did not disclose where they lived one week prior. It is very likely, as the Commission has previously acknowledged, that a high proportion of these were interstate and reluctant to disclose where they lived for fear of being turned away. If 78 per cent of these people were NSW residents (i.e., consistent with the above breakdown) then more than 10 per cent of ACT's homelessness service users could be from NSW; and
- 65 per cent of people who present to a homelessness service are a part of a family. Some children may be counted if they received a service personally related to their needs, like counselling or health related referrals. However, if the children do not receive a personal service they are not counted as a client. Support and accommodation for the family as a whole only counts the 'presenting' family member.

The ACT recognises the Commission's need to collect data on net cross border services to determine an accurate net allowance. To this end, the ACT sought data from AIHW on the number of clients from the ACT who accessed homelessness services in NSW over a six year period. They advised they could not do this for confidentiality reasons, however would look to do this later in the year for all States and Territories.

Funding for homelessness services depends on the model of support being provided. The related costs depend on intensity of case management and the particular accommodation requirements (including duration). The Report on Government Services (RoGs) provides data on average costs for service provision per client per year. For the ACT, the recurrent cost per client accessing homelessness services in 2016-17 is \$4,509.

- On this basis, the cost to the ACT in 2016-17 of providing homelessness services to NSW residents is estimated to be \$3.15m (see table 14 below).

Table 14 – Estimated cost to the ACT of providing homelessness services to NSW residents

	Support periods	Identified interstate clients	Identified interstate clients %	Identified NSW clients	Identified NSW clients %	Unidentified clients	Unidentified clients %	Unidentified clients likely from NSW	Likely NSW clients %	Average cost of service per client \$	Cost of NSW residents \$
2014-15	6,858	438	6.4%	336	4.9%	741	11%	568	13.2%	4,313	3,900,843
2015-16	6,577	413	6.3%	330	5.0%	364	6%	291	9.4%	4,378	2,718,070
2016-17	6,465	403	6.2%	309	4.8%	508	8%	390	10.8%	4,509	3,149,576

**Source:** Confidential unit record file created by the Australian Institute of Health and Welfare; Report on Government Services data<sup>18</sup>.

### Crisis Accommodation

The ACT has 309 crisis accommodation places. Based on 10 per cent cross-border service usage, this equates to approximately 21 crisis accommodation properties. Social housing maintenance costs on average are \$12,500 per dwelling per year. Housing costs associated with cross-border service usage are therefore estimated at \$386,000 per annum.

### Out-of-home Care

Out of Home Care is not part of the current assessment (on the assumption of it being residency based), however cross border usage is substantial and the ACT continues to incur a range of related costs.

Children and young people are put on Care and Protection Orders where a Court makes a determination that the child can no longer reside with their biological parents and transfers parental responsibility to the ACT Parent – the Director-General (Community Services Directorate) of the ACT Government.

For a range of reasons, it may be decided that a child subject to an order is best placed outside of the ACT. Children in NSW usually have moved there with their foster carers or kinship carers, or been placed there by Child and Youth Protection Services having secured long-term orders on children through the ACT Children's Court. Regardless, the ACT has a legal responsibility to continue to support these arrangements because these children are on ACT court orders.

When this happens, ACT welfare officers will travel into NSW to deliver services and ensure the ACT meets its obligations to the children and in line with the order.

An Interstate Protocol exists, which has been agreed to by all jurisdictions, however the process to secure transfer of orders is extremely time consuming and can take in excess of 12 months. Whilst interstate transfer processes are underway the ACT must continue to respond and provide services to children who reside in NSW.

In 2016-17, of the 1007 children and young people on Care and Protection Orders where parental responsibility was transferred to the Director-General, 204 had a NSW care address.

<sup>18</sup> <https://www.pc.gov.au/research/ongoing/report-on-government-services/2018/housing-and-homelessness/homelessness-services/rogs-2018-partg-chapter19.pdf> Table 19A.18 – recurrent cost per client accessing homelessness services in 2016-17 dollars.

- This represents around 20 per cent NSW usage out of an estimated total 29 per cent interstate usage.
- Of this amount, less than half of the cases are deemed transferable to the resident state. This is due to both the legislation and type of care order not being compatible with that of the child's resident state, the transfer not being deemed to be in the child's best interest, or the extraordinary cost that transferring the child would incur.

The recurrent annual cost of delivering services to children residing in NSW was approximately \$9m in 2016-17. An estimated 204 children resided in NSW in 2016-17 on a variety of ACT Care and Protection Orders.

- 122 on long term and final orders are case managed by the *ACT Together* consortium which attracts a flat fee (approximately \$52,000) for the associated care costs.
  - The estimated cost of this to the ACT is around \$6.3m spent in respect of NSW residents.
- 83 are case managed by ACT Child and Youth Protection Services with an estimated cost of \$31,000 per case. Some of these are in respect of children on long term and final orders (46) or on short term interim or final Orders (37).
  - The estimated cost of this to the ACT is around \$2.6m spent in respect of NSW residents.
  - It should be noted this only represents the costs of providing subsidies and services to children and does not account for staffing costs including travel to case manage and support these placements.

Table 15 – Estimated cost to the ACT of providing out of home care services to NSW residents

	ACT C&P orders	29% interstate usage	20% NSW usage	60% Community Health Organisation managed	40% Child & Youth Protection Services managed	NSW costs @ \$52,000 per order	NSW costs @ \$31,000 per order	total costs
2014-15	873	253	177	105	72	5,481,060	2,217,606	7,698,666
2015-16	926	269	188	112	76	5,813,816	2,352,237	8,166,054
2016-17	1007	292	204	122	83	6,322,368	2,557,995	8,880,363

Source: AIHW child protection Australia various versions of the annual statistical report; internal CSD calculations.

In terms of ACT residents accessing NSW services, previous advice from the Community Services Directorate is that, despite an absence of firm data at present, the balance of cases is heavily towards the ACT's servicing of NSW residents. This is based on population size. As at 26 October 2018 the ACT does not currently have any requests from NSW to transfer families into the ACT.

Due to the diversity of client management systems across States and Territories the data set has not been able to be captured in a consistent manner and is therefore not currently useful as a national data set.

## ***Justice Services***

### **Context**

This is a re-activated claim by the ACT, based on systems data not available in recent years. Cross border claims in respect of justice services were previously based on NSW residents: committing crime in the ACT; use of civil and criminal courts; and use of ACT corrective facilities. The previous factor was removed in the 2010 Review.

This claim covers the range of justice services available in the ACT, including offender apprehensions, courts and correctional services. Overall, approximately 10 per cent of the justice output is spent on people who do not reside in the ACT.

Since the 2004 Review, the ACT has opened a new adult correctional facility, the Alexander Maconochie Centre (AMC). The AMC houses all classifications of detainees (remand and sentenced, male and female and all security levels – low, medium and maximum security) including Commonwealth offenders.

### **Commission Position**

This issue has not been addressed by the Commission staff in their *Other Disabilities* Draft Assessment Paper.

### **ACT Position**

In relation to police services, over one in ten offenders apprehended by ACT policing do not reside in the ACT.

NSW residents from the local region made up approximately 8 per cent of the total offenders apprehended by ACT Policing in 2015-16 and 2016-17. Offenders with residential addresses in other jurisdictions or with unknown residential addresses made up just over six per cent of the remaining offenders.

The ACT recognises the Commission's need to collect data on net cross border services to determine an accurate net allowance. In the case of offenders, however, the way NSW police record apprehensions (by incident number rather than by individual and their address as in the ACT) means that its database does not contain comparable information about interstate offenders. ACT Policing advised that interrogating NSWPOL's CNI database would be a long and predominantly manual process. A more accurate and reliable way to ascertain the numbers of ACT offenders apprehended by NSW Police would be to use data received from NSW Courts (see below) which indicates that significantly less than 1 per cent of cases in the NSW courts' system involve ACT residents.

Data indicates NSW residents represented at least 8 per cent of the total offenders apprehended by ACT Policing in 2015-16 and 2016-17 – which a significant cross border usage rate. ACT understands the Commission will calculate the costing on the basis of national data in respect of offenders and policing.

Regarding court services, for 2015-16 and 2016-17 combined, 9 per cent of all civil matters – excluding ACT Civil and Administrative Tribunal (ACAT) matters (1,016 out of 11,253) and 12.2 per cent of criminal matters (1,524 out of 12,463) handled in ACT courts related to NSW residents.

The tables at [Attachment F](#) provide detail on the very minor use of other jurisdictions services by ACT residents.

## ACT GOVERNMENT RESPONSE ON COMMONWEALTH GRANTS COMMISSION 2020 REVIEW WORKPLACE DISCUSSIONS

The costs per matter for criminal and civil cases in the ACT are outlined in table 16 below.

Table 16: Cost per matter for criminal and civil cases

	2015-16 (\$)		2016-17(\$)	
	Criminal	Civil	Criminal	Civil
<b>Supreme</b>	32,947	6,174	29,261	5,550
<b>Magistrates'</b>	1,787	1,360	1,348	1,289

Source: Report on Government Services 2018

The total costs to the ACT of NSW usage of the ACT's courts system for 2015-16 and 2016-17 is set out in table 17 below.

Table 17: Total cost to the ACT of NSW usage of the ACT's courts system

CIVIL (exc. ACAT)					
State	FY	Magistrates Court	Supreme Court	Grand Total	Cost (total p/a)
NSW	FY 2015-16	411	320	731	\$2,534,640
	FY 2016-17	142	143	285	\$976,688
<b>NSW Total</b>		<b>553</b>	<b>463</b>	<b>1016</b>	<b>\$3,511,328</b>
<b>Cost</b>		<b>\$741,998</b>	<b>\$2,769,330</b>	<b>\$3,511,328</b>	
CRIMINAL					
State	FY	Magistrates Court	Supreme Court	Grand Total	Cost (total p/a)
NSW	FY 2015-16	699	25	724	\$2,247,788
	FY 2016-17	774	26	800	\$1,804,138
<b>NSW Total</b>		<b>1473</b>	<b>51</b>	<b>1524</b>	<b>\$4,051,926</b>
<b>Cost</b>		<b>\$2,292,465</b>	<b>\$1,759,461</b>	<b>\$4,051,926</b>	

Source: Report on Government Services 2018; Justice and Community Services Directorate.

The above equates to a cost of \$4.8 million in 2015-16 and \$2.8 million in 2016-17.

In summary, the cost to the ACT of the NSW usage of the ACT's courts system equates to \$3.8 million per year on average across the two financial years (excluding the ACAT).

Regarding corrective services, of the total detainee population in the Alexander Maconochie Centre (which houses all classification of detainees and Commonwealth offenders) NSW residents comprised:

- 4.8 per cent (20 of 418 detainees) at 30 June 2016;

- 6.9 per cent (31 of 450 detainees) at 30 June 2017; and
- 8.6 per cent (43 Of 498 detainees) at 30 June 2018.

This represents a step-up of approximately 2 per cent each year.

At the same time, NSW residents reporting to ACT Corrective Services Community Corrections Unit comprised:

- 9.1 per cent (91 of 1002 offenders) at 30 June 2016;
- 8.2 per cent (87 of 1064 offenders) at 30 June 2017; and
- 7.5 per cent (75 of 989 offenders) at 30 June 2018.

The cross border percentage fell again in 2017-18, reflecting an overall trend of fewer community corrections clients in parallel with increasing detainee numbers.

The ACT would also note that, as at 1 July 2018, the ACT was housing eight Commonwealth offenders at a cost of over \$700,000 (with no mechanisms for recovery from the Commonwealth).

The ACT has sought information from the NSW Corrective Services but information has not been forthcoming at the time of submitting this rejoinder submission.

The following is an indicative cost of the above usage rates. It should be noted that detainee numbers are accurate as at 30 June of the respective years and are therefore only a proxy for likely annual offender/detainee numbers. Even though offenders/detainee spend variable time at the facility, we do know that the Alexander Maconochie Centre has been operating with increasing numbers over this period which suggests that, as offenders/detainees leave the system they are at least replaced by other offenders/detainees with minimal delay. So for the purpose of the indicative costings below, we have assumed full-year usage based on the numbers as at 30 June – see table 18 below.

Table 18: Costs for usage of NSW residents of ACT correctional facilities

Custodial					Community				Total
	Cost per day (\$)	No. of detainees (NSW)	Total \$ per day	(Total p/d x 365) Indicative \$ p/a	Cost per day (\$)	No. of offender (NSW)	Total \$ per day	(Total p/d x 365) Indicative \$ p/a	
2015-16	277	20	5,540	<b>2,022,100</b>	31	91	2,821	<b>1,029,665</b>	<b>3,051,765</b>
2016-17	298	31	9,238	<b>3,371,870</b>	33	87	2,871	<b>1,047,915</b>	<b>4,419,785</b>
2017-18	316	43	13,588	<b>4,959,620</b>	34	75	2,550	<b>930,750</b>	<b>5,890,370</b>

Source: Justice and Community Safety Directorate

Total combined indicative costs for the respective years for custodial and community sentences are:

- 2015-16: \$3.1 million
- 2016-17: \$4.4 million
- 2017-18: \$5.9 million



Using the average of the previous three years, NSW usage of ACT corrective services is estimated to be \$4.5 million per annum.

## **WAGE COSTS**

### **Background**

Until the 2011 Update of GST Revenue Sharing Relativities (2011 Update), the Commission had applied an adjustment to the ACT's assessed wage costs to account for the impact of the Australian Public Service (APS) on the ACT Public Service's (ACTPS) wages. This adjustment was made in recognition that the data that was used for the wage costs assessment at the time, the Survey of Education and Training (SET), did not differentiate between APS and ACTPS employees in its data for public sector employees.

Thus, APS employees were not able to be included by the Commission in its assessment of wage costs, which, according to the principle of policy neutrality, is constructed on the basis of private sector wages.

The Commission did however recognise that the APS had a significant influence on the ACTPS' wages and thus adjusted the ACT's assessed wage cost relativity upward to reflect this fact.

After the release of the 2009 SET and the consideration of its usage in the 2011 Update, the Commission ceased the ACT APS adjustment, on the basis that SET private sector wages provided a reasonable estimate of the cost pressures faced by the ACT in the wages paid to employees of the ACTPS. The Commission has maintained this position ever since, including since the release of the Characteristics of Employees dataset prior to the 2016 Update.

In the Main Submission, we indicated that we would seek to provide further evidence that the APS has a significant impact on ACTPS wages. Our position is that the ACT's private sector wages cannot be an effective proxy for the ACTPS' wages given the presence of the APS and the competition for staff with similar work skills between the two public services. The Commission's response to this position in subsequent discussions with Commission staff is that the impact of APS wages would be captured in the ACT's private sector wages. Thus, we have sought to provide evidence that there is a strong relationship between APS and ACTPS wages, but little to no relationship between APS wages and ACT private sector wages.

Our analysis is predicated on three data sources:

- Total weekly personal income data for Commonwealth Government, ACT Government and private sector employees in the ACT from the 2016 Census (ABS TableBuilder);
- APS salary data from the APS 2017 Remuneration Report prepared by the Australian Public Service Commission (APSC); and
- Remuneration data for administrative and senior ACTPS officers sourced from ACT Shared Services (Human Resources).

### **2016 Census Data Analysis**

The 2016 Census Data shows that the APS accounts for 32% of the employment in the ACT across public and private sectors (excluding local government services). No other state or territory comes close to such a significant proportion of APS employment, the NT following the ACT with a figure of 9 per cent and the rest of the states lying in the 2-4 per cent span.

This fact shows that among all the States and Territories the impact of the Commonwealth public service is expected to be by far the highest in the ACT.

In order to further develop on the premise, we used the total weekly personal income data from the 2016 Census. When analysing the 2016 Census total weekly personal income data, we took proportions of the number of employees across each range of incomes given by ABS TableBuilder for the Commonwealth Government, the ACT Government and the private sector.

This in turn gave a distribution of incomes for employees in each of the three sectors. Correlations between the three sectors were then calculated for the distributions:

- Commonwealth Government against the ACT Government;
- Commonwealth Government against the private sector; and
- ACT Government against the private sector.

If the Commission's position that APS wages are captured in the ACT's private sector wages and that the ACT's private sector wages are a reasonable proxy for ACTPS wages is true, it would therefore be expected that the level of correlation between the distribution of Commonwealth Government and private sector employee weekly earnings and between the distribution of ACTPS and private sector employee weekly earnings would both be high. The correlations are given in Table 19.

Table 19 – Correlation Coefficients of APS, ACTPS and Private Sector Weekly Earnings Distributions

Distributions	APS vs ACTPS	APS vs Private	ACTPS vs Private
Correlation Coefficient	0.911	0.293	0.516

Source – 2016 Census (ABS TableBuilder) and ACT Chief Minister, Treasury and Economic Development Directorate Calculations

As shown above, while there is a very strong correlation between APS and ACTPS employee weekly earnings, the correlation between APS and private sector employee weekly earnings is weak. Similarly, the correlation between ACTPS and private sector employee weekly earnings is moderate. Consequently, these results indicate that while there is merit in the Commission's position that private sector wages are a reasonable proxy for ACTPS wages, the impact of the APS on ACTPS wages is not adequately taken into account by observing private sector wages alone. Moreover, these results also suggest that APS and ACTPS wages are closely linked, given the strength of the correlation between employee weekly earnings in each of the public services.

As well as the distributions themselves, mean annual employee earnings were also calculated from the 2016 Census data for the Commonwealth Government, ACT Government and private sector. The mean annual earnings were calculated by multiplying the midpoint of each income range given in ABS TableBuilder by the number of people in each income range for the Commonwealth Government, ACT Government and private sector. Weekly earnings were then converted into annual earnings. The midpoint of each income range was provided to the ACT by the ABS directly. We note that the midpoints of income levels are national figures, as ABS does not calculate separate figures for each of the States and Territories. We do not however regard this to be a major concern, as it would be reasonable to assume that the midpoint for the ACT in each income range would not be dramatically different from the national figures.

The calculated mean annual employee earnings for each of the three sectors is given in Table 20.

Table 20 – Mean Annual Earnings of APS, ACTPS and Private Sector

Employer	APS	ACTPS	Private
Mean Employee Annual Earnings (\$)	97,964.78	84,686.70	63,992.79

Source – 2016 Census (ABS TableBuilder and ABS advice) and ACT Chief Minister, Treasury and Economic Development Directorate Calculations

These calculations demonstrate that there is a significant difference between the mean earnings of an APS employee and a private sector employee in the ACT, with APS earnings being approximately 53 per cent higher than private sector earnings.

Moreover, the results also show a significant difference between mean earnings of ACTPS employees compared with private sector employees, with ACTPS employees earning approximately 32 per cent more than private sector employees on average. These two differences compare to the relatively small difference between APS and ACTPS employee earnings, with APS employees earning approximately 16 per cent more than ACTPS employees.

On the basis of the two calculations presented above, it is clear that APS and ACTPS wages are closely related to one another; significantly more so than ACTPS wages are related to private sector wages in the ACT. Further, the sheer difference between earnings in the private sector against the APS indicates that private sector wages are not a sound proxy of APS wages. Concordantly, our analysis of 2016 Census data indicates that the Commission's position to not include APS wages in its assessment of wage costs is not satisfactory and significantly underestimates the wage cost pressures faced by the ACT as a result of the presence of the APS.

That said, we realise the above analysis using weekly income data from the 2016 Census uses 'income' and not 'wages'. Since the population we are considering consists of public and private sector employees, we contend that a significant proportion of their income would emanate from wages and using 'income' as a proxy for wages would not distort the analysis dramatically. At the same time, in order to ensure a like-for-like comparison the ACT has also considered the relative salaries paid to ACTPS and APS employees at comparable job description and seniority levels.

### **Australian Public Service and ACT Public Service Classifications' Wage Comparison**

As referred to earlier, this analysis has been based on the APS 2017 Remuneration Report prepared by the APSC and data provided by ACT Shared Services on the level of remuneration of administrative and senior ACTPS officers. Both the 2017 Remuneration Report and the data from ACT Shared Services is for the 2016-17 financial year, which we have taken to be a representative sample across all years for the purposes of this analysis.

For our analysis, we have calculated the mean and standard deviation of APS and ACTPS employee base salaries in each classification from ASO-1 to ASO-6 and SOG-C to SOG-A in the ACTPS and APS-1 to APS-6, EL-1 and EL-2 in the APS. The analysis is of classification base salaries, meaning the average full-time annualised salaries paid to employees, including salary sacrifice and pre-tax employee superannuation contributions but excluding employer superannuation contributions, bonuses and other benefits. Base salaries were used in order to maximise the comparability of the two public services, as there are some differences in the structure of performance payments, superannuation and bonuses between the APS and ACTPS.

The mean and standard deviation of the base salaries were compared between similar classifications in the APS and ACTPS using a statistical t-test in the first instance to determine whether the population means were equal. In the cases where the population means were not found to be equal, a 95 per cent confidence interval was constructed for the difference in mean APS and ACTPS salaries in each classification, the upper and lower limits of which were then compared with the relevant APS salary. The results of this analysis are shown in Table 21.

Table 21 – Comparison of APS and ACTPS Salaries by Classification

<b>APS Classification</b>	<b>APS-1</b>	<b>APS-2</b>	<b>APS-3</b>	<b>APS-4</b>	<b>APS-5</b>	<b>APS-6</b>	<b>EL-1</b>	<b>EL-2</b>
<b>ACTPS Classification</b>	<b>ASO-1</b>	<b>ASO-2</b>	<b>ASO-3</b>	<b>ASO-4</b>	<b>ASO-5</b>	<b>ASO-6</b>	<b>SOG-C</b>	<b>SOG-B SOG-A</b>
<b>APS Mean Salary (\$)</b>	46,903	55,345	61,762	69,817	76,291	89,222	111,525	140,402
<b>ACTPS Mean Salary (\$)</b>	48,968	55,324	62,803	70,020	76,824	86,836	106,608	132,446
<b>Sample size for APS</b>	562	2481	15,235	28,440	20,254	32,097	24,935	11,349
<b>Sample size for ACTPS</b>	59	326	827	854	854	1158	1293	1032
<b>Standard deviation for APS Salaries (\$)</b>	3794.8	4070.7	3696.0	7005.6	10503.6	17362.9	21345.4	45916.6
<b>Standard devn for ACTPS Salary (\$)</b>	2252.5	2519.3	2003.4	2449.6	1983.1	4995.0	3080.9	6161.1
<b>Confidence Interval Lower Bound (\$)</b>	-2,728	N/A	-1,190	-387	-730	2,040	4,603	7,029
<b>Confidence Interval Upper Bound (\$)</b>	-1,402	N/A	-892	-19	-336	2,731	5,231	8,883

Source – APSC APS 2017 Remuneration Report, ACT Shared Services and ACT Chief Minister, Treasury and Economic Development Directorate Calculations

Regarding the confidence intervals, we note that the range of lower and upper bounds expressed as a percentage of the relevant APS salary is -5.8 per cent to 6.3 per cent. That is to say that any given ACTPS classification has a base salary that is between 6.3 percent lower and 5.8 per cent higher than the base salary of the corresponding APS classification. This indicates that the base salaries paid to employees for comparable classifications in either public service are very similar.

Hence, when taken into consideration with the 2016 Census data analysed above, it is abundantly clear that the APS has a significant impact on salaries in the ACTPS and that this impact is not captured through private sector wages in the ACT alone. As such, we consider that the impact of APS wages must be included in the wage costs assessment. However, we do note that the ACT is an anomalous jurisdiction with regard to the impact of the APS. This is not just due to the relative size of APS employment in the ACT's labour market compared with other jurisdictions, but also because of the concentration of higher classification APS employees in the ACT.

Since the ACT is the seat of government and home of the APS, in accordance with its status as the national capital, it is a reasonable presumption that the ACT would have a higher concentration of EL-1, EL-2 and higher grades of APS administrative officers (i.e. APS4 and above) than other jurisdictions. This would be due to the fact that the majority of Commonwealth agencies have their main offices in the ACT and thus, the ACT's APS employees would be more likely to be employed in senior management or policy oriented areas, which in turn would result in a greater number of higher grade APS employees.

Given the complexity of the current regression model we do not propose that additional variables should be included to account for differences such as these. In any case, this would depend on the availability of a national dataset of characteristics of employees which includes both private sector and APS employees. Our understanding is that such a dataset is not currently available. The more realistic option would be to include a specific adjustment for the ACT to cater for the impact of the APS on ACTPS wages. As APS employment represents only 3.5% of total employment in the rest of the nation, compared with around 32% for the ACT, it appears unlikely that the impact of the APS on the wages of State employees would be as significant in any other jurisdiction.

## **ADMINISTRATIVE SCALE**

The ACT's Main Submission and subsequent submission on 21 September 2018 shared our perspectives on the CGC Staff questions in the Draft Assessment Paper (DAP) on *Administrative Scale* and our response to the administrative scale estimates presented in the DAP, respectively. Further, during the ACT's Workplace Discussions, the Commissioners and the ACT had a detailed discussion on our administrative scale estimates for Health and Education.

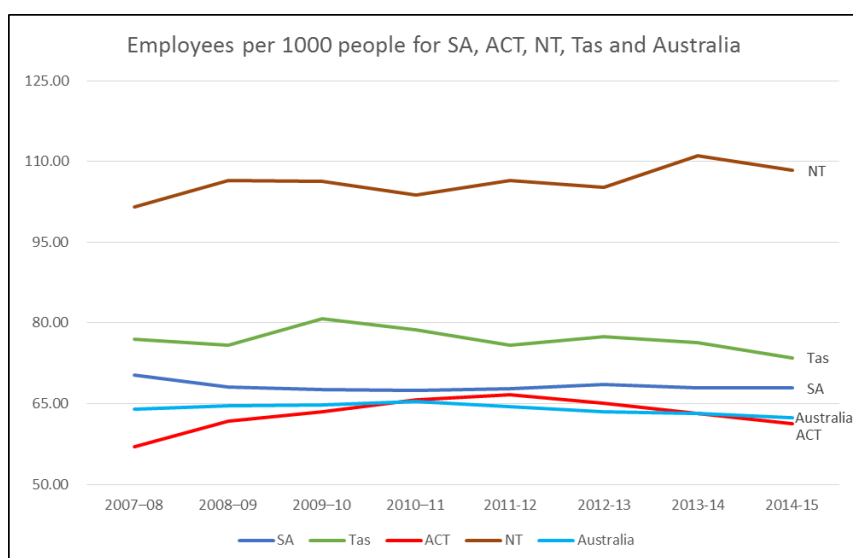
The Commissioners enquired whether the ACT's estimate took into account the 'bare minimum staffing' philosophy relevant for administrative scale to which we responded that from an administrative scale construct perspective, our estimates were 'bare minimum fixed costs' in the sense that we omitted all business units/subunits having any element of service delivery to the population from the administrative scale estimates for Health and Education.

We also mentioned in our response that our estimates were not as parsimonious on staffing as the CGC Staff estimates since we contend that even the administrative scale estimates need to adhere to the *What States Do* principle instead of being an exercise in frugality with no relation to on the ground practicalities.

We showed that the ACT could be considered as a benchmark with regard to the administrative scale estimates from an efficiency perspective, implying that estimates derived on the basis of what the ACT does could be considered as reasonable.

A recapitulation of our approach on efficiency is as follows. When efficiency is measured approximately using the number of public servants per 1000 of the state/territory population, the ACT's number, as shown in Figure 7 below, has remained significantly lower than the small States (i.e. SA and TAS) and the NT and even lower than the Australian average (which includes the bigger States of NSW, VIC, Queensland (QLD) and WA) for most of the period between 2007-08 and 2014-15, indicating that the ACTPS is an efficient one and hence, a good benchmark with regard to the administrative scale estimates. In this submission, we further build on our arguments with regard to minimum staffing vs. *What States Do*.

Figure 7: State/Territory Public Service Employees per 1000 population



We contend the minimum staffing that should be captured in the administrative scale estimates should reflect *What States Do* and should not be tempered with an extreme ‘bare minimum’ lens, as is currently the case. In the ACT’s view, the latter approach amounts to the application of an abstract or external benchmark, which is contrary to the approach of the Commission in all other assessments.

The complexity of policy development in the current times of rapid changes in technology, processes, business models, societal norms *et al* along with high community expectations and consequent volume of legislation that States and Territories have to deal with, should be recognised in the estimates. Further, the impacts of intergovernmental fora like COAG, CAF and CFFR which have been in place since the late 2000s and their imposts on the staffing of state public service policy, planning and administrative functions has to be recognised. Hence, the importance of *What States Do* with regard to the administrative scale estimates from our perspective.

We note that in the administrative scale estimates the ACT has submitted to date, three broad classifications constitute 85-90 per cent of the staffing – Administrative Service Officers (ASOs), Senior Officers (SOs) and Senior Executive Officers (SEOs).

The only exception to this is the estimates for the whole-of-state statutory bodies, which quite unsurprisingly, consists of specialists in areas like audit and parliamentary processes. Of course, in line with the conservative approach taken to exclude all business units having a service delivery element, our estimates do constitute a minor percentage of the total FTEs for ASOs, SOs and SEOs in the ACTPS.

Table 22 below shows data on staffing of ASO levels 1-6, SO levels SOGA, SOGB and SOGC and SEOs in terms of average Full Time Equivalents (FTEs) for the financial year, sourced from the Human Resources Shared Services team in the ACTPS and ACT Population data sourced from Australian Bureau of Statistics Series cat. 3101.

The data is for this decade and shows that the total FTEs for ASO 1-6, SOGA, SOGB, SOGC and SEOs in the ACTPS has grown, on an average, by a mere 0.66 percentage points (pp) more than the ACT population growth during this period. (Note: Average ACT population growth = 1.93 pp, average ASOs, SOs and SEOs FTE growth = 2.59 pp. Difference = (2.59-1.93) pp = 0.66 percentage points.)

Table 22: Growth in Staffing levels of ASOs, SOs and SEOs in the ACTPS compared with ACT Population growth between 2010-11 and 2016-17

Year	ASO 1-6 (Ave FTEs) – I	SOGA-SOGC (Ave FTEs) – II	Senior Executive Officers (Ave FTEs) - III	Total (I + II + III)	ACT Population
2010-11	3306.85	1582.34	188.88	5078.08	364,833
2011-12	3407.21	1658.86	193.21	5259.28	372,070
2012-13	3503.73	1802.34	202.33	5508.40	379,812
2013-14	3592.06	1850.32	210.76	5653.14	386,318
2014-15	3642.39	1923.63	210.17	5776.19	391,981
2015-16	3619.77	1930.21	221.41	5771.39	398,874
2016-17	3674.92	1954.25	236.62	5865.79	407,155
<b>Growth</b>	11.13%	23.50%	25.28%	<b>15.51%</b>	<b>11.60%</b>
<b>Average Growth</b>	1.86%	3.92%	4.21%	<b>2.59%</b>	<b>1.93%</b>

To put the numbers in perspective:

- The increase in numbers in the first half of the 2010s can be significantly attributed to service delivery aspects, which are **excluded** from administrative scale considerations, like:
  - The opening of the AMC correctional facility in 2009 which led to an increase in FTE in preparation for the centre and with increases in the number of ASOs and SOs employed in the ACT's Justice and Community Safety Directorate to match offender demand in the early 2010s;
  - The merging of all ACT Government regulatory services under Access Canberra in 2014-15; and
  - Increase in the staffing of land development and associated functions in 2014-15.
- The rest of the increase (though significantly less in magnitude than the former) can be attributed to:



- Staffing increases necessitated by the appointment of statutory office holders and coordinator generals such as the Victims of Crime Commission, Inspector for Corrective Services, Health Services Commissioner, Children and Young People Commissioner and the staffing profile associated with supporting those roles; and
- The complexity of intergovernmental negotiations with regard to policy development (along with high community expectations), reflected through the volume of legislation States and Territories have to deal with.
  - A quick scan of the website of The Council of Australian Governments (COAG) reveals that the number of intergovernmental agreements that policy analysis/development teams across States and Territories have had to contend with have increased exponentially since 2008-09. A rough estimate shows that the number of intergovernmental agreements agreed upon since 2008-09 is about six times the number of agreements agreed upon in the period before 2008-09. An indicative list of intergovernmental agreements signed (or being negotiated for signature) since 2008-09 is as follows:
    - Intergovernmental Agreement (IGA) on Biosecurity
    - IGA for the Australian Building Codes Board
    - IGA on National Policing Information Systems and Services
    - IGA on Implementing Water Reform in the Murray Darling Basin
    - IGA on National Digital Health
    - IGA for a National Exchange of Criminal History Information for People Working with Children
    - IGA on National Drought Program Reform
    - IGA Personal Property Securities Law
    - IGA for Regulatory Reform in Vocational Education and Training
    - IGA on the National Redress Scheme for Institutional Child Sexual Abuse
    - IGA on a National Framework for Responding to PFAS Contamination
    - IGA for an Electronic Conveyancing National Law
    - IGA on Australia's National Counter-Terrorism Arrangements
    - IGA on Identity Matching Services
    - IGA on Competition and Productivity-enhancing Reforms

A question that may arise is our rationale for mentioning above that the increases in staffing impacting administrative scale are far less than the increases impacting service delivery functions. A comparison of the growth in the staffing of ASOs, SOs and SEOs once a degree of stability was established post the major changes between 2010-11 and 2014-15 show that between 2014-15 and 2016-17, the growth in average staffing (ASOs, SOs and SEOs only) has been 1.55% (from 5776.19 FTEs to 5865.79 FTEs), an average of 0.78% over those two years.

In the same period, the growth in the ACT's population was 3.87% (from 391,981 to 407,155), an average of 1.94% over those two years. The latter is about 2.5 times the former (1.94% vs. 0.78%), indicating that once service delivery related changes became relatively stable, staffing growth was much less than population growth.

Further, the above analysis also shows that, if growth in the ACT's ASO, SO and SEO staffing apart from that due to the effect of service delivery changes is considered, staffing growth over this decade would possibly be *less* than the ACT's average population growth. In an ideal sense, one can argue that administrative scale staffing should not change with any changes to population at all. However, this argument rests on an assumption that the legitimate functions of government do not change over time.

The reality is that the accepted scope of government has increased over time, especially with regard to factors such as the growth of independent statutory bodies and the growth in complexity of the policy environment, which are directly related to administrative scale. Hence, we contend that as long as the administrative scale estimates reflect *What States Do* and are derived by omitting any service delivery related units or subunits from head-office or central agency functions, they can be considered to be fit-for-purpose for the assessment of administrative scale cost imposts.

## REVENUE ASSESSMENTS

### PAYROLL TAX

#### Data Sources

In the July 2018 ACT Government Submission on the 2020 Review Draft Assessment Papers (Main Submission), we highlighted the impact of revisions by the Australian Bureau of Statistics (ABS) to Characteristics of Employees (CoE) data on the ACT's assessed payroll tax capacity. These revisions have led to repeated, large and unpredictable swings in the ACT's assessed payroll tax capacity over the last several years; most recently resulting in an effective loss of \$53 million, or \$126 per capita in GST in the 2018 Update. To address this volatility, we proposed that the Commission should investigate the use of Australian Taxation Office administrative data as an alternative source for the payroll tax assessment. We consider that such data would prove to be less volatile over time and thus would eliminate or mitigate the significant swings and consequent changes in the ACT's GST revenue experienced through the use of CoE data.

Discussions between ACT Government officials and Commission staff following the lodgement of the Main Submission indicated that the Business Longitudinal Analysis Data Environment (BLADE) would be based on ATO administrative data. However, as BLADE will not be operational in time for the 2020 Review, the Commission has proposed to continue to use CoE data as the basis for the payroll tax assessment. In light of this, the ACT supports the Commission's position, but recommends that the Commission investigate updating the payroll tax assessment methodology in a subsequent Update once BLADE is operational. Such an investigation would be similar to that conducted for the wage costs assessment in the 2016 Update, which saw the Commission change its data source for the wage costs disability from indexed data from the 2009 Survey of Education and Training to CoE.

#### Common Concessions Adjustment

In our Main Submission, the ACT proposed that the Commission adjust the Payroll Tax assessment to account for common concessions on payroll taxes that the States and Territories grant to certain employers. We presented as an example a possible adjustment for common payroll tax concessions granted to charitable and non-profit organisations, concluding that such an adjustment would have a material impact on the GST distribution and would improve the Payroll Tax assessment's consistency with the principle of *What States Do*.

Subsequent to the lodgement of the Main Submission, Commission staff and ACT Government officials jointly identified a number of concerns with the proposal. Pre-eminent among these concerns is that the Australian Charities Report Tableau dataset does not identify the location of operation of charitable and non-profit organisations. Rather, the number of charitable and non-profit organisations recorded in the Tableau dataset reflects how many such organisations have their head offices and/or registered addresses in each State and Territory. Given that payroll taxes are paid in the State or Territory in which the employer is operating, the location in which an employer is registered may not necessarily be where it operates, particularly for employers which have cross-jurisdictional operations.

Thus, using the registered address of charitable and non-profit organisations would not accurately capture the distribution of such organisations between the States and Territories and the quantum of employee expenses which they incur in each State and Territory.

This is exacerbated by the fact that in our proposal, the changes in each State and Territory's assessed payroll tax capacity caused by discounting employee expenses for charitable and non-profit organisations are driven entirely by the number and employee expenses of large organisations, which intuitively are more likely to have cross-jurisdictional operations than small organisations. Understanding that the Commission supports the conceptual basis for the adjustment, we support further investigation by the Commission into alternative methods to capture exempt employee expenses in order to address this concern.

In addition, it has also been identified that the initial proposal presented in the Main Submission included universities in the dataset used to estimate the impact on the GST distribution. As universities are generally subject to payroll tax despite their non-profit status, they should not be included in any adjustment to remove exempt organisations from each State and Territory's assessed payroll tax capacity. We note that the Tableau database can be manipulated such that universities are excluded and thus address this issue, however we do not present any updated modelling due to the aforementioned issue in identifying the location of operation of charitable and non-profit organisations. Numerous universities operate campuses in multiple jurisdictions, thus they would also be subject to this issue.

In the Main Submission, we also indicated that all States and Territories other than VIC exempt non-profit and charitable organisations from payroll tax. This observation was made on the basis of information available on each State and Territory's internet page(s) regarding payroll tax. However, further investigation has revealed that VIC in fact does exempt charitable and non-profit organisations from payroll tax; with the exemption being enshrined in Part Four, Division One of VIC's *Payroll Tax Act 2007*. As such, our argument that adjusting the Payroll Tax assessment would more closely align the assessment with the principle of *What States Do* is strengthened further, as all States and Territories exempt charitable and non-profit organisations from payroll tax.

## **LAND REVENUE**

In the Main Submission, we remarked that Commission staff should review the issue of which source to use for land value data upon receipt of State and Territory submissions on the Draft Assessment Papers. We further noted that we would consider the issue of land value data sources in a supplementary submission.

Following the release of the Draft Assessment Papers, the Commission released data requests to the States and Territories for land value data sourced from valuers-general in order to test the impact of using valuers-general land valuation data on the land tax assessment in comparison to the Commission's current preferred data source of State/Territory revenue offices. We support the Commission in this exercise and have provided the requested data.

Further, we also note South Australia's (SA) observation that data quality concerns with QLD the Commission had at the time of the 2015 Review appear to have been alleviated through QLD's provision of new data in the 2017 Update. In principle, we are supportive of SA's proposal to remove the 25 per cent discount applied to the land revenue assessment. However, we do acknowledge that the Commission also indicated concerns with land valuation data in NSW and WA at the time of the 2015 Review and that these concerns may not necessarily have been alleviated. With this taken into account, we consider that a reduction of the level of discounting applied to the land revenue assessment from the current 25 per cent to 12.5 per cent would be reasonable and suggest that the Commission consider such a reduction.

## **GAMBLING TAXES**

We presented the ACT's gambling tax assessment proposal during the workplace discussions held in Canberra between 15 and 17 August 2018. The Commission Chairperson commented that the ACT's proposal does not give different weightings to population groups according to their propensity to gamble, which would possibly be a more appropriate approach to take, similar to the methods employed in the Commission's assessments in the Health category. The ACT noted this feedback.

Subsequently, we found that the *Gambling Activity in Australia* research report by Armstrong and Carroll does not have the level of data in the report necessary for us to proceed with a differently weighted approach. Further inquiries with Commission staff indicated that they have sourced such detailed data from the Household Income and Labour Dynamics in Australia survey and are already progressing with their analysis. The ACT understands Commission staff will proceed with the investigation of further developments on the ACT's original gambling taxation assessment proposal using a differently weighted approach and will propose a related method in their internal paper to the Commissioners scheduled for December 2018 or January 2019.

## **COMMONWEALTH PAYMENTS**

Commission staff are seeking States' and Territories' views on whether 50 per cent, or some other proportion, of the Commonwealth payments for investment in national network road and rail projects should be treated as having no impact on the GST distribution in the 2020 Review.

A key issue is whether there are spill over benefits to other States and Territories from road and rail expenditure which are not taken into account by the current assessment methodology. It could be argued that the roads assessment already takes account of State and Territory spending needs where there is significant usage of roads by inter-State/Territory users – through the traffic volume and heavy vehicle use measures. However, some proportion of that expenditure may meet needs or objectives of the Commonwealth government, rather than that of the States and Territories. In that light, there is a case to discount State and Territory needs accordingly. If the Commonwealth payments to States and Territories for road and rail infrastructure were considered to align with Commonwealth objectives or needs, then it would make sense for State and Territory needs to be adjusted accordingly, by equalisation of the Commonwealth payments, either by accounting for them as revenue of the recipient States and Territories or, more logically, as deductions from the assessed expense needs of the recipient States and Territories.

The analysis presented by the ACT in our submission in response to the Draft Assessment Papers showed a very large discrepancy between State and Territory infrastructure needs as assessed by the CGC and the distribution of Commonwealth payments for infrastructure. The assumption must be that, if these payments are aligned to need at all, they are aligned to Commonwealth need, or perceived benefit. In that case, State and Territory expenditure needs should be discounted to the extent of these payments.

The Grattan Institute has provided an excellent short submission to the recent Productivity Commission Inquiry on the treatment of Commonwealth grants to States and Territories for transport infrastructure under HFE<sup>19</sup>.

This sets out very clearly the failure of the Commonwealth to focus its assistance on transport infrastructure that supports the national economy, or is important beyond a single State's borders. Instead, Grattan states that the Commonwealth has:

- Under-emphasised transport infrastructure in the large cities, despite the fact that they are the engines of national economic growth.
- Attempted to skew project selection by seeking to overrule decisions by incoming State and Territory governments.
- Consistently spent more of its transport infrastructure dollar in NSW and QLD.

In relation to the quarantining of 50% of Commonwealth funding for National Land Transport Network projects, Grattan commented that "the special treatment of spending on the National Network is only justifiable if it is limited to nationally important roads and railway lines". Their submission demonstrates that this is not the case. Accordingly, they argue for either:

- Full inclusion of all Commonwealth transport infrastructure payments to the States and Territories in the calculation of GST shares; or
- Full exemption of all Commonwealth transport infrastructure payments to the States and Territories in the calculation of GST shares, provided the Commonwealth restricted its funding to projects that were nationally important or important beyond a single State's border.

The second approach would only be feasible if there were fundamental reform of the current system for funding transport infrastructure.

The ACT's conclusion is that, if the Commonwealth payments can be considered to reflect national needs, they should be deducted from the expense needs of the recipient States and Territories. If they cannot be considered to reflect national needs, then they should be treated as revenue to the recipient States and Territories and assessed actual per capita.

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<sup>19</sup> Grattan Institute (Marion Terrill), *Submission to the Productivity Commission Inquiry into Horizontal Fiscal Equalisation*, 30 June 2017.

## EXPENSE ASSESSMENTS

### HEALTH

#### Community and Other Health Services

In our response to the Draft Assessment Papers, the ACT indicated that we were investigating whether we could supply activity data for community health services usage and cost, including socio-demographic factors, which could be included in development of a national usage profile for community health services.

Further analysis of this issue suggests that the definition of Community Health may need reconsideration so as to align with the national definitions of services which are and are not, covered by Activity Based Funding (ABF). The scope of Commonwealth (ABF) funding is set out in each year's National Efficient Price Determination (e.g.: <https://www.ihipa.gov.au/sites/g/files/net4186/f/nep.pdf>).

Clause 3.2 of the Determination states that the scope of non-admitted services is independent of the service setting in which they are provided (e.g. hospital, community, home). The service must be from a healthcare provider and include therapeutic/clinical content to qualify as in-scope. It is not limited to specialist outpatient clinic services.

The Tier 2 classification of non-admitted services is used as the basis for assigning National Weighted Activity Units (NWAUs) to service events. Tier 2 classes 10, 20 and 30 are the specialist outpatient services, which are all (with one exception) considered to be in-scope for ABF. Tier 2 class 40 are the non-medical specialist and other non-admitted services (typically referred to as allied health or clinical nurse-led services), which include some in-scope and some out-of-scope services.

All in-scope services should have NWAUs attached to them, while out-of-scope services should not have NWAUs. Any community health service that is block funded (e.g. community mental health) does not, by definition, have NWAUs assigned to it.

The ACT therefore suggests that the Commission should consider the possibility of combining all health services covered by ABF in one assessment component and all of the non-ABF services in a separate assessment component. The first component would be assessed using the Independent Hospital Pricing Authority (IHPA) National Hospital Cost Data Collection (NHCDC) data, while the second component would have to rely on data provided by individual States and Territories. Consideration would need to be given as to how best to identify the split of expenses between these two components, as the (new) COFOG-A classification still has a focus on the settings in which services are delivered<sup>20</sup>.

#### Substitutability

Following the issue of the Draft Assessment Papers the Commission issued a Staff Discussion Paper on *Review of Substitutability Levels for the Health Category* (CGC 2018-05-S; September 2018). The ACT has the following comments on this paper:

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<sup>20</sup> Some services are funded on a block rather than activity basis but attract a Commonwealth funding contribution e.g. small regional hospitals; teaching, training and research. These fall within the scope of the IHPA data collection and should be assessed in the first component.

### ***Admitted Patient Services***

Based on the evidence presented in the paper, the ACT agrees that the current substitutability level of 15 per cent for admitted patients remains appropriate.

### ***Emergency Department Services***

The ACT agrees that many of the less severe emergency department (ED) presentations can be treated through general practice (GP) clinics and nurse walk-in centres. We agree that the availability of bulk billed GP services in particular influences the level of ED services provided by States and Territories.

The CGC paper notes that one of the consultants for the 2015 Review (James Downie – now chief executive officer of IHPA) advised that clinically derived methodologies should be preferred over the administrative approach or surveys based on patient perception. This view is in accord with that consistently maintained by the ACT. Following recent consultation with clinical experts in our Health Directorate, the ACT proposes that the Commission obtain expert advice from the Medical Services Advisory Committee (MSAC) on the substitutability estimates for the various components of the Health assessment. MSAC is an independent non-statutory committee established by the Commonwealth Minister for Health to advise on public funding of new medical services and reviews of existing services on the Medical Benefits Schedule. In our view, action should be initiated on this proposal as soon as possible.

In relation to the relative cost of less severe ED presentations, it is clear that these will be less complex and thus less costly than more severe presentations (para 31, p.8). However, rather than making an arbitrary downward adjustment of the substitutability level based on judgement, it would make more sense to use total NWAUs for GP type presentations as a proportion of total ED NWAUs to measure the cost impact.

### ***Non-Admitted Patient Services***

The Commission paper presents a set of estimates (para 41, pp.10-11) of substitutability levels for each of the classes of clinics specified in IHPA's NHCDC report. Again, it is the ACT's view that these estimates should be tested against independent clinical opinion, given their significance in the assessment.

Subject to this advice, we agree that the best indicator of non-State/Territory service use for non-admitted services is the value of bulk billed benefits paid for operations and specialist services. While in theory it would be desirable to add a component for services involving a co-payment, the value of such services would need to be discounted for income constrained users, with considerable judgement required about the level of discount.

### ***Community Health Services***

The ACT agrees with the Commission staff statement (para 52, p.12) that if the State/Territory and non-State/Territory sectors provide a similar range of services and accessibility and costs are comparable, the potential substitutability would be high. Costs can simply be considered as an aspect of accessibility, as services requiring a co-payment or gap fee can be considered significantly less accessible than bulk billed services.

Our previous comments on independent validation of substitutability estimates apply equally to community health services.



However, the application of a medium discount of 25 per cent to this component of the assessment appears inappropriate, given the micro level of analysis and conservative assumptions already applied to the estimate. The ACT considers that this discount should be removed.

### **Other Expenses**

Commission staff have indicated an intention to investigate whether expenses for pharmaceuticals, medical aids and appliances and health administration should be included in the community health component or whether they are related mostly to the delivery of hospital services.

Following advice from our Health Directorate, the ACT considers that these expenses are likely to relate principally to hospital services and thus should be moved from Community Health to Admitted Patients in the assessment.

### **Component Expenses**

The current assessment methodology makes an arbitrary 50:50 split of expenses for ED and non-admitted patient services due to the lack of reliable data. However, improvements in the data available from IHPA by 2020 should enable these expenses to be split accurately using NWAU shares. This calculation would depend on whether the assessment categories are aligned with the ABF funding structure as suggested above i.e. whether all in-scope Tier 2 clinics should be considered in the Non-Admitted Patients category.

### **WELFARE**

During the workplace discussions, the Commission Chairperson asked the ACT's Community Services Directorate about the quantum of expenses the ACT expected to incur on non-NDIS services when the implementation of NDIS is at full scheme. It was mentioned during the session that the NDIS captures the high complexity, high cost cases and the ACT would endeavour to provide more information in due course.

Further investigation has shown that in the ACT, about 62,000 people self-identify as having a disability and among them only approximately 10 per cent are eligible for NDIS. The National Strategy for Disability is being developed which will be much broader in scope than NDIS and cover services across multiple portfolios – Health, Education, Housing, Employment and Justice. The 90 per cent of the 62,000 people not covered by NDIS are expected to be served by mainstream programs across these portfolios. These programs include specific funding arrangements to cater for people with disability (e.g. students with disabilities). At present the ACT's Community Assistance & Support Program (CASP), under the Health portfolio, is one of such programs.

The small amount of funding identified by the ACT for non-NDIS disability services in the 2019 Update data request (\$2.3m) relates largely to the Integrated Service Response Program, which is aimed at assisting people with a disability who have high and complex support needs to navigate the NDIS and to provide an integrated response with mainstream services<sup>21</sup>. When compared with the NDIS expenses (\$162 million), it is evident that the non-NDIS expenses are a minuscule percentage.

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<sup>21</sup> Refer [http://www.cmd.act.gov.au/open\\_government/inform/act\\_government\\_media\\_releases/rachel-stephen-smith-mla-media-releases/2018/more-support-for-canberrans-with-disability](http://www.cmd.act.gov.au/open_government/inform/act_government_media_releases/rachel-stephen-smith-mla-media-releases/2018/more-support-for-canberrans-with-disability)

Further, the development of a national strategy suggests that once NDIS full scheme is implemented, arrangements in other States and Territories would be similar to that of the ACT and the non-NDIS disability expenses would only be a minor fraction of the NDIS expenses. Hence, it is expected that in the next two to three years the assessment of non-NDIS expenses will become immaterial.

That said, the ACT's stance continues to be that we need to see appropriate evidence to support the Commission staff position that low Socio-economic status (SES) can be used as a disability for assessing non-NDIS expenses. As mentioned in our Main Submission:

- The ACT's policy for non-NDIS services does not involve means testing, implying there is no specific targeting of the low SES community for assistance; and
- Components in an assessment should only be combined when the conceptual case is similar and such a step should not be driven by materiality considerations.

Moreover, the ACT's Community Services Directorate has also stated there is no indication from available data that people from low SES cohorts are major users of State and Territory provided non-NDIS services. Hence, from the ACT's perspective, we do not see strong rationale for low SES to be the disability for assessing non-NDIS expenses and seek appropriate evidence from the Commission staff to support the proposed assessment.

## **HOUSING**

In the Main Submission, we indicated that we would try to identify possible data sources that could be used for a differential assessment of first home owner assistance and affordable housing. As of the time of this submission, we have been unable to identify such a data source. We reserve the right to present possible data sources in the future should we be successful in identifying one.

## **SERVICES TO INDUSTRY**

In the Main Submission, we proposed that further consideration should be given to the impact of direct Commonwealth assistance to industry on State and Territory business development needs. The ACT is still considering what evidence could be presented to facilitate such an assessment and reserves the right to make a further submission on this issue.

## **OTHER EXPENSES**

### **Natural Disaster Relief**

In the Main Submission, we took the position that the Commission should reconsider its approach to assessing natural disaster relief mitigation and insurance expenses. Natural disaster relief mitigation and insurance expenses are not currently assessed by the Commission on the basis of a lack of expense data availability and a reliable indicator of need.

In its submission, SA argued that as States and Territories are required under the Natural Disaster Relief and Recovery Arrangements to implement natural disaster mitigation policies, the impact of mitigation policies would be captured by the net expenses incurred by States and Territories on natural disaster relief, which are currently assessed on an actual per capita basis by the Commission.

We disagree with SA's position. We do agree that if natural disaster mitigation expenses were assessed on an actual per capita basis, the impact that they have on net natural disaster relief expenses would be captured by the assessment. However, as noted above, the Commission does not currently conduct an assessment of natural disaster mitigation expenses.

Consequently, States and Territories that invest more heavily in natural disaster mitigation can be expected to have lower assessed expense needs than States and Territories that invest less in mitigation measures, assuming that mitigation measures reduce the extent and therefore cost of damage incurred by a natural disaster. However, these States and Territories would have no corresponding increase in assessed expenses due to the costs of the mitigation measures.

We consider that this disincentivises States and Territories from taking mitigation measures. We also note that the 2014 Productivity Commission Report on Natural Disaster Funding Arrangements found that governments over-invest in post-disaster reconstruction and underinvest in mitigation, particularly States and Territories which are at a high risk of natural disasters. This arrangement was found by the Productivity Commission to be inefficient, inequitable and unsustainable.

The implication for the Commission's assessment is that the current methodology entails a substantial risk of policy distortion. Hence, we consider that if the Commission is to maintain a differential assessment of natural disaster relief expenses, it should apply the same approach to mitigation and insurance expenses.

### **National Parks and Wildlife Services**

In the Main Submission, we indicated that we would try to identify possible policy neutral drivers of national park and wildlife services expenditure. As of the time of this submission, we have been unable to identify any such drivers. We reserve the right to present possible drivers in the future should we be successful in identifying any.

### **PHYSICAL AND FINANCIAL ASSETS**

In the Main Submission, we indicated that we would try to quantify a possible disability for the higher cost of attracting private capital to infrastructure projects in smaller jurisdictions. As of the time of this submission, we have been unable to quantify such costs. We reserve the right to present modelling or other evidence on this issue in the future.

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## ATTACHMENTS

- A. Impact of NCP related restrictions
- B. Light Rail
- C. Rider, Levett, Bucknall Study of Enhanced Costs of Henry Rolland Park
- D. Schools Cross Border Factor
- E. Community Health – ACT Services delivered by non-government organisations
- F. Usage of NSW justice services by ACT residents

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## ATTACHMENT A

### Impact of NCP related restrictions

The section on planning, development and capital works describes how the ACT faces a number of NCA imposed planning and development related constraints and this attachment provides further detail on the nature of those impositions and the way they have impacted the scale and form of development in the ACT.

- A. **Building height restrictions within the 'special requirements areas'** – including along key corridors such as Northbourne Avenue that have led to lower density and created a 'mid-rise monoculture' of development characterised by limited housing choice and population mix. Case studies demonstrate the impact this has on the scale of development and financial returns that can be achieved by developers in the special requirements area – which impacts on the price the ACT can achieve from land sales and on rate revenue streams.
- B. **Forcing the ACT to 'go out and not up' in terms of its development** – leading to sub optimal utilisation of urban infrastructure and expansion of the urban footprint in the ACT. Case studies demonstrate the various cost to the budget and the community of having to do this.
- C. **The National Capital Plan including Development Control Plans and amendments to the National Capital Plan** – both of which impose costs on the ACT.
- D. **Additional staff required to deal with NCP related impositions** – lead to a range of costs that are not faced in other jurisdictions.

#### A. Building height restrictions within the 'special requirements areas'

The scale of developments within the special requirement areas are a key feature of the National Capital Plan and are in place principally to ensure that buildings are symbolically not higher than the Australian War Memorial dome and the flagpole base at Parliament House. The height restrictions vary across the special requirement areas and have a measurable impact on the scale of development and financial returns that can be achieved by developers – which impacts on the price the ACT can achieve from land sales and on rate revenue streams.

#### Specific height restrictions in place

There are specific rules pertaining to the height of buildings in the city centre, Northbourne Avenue and the Kingston foreshore.

*City Centre: 9 storeys (but exceptions up to RL617)*

*The height of buildings in City Centre may be less than but **not more than nine storeys** provided that:*

- Plant rooms and other service elements may be allowed above this height subject to being set back from the building edges and screened from street level view.

- One or more taller building(s) per section up to a maximum height of RL617 will be considered only in accordance with an approved comprehensive design for the whole section. Comprehensive section designs should seek to use building height to emphasise and reinforce the geometry of the Griffin Plan and the symbolic Main Avenues radiating out from City Hill.
- Where an existing building exceeds the height limitations set out above it will be permissible to consider rebuilding to the same height as the existing building or lower.

In addition, developments in the City are required to undertake comprehensive section designs before seeking to use the maximum height provision. These section designs may be sanctioned by the NCA, if deemed necessary in its view, through the entity referral process.

The relevant provision in the NCP reads as follows:

*Buildings in Canberra Central should be of a height generally not greater than the height of the mature tree canopy (typically 3-4 storeys), except where otherwise permitted by the Plan. In Canberra Central no building or structure which protrudes substantially above the tree canopy must exceed a height of RL617. (NCP Statement of Planning Principles 2.4 Liveability Principle 7 of Objective 1)*

*Northbourne Avenue: 25m (8-9 storeys) except for two landmark nodes limited to 32m (approximately 12 storeys).*

- The provisions ensure that buildings adjacent to Northbourne Avenue are not less than 3 storeys, however for special non-commercial uses such as a tourist information centre exceptions to this requirement may be considered.
- Plant and equipment must be enclosed and integrated with the form and design of the building. Any rooftop plant must be contained within maximum height limits.
- Provisions also ensure that the parapets of buildings adjacent to Northbourne Avenue are not higher than 25 metres above natural ground level except for the two 'landmark nodes' at the intersections of Mouat and Antill Streets and Macarthur and Wakefield Avenues with Northbourne Avenue where parapets may be up to 32 metres above natural ground level.
- The Northbourne corridor could expect a Gross Floor Area development uplift of between 1.7 million m<sup>2</sup> and 2.6 million m<sup>2</sup> over the coming two decades. This equates to a total private sector construction expenditure of \$3.9 billion to \$5.8 billion.
- The Government could expect to receive \$11.8 million to \$17.8 million in cost recovery regulatory fees. The NCP related planning restrictions (on conservative estimates) would reduce development potential by 30 per cent.



- This equates to a total loss of private sector construction expenditure of between \$1.2 billion and \$1.7 billion (or \$58 million to \$87 million per annum) and a loss of future government revenue of \$3.5 million to \$5.3 million (\$180,000 per annum to \$270,000 per annum).
  - Assumption: the development would take place over a 20 year timeframe.
- It is conservatively estimated that private sector developers provide for an additional 3 months as part of ensuring that they receive support before proceeding to the DA stage.
- This is equal to an additional economic opportunity cost in the Northbourne corridor of \$2.1 million to \$3.3 million per annum after including the assumption that the NCP related planning controls will remain (i.e. 30 per cent loss of development).
  - Assumption: 20 year development timeframe, standard 7 per cent real government discount rate.

*Kingston Foreshore (including Wentworth Avenue): 4 storeys except for some taller “focal elements”*

The relevant provision in the NCP reads as follows:

*The overall height of buildings in the area is to be generally consistent with that of the tree canopy of mature trees in the area. This can be achieved through buildings being a **maximum of four storeys** except for some taller buildings or focal elements where these do not significantly impact on the landscape of the area or detract from the massing of the Kingston Powerhouse building.*

#### Reduced proceeds from land sales and smaller rate revenue streams

The height restrictions within the special requirement areas have led to lower density and created a ‘mid-rise monoculture’ of development characterised by limited housing choice and population mix.

The ACT receives lower prices from land sales because of lower developer expectations about the yield they can expect to generate when they are constrained in terms of the numbers of floors they can construct and therefore the related gross floor area they can expect to sell.

The Planning directorate undertook an analysis of the effect of NCP related height restrictions along Northbourne Avenue. The analysis was informed by consultations with developers and by reference to developments occurring in other areas of the ACT that are not subject to NCP related restrictions.

The analysis found that, in respect of two key properties in Braddon and Lyneham, the ‘lost’ potential development for the sites equated to 3-4 additional floors and between 60 and 120 units – which equated to an under development rate of between 30 and 33%. The specifics of the case studies presented at the Workplace Discussions are outlined below.

*Case study – Braddon*

The following key parameters informed the case study for the Braddon site:

- Approved October 2017 – currently being constructed.
- Constrained by 25m mandatory max height and setbacks.
- Large corner site with high visibility at a major intersection.
- Mixed-use integrated development, ground floor commercial with 8 levels of residential above and 180 room hotel.
- Result = 9 storeys with 3 basement levels (GFA 53,251m<sup>2</sup>).
- Total 241 apartments, with a typical floorplate of 34 units and 22 hotel rooms per floor.
- Suboptimal outcome with lowest permissible floor to ceiling heights and building ‘benched-in’ to deliver an additional floor.

The ‘lost’ potential development for the Braddon site was estimated as follows.

- Potential for at least 4 additional floors (120 additional units).
- Estimated to be at least 33 per cent underdeveloped considering its locality.
- All apartments already sold “off plan” with development still months from completion.

*Case study – Lyneham*

The following parameters informed the case study for the Lyneham site:

- Approved May 2018 with a stated project value of \$210 million.
- Constrained by 25m mandatory max height and setbacks.
- Narrow site - only 22m width developable.
- Result = 8 Storeys with 2 basement levels (GFA 24,822m<sup>2</sup>).
- Ground floor commercial with 7 levels of residential above.
- 143 apartments on a typical floorplate of 21 units per floor.

The ‘lost’ potential development for the Lyneham site was estimated as follows.

- Potential for at least 3 or 4 additional floors (63 units).
- Estimated to be at least 30 per cent underdeveloped considering its locality.

**B. Forcing the ACT to ‘go out and not up’ in terms of its development**

The ACT can achieve improved economic and social outcomes by focussing its development efforts on increasing density in the ACT rather than continuing to develop Greenfield sites.

- Infrastructure costs per dwelling tend to decline as the density of development on-site increases.
- Infrastructure connection costs tend to be higher for Greenfield sites than more intensively using existing infrastructure.
  - The extension of network infrastructure (such as energy, communications, water and sewerage) required to service new developments means that the recurrent cost requirements are also higher than for infill developments that are able to utilise existing infrastructure.
- Increased population within the city centre supports transport connectivity for Canberra's centralised employment.
- The benefits of agglomeration economies tend to be limited when the labour force is more dispersed.
- There are a range of social costs associated with 'going out rather than up': restricted accessibility to employment and educational opportunities is linked to lower average incomes, lower levels of average education, higher unemployment and a higher propensity for long term social disadvantage. This pattern has been shown to disproportionately affect women living in outer suburban areas, particularly new mothers seeking to return to work.<sup>22</sup>

An ACT based analysis undertaken for a cost comparative study for Greenfield and infill developments based on case studies found that higher density developments allow for economies of scale for a range of infrastructure types and the centralisation of services means that maintenance works are simpler and more effective.<sup>23</sup>

The case study costs demonstrate some economies of density. Infrastructure costs per dwelling tend to decline as the density of development onsite increases. This reflects efficiencies that are driven by the spatial proximity of dwellings. Land developments which provide a denser form of housing can generally capitalise on lower infrastructure installation and servicing costs.

The expanse of infrastructure required to service new development where infrastructure is not readily available means that the ongoing operating expenses required are also large when compared with infill developments that are able to plug in to existing infrastructure.

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<sup>22</sup> Grattan Institute, Kelly J. and Donegan P., 2015, *City Limits; Why Australia's cities are broken and how we can fix them*, Melbourne University Press, Melbourne.

<sup>23</sup> AECOM, 2018, *Cost Comparative Study - Greenfield versus Infill Development*, AECOM Australia Pty Ltd, Canberra

Higher density developments allow for economies of scale for a range of infrastructure types and the centralisation of services means that maintenance works are simpler and more effective.<sup>24</sup>

The case studies analysed the development costs for new dwellings in a Greenfields scenario and compared them with the costs in respect of a Brownfields scenario. In summary:

- The cost to establish a suburb like Taylor is at the order of \$118,146 per dwelling, whereas in Whitlam it amounts to approximately \$55,077 per dwelling. The direct cost to replace 2,600 dwellings (the estimated loss of dwellings in the city centre as a result of the height restrictions) in a Greenfields scenario would therefore range between \$143 million and \$307 million.
- On the other hand, the cost to establish new dwellings as part of a brownfields (redevelopment/densification) is notably lower, for example the cost of establishing 300 dwellings along Athlon Drive (Woden) is estimated at \$33,278 per dwelling, whereas the development of 993 dwellings at Campbell 5 is at the order of \$12,233 per dwelling unit. If the same number of dwellings could be replaced in a Brownfields scenario, such as the Northbourne Avenue corridor, the direct cost (based on the above) would range between \$31.8 million and \$86.5 million.

**C. The National Capital Plan including Development Control Plans and amendments to the National Capital Plan**

Development Control Plans

The NCP requires Development Control Plans to be approved in special requirement areas fronting Main Avenues and Approach Routes to the National Capital (not including Northbourne Avenue from Antill Street to City Hill) as well as for National land.

In 2004 the NCP had 17 Development Control Plans for special requirement areas. In 2018 that grew to 58 Development Control Plans.

The drafting of Development Control Plans is largely reactive, i.e. development control plans are mostly made at the request of a proponent. The making of a development control plan is not constrained by timeframes and are not subjected to a merits appeal process. They impose a cost on the ACT in the form of extra resources required to process the accompanying paperwork and comply with any changes requested.

Amendments to the National Capital Plan

Since its inception in 1990, the NCP has been amended on 90 occasions. 43 amendments occurred in the first 14 years (1990 – 2004) and 47 amendments occurred in the past 14 years (2004 – 2018). However, only 6 amendments occurred over the past 4 years.

The Australian Capital Territory (Planning and Land Management) Act 1988 requires the NCA to keep the NCP under review and to propose amendments when necessary.

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<sup>24</sup> *ibid*

Draft Amendments are prepared and circulated for public and planning and land authority comments.

Once a draft amendment has been prepared, the NCA must:

- Consult with the Territory Planning Authority on the Draft Amendment;
- Publish a notice in the Commonwealth Gazette and a principal daily newspaper circulating in the Territory advertising the draft amendment;
- Make the draft amendment available for public inspection;
- Have regard to any submissions which have been made on the draft amendment and make changes if considered necessary; and
- Prepare a written report on its consultations to be submitted to the Minister.

Once the Minister approves the amendment, it is tabled for 15 sitting days in both houses of the Commonwealth Parliament. The Parliament may raise a motion to disallow (all or part of) the amendment. Outside of this process, there is no recourse for the ACT and there is no formal avenue for the ACT to require the NCA to undertake an amendment. This process can add significantly to the time and hence costs of new developments.

The main negative impact of having to amend the NCP is that the ACT Government is unable to fully control its strategic planning. This is demonstrated by the approval of the CSIRO Ginninderra development.

This is (starkly) contrasted by current practice in the States and NT (for example, the current policy shift in NSW where a review of State Environmental Planning Policies (SEPPs) is currently underway, with a view to delivering a modernised planning system).

The review in NSW is underpinned by a commitment from the NSW Government to simplify the NSW planning system and to reduce complexity without reducing the rigour necessary in considering matters of state and regional significance. The review is examining existing policies to consider whether they are still relevant. The review specifically intends to remove policy and controls that are duplicated in strategies, regional plans and local environmental plans.

Another contrasting aspect is that a provision contained in a SEPP can be the basis for a merits based appeal in the NSW Land and Environment Court, with the NSW Department of Planning equally accountable to the Court. In the ACT, the NCA is generally outside of the remit of the ACT Civil and Administrative Tribunal.

# ACT GOVERNMENT RESPONSE ON COMMONWEALTH GRANTS COMMISSION 2020 REIVEW WORKPLACE DISCUSSIONS

## D Additional staff required to deal with NCP related impositions

Source: ACT Government Environment, Planning and Sustainable Development Directorate

NCA Staffing Impact - Summary Table

Team	CEO	Dir	SOGA	SOGB	SOGC	ASO6	ASO5	ASO4	ASO3	ASO2	Consultancy impact
City Renewal Authority	0.1	0.6	1.5	1.2	0.8	0	0	0			
Suburban Land Agency - nil impact											
EPSDD											
Planning Delivery											
DA Gateway Team			0	0.1	0.1	0	0	0.25			
Merit Assessment Team			0.1	0.1	0.1	0.05	0	0			
Leasing - nil impact											
Impact Assessment			0.2	0	0.8	0.1	0	0			
Planning Policy											
Territory Plan Team			0.1	0	0.3	0.5	0.3	0			
Urban Renewal Team		0.1	0.1	0.2	1	0.2	0	0			
Design and Technology Innovation Team		0.1	0.1	0.2	0.3	0.2	0	0.1			
Land Supply and Policy											
Development Ready Estates			0	0.2	0.2	0	0	0			
Urban Renewal											
Urban Projects (\$ impact, but no staffing impact)											\$100,000
EPSDD Leasehold System											
DA Leasing and ACAT Coordination			1	0	3	2	2	2			
Leasing Services				1	3	1	4	3		1	
Deed Management					1		1				
	3,000,000	240,000	161,994	146,693	122,957	98,944	88,655	80,987			
	CEO	Dir	SOGA	SOGB	SOGC	ASO6	ASO5	ASO4			Consultancy impact
Dual Planning System Staffing Impact	0.1	0.8	2.1	2	3.6	1.05	0.3	0.35	0	0	\$100,000
Leasehold System	0	0	1	1	7	3	7	5	0	1	0
<b>Total</b>	<b>0.1</b>	<b>0.8</b>	<b>3.1</b>	<b>3</b>	<b>10.6</b>	<b>4.05</b>	<b>7.3</b>	<b>5.35</b>	<b>0</b>	<b>1</b>	<b>\$100,000</b>
	0.1	0.8	2.1	2	3.6	1.05	0.3	0.35	10.3		total
<b>Dual planning subtotal</b>	300,000	192,000	340,187	293,386	442,644	103,892	26,596	28,345			\$100,000 1,827,051
	0	0	1	1	7	3	7	5	24		
<b>Leasehold subtotal</b>	-	-	161,994	146,693	860,698	296,833	620,583	404,934			2,491,736
											4,318,787

## ATTACHMENT B

### Light rail

#### *Context*

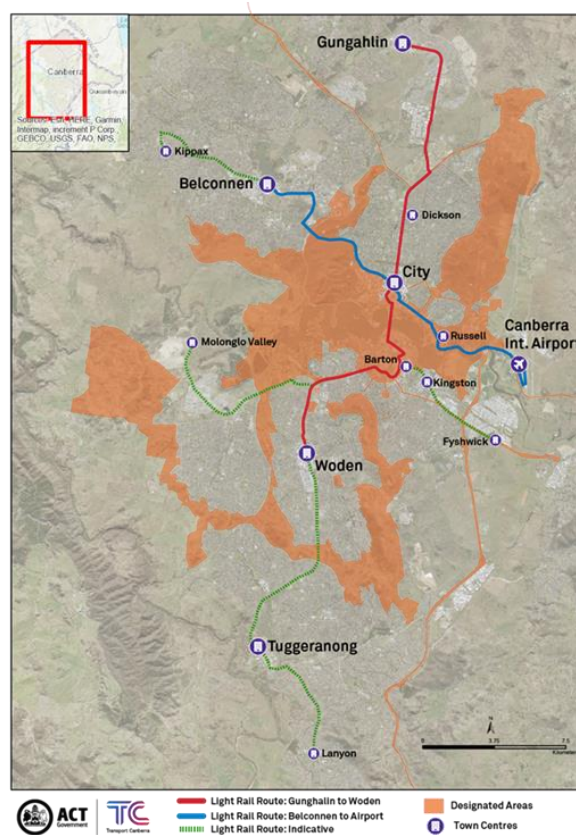
At the recent Workplace Discussions the ACT provided background to its major light rail project and undertook to come back to the Commission with examples and estimates of the time and cost implications of delivering, operating and maintaining light rail infrastructure within the national capital planning context.

The implications identified below apply generally to the program of capital works delivered by the ACT Government within designated areas.

- The Commonwealth Government has planning authority for a substantial portion of land in the ACT.
- NCA determines Works Approval for actions occurring within Designated Areas.
- Developments in these areas are held to a higher standard of quality, due to the requirements stipulated in the National Capital Plan and arising as conditions from these approval processes.

In 2015 the ACT Government released a light rail master plan setting out the ambition for a city-wide light rail system as part of an integrated public transport network connecting key population, employment, social and cultural hubs.

The Light Rail Network illustrated below shows the stages of light rail for Canberra:



- Gungahlin to City (first stage)
- Woden to City via Barton
- Belconnen to City
- Eastern connections (Fyshwick and Airport)
- Tuggeranong to Woden
- Molonglo connections

The map shows the extent of Commonwealth planning jurisdiction (orange) across the light rail system. Almost all of the overall light rail network affects Designated Areas in some form. Only the future extension from Belconnen to Kippax would not traverse Designated Areas and hence would not require Works Approval.

### Gungahlin to City: Implication of Commonwealth Planning Jurisdiction

On 17 May 2016, the ACT Government entered into an Agreement with Canberra Metro for the design, construction and financing of a 12 kilometre light rail service from Gungahlin to the City. The Agreement also includes for the operation and maintenance of the light rail system over a 20-year period.



NCA development approval under the *Australian Capital Territory (Planning and Land Management) Act 1988* was required for proposed works in a designated area (works on the 'Main Avenue and Approach Road' of Northbourne Avenue from the junction of Flemington Road / Federal Highway down to the city centre).

At the earliest stages of project planning within the published business case, the risk that planning approvals required would not be obtained within anticipated timeframes, or would require unanticipated design changes was highlighted. (The NCA is not required to provide its approvals within set timeframes and can make a verdict on an issue in response to works already undertaken.)

Under the Gungahlin to City light rail project, which is being delivered as a Public Private Partnership, the procurement process began on 31 October 2014 by the issuance by the ACT Government of a Request for Expressions of Interest to the market. Following a subsequent Request for Proposal process, a preferred bidder was announced on 30 January 2016 with contracts signed on 17 May 2016. Works Approval for the project (covering track alignment, stop locations, landscaping, roadworks and major earthworks) was issued in April 2016.

A subsequent 46 separate Commonwealth Works Approvals have been granted for the project since that time. Given the majority of Works Approvals for the project were obtained after contracts were signed, risks associated with not obtaining Works Approvals were shared between the public and private sectors.

Works Approvals were obtained at this later stage after contracts were signed due to the typical process for developing designs under a PPP – the contract is awarded upon a tender design, with design development occurring thereafter.

#### *Design modifications to Commonwealth Areas*

For the City to Gungahlin stage of light rail the following design modifications have been required:

- All vertical elements (street lights, overhead wire poles) to have a bronze finish
- High quality paving (Bluestone)
- Design changes to tram stops for route sections that traverse designated areas

#### **City to Woden: Implication of Commonwealth Planning Jurisdiction**

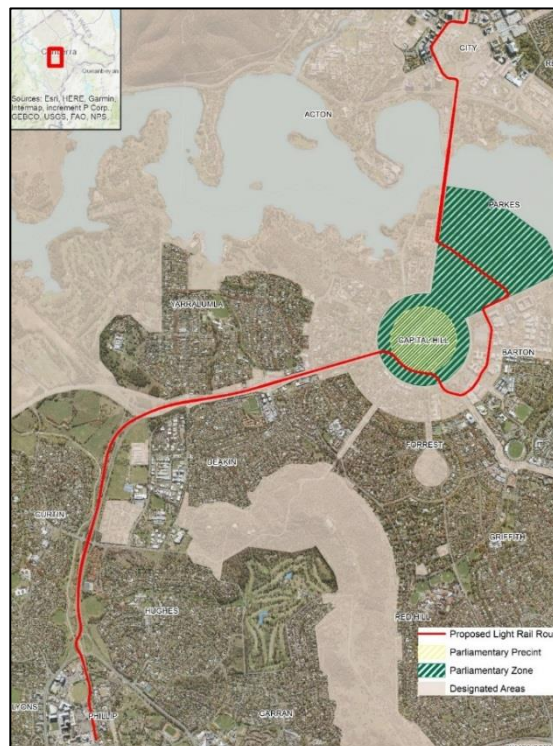
For the City to Woden stage of light rail the following enhancements are likely required:

- Wireless running (battery powered vehicles);
- Alternative track slab surface treatments (grass, pavers); and
- Design changes to tram stops for route sections that traverse designated areas.



In the unique case of City to Woden and the need for approval of both Houses of Parliament, neither the private sector nor the ACT Government are likely to be prepared to enter into contracts without substantial planning certainty.

On 10 May 2018, the Joint Standing Committee into the National Capital agreed to inquire and report on Commonwealth and Parliamentary approvals for the proposed City to Woden light rail project within the 'Parliamentary Zone' (highlighted in green below).



*Implication of any requirement for wireless running (catenary free)*



The City to Woden component of the light rail line will need to be integrated with the Stage 1 Gungahlin to City component, which is currently under construction and provide a seamless service to passengers with full light rail vehicle (LRV) interoperability.

This means that the CAF Urbos LRVs currently being delivered for Stage 1 will need to operate through to the terminus at Woden and the LRVs purchased for City to Woden will also need to be able to run to Gungahlin (the terminus of Stage 1).

LRVs for Stage 1 were procured with a view to them being capable of being retrofitted with additional equipment to enable wireless operation.

The proposed wireless running sections of the Light Rail Stage 2 route (which have regard to current technical constraints) are illustrated in the figure below.

Whilst a detailed analysis is yet to be completed a general rule of thumb is that if intermediate charging stations are required then the fixed infrastructure for wireless operation is approximately the same cost as operation with traditional OLE. This is due to the infrastructure required to provide power at the charging stations.

If intermediate charging stations are not required then cost savings for the fixed infrastructure, compared to traditional OLE can be realised.

**ATTACHMENT C**

Rider, Levett, Bucknall Study of Enhanced Costs of Henry Rolland Park

Attached separately

## ATTACHMENT D

### Schools Cross Border Factor

#### Cost of NSW Students in ACT public schools

The following information has been provided by the ACT Education Directorate.

NSW students in ACT public schools	Per student cost	Enrolments in 2017-18	Cost 2017-18
	\$14,833	1,747	\$25,913,251

The cost to the ACT Government of NSW enrolments in ACT public schools has been calculated by dividing the 2017-2018 total expenses of ACT public schools of \$631.5m (which excludes Commonwealth funding) by the 42,575 students (K-12) enrolled in public schools in 2018, in order to derive an average cost per student of \$14,833. Multiplied by the total number of NSW students (K-12) enrolled in ACT public schools, this gives a total impact of \$25,913,251.

#### Non-government schools – impact of cross border enrolments

NSW students in ACT non-government schools	Per student cost	Enrolments in 2017-18	2017-18 cost
Student costs	\$2,229	3,646	\$8,126,247
Administrative costs	\$125	3,646	\$455,750
Total			\$8,582,684

The cost to the ACT Government of NSW enrolments in ACT non-government schools has been calculated by dividing the 2018 ACT Government Grants to non-government schools of approximately \$61m by the 27,379 students (k-12) enrolled in non-government schools in 2018 in order to derive an average cost per student of \$2,229. Multiplied by the total number of NSW students (K-12) enrolled in ACT non-government schools, this gives a total impact of \$8,126,934.

- Services provided by the ACT Education Directorate relating to administration of non-government schools includes:
  - Registration and accreditation of Non-Government Schools and home education;
  - Board of Senior Secondary Studies accreditation and certification of senior secondary courses; and
  - Administration and payment of Commonwealth and ACT Government Grants.

- Total budgeted cost for 2018-19 of these services is approx. \$3.4 million excluding Commonwealth funding for National School Chaplaincy Program National Partnership.
- Service cost per non-government student is approx. \$125 per student (based on August 2017 non-government student enrolments)
- Cost of service provision for interstate students is approx. \$0.456 million or 13 per cent of the total cost of administration (based on 3,646 interstate students in ACT Non-Government schools).

**ATTACHMENT E**

**Community Health – ACT Services delivered by non-government organisations**

<b>2018-2019 NGO Reporting</b>			
<b>Contracting Details</b>			
<b>Entity Name</b>	<b>Program name (service description)</b>	<b>Service</b>	<b>Annual Funding 2018-19 (ex GST)</b>
A Gender Agenda Inc	A Gender Agenda	MH	\$332,725
A Gender Agenda Inc	A Gender Agenda	MH	\$167,000
Aboriginal and Torres Strait Islander Healing Foundation Limited	Healing Foundation	ATSIPC	\$60,788
ACT Disability, Aged & Carer Advocacy Service Inc	ADACAS: Community Assistance and Support Program (CASP)	CASP	\$314,983
ACT Disability, Aged & Carer Advocacy Service Inc	ADACAS: Mental Health Consumer Advocacy Program	MH	\$131,418
ACT Eden Monaro Cancer Support Group	The Cancer Support Group - Rise Above	CHP	\$135,512
ACT ME / CFS Society Incorporated	Support for people with Myalgic Encephalomyelitis, Chronic Fatigue Syndrome and Fibromyalgia	CHP	\$71,094
ACT Mental Health Consumer Network Inc	ACT Mental Health Consumer Network (ACTMHCN)	MH	\$361,855
Alzheimer's Australia ACT Ltd	Community Assistance and Support Program (CASP)	CASP	\$259,368
Anglicare NSW South, NSW West and ACT.	Community Assistance and Support Program (CASP)	CASP	\$97,601
Anglicare NSW South, NSW West and ACT.	Junction Youth Health Service	WYCH	\$1,355,327
Arthritis Foundation of the ACT Inc.	Information and support to people with Arthritis	CHSF	\$233,544
Assisting Drug Dependents Inc	2A: Hard Reduction: Information and Education, and Support and Case Management - Needle and Syringe Program	AOD	\$2,357,456
Assisting Drug Dependents Inc	2B: Arcadia House Residential Withdrawal and Rehabilitation Programs	AOD	\$1,178,772
Asthma Australia Ltd	1800 Asthma Transitioning Pilot	CHP	\$19,972
Asthma Australia Ltd	Education and support for people living with asthma and their carers and communities	CHP	\$160,134
Australian Breastfeeding Association ACT & Sthn NSW Branch	Local community based support, education and information to empower women to breastfeed	WYCH	\$17,720



**ACT GOVERNMENT RESPONSE ON COMMONWEALTH GRANTS COMMISSION 2020  
REVIEW WORKPLACE DISCUSSIONS**

Australian Capital Territory Council of Social Service Inc	Community Assistance and Support Program - Sector Support	CASP	\$77,329
Australian National University	National Institute for Mental Health Research School of Population Health College of Medicine Biology and Environment Australian National University (ANU) – ACACIA	MH	\$173,950
Australian Red Cross Society	Individuals under the age of 65 (50 for ATSI) who require home and community care support due to difficulties with activities of daily living arising from a health condition	CASP	\$108,181
Belconnen Community Service Inc	Bungee Program	MH	\$384,527
Belconnen Community Service Inc	Community Assistance and Support Program (CASP)	CASP	\$405,310
Beyond Blue Limited	Jurisdictional contribution to national program	MH	\$72,000
Brindabella Women's Community Group	Women's self-help group	WYCH	\$38,266
Canberra & Region Centre for Spiritual Care & Clinical Pastoral Education Inc	Clinical Pastoral Education Training and Clinical Supervision for pastoral carers	WYCH	\$142,965
Canberra After Hours Locum Medical Service	Afterhours Locum Medical Service - CALMS	CHP	\$1,293,361
Canberra Institute of Technology	Community Assistance and Support Program (CASP) Skills for Carers	CASP	\$123,239
Canberra Institute of Technology	MH Consumer Scholarship Scheme	MH	\$38,575
Canberra Mothercraft Society Inc	Canberra Mothercraft Society	WYCH	Finance
Capital Health Network Ltd	2A Primary Health Care at Early Morning Centre	CHP	\$28,686
Capital Health Network Ltd	2B Primary health care at the Civic Needle Syringe Program	CHP	\$20,490
Capital Health Network Ltd	2C Primary health care at Ainslie Village	CHP	\$10,245
Carers ACT Ltd	2A: Mental Health Services Program	MH	\$154,293
Carers ACT Ltd	2B: Peak Body Activity	MH	\$276,142
Carers ACT Ltd	Community Assistance and Support Program (CASP)	CASP	\$258,217
Carers ACT Ltd	Flexible Family Support	CHSF	\$230,021



**ACT GOVERNMENT RESPONSE ON COMMONWEALTH GRANTS COMMISSION 2020  
REVIEW WORKPLACE DISCUSSIONS**

Communities@Work	Childcare Places [Karralika]	AOD	\$188,323
Communities@Work	Community Assistance and Support Program (CASP)	CASP	\$334,021
Community Connections Incorporated	Community Assistance and Support Program	CASP	\$29,344
Community Connections Incorporated	Flexible Family Support Program	CHSF	\$230,021
Community Options Incorporated	2A: Flexible Family Support 2A	CHSF	\$230,021
Community Options Incorporated	2B: Transitional Care Program 2B	CHSF	\$306,692
Community Options Incorporated	Community Assistance and Support Program (CASP)	CASP	\$1,495,224
Community Options Incorporated	Palliative Care Project	CHP	\$100,000
Community Options Incorporated	Women and Newborn Community Support Program	WYCH	\$319,140
Community Services #1 Incorporated	Community Assistance and Support Program (CASP)	CASP	\$179,134
Companion House Assisting Survivors of Torture and Trauma Incorporated	Primary health care services, including health counselling and advocacy, to refugees and migrants who have experienced torture and trauma	Multi	\$354,677
COTA	Information, advice and referral for older persons.	CHSF	\$181,655
Diabetes NSW	Information, education and services to people with diabetes and those at risk of diabetes - Diabetes awareness to general population	CHP	\$255,505
DUO Services Australia Ltd	Community Assistance and Support Program (CASP)	CASP	\$2,039,179
GROW	A Supported Residential Mental Health Recovery/Rehabilitation Program Mental health promotion programs through self and mutual help GROW groups within the ACT An ACT GROW information service	MH	\$194,305
Gugan Gulwan Youth Aboriginal Corporation	2A: Street Beat Youth Outreach Service	ATSIPC	\$123,383
Gugan Gulwan Youth Aboriginal Corporation	2B: Alcohol and other Drug Harm Reduction: Information & Education, Support and Case Management	ATSIPC	\$649,751
Gugan Gulwan Youth Aboriginal Corporation	2C: Preventative Health Program	ATSIPC	\$129,491

**ACT GOVERNMENT RESPONSE ON COMMONWEALTH GRANTS COMMISSION 2020  
REVIEW WORKPLACE DISCUSSIONS**

Gugan Gulwan Youth Aboriginal Corporation	2D: Early Intervention Mental Health and Wellbeing Outreach Program	ATSIPC	\$185,229
Gugan Gulwan Youth Aboriginal Corporation	2E: Early Intervention Mental Health and Wellbeing Outreach Program	ATSIPC	\$150,000
Health Care Consumers Assoc of the A.C.T. Incorporated	HCCA 2A: Service user feedback	WYCH	\$614,588
Health Care Consumers Assoc of the A.C.T. Incorporated	HCCA 2D: Patient Care Navigator	CHP	\$25,000
Health Care Consumers Assoc of the A.C.T. Inc	HCCA 2E: Advanced Care Planning	ACP	\$90,910
Karralika Programs Incorporated	Residential Rehabilitation and Support and Case Management	AOD	\$2,631,000
Kidsafe ACT Incorporated	Kidsafe ACT	WYCH	\$82,285
Kincare Health Services Pty Ltd	Community Assistance and Support Program (CASP)	CASP	\$186,008
Majura Women's Group Inc	Self-help well-being group for women with young children to develop their skills and networks of mutual support and social contact	WYCH	\$38,266
Marathon Health Ltd	Headspace Canberra	MH	\$266,000
Men's Link	Counselling program for 10-12 year old males	MH	\$50,000
Mental Health Community Coalition of the ACT	2A: ACT Community Mental Health Peak Body	MH	\$342,365
Mental Health Community Coalition of the ACT	2B: Sector Development Program	MH	\$269,277
Mental Health Community Coalition of the ACT	2C: Facilitation of Mental Health Week and Associated Public Mental Health Promotion Events	MH	\$50,681
Mental Illness Education ACT Incorporated	Mental Illness Education ACT (MIEACT)	MH	\$606,353
Mercy Health and Aged Care Inc	Community Assistance and Support Program (CASP)	CASP	\$90,136
National Stroke Foundation	2A Strokeconnect Follow up Program and Services	CHP	\$40,000
National Stroke Foundation	2B Data and Quality Solution Australian Stroke Clinical Registry (AuSCR) including the Australian Stroke Data Tool (AusDaT)	CHP	\$40,000
Northside Community Service Limited	AOD Childcare	AOD	\$27,868

**ACT GOVERNMENT RESPONSE ON COMMONWEALTH GRANTS COMMISSION 2020  
REVIEW WORKPLACE DISCUSSIONS**

Northside Community Service Limited	Community Assistance and Support Program (CASP)	CASP	\$372,330
Oz Help Foundation Ltd	2A: Oz Help Industry and Community Suicide Prevention and Social Capacity Building Program	MH	\$597,525
Oz Help Foundation Ltd	2B: Tradies Tune Up	MH	\$112,420
Palliative Care ACT Incorporated	Volunteer support for people with palliative care needs	CHP	\$476,127
Post and Antenatal Depression Support	Post and antenatal depression support and information service - PANDSI	MH	\$524,585
Relationships Australia Canberra & Region	ACT Coronial Counselling Service	MH	\$163,878
Roman Catholic Church for the Archdiocese of Canberra and Goulburn as Trustees for CatholicCare	2A: Adolescent Step Up/Step Down Supported Accommodation and Transitional Outreach Support (STEPS)	MH	\$1,051,343
Roman Catholic Church for the Archdiocese of Canberra and Goulburn as Trustees for CatholicCare	2B: Youth Outreach Support Program	MH	\$211,196
Roman Catholic Church for the Archdiocese of Canberra and Goulburn as Trustees for CatholicCare	Community Assistance and Support Program (CASP)	CASP	\$100,849
Roman Catholic Church for the Archdiocese of Canberra and Goulburn as Trustees for CatholicCare	Sobering Up Shelter	AOD	\$534,342
SIDS & KIDS ACT	Red Nose: Volunteer peer support network and bereavement service - the SIDIS and Kids Safe Sleeping Education Program	WYCH	\$168,694
Society of St. Vincent De Paul Pty. Limited	Compeer Program - Volunteer 'matching' support service for people with mental health issues	MH	\$115,588
St. Vincent's Hospital Sydney Limited	Quitline	CHP	\$103,651
The Cancer Council ACT	1 - Cancer Support Services 2 - Smoking Cessation Programs 3 - Sunsmart Programs	CHP	\$311,320
The Pastoral Care Council of the ACT Incorporated	Oversight and registration of multi-faith pastoral care workers	WYCH	\$36,246

**ACT GOVERNMENT RESPONSE ON COMMONWEALTH GRANTS COMMISSION 2020  
REVIEW WORKPLACE DISCUSSIONS**

The RSI & Overuse Injury Association of the ACT	Support and education to people with RIS and overuse injuries.	CHSF	\$26,921
The Ted Noffs Foundation	Residential withdrawal and rehabilitation; Support and case management; and Harm Reduction - Information and Education	AOD	\$1,541,559
The Trustee for The Salvation Army (NSW) Property Trust	Burrangiri Respite Care Centre	BUR	\$1,416,300
The Trustee for The Salvation Army (NSW) Property Trust	The Canberra Recovery Centre	AOD	\$285,739
Toora Women Incorporated	AOD & ATOD Counselling; Support and Case Management; and Day Rehabilitation Program - for women and their families / carers	AOD	\$1,032,527
Trustee for Marymead Child and Family Centre	Circles of Security - MH intervention program	CHSF	\$51,124
Trustees of the Roman Catholic Church for the Archdiocese of Canberra & Goulburn as Trustee for Marymead Child and Family Centre	Community Assistance and Support Program (CASP)	CASP	\$34,495
Volunteering and Contact ACT Limited	For the provision of Mental Health Information & Referral and Volunteering "Peak Body" Advisory and Training program	MH	\$48,592
Wellways Australia Limited	2A: Adult Mental Health Step Up/Step Down Supported Accommodation & Outreach	MH	\$1,119,685
Wellways Australia Limited	2B: Youth Mental Health Step Up/Step Down Supported Accommodation	MH	\$1,113,685
Wellways Australia Limited	2C: Detention Exit Community Outreach Support Program (DECO)	MH	\$310,692
Wellways Australia Limited	2D: Women's Program	MH	\$291,552
Winnunga Nimmityjah Aboriginal Health and Community Services Ltd	2A: Primary Health Services	ATSIPC	\$1,142,741

**ACT GOVERNMENT RESPONSE ON COMMONWEALTH GRANTS COMMISSION 2020  
REVIEW WORKPLACE DISCUSSIONS**

Winnunga Nimmitjiah Aboriginal Health and Community Services Ltd	2B: Harm Reduction: Information and Education; and Support and Case Management; and Tackle Smoking	ATSIPC	\$589,951
Winnunga Nimmitjiah Aboriginal Health and Community Services Ltd	2C: Policy Collaboration; and Community Events; and Business Administration	ATSIPC	\$284,217
Winnunga Nimmitjiah Aboriginal Health and Community Services Ltd	2D: Health and Wellbeing Services in the Alexander Maconochie Centre	ATSIPC	\$476,689
Woden Community Service Incorporated	Community Assistance and Support Program (CASP)	CASP	\$248,659
Woden Community Service Incorporated	Provision of Adult Step Up / Step Down Intensive (Transitional) Outreach Support (SUSD)	MH	\$941,536
Women's Centre For Health Matters	Provide information and representation on health issues and the social determinants of health affecting women, with a focus on those who are marginalised or disadvantaged	WYCH	\$490,874
<b>Total</b>			<b>\$40,544,529</b>

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## ATTACHMENT F

### Usage of NSW justice services by ACT residents

<b>Civil Proceedings - Plaintiff</b>					
<b>Primary Service Address</b>					
Financial Year	ACT		Other		Total
	Count	%	Count	%	
FY2015-2016	276	0.28%	97350	99.72%	97626
FY2016-2017	353	0.36%	97481	99.64%	97834
Grand Total	629	0.32%	194831	99.68%	195460
<b>Civil Proceedings - Plaintiff</b>					
<b>Residential Address</b>					
Financial Year	ACT		Other		Total
	Count	%	Count	%	
FY2015-2016	175	0.18%	97451	99.82%	97626
FY2016-2017	176	0.18%	97658	99.82%	97834
Grand Total	351	0.18%	195109	99.82%	195460

### Civil Proceedings - Defendant

#### Primary Service Address

Financial Year	ACT		Other		Total
	Count	%	Count	%	
FY2015-2016	1031	0.85%	119885	99.15%	120916
FY2016-2017	917	0.76%	119394	99.24%	120311
Grand Total	1948	0.81%	239279	99.19%	241227

**Civil Proceedings - Defendant  
Residential Address**

Financial Year	ACT		Other		Total
	Count	%	Count	%	
FY2015-2016	696	0.58%	120220	99.42%	120916
FY2016-2017	640	0.53%	119671	99.47%	120311
Grand Total	1336	0.55%	239891	99.45%	241227

**Criminal Proceedings – Accused  
Primary Service Address**

Financial Year	ACT		Other		Total
	Count	%	Count	%	
FY2015-2016	1397	0.58%	241294	99.42%	242691
FY2016-2017	1187	0.49%	241532	99.51%	242719
Grand Total	2584	0.53%	482826	99.47%	485410

**Criminal Proceedings - Accused  
Residential Address**

Financial Year	ACT		Other		Total
	Count	%	Count	%	
FY2015-2016	1393	0.57%	241298	99.43%	242691
FY2016-2017	1176	0.48%	241543	99.52%	242719
Grand Total	2569	0.53%	482841	99.47%	485410

**Report on Government Services 2018 – cost per matter**

	2015-16 (\$)		2016-17(\$)	
	Criminal	Civil	Criminal	Civil
<b>Supreme</b>	32 947	6 174	29 261	5 550
<b>Magistrates'</b>	1 787	1 360	1 348	1 289







Chief Minister, Treasury and Economic  
Development Directorate

November 2018

1847-01R/TC

6 November 2018

Tel: +61 2 6281 5446

Fax: +61 2 6281 5378

Email: canberra@au.rlb.com

**Attn: Mr Peter Rea****City Renewal Authority ACT Government**Canberra Nara Centre  
1 Constitution Avenue  
GPO Box 158  
CANBERRA ACT 2601

Dear Peter,

**TERRITORY DESIGN AND MATERIALS STANDARDS AGAINST NCA STANDARDS**

This brief report is prepared to compare the Australian Capital Territory Government's (Territory) design and materials standards against National Capital Authority (NCA) required standards relating to park or public space development.

**Methodology**

Priced Bills of Quantities have been provided for two stages of a recently constructed NCA park project, namely Henry Rolland Park in Acton, located at West Basin, Lake Burley Griffin.

The contents of these documents have been reviewed and compared against the inclusions typically found within formal parks or public spaces within the Territory (other than those within the area managed by the NCA).

The typical inclusions for Territory parks were informed by review of the following information:

- Pre-tender estimates for past Territory park upgrade works (as prepared previously by Rider Levett Bucknall)
- Composition and features of recently constructed Territory parks, based on a selection of recently constructed parks at the following locations (approximate areas shown):
  - Coombs (Block 1 Section 22) – 5,150m<sup>2</sup>
  - Coombs (Block 1 Section 31) – 5,150m<sup>2</sup>
  - Franklin (Block 4 Section 125) – 14,670m<sup>2</sup>
  - Moncrieff (Block 2 Section 32) – 17,680m<sup>2</sup>
  - Wright (Block 2 Section 45) – 6,830m<sup>2</sup>
  - Average area of selection – 9,895m<sup>2</sup>
- General observations from site visits undertaken at various parks throughout the Territory.

Once key differences between the inclusions for the NCA and Territory parks were identified, allowances for the additional or extraordinary scope items were extracted to calculate an expected uplift so that results would not be skewed by uncommon work items.

The Quantities and Prices contained within the Priced Bills of Quantities provided were used to calculate an overall rate per m<sup>2</sup> for the NCA park, based on the total area of 15,450 m<sup>2</sup>.

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Overall site areas and quantities for significant-cost works were measured for each of the selected sample Territory parks and then averaged to provide a hypothetical Territory park. The measured works were then priced, with suitable allowances added for unmeasured works, to calculate an overall rate per m<sup>2</sup> for an average hypothetical Territory park.

Included within the pricing were:

- a) Trade costs
- b) Preliminaries and supervision
- c) Margins and overheads
- d) Contingencies

### Summary of observations:

- The NCA Henry Rolland Park is a very high quality and high-profile park with a focal point being the interaction with a similarly high-profile watercourse.
- Typically, Territory parks have a lower standard of finishes and furniture and, with the exception of very few, do not include a formal interaction with any significant watercourse.
- The overall cost for an NCA park is therefore higher per m<sup>2</sup> than a typical comparative location Territory park (adjacent water), being in the order of 27% less in cost per m<sup>2</sup>.
- The overall cost for an NCA park is therefore significantly higher per m<sup>2</sup> than a typical non-comparative location Territory park i.e. not having an interaction with a watercourse, being in the order of 47% less in cost per m<sup>2</sup>.

### Limitations of this report:

This Report is prepared based on a broad high-level analysis, and the limited availability of time and information has not allowed for a detailed analysis of the differences in required standards of design and materials between parks constructed for the NCA and the Territory.

Additionally, there is no definition available of the required standards for design and materials for either NCA or Territory parks, and the analysis therefore relies on *interpreted* requirements, which are subjective, being based on observations of the design and materials as achieved historically at the respective parks. The question also remains, in absence of defined required standards, as to whether the subject parks merely met the required standards, or exceeded them, and if so, to what extent.

Although the NCA has produced a Design Quality Manual to inform principles for architecture, landscape and urban design, the document is generic, and the principles as described are expected to apply equally to Territory projects. There are no documents available to define standards required for Territory parks.

Observation of required standards is further clouded by the observation that achieved standards vary significantly between parks across both the NCA and Territory jurisdictions, depending on the significance and location of the park, its expected use, and probably to some extent, the availability of funding for the particular park at the time of construction.

The analysis of NCA parks has been based on the priced Bills of Quantities for a single NCA park project (delivered in two stages). No detailed drawings or specification have been provided to allow a detailed analysis of the design and materials incorporated into the subject NCA park. Nor was there any information available to determine whether this park met or exceeded the required standards.

The analysis of Territory parks has been based on observations and measurements to prepare high-level estimates for a sample of recently constructed parks across the Territory. Again, no detailed drawings or specification were available to allow a detailed analysis of the design and materials incorporated into the subject Territory parks.

Finally, the recently constructed Territory parks have generally been constructed on greenfield sites within new suburbs with minimal (if any) site clearing (demolition, clearing of trees, etc.) while the subject NCA park is in an area that was developed early in Canberra's history, and included costs associated with demolition of existing features, and working around existing in-ground services.

### Summary of findings:

The priced Bills of Quantities for the subject NCA park (No. 1 below) included some significant cost items that are considered to be specific to that particular project (e.g. land reclamation and concrete boardwalk). Therefore, the costs associated with these works were deducted to provide a figure (No. 2 below) more suitable for comparison with Territory parks.

Further, in the analysis of Territory parks, two figures are provided, the first of these based on the observation that most Territory parks are suburban parks, with no interaction with a watercourse (No. 3 below), or non-comparative location.

The second figure for Territory parks is for a Territory park with an interaction with a watercourse (No. 4 below), being a comparative location. This situation would be expected at some locations (eg. foreshore of Lake Ginninderra or Lake Tuggeranong).

The comparison therefore, of figures for No. 2 and No.4 (below) provides a more accurate comparison of the uplift for an NCA park compared to a Territory park, since these figures are adjusted to reduce the impact of circumstantial differences for each of the subject parks, and therefore include more common work elements.

	Description	Total Cost (ex. GST)	Average area	\$/m <sup>2</sup>
1	NCA Henry Rolland Park (Priced BOQ)	\$11,678,000	15,450 m <sup>2</sup>	\$756/m <sup>2</sup>
2	NCA Henry Rolland Park excluding land reclamation and concrete boardwalk (boulevard)	\$8,838,000	15,450 m <sup>2</sup>	\$572/m <sup>2</sup>
3	Territory standard hypothetical suburban park (non-comparative location)	\$2,990,000	9,895 m <sup>2</sup>	\$302/m <sup>2</sup>
4	Territory hypothetical park at water's edge (comparative location)	\$4,855,000	11,595 m <sup>2</sup>	\$419/m <sup>2</sup>

We trust this information contained within our Report is suitable for your requirements. Should you require clarification or additional information please do not hesitate to contact us.

Yours sincerely,



**Mark Chappé**  
Director  
For Rider Levett Bucknall

Cc: Mr Nicholas Holt