



AUSTRALIAN CAPITAL TERRITORY

2018 UPDATE

**ACT RESPONSE TO THE COMMONWEALTH GRANTS COMMISSION'S STAFF
DISCUSSION PAPER**

NEW ISSUES FOR THE 2018 UPDATE

CGC 2017-20-S

OCTOBER 2017

**CHIEF MINISTER, TREASURY AND
ECONOMIC DEVELOPMENT DIRECTORATE**

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RESPONSES TO NEW ISSUES FOR THE 2018 UPDATE

INTRODUCTION

The ACT welcomes the opportunity of commenting on the range of issues that the Commonwealth Grants Commission (CGC) staff have identified to be important in their paper CGC 2017-20-S, *'New Issues for the 2018 Update'*, from the perspective of framing the *Report on GST Sharing Relativities 2018 Update*.

The ACT would also like to take this opportunity to update the Commission that the data requests from the CGC, relevant to the 2018 Update, have been forwarded to the appropriate Directorates in the ACT Government, requiring their allocation of time and resources to present the CGC with reliable data.

USE OF NEW CENSUS DATA

Issue/Staff Position

The CGC staff paper assumes that similar to previous Terms of Reference (ToR) that had the requirement for the CGC to 'where possible, use the latest data', ToR for the 2018 update will also have a similar requirement. Since data from the 2016 Census will become available progressively during 2017, with major releases in June and October, it becomes imperative for the CGC to use 2016 Census data in calculating relativities. CGC staff have analysed the impact of 2016 Census data based on the following elements, in order to inform their recommendations:

- Estimated Resident Population (ERP) of States and Territories (hereinafter referred to as States), especially from the perspective of population growth;
- ERP of indigenous people;
- Measurement of indigenous disadvantage using Indigenous Relative Socio-Economic Outcomes (IRSEO) index and Non-indigenous Socio-Economic Index for Areas (NISEIFA);
- Remoteness classifications;
- Discrete indigenous communities; and
- Other CGC specific geographic classifications with regard to local roads and services to communities.

Based on their analysis:

Staff propose to recommend that the Commission incorporate new Census data selectively.

- Total population estimates
 - Use ABS published estimated resident populations (ERPs) from June 2016 onwards, and derive its total State ERPs for estimates before June 2016 using the published components of growth (births, deaths and net migration).
- Indigenous population estimates
 - Use new Census based data.
- IRSEO/NISEIFA/SEIFA classifications
 - Use new data in Schools, Post-secondary education and Welfare, and for the IHPA health data
 - Continue to use 2011 Census based data from Medicare and AIHW data to assess non-State adjustments in the Health category.
- Other geographic classifications
 - Use new data for Urban centres, Significant urban areas, Low density areas and Pseudo-urban areas
 - Continue to use 2011 Census based data for remoteness areas and discrete Indigenous communities.
- Social housing
 - Use new census data (except for remoteness).

ACT Position

The ACT agrees with the CGC staff that the quality of 2016 Census data does not present any barrier to its use for the 2018 Update. The ACT considers that further consultation should occur with States on the issue of backcasting revised population estimates for the years between the 2011 and 2016 Censuses, once the CGC has completed its discussions with the ABS on this issue. We understand from the Discussion Paper that the ABS has retained the 2011 population estimate and made adjustments only to Western Australia's annual population growth to produce revised time series data for the 2011-2016 period. However, the use of the alternative approach followed in the 2013 Update would alter both the 2011 population estimate as well as the annual population estimates for some States other than Western Australia.

Regarding the other staff recommendations, the ACT's position is as follows:

- The ACT supports the CGC staff recommendation on using new 2016 Census based data for indigenous population estimates, both at the State and the sub-State level.
 - At the State level it is important to do so since the data shows significant differences for the Eastern States, especially for NSW, whose share of indigenous population has risen from 31.5% in the 2011 Census (172,625 people out of a total of 548,127 people) to 33.3% in the 2016 Census (216,176 people out of a total of 648,936 people).
 - At the sub-State level, the ACT understands that the proposed approach for the 2018 Update is to use the 2016 Census counts to derive sub-State indigenous population estimates as sub-State indigenous ERP will not be available. The latter is expected to be available for the 2019 Update and would be applied then. The ACT supports the proposal to use 2016 Census counts for this Update.
- The ACT also supports the CGC staff recommendation on using revised IRSEO and NISEIFA indexes using new 2016 Census data for measuring indigenous disadvantage in assessments related to Schools, Post-secondary education, Welfare and for the IHPA Health data.
 - However, the ACT considers the non-availability of cross-classified data by IRSEO and NISEIFA (based on 2016 Census) from Medicare to be a challenge and not an ideal situation to be in. While the ACT understands the current scenario is unavoidable, it also sees this as an opportunity for the future. The ACT would encourage the CGC staff to explore the option of Medicare providing cross-classified data by IRSEO and NISEIFA from the 2020 Review onwards.
 - The ACT agrees with the use of 2011 Census based SEIFA data (from Australian Institute of Health and Welfare (AIHW)) for calculation of the non-State adjustment for the admitted patients component of the Health category assessment. We understand that this calculation does not require a split between indigenous and non-indigenous patients.
- Further, the ACT concurs with the CGC staff on:
 - Using 2016 Census based data for urban centres, significant urban areas, low density areas and pseudo-urban areas;
 - Using 2011 Census based data for remoteness areas and discrete indigenous communities
 - Using 2016 Census based data for social housing (except for remoteness)

WAGE COSTS ASSESSMENT — COMMONWEALTH SUPERANNUATION SCHEME ADJUSTMENTS

Issue/Staff Position

In the 2017 Update, the Commission decided to discontinue the adjustment it made to the wage cost assessment for the ACT and the Northern Territory to account for the higher costs to those States of the more generous Commonwealth Superannuation Scheme (CSS) they inherited at the time of self-government. The Commission had found that this adjustment was no longer material late in its review of the wage costs assessment in the 2016 Update, but did not have sufficient opportunity to consult States at that time.

During the 2017 Update report embargo period, the ACT raised in a letter to the Commission its view that the CSS adjustment should be reinstated and expanded to include the costs associated with the Public Sector Superannuation scheme (PSS), the other defined benefit scheme which applied to former Commonwealth employees at the time of transition to a separate ACT public service. It had new information to suggest that approximately 25% of its public servants are members of the PSS.

The ACT indicated that it would provide a further submission on this issue.

ACT Position

The ACT presented its case to the Commission on **9 October 2017** through its submission titled 'Submission to the Commonwealth Grants Commission on the Public Sector Superannuation Scheme - 2018 Update'. This is the first submission done by the ACT on the PSS since the development of the *Report on State Revenue Sharing Relativities 2004 Review* (2004 Review).

The submission presents new data on the emergence of a material difference between the Notional Employer Contribution Rates of the PSS and State superannuation schemes, and on membership numbers of the PSS in the ACT Public Service. These data were not available at the time of the 2004 Review. The 2004 Review outcome was premised on the basis that there was no material cost differential between the PSS and other State superannuation schemes in operation at the time.

The submission also requests that the Commission directly address the issues of the direction made by the Australian Industrial Relations Commission (AIRC) in 1999 and the necessary mobility arrangements between the ACT Government and Commonwealth Government which restricted the ACT's ability to remove itself from the PSS prior to the closure of the scheme in 2005. These issues were raised with the Commission by the ACT in the 2004 Review, but the Commission's final decision did not specifically address them. It is the view of the ACT that the Commission's decision in the 2004 Review did not fully understand or appreciate the significance of the AIRC direction. The submission has reiterated this argument in much stronger terms.

On the basis of the new data and the restrictions the ACT faced with closing access to the PSS for its employees, the ACT's submission proposes that the CSS adjustment be reinstated and expanded to include the PSS. The ACT contends that the proposal is within scope of what is permitted in the agreed protocol for an Update and thus requests that the Commission address the ACT's proposal in the 2018 Update. The adjustment would maintain the methodology for calculating the CSS disability and the inclusion of the PSS would be the consequence of the availability and analysis of new data on the cost of the PSS to the ACT.

Estimates by ACT Treasury suggest that the value of reinstating the CSS adjustment and expanding it to include the PSS could have increased the ACT's GST revenue by approximately \$54 million in 2016-17.

NATIONAL DISABILITY INSURANCE SCHEME (NDIS) RELATED PAYMENTS

Issue/Staff Position

The Commission undertakes dual assessments of State expenses on disability services and NDIS contributions while States are transitioning to the National Disability Insurance Scheme.

In 2018-19, New South Wales (NSW) and South Australia (SA) are scheduled to be at full scheme (2018-19 being the application year for the 2018 Update). The full scheme has been implemented in the ACT since 1 July 2017 but the ACT will not be contributing financially on a full scheme funding basis until 2019-20. Western Australia will be at full scheme in 2020-21. The other States are scheduled to be at full scheme in 2019-20.

Staff propose to continue the 2015 Review dual assessment approach, including backcasting, as the rate at which States move to full scheme is considered by the CGC to be a matter of policy choice.

Staff propose to recommend that the Commission:

- Make no change to its assessment methods for disability services in this update.
- Estimate notional SPPs in the application year for NSW, SA and the ACT to derive consistent splits of expenses between NDIS and Specialist disability services.

ACT Position

The ACT supports the CGC staff view on making no changes to the method adopted in 2015 Review regarding the NDIS assessment. The ACT also agrees with the estimation of notional SPPs in the application year for NSW, SA and the ACT to derive consistent splits of expenses between NDIS and Specialist disability services. Discussion with the CGC staff confirmed that this process is used solely to calculate the splits of expenses and does not affect the quantum of expenses (or revenue) used in the assessment.

HEALTH ASSESSMENT

Issue/Staff Position

In late 2016, the Commission received advice from the Independent Hospital Pricing Authority (IHPA) that the emergency department (ED) data from the National Public Hospital Establishment (PHE) database would not be available from 2014-15. This affected 2014-15 and 2015-16 ED data in the 2017 Update and the Commission had to decide how to deal with the missing activity.

The Commission supported the approach of using the number of PHE ED occasions in 2013-14 to estimate the number of missing occasions in 2014-15 and 2015-16 because the IHPA advised that the ED activity previously captured in the PHE collection would gradually be picked up in the two other collections used to source ED activity, that is, Non-admitted Patient Emergency Department Care National Minimum Data Set (referred to as 'EP' from here on) and Activity-based Funding Emergency Services Care Data Set Specification (referred to as 'ES' from here on). Therefore the number of occasions previously covered by the PHE database was expected to decline. Most States supported using the number of occasions in 2013-14 to estimate the missing activity.

Following the 2017 Update, staff requested additional data from IHPA to estimate the ED activity not captured in EP and ES collections in 2014-15. This produced an estimate of 1.1% of ED occasions not captured in 2014-15. On the basis of this analysis, CGC staff have a recommendation for the Commission.

Staff propose to recommend that the Commission:

- use the Independent Hospital Pricing Authority's emergency department activity captured by the Non-admitted Patient Emergency Department Care National Minimum Data Set and Activity-based Funding Emergency Services Care Data Set Specification collections for all assessment years in the 2018 Update without any adjustment for under coverage because the number of emergency department occasions not being captured is negligible (1.1% of total activity) and including an adjustment is not material for any State.

ACT Position

The ACT supports the CGC staff recommendation on the use of EP and ES collections for Emergency Department activity, without adjustment for the missing PHE ED occasions of service.

TREATMENT OF THE COMMONWEALTH PAYMENT FOR THE TRANSFER OF THE MERSEY COMMUNITY HOSPITAL FROM THE COMMONWEALTH TO TASMANIA

Issue/Staff Position

The Australian Government provided funding to Tasmania in 2016-17 to support the transfer and operation of the Mersey Community Hospital for the next 10 years. The Treasurer wrote to the Commission on 12 April 2017 directing it to exclude the payment from the calculation of per capita relativities for the distribution of revenue from the GST.

CGC staff have the following recommendation for the Commission on the basis of their analysis, which takes into account the inclusions and exclusions in the Treasurer's letter.

Staff propose to recommend that the Commission:

- treat the \$730.4 million payment for the transfer and operation of the Mersey Community Hospital as not affecting the relativities because it is expected to be quarantined by the terms of reference
- not make any additional adjustments to Tasmania's financial data for the management of the payment or operation of the hospital over the next 10 years because it would add complexity but not have a material effect on the GST distribution
- not make any adjustments for the transfer of the asset valued at \$10 million
- allow the payment for the delivery of rehabilitation and palliative care services to affect the GST distribution because it is for normal State services and needs are assessed in the Health category.

ACT Position

The ACT accepts the CGC staff recommendations to the Commission. The ACT's rationale is as follows:

- The Commonwealth Treasurer has directed the Commission to exclude from equalisation the payment to Tasmania for the transfer and operation of the Mersey Community Hospital; and
- There is no *material* impact of the other adjustments calculated by the CGC staff (para 65).

QUALITY SCHOOLS PAYMENT AND THE SCHOOLS ASSESSMENT (ALONG WITH CONDITIONAL PAYMENTS)

Issue/Staff Position

On 23 June 2017, the Australian Parliament passed the Australian Education Amendment Bill 2017. This legislation changes the way the Commonwealth funds Australian schools. By 2027, comparable schools in different States will receive the same Commonwealth funding. The actual funding formula is broadly based on the model recommended in the Gonski report of 2013 although its final form will be determined by a newly established National Schools Resourcing Board, which will review various elements including:

- socio-economic standard calculations to best reflect parents' capacity to pay
- the cost loadings for students with disabilities
- funding for Year 7 students as primary school students in South Australia.

This funding formula calculates a Student (*sic*) Resource Standard (SRS), which is the amount each State requires to provide the national standard of schooling, given the socio-economic profile of their students.

Staff consider that the options available to the Commission are determined by answers to various questions about how it perceives the Quality Schools funding arrangements. They have the following recommendations based on their assumptions and analysis.

Staff propose to recommend that the Commission:

- determine that Quality Schools is sufficiently NERA-like that the terms of reference continue to apply on the basis that having a nationally consistent needs based formula is the defining criteria that defines a Commonwealth school funding program as NERA-like
- conclude that it cannot reliably measure the distribution of entitled payments in the application year in advance, and therefore should use historical payment distributions
- decide that using historic SRS patterns is consistent with the ToR requirement not to unwind measures of educational disadvantage
- decide that the criteria States must meet to avoid penalties varies between States based on their current effort levels, and that as such in the absence of terms of reference, penalties should be unwound
- on the basis of these decisions, assess:
 - Commonwealth funded school expenditure using SRS weights and student numbers from the assessment years
 - revenue from Commonwealth payment using the share of payments States were entitled to (but not necessarily received) in the assessment years, as directed by ToR
- assess other conditional payments using the actual payment received, not the payment the State was offered.

ACT Position

The ACT notes that unavailability of ToR from the Commonwealth has turned the assessment for schools into a **complex exercise**, based on assumptions and hypotheses. Much of this complexity and additional work for the CGC would have been avoided if there had been a timely issue of ToR for the Update.

Broadly, the ACT supports the CGC staff view that the Commission should treat the NERA terms of reference as affecting Quality Schools funding.

- If the Commission does not accept the staff conclusion in para 77 and staff have to carry out the assessment using one of the three options presented in para 78, the ACT would recommend the first option.
 - Discussion with the CGC staff confirmed that there is no substantive difference between the first two options anyway.
- The ACT does not support the approach of using SRS amounts as a policy neutral measure of State spending in this context, as the first two options are better representations of *What States Do*.

Regarding the reliability of MYEFO data, the ACT agrees with the fundamental point made by the CGC staff - MYEFO data is not sufficiently reliable as a measure of the application year funding distribution if the socio-demographic formula and SRS amounts have not been finalised by then. Ideally, the ACT would prefer that the CGC awaits the release of the MYEFO and takes a stance on the reliability of MYEFO data thereafter. If the information obtained from MYEFO is considered to be reliable, the ACT sees no issue in using that data as it will lead to better equalisation among States.

In para 86, reference to the “no windfall gains” clause of the 2015 ToR is quite odd, because this was in the original ToR issued by the then Labour Treasurer (Wayne Swan) and referred to States not participating in NERA. To the ACT’s knowledge, it has not been considered to be relevant to CGC assessments for some time.

- The ACT contends that it is particularly irrelevant now since, as pointed out by the CGC in their paper (paras 74-75), all States are subject to the Quality Schools funding arrangement by dint of legislative provisions.

The ACT considers that since SRS amounts and calculations have changed and especially, students with disabilities have a weight in the SRS calculations in 2018, it would be less accurate to use historical SRS since such figures would not be representative of conditions prevalent in the application year. Hence, the ACT contends that backcasting SRS amounts for 2018-19 to the assessment years would be a more appropriate method for the assessment. At the same time, the ACT acknowledges that if the funding distribution in the application year cannot be established reliably, then historical SRS amounts recorded in the assessment years will have to be used.

The ACT notes that backcasting could only be done on the basis of “entitled” shares, as any possible penalties would not be known for the application year. On the other hand, using actuals would, in the absence of ToR to the contrary, constitute unwinding of any penalties which have been applied. Discussion with Commonwealth Treasury indicates that consideration has not so far been given to whether supplementary ToR should be issued to address this concern.

Finally, the ACT observes that the expansion of SRS in the paper (para 69) is not entirely accurate. It should be **Schooling** Resource Standard and **not** Student Resource Standard. The ACT requests CGC staff to rectify the allusion.

RESCALING IN THE INVESTMENT ASSESSMENT

Issue/Staff Position

Following the 2017 Update, staff identified an issue with rescaling in the Investment assessment. When the Commission multiplies two disabilities, the sum of the States' expenditure is no longer the national total, and so the Commission 'rescales' or shares the total expenditure in proportion to the States' shares of the unscaled expenditure. Successive Commissions have taken the view that this is the appropriate approach. Staff also remain convinced this is the appropriate approach, in most circumstances.

However, in the Investment assessment (due to it being possible for different States to require either positive or negative assessed investment), this approach can create unintended outcomes, as shown through examples in the staff paper.

Staff propose to recommend to the Commission:

- rescaling in the Investment assessment be undertaken by distributing the difference between the assessed change in stock, and the unscaled expenses on an equal per capita basis.

ACT Position

The ACT supports the CGC staff proposal for calculating assessed expenses for investment, in light of the challenges captured in the paper. At the same time, the ACT notes that the method used at present, where ratios are used, does not unwind disabilities when assessed expenses are calculated from unscaled expenses. However, the proposed method, where the difference in total expenses is distributed EPC, unwinds some of the disabilities since the difference is distributed EPC.

The ACT suggests that the proposed method be used only in those circumstances where there is a mix of positive and negative values in the assessed stock of States. The proposed method should **not** be used when all the States have either positive or negative assessed stock.

TREATMENT OF MINING ROYALTIES WHERE BANS HAVE BEEN INTRODUCED

Issue/Staff Position

In its 2015 Review report, the Commission said it would monitor developments in State mining policies to:

- ensure its mineral by mineral assessment was not influencing State behaviour
- check whether other minerals had become material

- ensure the mining revenue base it observed was consistent with average policy.

In the 2015 Review, the Commission assessed mining revenue capacity using a mineral by mineral approach. It included Coal Seam Gas (CSG) in the Onshore oil and gas component and uranium in the Other minerals component. Value of production was used as the capacity measure for both components. States that banned the exploitation of certain minerals were, therefore, assessed to have zero revenue capacity because they had zero production. This was consistent with treating ‘bans on environmental grounds’ as average policy.

Since the Review, a number of States have reinstated bans on CSG and uranium. These minerals are now banned in a majority of States. It is difficult to conclude that State-wide bans are all environment-related when two States have no such bans. Commission staff are seeking State views on whether this development warrants a review of the treatment of CSG and uranium.

Staff propose to recommend that the Commission:

- not change its treatment of royalties where bans on extraction are in place in most States in the 2018 Update, as it is not material to do so
- consider the treatment of State mineral bans as part of its 2020 Review.

ACT Position

The ACT considers that irrespective of materiality considerations, an equal per capita (EPC) assessment should be followed for minerals where bans on extraction are in place in some States. The ACT has taken this position in its submission to the Commission regarding the HFE Principles to be followed in the 2020 Review and considers such a stance as being applicable to the 2018 Update too.

Para 110 of the paper refers to the 2015 Review decision to assess States that banned the exploration of certain minerals as having zero capacity because they had zero production, characterising this as being consistent with treating bans on environmental grounds as average policy. However, this is not what average policy has normally meant, which is a data driven concept.

The 2015 Review adopted an approach to determining average policy by assessing capacity/needs regardless of whether a State applies taxes on a given base or spends on a given service, an approach supported by the ACT. The logical extension of that to mining revenue where some States have applied bans would be to apply total (national) revenue actually collected to the total (national) base, with a notional determination of the base in States which have applied bans. Given the data-related uncertainty of notionally assessing tax bases in the “banning” States, the most equitable approach is to assess all States as having zero capacity, meaning an EPC assessment.

TREATMENT OF THE NEW COMMONWEALTH PAYMENTS COMMENCING IN 2016-17

Issue/Staff Position

Staff have examined the Commonwealth payments that commenced in 2016-17, as listed in Australia's Federal Relations, Budget Paper No.3, 2017-18, and propose they be treated as set out in Attachment A, Table A-1 of the CGC staff paper. The proposals are based on the following guideline developed in the 2015 Review:

payments which support State services, and for which expenditure needs (including a deliberative equal per capita assessment) are assessed, will impact on the relativities.

Staff propose to recommend that the Commission:

- approve staff proposals on the treatment of each of the Commonwealth payments commenced in 2016-17 listed in Table A-1 of Attachment A

ACT Position

The ACT supports the CGC staff proposals on the treatment of each of the Commonwealth payments commenced in 2016-17 listed in Table A-1 of Attachment A of the staff paper.

COMMONWEALTH PAYMENTS COMMENCING IN 2017-18 OR 2018-19

Issue/Staff Position

Table A-2 of Attachment A in the CGC staff paper provides a list of new payments that will commence in 2017-18 or 2018-19. Although the payments shown will affect the year in which the 2018 Update relativities will be applied, Commission staff do not propose to backcast any of them because they are not the result of major change in federal financial arrangements. The new payments will be reflected in the relativities when they appear in the data for the assessment period.

Staff propose to recommend that the Commission:

- not backcast the Commonwealth payments commencing in 2017-18 or 2018-19 listed in Table A-2 of Attachment A

ACT Position

The ACT supports the CGC staff recommendation on not backcasting the Commonwealth payments commencing in 2017-18 or 2018-19 listed in Table A-2 of Attachment A of the staff paper.

National Housing and Homeless Agreement

The ACT notes that the *'New Issues for the 2018 Update'* paper has no allusion to the National Housing and Homeless Agreement (NHHA) - a major agreement that will come into play from 2018-19, the application year for the 2018 Update. The purpose of the agreement is twofold:

- The Commonwealth and the States endeavour to work together towards improving outcomes in housing across the housing spectrum, including Australians who are homeless or at the risk of homelessness.
- To contribute towards improving access to affordable, safe and sustainable housing for all Australians, especially for Indigenous and vulnerable Australians, and to reduce homelessness.

The ACT understands that the agreement is still being negotiated between the Commonwealth and the States. Some key aspects of the **proposed** agreement are similar to the Quality Schools Funding arrangements:

- There is a requirement for the States to provide a certain level of funding contribution to support the implementation of the agreement.
- Commonwealth funding provided to a State to support the agreement would be contingent on achievement of benchmarks or milestones outlined in the agreement or bilateral schedule.

The ACT observes that there is a distinct possibility of the Commonwealth Treasurer quarantining any funding for NHHA from an equalisation perspective in the ToR, so that incentives built into the agreement are not unwound.

Nevertheless, as the new agreement is a major change in Commonwealth-State financial arrangements, backcasting of the payments would be the standard approach followed by the CGC. The omission of the NHHA from consideration in the 2018 Update indicates by implication that the payments will not be backcast. The Commission should explicitly document the assessment approach it is proposing to take with the NHHA.

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