



**Treasury**

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# **Submission to the Commonwealth Grants Commission**

## **New Issues for the 2019 Update**

### **NSW Treasury**

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**29 November 2019**

## **Mining revenue assessment – treatment of lithium royalties**

NSW Treasury notes that a separate assessment of lithium royalties does not yet pass the Commission's materiality threshold, but that this situation is likely to change in future. On this basis, we endorse the view of Commission staff not to separately assess lithium royalties for the 2019 Update.

## **Mining revenue assessment – transfer pricing of minerals**

NSW Treasury notes the intention of Commission staff to recommend an equal per capita (EPC) treatment of coal royalty revenues (and associated interest) received by Queensland resulting from a court settlement based on the following factors:

- BHP paid royalties during this period, albeit on a lower price
- the settlement is subject to a confidentiality agreement and the details of the transactions are unlikely to be released
- the period to which the revenues relate is well outside the 2019 Update assessment years.

The exclusion of these royalties from the Commission's assessments will worsen the level of equalisation achieved by the CGC over the longer term. Part payment of royalties in the past or the existence of a confidentiality agreement do not provide a justification for the proposed EPC treatment. The use of such a criterion would set up a powerful incentive for states to manipulate revenues to maximise their GST.

NSW Treasury acknowledges that revenues relating to a prior period create some issues for the Commission. The true test for inclusion of these revenues in 2017-18 should be whether it results in GST outcomes that, over time, are materially different from what would have occurred had they been included in the relevant data year in the past, after considering the time value of money. NSW Treasury believe the objective of HFE is best achieved by the inclusion of these revenues in 2017-18.

## **Use of 2016 census data**

We support the use of 2016 Census data for the 2019 Update.

## **Natural disaster relief expenses assessment**

Given an actual per capita (APC) assessment is used for natural disaster relief expenses, it is critical that all states report only state funded expenses that fall within the Commission's category definition. The Commission must be rigorous in this regard and require a higher level of state certification for any APC assessments as part of the 2019 Update. Where states are unable to provide sufficient assurances, reported expenditures should be discounted.

## **Welfare assessment – treatment of NDIS related payments**

Given the extent to which NDIS is fully implemented in 2018-19, it is appropriate that the CGC:

- assess NDIS expenses EPC using 2011 Census population numbers
- retain the current non-NDIS expense assessment.

## **Sale of Snowy Hydro Limited to the Commonwealth**

NSW Treasury supports the intention of Commission staff to recommend that the sale of Snowy Hydro Ltd to the Commonwealth not impact relativities. This sale represents the transformation one financial asset (equity in Snowy Hydro Ltd) to another financial asset (cash). There is no need for the Commission to concern itself with second round impacts (ie how these funds are eventually utilised). These second round impacts are no different from a decision to rundown other financial assets held by a jurisdiction and invest these funds in infrastructure.

## **Use of new GFS Classification Data**

Given concerns with the quality of AGFS15 data for 2015-16 and 2016-17, NSW Treasury supports the continued use of AGFS05 data for the Commission's assessments for these years and the use of AGFS15 data for 2017-18 only.

## **Cease sending the preliminary adjusted budget to the states for comments**

The Commission should continue with the existing practice of providing the states with an opportunity to comment on the preliminary budget for the 2019 Update. This is consistent with good practice principles in support of accountability and transparency. Further, it means that should a mistake go undetected, the Commission will have given all parties the opportunity to identify the error.

## **Updated rural roads data**

The Staff discussion paper *New Issues for the 2019 Update* does not identify the rural roads assessment. However, the Commission has now provided states with updated estimated of rural road length applied in the 2015 Review. These updated estimates reflect the use of more comprehensive and detailed data along with population growth and changes in population distribution.

In line with established practice, the Commission should incorporate this revised data in its 2019 Update calculations.

For many years NSW has been concerned that the rural roads assessments grossly understated its needs. The use of this more recent, comprehensive and detailed data in the 2015 Review model confirms this and we urge the Commission to incorporate this data into the 2019 Update. The incorporation in recent years of the revised data used for Queensland land revenue provides a directly analogous example.

## **Treatment of new Commonwealth payments commenced in 2017-18**

NSW Treasury has significant concerns with the proposed treatment of a number of Commonwealth payments that commenced in 2017-18.

### ***South Sydney Rabbitohs' Community and High Performance Centre of Excellence***

Under this Agreement the Commonwealth will contribute \$10m to South Sydney Members Rugby League Football Club for the construction of community and high performance centre of excellence comprising:

- a community centre, including offices, classroom, learning centre and theatre;
- public facilities for patrons;
- an administration centre for the South Sydney Rugby League Football Club; and
- a football development department supported by elite facilities, including a gymnasium, indoor training centre, medical and physiotherapy, high altitude chamber, strategy room, players' lounge and offices.

Under the Agreement the role of the state is restricted to:

- acting as a conduit for Commonwealth funding to South Sydney Members Rugby League Football Club and
- monitoring delivery of the project by South Sydney Members Rugby League Football Club and providing reports on the project to the Commonwealth.

South Sydney Members Rugby League Football Club is responsible for 'all aspects of delivering on the project outputs...'<sup>1</sup>.

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<sup>1</sup> Project Agreement for the South Sydney Rabbitohs' Community and High Performance Centre of Excellence (Page 4).

Funding for the project is sourced from the Commonwealth (\$10m) and a combination of Randwick City Council and South Sydney Members Rugby League Football Club (\$7m). The NSW Government is making no financial contribution to the project and the project falls outside the scope of services assessed by the Commission. The purpose of this payment is to give effect to Commonwealth Government priorities and does not relate to the provision of state-like services. New South Wales should not be penalised for agreeing to a pass through payment made necessary by *Williams v Commonwealth* (the school chaplains case) [2012] HCA 23.

In the above circumstances, NSW Treasury believes that funding for this project should have no impact on the distribution of GST.

### ***Skilling Australia Fund***

Under this National Partnership Agreement jurisdictions received a bonus payment where the agreement was signed on or before 7 June 2018. In the case of NSW, this sign-on bonus was \$36.567m in 2017-18.

Like other reward payments paid by the Commonwealth in the past, the Skilling Australians Fund National Partnership reward payment should have no impact on the distribution of GST grants. Allowing these payments to affect GST grants negates the intent of the Commonwealth Government to provide an incentive, or 'sign-on bonus', for states to enter into the agreement in advance of a specified (arbitrary) date (in this case 7 June 2018). Consistent with the sign-on bonus provided to NSW through the Health Innovation Fund associated with signing the National Health Reform Agreement Heads of Agreement, the provision of this funding to NSW should have no impact on the distribution of GST.

### ***Wi-Fi and Mobile Coverage on Trains***

Under this Agreement the Commonwealth will contribute \$12 million (with NSW contributing \$4 million) toward the cost of establishing continuous internet connectivity between Hornsby and Wyong. Funds will be used to subsidise the provision of internet capacity by telecommunications companies along the route with the assets constructed being the property of the telecommunications companies. The total cost of the project is expected to be \$40 million.

Payments under the Wi-Fi and Mobile Coverage on Trains arrangement are of a telecommunications nature, are not a 'state-like service' and outside the scope of the Commission's assessments and the assets created are not the property of NSW. Given this, the payment from the Commonwealth should have no impact on the distribution of GST revenues.