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Victorian response to CGC 2025 Review consultation

Tranche 1 assessment papers

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1. Introduction

In June 2023 states and territories (states) were provided consultation papers on the first tranche of the Commonwealth Grants Commission's (CGC) assessment topics for its 2025 Methodology Review. Victoria thanks the CGC and its staff for the opportunity to provide input to this important work.

This submission provides Victoria's responses to the CGC's specific consultation questions in sections for each topic below. In addition, Victoria has several additional suggestions to improve the CGC's assessments. These suggestions follow two broad themes. Victoria's proposals aim to:

- reinforce a simple and robust distribution system that meets the needs of states and community expectations for such an important revenue source
- account for the unique costs faced by Victoria including cost pressures due to scarcity of resources like land, and delivering services to densely populated, linguistically and culturally diverse communities.

Victoria notes it will provide its response to the CGC's consultation paper on wages in November.

CGC methodology decisions can have significant impacts on states' abilities to deliver services. A minor change in an uncertain variable or statistical model can redistribute hundreds of millions of dollars between states, often at short notice given the timing of annual relativity decisions. This has a real effect on services and impacts states' ability to plan into the future.

In this context, and across all assessment categories, Victoria strongly recommends the CGC favour caution where there is uncertainty or judgement required. This is particularly the case where data has not yet matured or is not available to measure the concepts required. The default view of the CGC should be an EPC (equal per capita) distribution in these instances, with the burden of evidence on the CGC and states to justify variations from this.

Where there is not robust data available to make an assessment, Victoria recommends the CGC reduce volatility and the risk of misattribution of needs. In these instances, there is no certainty that equalisation is being achieved and the assessments could result in over or under equalisation.

A greater emphasis on simplicity and evidence-based methods would also improve transparency for states and the public. Victoria's view is that equalisation requires fully explainable, intuitive results, with rationale and processes fully explained.

Victoria highlights that this preference for evidence-based method is not a preference to retain the current methods. These often involve the use of data or methods Victoria does not consider sufficiently robust, as detailed in the relevant sections of Victoria's response below.

Robust assessments require strong and transparent conceptual cases and high-quality supporting data, having regard for the magnitude of associated impacts on the distribution.

Victoria accepts and supports the CGC's need to use judgement to recommend the GST distribution. However, in cases where poor data are used to implement conceptual cases, judgement cannot be used to make these assessments robust. Victoria's view is the CGC should take a conservative approach and limit or not make some assessments where data are not of a sufficient standard.

Victoria details specific issues with the assessment categories in the relevant sections of this submission, however some examples include:

- Justice portfolio assessments, including prisons, police and courts, where data used are only from a subset of states and insignificant statistical results are used on the basis of judgement

- The urban transport model, where the ferries, bus and light rail passenger and slope variables are insignificant, but are directly used without alteration due to a conceptual case existing
- Health, where activity data from emergency departments (or otherwise as suggested in the consultation paper) is applied to approximate the use of community and public health.

The review presents an opportunity for states and the CGC to work collaboratively to improve the methods and address any uncertain proxy measures or data used, rather than continuing with assumption or judgement driven approaches. A number of Victoria's recommendations are for the CGC to work with states to develop improved data sources or methods, including in justice and for culturally and linguistically populations.

Victoria thanks the CGC staff for their committed and collaborative approach and looks forward to continuing this engagement throughout the remainder of the review.

2. Summary of Victoria's recommendations

Revenue	
Land tax	<ul style="list-style-type: none"> • Support CGC's proposals
Stamp duty on conveyances	<ul style="list-style-type: none"> • Support the CGC's proposals • Assess taxes agreed to be abolished under the Intergovernmental Agreement on Federal Financial Relations on an actual per capita basis.
Motor tax	<ul style="list-style-type: none"> • Support the CGC's proposals • Allow for full consideration of method changes in the relevant update year if this assessment becomes material in future
Mining revenue	<ul style="list-style-type: none"> • Support the current mineral by mineral approach • Do not support the proposed dominant state approach • Do not support the proposal on uranium and coal seam gas royalties, retain current approach

Expenses	
Schools	<ul style="list-style-type: none"> • Support including a dummy variable for high school students, however, do not support the inverse high school size variable • Support the use of the NCCD data to assess drivers of spending on students with a disability • Reflect policy neutral characteristics that drive spending on Schools from the SRS in the CGC's model • Provide a method to account for the additional costs for providing education of First Nations students for a highly dispersed population

	<ul style="list-style-type: none"> • Include students with English as an additional language as a driver of need in the Schools' assessment • Carve out spending on early childhood education to be treated EPC
Post-secondary education	<ul style="list-style-type: none"> • Support proposal to not introduce course mix as a driver • Suggest use of First Nations, low SES and remoteness leads to double counting
Health	<ul style="list-style-type: none"> • Agree that in a post-pandemic environment the Health assessment is largely fit for purpose • Assess states' COVID-19 related health expenses APC, following conclusions from previous updates • Support proposed adjustments to community and public health assessments, however, suggest separating public health as an EPC assessment • Support use of AIHW data to update the substitutability of emergency department services • Remove the discretionary judgement to reduce the admitted patients substitutability • Move non-hospital patient transport spending under the admitted patients assessment • Make a separate assessment of multicultural and language expenditures driven by diverse populations and accept diverse populations drive health expenditures and develop a method to account for this • Extend the current adjustment for Commonwealth cross border flows to include state-to-state flows, and account for bi-lateral health funding flows
Services to communities	<ul style="list-style-type: none"> • Discount the remoteness factor applied to water subsidies by 12.5 per cent • Do not support the current First Nation Community Development assessment and recommend moving to an assessment based on hectares managed by traditional owners • Include a measure of population density and intensity of state capital programs as a driver of need for environmental protection spending • Include land prices and farm size as drivers of biodiversity programs in the environmental protection assessment • Support in-principle consideration of an assessment of net-zero spending and that the natural resource endowments of states is considered • Support exploring a new natural disaster mitigation assessment, however do not support the use of the National Partnership on Disaster Risk Reduction
Justice	<ul style="list-style-type: none"> • Agree recent data are influenced by COVID-19 and not fit for purpose, agree 2022-23 data are preferable. If not available in time, support incorporating in a subsequent update. • Incorporate preventative Justice expenditure needs, assess the preventative component equal per capita basis, or discount the existing assessment to account for the incompleteness of data • Assess central policing costs EPC and do not allocate them to districts. • Do not use the current policing cost-weighting regression, or a discount should be applied

	<ul style="list-style-type: none"> • Develop a more complete dataset and method to adequately describe preventative policing needs or alternatively discount the assessment to account for the incomplete data and uncertainty • Use RoGS data to determine both criminal court expenditure and civil court expenditure and attribute the remainder of GFS court expenditure to other legal services • Gather more detailed data and develop a method to better describe expenditure needs for criminal courts or discount the assessment due to the lack of data. • Discount the criminal courts assessment because the national dataset relating to sociodemographic composition to finalisations is incomplete and likely biased. • Do not apply a remoteness cost weighting to prisons or at least a high discount should be applied. Recommend socioeconomic status is excluded as a driver because the data are not available for prisoners and the proposed proxy is based on incomplete data. Alternatively, a discount should be applied.
Transport	<ul style="list-style-type: none"> • Agree to retain the 2020 Review model. • Do not support using 2019-20 to 2022-23 data as they are COVID-19 influenced, support retaining 2020 Review data, including data from the 2016 Census, until appropriate data are available. • Do not support an indexing adjustment to 2016 Census journey to work data. • Support retaining the 2020 Review blend of the model and population-based approaches. • Do not support the proposed approach to the ferry variable in the model and recommend accounting for ferry services in the Geelong area. • Support the regression model for passenger numbers. • Support using the share of non-urban train commuters as a driver of need. Recommend in addition the Gisborne and Bacchus Marsh areas are combined with Melbourne. Recommend transport between all contiguous areas is counted as urban. Recommend allocating a portion of V/Line services to urban transport.
Native Title and land rights	<ul style="list-style-type: none"> • Do not support an APC assessment, recommend an EPC assessment. • Work with states to determine the most appropriate method to account for states' treaty expenditures.

Other

Community payments	<ul style="list-style-type: none"> • Agree with the suggested changes.
Socio-economic status	<ul style="list-style-type: none"> • Do not support an annual MADIP based measure, retain the ABS SEIFA measure. Recommend releasing an additional paper for states' comment once the ABS' review is complete.

3. Revenue

3.1 Land tax

CGC consultation questions and Victoria's positions

Q1. Do states support the continuation of the land tax assessment in its current form?

- Victoria supports the proposal to continue the Land tax assessment in its current form, including the 12.5 per cent discount. The discount continues to be necessary due to concerns about the reliability and comparability of states' taxable land value data.

3.2 Stamp duty on conveyances

Victoria supports the overall approach to assessing revenue from stamp duty on conveyances. However, there are two issues of concern described below.

3.2.1 Treatment of taxes states agreed to abolish

Taxes that states agreed to abolish under the Intergovernmental Agreement on Federal Financial Relations (the IGA), such as duty on non-real property transactions, should be treated on an actual per capita basis.

Some states have failed to fulfill their agreement to abolish duty on non-real property transactions. In this case, an equal per capita treatment is not neutral, but unfairly benefits states that ignored their obligations under the IGA. States that have abolished stamp duty on non-real property transactions should not be punished under the GST distribution system for fulfilling their obligations that arose due to the GST introduction to abolish these taxes.

3.2.2 Planning for potential state property tax reform

Victoria supports the proposal to assess New South Wales' First Home Buyer Choice property tax with Land tax. Similarly, Victoria supports the proposal not to adjust for the elasticity effects of recent reforms on materiality grounds.

However, state property tax reform is a current issue. Victoria contends that the Commission could commence work on how to treat potential future reforms in advance, to allow a robust methodology to be developed in consultation with states. Waiting until an assessment becomes material, and potentially using the flexibility to adapt the assessment between reviews may not allow sufficient time to develop a robust and effective methodology.

Furthermore, states could benefit from clearer guidance on how potential property tax reform would be assessed. The Commission could develop a set of guidelines for reforms that would require a separate assessment and those which could fit into the existing assessments. The current lack of clarity poses a barrier to efficient tax reform.

Victoria recommends the 2025 Review conclude that the CGC will make adjustments to the stamp duty assessment in the event state policy reforms have a material impact on the assessment. The CGC should develop an approach to estimating this impact in the event of reforms now.

CGC consultation questions and Victoria's positions

Q1. Do states agree that the overall approach to assessing revenue from stamp duty on conveyances remains appropriate?

- Victoria agrees with the overall approach. However, taxes that states agreed to abolish under the Intergovernmental Agreement on Federal Financial Relations should be assessed on an actual per capita basis.

Q2. Do states agree that revenue from the New South Wales property tax be assessed with land tax for as long as it exists?

- Victoria agrees.

Q3. Do states support the Commission not adjusting states' value of property transferred for the elasticity effects of recent reforms on materiality grounds?

- Victoria supports the proposal. However, states would benefit from clear guidelines on the types of property tax reform that would require a separate assessment and those that would fit into the existing assessments with adjustments.

3.3 Motor tax

CGC consultation questions and Victoria's positions

Q1. If an assessment of revenue from electric vehicle charges becomes material in future updates, do states support the revenues being assessed as a separate component of the motor taxes category?

- Victoria supports the proposal. In the absence of data on distance travelled by electric vehicles for all states, the CGC's proposal to use a proxy measure based on Bureau of Infrastructure and Transport Research Economics data appears reasonable.
- Victoria recommends the Review allow for full consideration of method changes in the relevant update year if this assessment becomes material in future. Even if the proposed proxy appears to provide a good measure of distance travelled when the CGC is able to validate it in the future, other options should not be ruled out. States should be given sufficient time for consultation and all proposals should be considered.

Q2. Do states agree that the number of registered light vehicles remains an appropriate measure of revenue capacity for revenue raised from emissions-based registration fees?

- Victoria agrees.

3.4 Mining revenue

3.4.1 Mineral by mineral approach

Victoria supports the current mineral by mineral approach. This approach best captures states' abilities to raise revenue from mineral deposits and meets the CGC's objective of achieving HFE.

3.4.2 Dominant state adjustment

Victoria does not support any of the proposed approaches that the CGC has raised to address hypothetical concerns with a dominant state adjustment. In Research paper 1: Fiscal equalisation and mining booms¹, the CGC outlined that 'when a mineral is concentrated in one state, as for iron ore in Western Australia, that state has the potential to influence its GST distribution by altering its royalty rate. Such an outcome is inconsistent with the principle that the GST distribution should not be significantly influenced by states' policy choices.' Under the new arrangements, a state will not have the same capacity to influence its GST distribution." It is unclear how a dominant state adjustment is required in the context of Mining revenue.

3.4.2.1 Profitability measure

Victoria does not support the profitability measure approach and considers that it is contrary to the principle of HFE. Implementing a profitability measure is not reflective of what states do, would likely significantly understate revenue received by state governments for royalties and require data collection from every state and territory on the profitability of each mine site.

Victoria's most significant concern is that there is the potential for actual mining royalty revenue for states for some years to vastly exceed the profitability measure, as most states tax on the value of production rather than profitability. Any state that collects royalties on the value of production could significantly benefit from this arrangement.

Most states do not impose royalties on a profitability basis. In order to apply a profitability measure the CGC would need to obtain data from every state regarding every mine in operation and their profitability. Below is a calculation that the NT use in determining the royalty profit base. NT also maintains a minimum royalty of 1 per cent to 2.5 per cent of the gross production value for mines with losses or no profit in that year.²

$$\text{Net value (profit)} = \frac{\text{Sales value of minerals removed/produced by miners}}{\text{by miners}} - \left(\begin{array}{l} \text{operating costs} \\ \text{incl. exploration,} \\ \text{actual rehabilitation} \end{array} + \begin{array}{l} \text{capital} \\ \text{costs} \end{array} + \begin{array}{l} \text{accumulated losses} \\ \text{from past} \\ \text{royalty years} \end{array} \right)$$

If the CGC was to implement a profitability measure it would also need to determine the above equation in consultation with the states, which states may influence to benefit its GST share. The CGC would also need to make an assessment on the rate that should be applied across all mines and commodities. There is no proposal of what this rate might be.

States would have to provide comprehensive financial statements for the CGC to calculate this profitability measure. States do not readily have access to audited financial statements for these businesses to pass onto the CGC. It is unclear where the CGC could access this data from in the first instance.

This measure overall is a significant shift away from achieving HFE. It requires the CGC to determine hypothetical state policy, and access complete data to consider this approach.

¹ <https://www.cgc.gov.au/publications/research-paper-1-fiscal-equalisation-and-mining-booms>

² <https://treasury.nt.gov.au/dtf/territory-revenue-office/royalties/mineral-royalty>

3.4.2.2 Grouping minerals

Victoria does not support the proposal to group minerals. The CGC has not provided an actual method for grouping minerals, so responding to this proposal is difficult. In the first instance this detracts from HFE by obscuring true revenue raising capacity. In addition to HFE concerns, Victoria rejects this proposal given that there is not sufficient evidence on how it would operate to provide an appropriate response.

The CGC has previously raised similar concerns in Research paper 1: Fiscal equalisation and mining booms³. It noted that 'Other options the Commission considered to reduce volatility would not have captured states' revenue capacity nor achieved the same degree of fiscal equalisation. For example, grouping major minerals together might dampen volatility in Western Australia's GST distribution, but it would produce a poorer assessment of its revenue capacity because it would have diluted its iron ore capacity.' The proposal in the paper does not address how the method of grouping minerals would address these concerns.

3.4.2.3 An external standard

Victoria does not support the use of an external standard for the Mining revenue assessment. An external standard would involve the CGC replacing the dominant state's royalty rate with an externally sourced rate, such as an international rate. The CGC has noted that if the external rate is higher than the rate in Australia it has the potential to overstate the dominant states capacity, and if it is lower, understate its capacity.

A decision to use an external standard would compromise the supporting principle of what states do as well as undermine HFE. Victoria considers that this approach also has additional flaws in benchmarking a comparable rate, which include differences between Australia and proposed countries in:

- Economic circumstances of the country of the external rate
- Other tax settings that apply to the mining operations such as income tax and tax concessions
- Macroeconomic factors such as interest rates, exchange rates and inflation
- The legal and regulatory environment, including environmental protection
- Investment strategies of country
- Geographic region and how this impacts the marketable final price of the commodity and the end buyer
- The application of the external rate, including purity of the ore body that is being taxed.

Victoria has not identified any sufficiently similar country to Australia to benchmark iron ore royalties.

3.4.2.4 Discount a dominant state change to royalty rate by 50 per cent

Victoria does not support the proposed discounting method. While there are policy neutrality considerations in the supporting principles to HFE, a change of this magnitude compromises the integrity of HFE, while still raising issues on policy neutrality.

The Commission pointed out earlier in its consultation paper that 'in some situations, the introduction of a relativity floor and new 'standard state' benchmark in Treasury Laws Amendment (Making Sure Every State and Territory Gets Their Fair Share of GST) Act 2018 (2018 legislative changes) can

³ <https://www.cgc.gov.au/publications/research-paper-1-fiscal-equalisation-and-mining-booms>

mitigate the GST impact of a royalty rate increase by the dominant state.’ The CGC has not articulated in what situations the relativity floor and new standard state benchmark do not mitigate the potential policy impact of a royalty rate change by the dominant state.

The CGC has not been prescriptive enough in its proposal, and this has raised concerns for Victoria around states’ ability to change their royalty rates to maximise GST shares. Some of these specifics not defined in the consultation paper include:

- What the baseline rate would be
- When the baseline rate would be selected
- Whether this baseline would persist into perpetuity, and if not, how long for.

This leaves dominant states with a potential loophole to exploit, to obtain the largest discount from royalties being included in the assessment. A state could hypothetically make decisions to decrease and then increase its royalty rate to further discount its royalty increase, as opposed to a simple increase. This would also depend on at what point the CGC set the baseline rate. Setting the baseline rate creates its own complexities and assumes that the current set rate is the most appropriate baseline for all assessments of this royalty going forward. This is risky and highlights the judgement calls that the CGC would be making around what states should do, not what they do in reality.

The lack of detail and consideration of potential risks highlights the cursory nature of the proposal. Dominant states would have the opportunity to take advantage of the GST system to maximise their GST share. It does not mitigate the policy neutrality issues of the assessment, rather shifts them in a way that can advantage a dominant state. The discount, while it is difficult to say with no clear proposal from the CGC, only focusses on the policy neutrality supporting principle of the GST system and disregards the central requirement of CGC of achieving HFE.

3.4.3 Uranium and coal seam gas royalties

3.4.3.1 Assessing states that extract, and not assessing those that do not

Victoria’s view is that the current approach, only assessing capacity for states that do extract resources, is the most appropriate option as it most closely aligns with the principle of HFE, and meets the supporting principle of simplicity.

Victoria considers the two alternatives proposed by the CGC do not achieve HFE. The proposals do not align with the supporting principles, and do not meet the assessment guidelines regarding both reliability and suitability of the data.

3.4.3.2 Estimating a potential tax base

Victoria does not support the proposal to estimate potential tax bases for states that do not extract minerals. Estimating the missing tax base would be a complex and highly subjective undertaking. Victoria considers this approach would constitute the CGC making an assessment about what states should do, which is beyond the scope of HFE, with no complete data to be able to support this approach.

Environmental, community, regulatory and other commercial factors outside of government policy all influence a firm’s decision to extract minerals, and therefore a states’ ability to raise royalties from these sources. These considerations include:

- Project viability, including resource quality and quantity, market price and forecast future demand, exchange rate forecasts and opportunity cost of alternative projects
- Economic circumstances at the time of the project, including risk appetite of decision makers

- Financing and capital availability, including ability to raise financing, reliant on credit rating, time to return on investment and prevailing interest rates
- Operating costs, including labour, equipment, technology, infrastructure, relevant head office services to support operations
- Infrastructure availability and transportation costs
- Environmental, legal and regulatory factors
- Cultural impacts of the project.

While a mineral is banned, this does not mean that if it were not banned that it would be economically viable to extract. In any case, if states lifted restrictions tomorrow, it would be many years until mining would result in royalties for any states that do not currently exploit their known deposits. It is also impossible to predict how states might hypothetically impose royalties and the potential impact this could have on the national average rate for these minerals.

An adjustment for banned minerals would be inconsistent with the current assessment of other minerals, where other policy influences, such as environmental regulations, influence extraction and state revenues. All states balance environmental, industry and cultural considerations when developing policy on mineral extraction. Coal seam gas and uranium are no different.

As an example, South Korean company KepCo submitted a development application in NSW for an open-cut coal mine in the NSW Bylong Valley. The proposal from KepCo was rejected in an appeal to the NSW Independent Planning Commission, which cited unacceptable impact of the mine on agricultural land and the environment.

Rejecting mine operations due to environmental, community and other concerns is policy influenced, and potential revenue from this mine is not currently included in the CGC's assessments. Applying the same logic as the CGC's proposal on banned minerals, the CGC would need to assess NSW's capacity to raise royalty revenue from this rejected mine site.

Regarding CSG, Victoria's Constitution was amended in 2021 to prohibit hydraulic fracturing and coal seam gas exploration and mining, due to environmental, industry and community concerns. The Constitution outlines the basic principles, powers and framework of government, setting the rules for how the government operates.

This highlights the deficiencies of the CGC's proposal, and its lack of broader consideration to the complexities of mineral extraction, and how it interacts with existing components of the category. Proposed sites that are rejected due to environmental, industry and community concern should not be included in the assessment.

Not only would the quantity extracted need to be estimated, but the price of the commodity would also need to be determined. Uranium, unlike iron ore, is not traded on an open market with publicly available pricing like the London Metals Exchange. The Commission would somehow need to establish hypothetical pricing for hypothetical mines without an openly available source to reference. This further highlights that this would be a highly subjective undertaking.

While there is a similar approach undertaken for the NT in the Land tax assessment, this is not a comparable assessment. Land tax is collected on an ongoing basis, based on the unimproved value of the value of land. This tax is collected on an existing asset which holds value and not a finite resource, such as gas extracted in unconventional methods or uranium. It is not appropriate to draw comparisons to a different revenue stream with different characteristics.

NT is adjusted in the case of Land tax due to NT being the only state not to tax this readily available revenue base. This means that every other state except for NT implements a similar policy regarding

land tax. CSG and Uranium mining is varied across the states, and a difference in policy does not necessarily lead to collection of royalty revenue.

In addition, Victoria's view is that if the CGC were to impute that states were able to raise revenue from minerals with current bans or restrictions, that a commensurate adjustment would need to be applied to the expenses that states incur on the relevant industry supports. This for example could require the mining regulation expenses drivers to be adjusted.

The CGC has also not considered the potential implications of future state policy changes. While some states do not currently extract gas through unconventional methods such as coal seam gas, this may not be a permanent policy choice. In the future, if a state allows CSG extraction, is it not clear how the CGC would modify the assessment to account for previously assessed reserves being raised. Victoria considers it is likely some type of credit would need to be applied. This applies to the inverse for states who later impose further environmental or regulatory frameworks. This type of arrangement would further complicate the GST system.

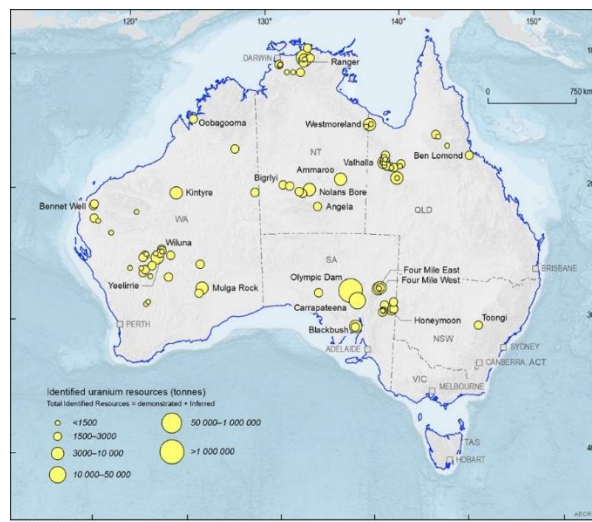
Despite the significant shortfalls of estimating the revenue base for a banned mineral, this approach is preferred to assessing revenue as EPC as it provides a better approximation HFE – issues with the EPC approach are discussed below.

3.4.3.3 Assess revenue from banned minerals as EPC

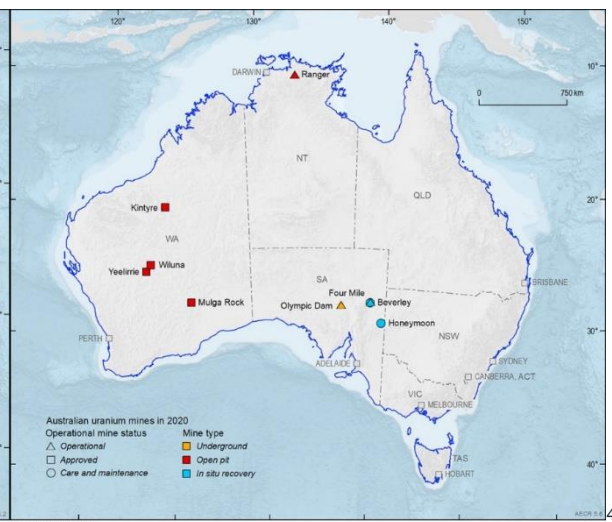
Victoria does not support the CGC's proposal to assess banned minerals revenue as EPC. An EPC approach assumes states have the same per capita capacity to raise revenue from resources. States do not have the same per capita CSG or Uranium deposits. Under this proposal, a state that collects revenue at a rate above its population share would be able to retain that revenue advantage. Similarly, it disadvantages states that have below average deposits or none of the resource.

While there are significant uranium reserves around Australia, there were only several uranium mines in 2020 as shown in Figure 1 below. According to Geoscience Australia, Victoria has a combination of no known reserves and no mines. Victoria should not be assessed for a mineral that has no known reserves, and therefore no ability to raise revenue.

Figure 1: Australian Uranium deposits in 2019



Australian Uranium mines in 2020

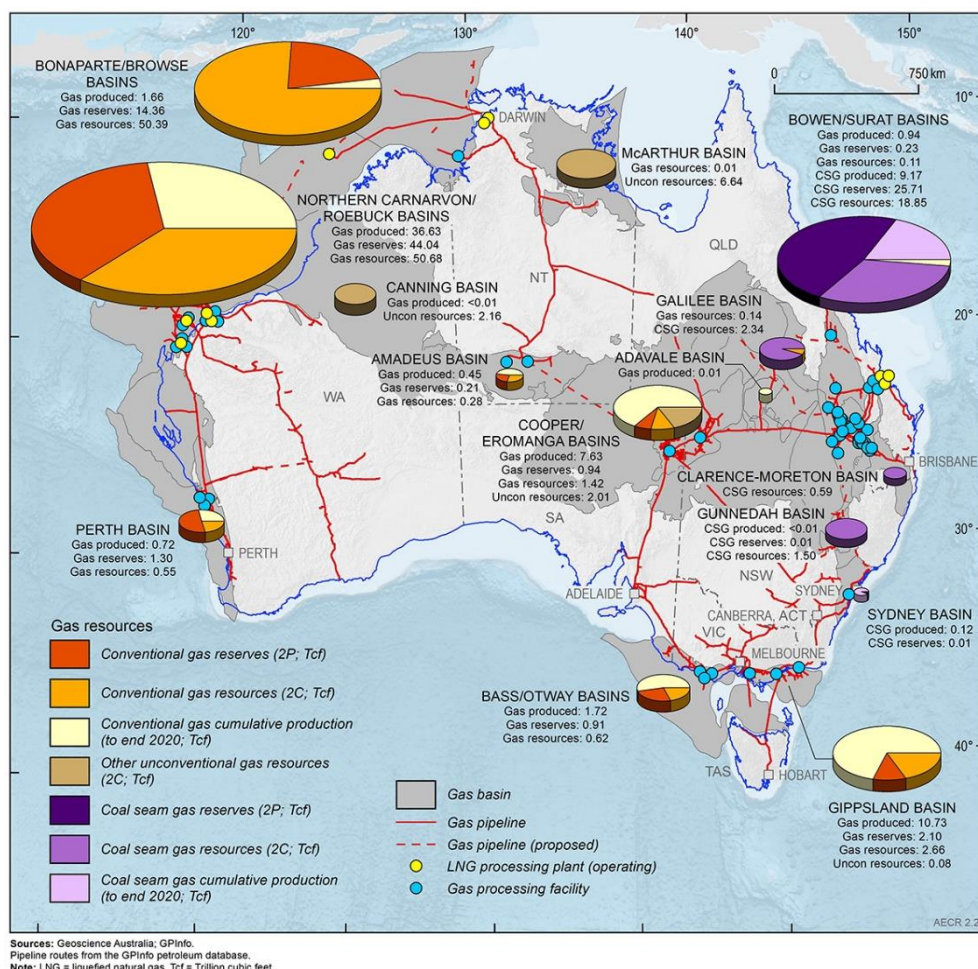


Source: Geoscience Australia

Similarly, according to Geoscience Australia, Victoria has no known CSG reserves. This is demonstrated in Figure 2: Australian remaining gas reserves, including CSG. Victoria should not be assessed as having an equal capacity to raise revenue from CSG when there are no known reserves.

⁴ <https://www.ga.gov.au/digital-publication/aecr2021/uranium-and-thorium#australias-identified-resources-section>

Figure 2: Australian remaining gas reserves, including CSG



Source: Geoscience Australia

As demonstrated through each mining royalty assessment component, states have different deposits of resources available to them, and firms make decisions to extract the commodity based on a range of factors (outlined above). Assessing states EPC does not recognise these inherent differences between mineral deposits that are beyond a states' control, or how a firm makes its investment and operational decisions.

The use of EPC in this situation is not like the application of EPC assessments. In the other revenue assessment category where 'all States supported having a residual revenue category assessed EPC. States agreed the revenues included in the category should be those where States are assessed to have the same per capita capacity, where the method or data are not sufficiently reliable to support an assessment or where a differential assessment would not be material.'⁶ In the instance of banned minerals, all states do not have the same per capita capacity to raise revenues, meaning it should not be assessed EPC. There is also an appropriate data source and method available to make a

⁵ <https://www.ga.gov.au/digital-publication/aecr2022/gas#australias-prospective-gas-resources-section>

⁶ Page 90, CGC Report on GST Revenue Sharing Relativities, 2020 Review

differential assessment. A method and data are also available to make a differential assessment, following the current approach.

Victoria does not consider that duty on non-real property transactions provides a similar basis for an EPC assessment. As outlined multiple times to the CGC, under the *Intergovernmental Agreement on the Reform of Commonwealth State Financial Relations 1999 (the IGA)*, all states agreed to abolish duty on non-real property transactions. Victoria maintains the position that these taxes should be assessed APC (actual per capita).

As raised above, if the CGC did implement an EPC assessment for banned minerals, then adjustments would also need to be made for similar mines that have not operated due to potentially policy influenced reasons and for expenses including mining regulation and business development.

CGC consultation questions and Victoria's positions

Q1. Do states agree the Commission should continue to assess mining revenue capacity using a mineral by mineral approach?

- Yes, Victoria supports the current approach as the most appropriate method to achieve HFE.

Q2. Do states support the dominant state for a mineral being identified having regard to a state's share of the revenue base, its population share, and the extent to which its GST distribution would be impacted by a change in the royalty rate for that mineral?

- Victoria does not consider that a dominant state needs to be identified as none of the proposed adjustments are appropriate.

Q3. Do states agree that where a dominant state changes its relevant royalty rate, assessing 50 per cent of that state's revenue arising from the royalty rate change equal per capita would represent an appropriate balance between assessing relative state fiscal capacities and policy neutrality concerns?

- Victoria does not support this approach. This proposal moves the current assessment away from HFE. The lack of clarity on how this would operate creates the ability for states to shift royalty rates to achieve the most desirable GST outcome, raising concerns of policy neutrality.

Q4. Do states agree that uranium and coal seam gas royalty revenue should be assessed equal per capita?

- Victoria does not support this proposal. It incorrectly assumes that states have an equal per capita endowment and ability to raise revenue from uranium and coal seam gas.
- Victoria considers that the CGC should maintain its current approach to assessing these minerals, which is to assess the capacity for states that extract, and not assess capacity for those that do not.

4. Expenses

4.1 Schools

It is essential that the CGC ensure that its schools' assessment is robust and accurately captures the drivers of need as this category redistributes a significant portion of GST. Victoria considers that there are improvements that the CGC could make that better reflect the funding need of students, policy neutrality and what states do.

Departmental and operational subject matter experts were consulted extensively to provide input to this response, particularly to the CGC's questions and the formulation of additional proposals. Comments on the investment methodology for schools will be provided in the Tranche 2 response to the investment assessment.

4.1.1 Primary and high school costs

Victoria has concerns with the CGC proposal to split high school and primary school fixed costs. Victoria agrees that there is a higher recurrent funding component required per high school student but the results of the inverse secondary school size variable (the fixed cost per secondary school, where each school is assessed as requiring over \$1.6 million in additional recurrent funding) in the CGC's proposed model are concerning.

States fund students with a recurrent per capita amount that varies depending on school type. Victorian school students receive different funding amounts per student based on their school grade. In 2023, Victoria provided between \$1,132 - \$2,441 per student more for students in secondary schools compared to primary schools.

In the Schooling Resource Standard (SRS), the Commonwealth also differentiates funding provided to states for education based on school type. In 2023 a primary school student will be funded \$13,048 while a secondary student will be funded an additional \$3,349, at \$16,397 per student. The CGC's proposed model indicates that secondary school students cost only \$806 more. Victoria considers that this understates actual funding differences between the two groups.

The inverse school size variable proposed by the CGC indicates that all schools have a large recurrent funding amount allocated per school. The CGC has estimated that the annual operational base cost of a primary school in 2020 was approximately \$300,000 and the base cost of a secondary school was approximately \$1.6 million. Victoria's maximum enrolment-based funding for secondary schools was \$629,468 in the 2023 Student Resource Package (SRP), which is far less than the CGC model.⁷

In addition to conceptual issues, Victoria has technical concerns with including both primary and secondary inverse school size and recommends dropping the inverse secondary school size variable. In the CGC analysis, data on all school types is used to inform the inverse school size variable. For inverse secondary school size, only non-primary school data is used (roughly 30%). However, the impact of secondary schools has already been captured by the inverse school size variable, therefore this variable is not relevant or significant as a predictor variable. The two school size variables are also highly correlated for combined schools. Including both inverse school size and secondary school

⁷ <https://www.education.vic.gov.au/PAL/student-resource-package-revised-guide-2023.pdf>

size in the same regression poses double counting issues, making the regression coefficients highly biased.

In the 2023 Update, the CGC service delivery scale school size cost weights by remoteness had a maximum loading of 0.27. Victoria does not have the service delivery scale cost weights from the CGC's new proposal, but early analysis suggests that these weights would almost triple for both remote primary schools and secondary schools. Conceptually, introducing a variable for the inverse school size of secondary schools should not double the implied recurrent fixed costs of schools by remoteness area.

Victoria is concerned with the further potential policy influence of the school size variable in the assessment. The CGC also raised concerns in the 2020 Review, where it stated that "While the relationship between school size and funding may be more complex, the drivers of variation in school size are largely policy driven. For example, while in 2017-18, 42 per cent of students in major city Queensland attended schools of over 1,000 students, only 18 per cent of students in major city New South Wales did."

In its consultation paper, the CGC stated that state policies are a major determinant of school size and recommended that states provide the average school size for each remoteness area. This recommendation does not in any way address policy neutrality concerns, as school size is driven by each states' policy choices. The CGC does not address why service delivery scale and school size are still used in the schools assessment given these concerns.

The existing socio demographic characteristics loadings already capture the costs associated with remoteness. Introducing the high school inverse school size variable will further compound the impact of school size on the assessment, which has been continually acknowledged as a policy influenced component of the assessment.

CGC consultation questions and Victoria's positions

Q1. Do states support a differential assessment of primary and secondary school students and if so, support including in the regression model variables to account for differences in the fixed cost of secondary schools and the additional costs of secondary school students?

- Victoria supports including a dummy variable for high school students, however rejects the proposal to introduce the inverse high school size in addition to the pre-existing inverse school size variable.

4.1.2 Students with a disability

Victoria agrees with the CGC that an assessment of needs should be made for students with a disability in the schools' assessment. Victoria considers that the Nationally Consistent Collection of Disability (NCCD) data is the best available option for the CGC's analysis. In the absence of this, the CGC should assess all special education spending as EPC.

It is an ongoing oversight that the current method for assessing drivers of school spending does not factor in students with a disability. Special school enrolments are also removed from the CGC's regression analysis. The CGC's methods need to recognise that both the Commonwealth and all states fund students with disability to ensure that they receive the best education possible.

In Victoria, schools must meet their legal obligations under the *Equal Opportunity Act 2010*, and all states are bound by the Commonwealth *Disability Discrimination Act 1992* and the Disability Standards for Education 2005 to make reasonable adjustments to accommodate students with

disability. These obligations apply to all students with disability, not just those who are eligible for support under targeted funding programs, and come at an additional cost per student

In fact, most states provide funding allocations to schools on per student basis according to a student's disability status or adjustments made by teaching staff. NSW funds this through its Resource Allocation Model⁸, Queensland through its state schools resourcing framework⁹ and WA's student-centred funding model¹⁰. In addition to this, the Commonwealth already distributes funding for disability using the NCCD through the SRS. In 2023, the Commonwealth will distribute approximately 11.2 per cent of recurrent funding for students with a disability through the SRS loading.

The CGC has also identified that states spend roughly 10 per cent of their total school funding on special education. In 2021, according to Figure 3 in the CGC's consultation paper, states spent more money on special education than on non-government school education. Based on this magnitude, the CGC considers non-government school education is sufficiently material to warrant its own regression analysis. Victoria considers that spending on students with a disability is material and also warrants establishing its own driver.

The NCCD accurately captures the drivers of funding need as it measures what types of adjustments the school is making for a student. For example, simply because a student has a disability does not mean that they will require an adjustment. Information on the type of adjustment, such as extensive or substantial adjustments is a more accurate representation of the costs involved in providing education than on disability characteristics alone.

Victoria has spent considerable time working with schools to ensure accurate data collection. More recently, the data has been stabilising which indicates its increased accuracy. The NCCD also audit data collected from non-government schools. Victoria is confident that this data is fit for purpose for the CGC's assessment.

It is not possible for Victoria to comment on the collection methods of NCCD data for other states. States have been collecting this data since 2015. Under Commonwealth legislation states are required to make adjustments for students with a disability. The NCCD simply collects information on these adjustments. It is reasonable to expect the data collection to have matured and accurately reflect the adjustments states make after eight years of collection.

The CGC should make every effort possible to obtain the NCCD data, through either the NCCD, or by requesting data directly from states. If there are confidentiality concerns, states and the CGC should work together with state education departments in order to meet the criteria required to access the NCCD data, and ultimately improve the schools assessment.

If the CGC is unable to obtain the NCCD data in time for this review, then it should assess all state spending on special schools and spending on students with a disability as EPC. The drivers of this spending are otherwise misattributed through the CGC's regression model and assessment method. The CGC's usual drivers for schools do not capture the drivers of spending on students with a disability. An EPC assessment would be a more accurate representation until the CGC can work to improve, or is comfortable to use the NCCD data for the Review.

⁸ <https://schoolsequella.det.nsw.edu.au/file/485f4666-7c2f-4b9b-83ff-6efeb864656b/1/Planned-resource-allocation-model-overview-2020.pdf>

⁹ <https://qed.qld.gov.au/our-publications/managementandframeworks/Documents/state-school-resourcing/state-schools-resourcing-framework-guide.pdf>

¹⁰ <https://www.education.wa.edu.au/dl/kgonndd>

CGC consultation questions and Victoria's positions

Q2. Do states agree that, if relevant school level data are available and determined fit for purpose, an assessment of needs for educating students with a disability should be included in the schools assessment?

- Victoria supports the use of the NCCD data to assess drivers of spending on students with a disability. If the CGC is unable to obtain data in this review, it should carve out all spending on disability and special schools and assess this EPC.

4.1.3 Schooling resource standard

Victoria considers that the Schooling Resource Standard (SRS) provides a policy neutral measure of the drivers of spending for schooling that should inform the CGC's current approach to the schools' assessment.

The SRS was introduced as part of the Australian Government's response to the Gonski Review of School Funding, which was released in 2011. The Review found that existing school funding in Australia was complex, inconsistent, and failed to allocate resources based on student needs. The SRS was developed to address these shortcomings.

A formula was arrived at to calculate the SRS for each school based on factors such as student needs, school location, school size, and teacher quality. The formula aimed to allocate funding in a way that provided more resources to schools with greater needs.

This was developed independent of governments and therefore provides a neutral assessment of the drivers of need in the schools. In addition, the funding formula has been agreed to by the states, and funding is distributed by the Commonwealth on this basis. The CGC has provided a chart in its consultation paper (Figure 2), which shows a comparison of the adjusted budget data on state spending and spending if each state spent the national average proportion of the average SRS for their state. The paper notes that the differences in actual spending and the SRS reflect policy differences between the states. This implies that the SRS is a useful policy neutral measure of the drivers of funding.

Each state has a different agreement with the Commonwealth on its minimum funding proportion of its SRS. Contrary to the CGC's statement, the minimum proportion did not increase for all states between 2018 and 2023. Queensland, South Australia and the Australian Capital Territory proportions all remained consistent over the five-year period. WA's contribution decreased, while the remaining states increased. Without a policy neutral minimum funding proportion, and in the absence of a proposed implementation option from the CGC, Victoria considers that there is limited case to use actual SRS funding in the GST distribution in this Review. However, the characteristics and variables in the SRS are still useful as they better reflect state funding need and have been independently identified through a thorough review of school funding.

The CGC should use the framework of the SRS to identify the characteristics that drive the need of spending in schools and use these in its regression to independently assess government spending on schools. Victoria considers the inclusion of disability and students with a language background other than English in the SRS provides a strong basis for these variables to be considered in the CGC's assessments.

CGC consultation questions and Victoria's positions

Q3. Do states agree that the average state funding of schools is not sufficiently based on the Schooling Resource Standard funding to be adopted in place of the Commission's funding model?

- Victoria considers that the SRS provides the CGC with the best policy neutral measure of characteristics that drive spending on schools, and these characteristics should be reflected in the CGC's regression model.

4.1.4 Dispersed First Nations populations

The Victorian Aboriginal community is the most dispersed in Australia and is young and growing. This dispersal is particularly unique to the Victorian context. The CGC's current method for allocating costs for First Nations students does not recognise the unique costs that Victoria faces in providing education to these dispersed communities.

The Koorie student population in Victorian Government schools has grown from approximately 9,200 students in 2011 to 16,564 in 2022. In 2022, Koorie students were enrolled in over 80 per cent of Victorian Government schools. Of the schools with Koorie students, most schools had less than five students.

Victoria has a smaller proportion of Indigenous people living in discrete Indigenous communities compared with other states. This is in part due to historical circumstances including the impacts of colonisation which has led to many communities being displaced into Victoria's larger cities and regional centres. Cultivating a culturally safe learning environment is important for schools with small numbers of Koorie students, as these students may not have the strong community networks to call on compared to students attending schools with large First Nations population.

Schools also play an important role in teaching non-Koorie students about Aboriginal cultures and histories, and in doing so well, ensure the Victoria of the future is a more inclusive, tolerant and safe place for all. Given the young, dispersed, and quickly growing Koorie population in Victoria, the 12 per cent of schools that do not currently have Koorie students enrolled are likely to have Koorie enrolments in the very near future.

Victoria faces additional costs not captured in the CGC's current assessment from its more dispersed Indigenous student population. Scalability presents a challenge due to the need for teacher and broader school training regardless of the number of First Nations students. As a result, Victoria lacks economies of scale from having more concentrated Indigenous student populations that are seen in other states. It's likely that the CGC's regression model does not reflect the true driver of funding need as it does not account for the high fixed costs Victoria faces of fewer First Nations students spread across many schools.

CGC consultation questions and Victoria's positions

- Victoria considers that there are additional costs in providing culturally appropriate education to First Nations students for a highly dispersed population. The CGC should provide states a proposed method to update its assessment to account for this driver of need.

4.1.5 Students with a language background other than English

Victoria considers that the CGC should include loadings for students who have English as an additional language (EAL) in the schools assessment. The CGC's current model does not recognise the additional funding states incur to provide education to students who have EAL. In practice, both states and the Commonwealth provide additional funding for students who have EAL.

EAL students are classified as students who are language background other than English (LBOTE) and are within their first five years of Australian education, who require additional support to achieve full English proficiency. Victoria provides funding to EAL students through Victoria's Student Resource Package (SRP). Schools receiving EAL funding must provide programs to develop the English language proficiency of EAL learners who are still in the process of learning English. As an example, Hume Central Secondary College implemented EAL effective practice, which resulted in a higher median study score and improved NAPLAN results for numeracy in year 9 in 2018.

Similar to students with a disability, states provide additional funding allocations to schools based on EAL including NSW's Resource Allocation Model¹¹, Queensland's state schools resourcing framework¹² and WA's student-centred funding model¹³.

In the Commonwealth's SRS, students receive a low English proficiency loading, for students from a language background other than English where at least one parent has completed school education to year 9 or below. This also includes those with migrant and refugee backgrounds. The additional loading is 10 per cent per student in addition to base student funding. In 2023 the Commonwealth will provide approximately \$65 million in funding nationally. This demonstrates that the Commonwealth also recognises states need to provide further scaffolding for EAL students.

CGC consultation questions and Victoria's positions

- The CGC should update its methods to include students with English as an additional language as a driver of need in the schools' assessment.

4.1.6 Early childhood education

Victoria considers that the CGC should create a new component for spending for kinder and early childhood education over the review period and assess it as EPC. This is due to the significant and

¹¹ <https://schoolsequella.det.nsw.edu.au/file/485f4666-7c2f-4b9b-83ff-6efeb864656b/1/Planned-resource-allocation-model-overview-2020.pdf>

¹² <https://qed.qld.gov.au/our-publications/managementandframeworks/Documents/state-school-resourcing/state-schools-resourcing-framework-guide.pdf>

¹³ <https://www.education.wa.edu.au/dl/kgonndd>

growing investment in early childhood education, particularly states' announcements to provide free kinder for three- and four-year-olds.

In June 2022, the Victorian Government announced it will expand the Best Start, Best Life reform with three major new initiatives:

- Making kinder free for three- and four-year-olds in participating services across the state
- Transitioning Four-Year-old Kindergarten to 'Pre-Prep', a universal, 30-hour a week program of play-based learning
- Establishing 50 government-owned and affordable childcare centres.

The Victorian Budget 2023-24 announced additional investment of more than \$1.8 billion over 5 years in early childhood education. This builds on existing investments announced in June 2022, including three-year-old Kindergarten, and takes the total investment to date to \$6.2 billion.

Many other states and territories have also announced additional funding for free early childhood education and kindergarten. Queensland announced investments of over \$2 billion in kindergarten over the next 4 years. NSW has similarly announced \$10.7 billion over 10 years to provide quality early childhood education, including universal preschool access. With over 75 per cent of the national population living in states with access to free kinder in the coming review period, the CGC needs to consider how it will treat these expenses.

The Commonwealth also provides funding to states for individual children attending preschool in the year before school. The funding totals \$1,340 per child, regardless of whether they attend kinder or preschool programs. Unlike the funding formula for school education, there are no additional loadings for student or centre characteristics, as they are not deemed necessary.

The CGC needs to provide evidence to support its position that the drivers of early childhood education are the same as schools, instead of reverting to using the drivers of school spending by default. Early childhood education spending should not be included in the school assessment category as the drivers differ significantly. There are a mix of organisations providing early childhood services, including government, local council, not-for-profit and the private sector. Early childhood care is not compulsory, and there are subsidies available that depend on income levels. All of these drive differences in service use for different cohorts and are not the same as school education, in the same way that the drivers for post-secondary education are not the same as for schools.

Given the growing investment in kinder and early childhood education over the period until 2030, and its dissimilarities to school spending discussed above, it is no longer appropriate to include spending with the government and non-government schools' components. This spending should be assessed EPC. The CGC should then revisit this assessment in the 2030 Review, when the CGC will be better placed to understand the drivers of spending and develop an appropriate differential assessment to apply to this component.

CGC consultation questions and Victoria's positions

- Victoria considers that expenditure on early childhood education and kinder are likely to be material in the period that the review covers. In the absence of an appropriate differential assessment, spending should be carved out and treated as EPC.

4.2 Post-secondary education

CGC consultation questions and Victoria's positions

Q1. Do states agree that a course mix driver should not be introduced?

- Victoria agrees the course mix driver should not be introduced as the driver is not sufficiently material.

Q2. Do states agree that the variables used in the socio-demographic assessment of needs be retained?

- Victoria considers that the use of First Nations, low SES and remoteness are likely to be interrelated and lead to double counting.

4.3 Health

Victoria generally supports the 2020 Review assessment methods for health, largely based on National Weighted Activity Units (NWAUs) from the Independent Health and Aged Care Pricing Authority (IHACPA). However, Victoria takes this opportunity to provide recommendations to improve the assessment, in addition to responses to the CGC's queries.

4.3.1 Impacts of COVID-19 on the health assessment

Victoria supports the CGC's conclusions in its 2022 and 2023 update reports that state responses to COVID-19 reflected the unique circumstances faced by governments rather than discretionary policy choices, and that the drivers of COVID-19 related health and business support expenditure were different to those captured by the CGC's existing methods.

Although the nature of the pandemic and national responses evolved over time, Victoria considers the CGC's conclusions from its 2022 and 2023 updates hold for any subsequent assessment years covering the COVID-19 pandemic. As highlighted in submissions to the CGC's new issues processes for the 2022 and 2023 updates, Victoria agrees with the CGC that its 2020 Review methods do not reflect need for spending on COVID-19 responses.

Victoria recognises the CGC was constrained by the terms of reference issued by the Commonwealth Treasurer and was not able to implement these changes in the relevant update years. However, the review presents an opportunity to now implement accurate methods.

This experience highlights issues with the current inflexibility of the CGC's methods between fixed review periods. Victoria supports the CGC having targeted flexibility in its methods between method reviews to deal with extraordinary circumstances, as highlighted in the terms of reference for the review. Victoria looks forward to exploring this further with the CGC through its response to the forthcoming consultation paper.

Although included in tranche 2 of the review, these comments are also relevant to states' COVID-19 related business support expenditure, which has been inaccurately assessed through the services to industries assessment.

Victoria recommends the CGC implement its suggestions for method changes from the 2022 New Issues Discussion Paper to account for the impacts of COVID-19, including making a retrospective adjustment to correct the treatment taken at the time. These included:

- An APC assessment of states' COVID-19 health expenditures based on spending under the National Partnership for COVID-19 Responses (NPCR), if another broader measure is not able to be identified
- If states' COVID-19 health expenditures are separately assessed, then the revenue from the Commonwealth under the NPCR should be assessed as impact
- An APC assessment of states' COVID-19 business expenditures, assessed using a combination of payments under both national partnerships and payments with non-assessable non-exempt (NANE) treatment and including similar or precursor programs that were implemented in 2019-20 and 2020-21
- If states' COVID-19 business support expenditures are separately assessed, then the revenue from the Commonwealth under the national partnerships should be assessed as impact.

A resolution to this issue through the 2025 Review is necessary, as the review will set relativities for 2025-26 which include 2021-22 data, the most significant year for Victoria's COVID-19 spending.

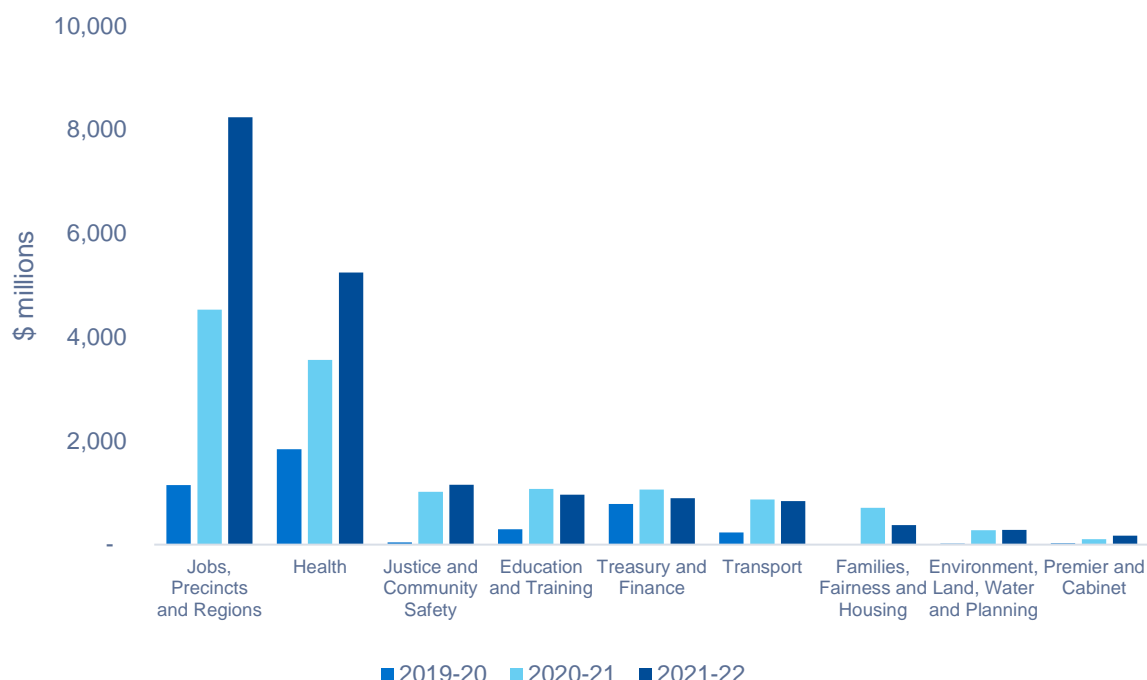
Although necessary, Victoria notes only resolving this issue in the review means the vast majority of the potential impact of the pandemic on HFE will be misattributed. COVID-19 expenditures from 2019-20 and 2020-21 will never be assessed accurately and 2021-22 will only be assessed accurately once out of three assessment years.

The CGC's 2023 Update: New Issues paper indicated a potential redistribution of \$725 million compared to an EPC assessment for health and \$885 million for business support to Victoria, NSW and the ACT in 2023-24 alone. A similar amount was misattributed in the 2022 update, and may also be misattributed in the 2024 update.

Victoria's total COVID-19 health spending from 2019-20 to 2021-22, shown in Figure 3 below, was \$10.6 billion. If an adjustment were to be only made to the 2025-26 relativities, 84 per cent of this expenditure over the relevant assessment years would have been inaccurately assessed.

Given the quantum of misattributed spending and the impact on HFE, the COVID-19 experience provides an example of the need for flexibility in methods between the CGC's reviews. This can assist avoiding material misattributions of need for future shocks.

Figure 3: COVID-19 response and recovery – actual expenditure by department 2019-20 to 2021-22



Source: DTF

4.3.1.1 Impacts to Victorian health services of COVID-19

Victoria has already provided extensive evidence to the CGC establishing that state health expenditure responding to COVID-19:

- was driven by uncontrollable and random impacts of the virus, following nationally agreed frameworks
- did not follow the CGC's drivers for health expenditure in the 2020 Review methods, being more concentrated in major cities and younger, non-Indigenous residents.

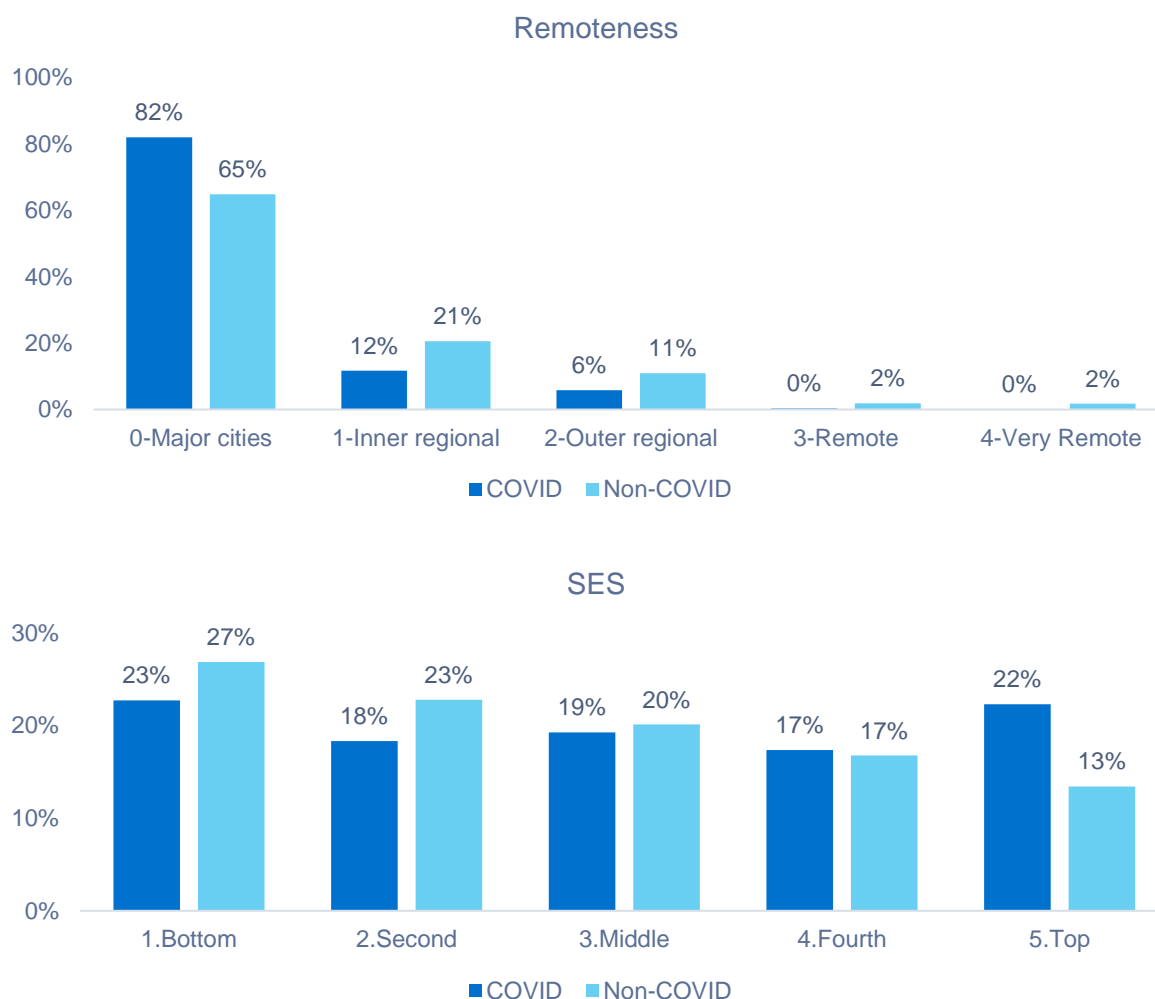
Victoria refers the CGC to its submissions to the 2022 and 2023 update new issues papers for details of how COVID-19 related health responses differ from its usual assessments. Victoria also highlights the work from Scott, Yong and Bai (2021) at the Melbourne Institute for Victoria to support its 2021 New Issues paper response for further detail on this issue¹⁴.

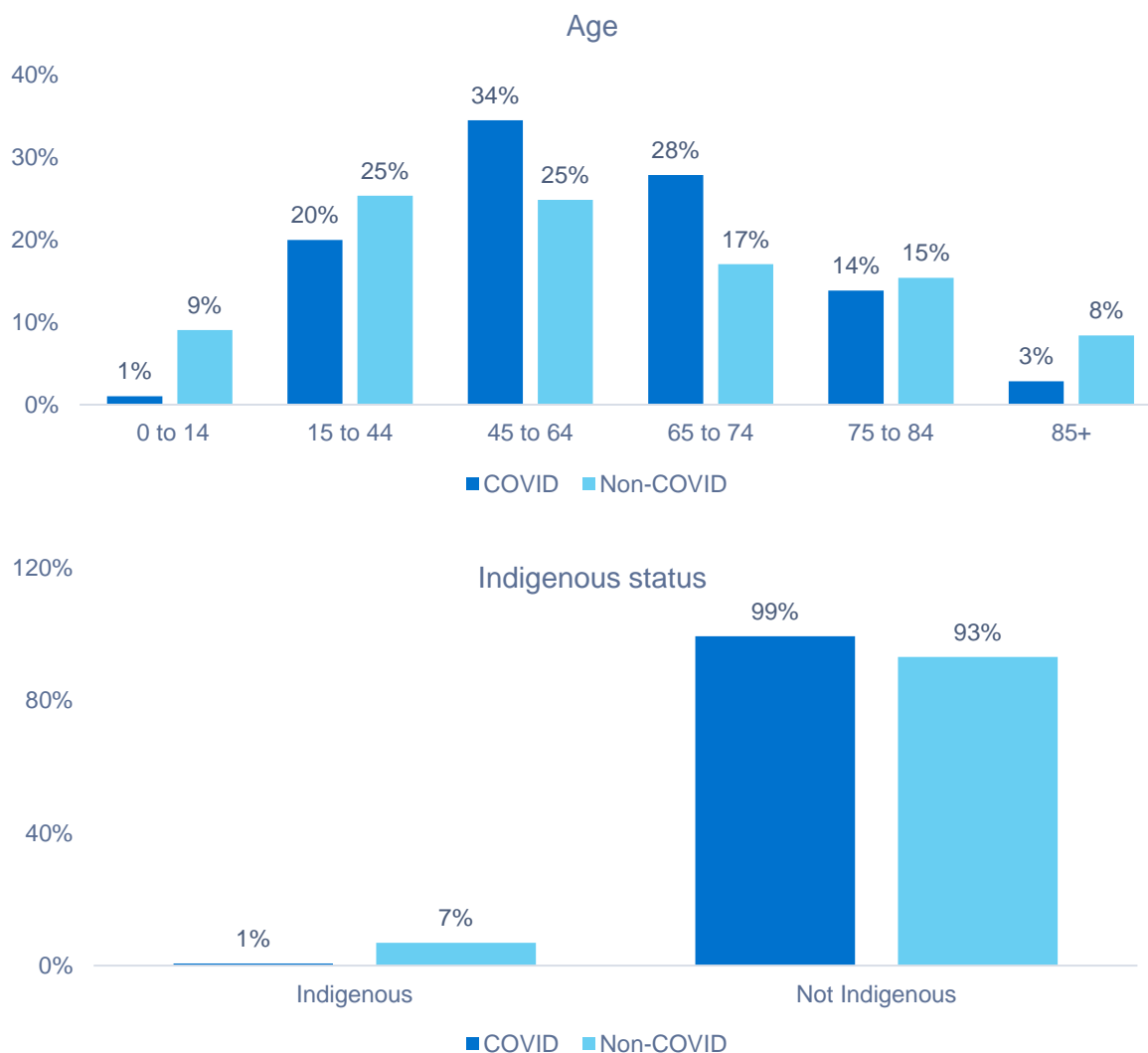
Data below in Figure 4, sourced from the IHACPA on the NWAUs of COVID-19 and non-COVID-19 related activity for 2019-20, was not available for Victoria's previous submissions on COVID expenditure. While the data predates the height of the pandemic and understates the full impact, it does provide useful insight into the characteristics of COVID related health activity and underscores its distinct difference from non-COVID-19 activity. It demonstrates that COVID-19 activity was

¹⁴ Anthony Scott, Jongsay Yong and Tianshu Bai, Review of COVID-19 policy responses for the GST distribution, Melbourne Institute of Applied Economic and Social Research, 2021

weighted more towards major cities and non-remote areas, higher SES, younger ages and non-Indigenous residents – the opposite of the CGC's current health assessment.

Figure 4: IHACPA data on the share of AP NWAUs by SDC factors, for COVID-19 and non-COVID-19 services





Source: Victorian DTF analysis of IHACPA data

CGC consultation questions and Victoria's positions

Q1. Do states agree that in a post-pandemic environment, the hospital and patient transport assessments remain fit for purpose?

- Victoria agrees in a post-pandemic environment the health assessment is largely fit for purpose, notwithstanding its other recommended improvements.

Q3. Do states consider the experiences with the COVID-19 pandemic have implications for the health assessment?

- Victoria considers the health assessment has been demonstrably inaccurate over the COVID-19 influenced years, as the CGC concluded in its 2022 and 2023 Updates. Victoria's view is that the scale of the misattributed expenses materially undermines the objective of equalisation. Victoria urges the CGC to assess states' COVID-19 related health

expenditures on an APC basis, at least for the relevant years through the 2025 Review period.

4.3.2 Proposed changes to community and public health assessment

Victoria supports the CGC's proposals to update the proxy indicator for community health activity. Victoria supports the use of the AIHW data for a measure of community mental health, and it supports broadening the proxy for the remainder of community and public health to include non-admitted patients.

Victoria does not support the current approach to assessing community and public health, relying on NWAUs from Emergency Department (ED) Triage categories 4 and 5. Victoria considers this proxy is not based on sufficient evidence, and supports the CGC exploring alternative approaches and data sources.

According to the IHACPA data the CGC use, ED services are different to Admitted Patient (AP) and Non-Admitted Patient (NAP) services in terms of the sociodemographic composition of use, with higher Indigenous, low-socioeconomic status and remote weightings. This is more pronounced with ED triage categories 4 and 5. The CGC's proposed proxy for mental health highlights this issue, where a potentially more accurate picture of those services has a greatly different remoteness profile to the ED triage categories 4 and 5. In the absence of reliable information on the actual makeup of community health use, Victoria prefers a broader, more conservative proxy, as the CGC has suggested.

Victoria agrees there is still a need to discount this assessment, given reliable data on the use of community and public health data are not available. Victoria supports retaining a 12.5 per cent discount on this component.

4.3.2.1 Separating community and public health

In addition to the changes the CGC has suggested, Victoria questions the grouping of community and public health. Victoria requests that the CGC explore separating these parts of the current component if material.

Conceptually community health and public health are different services, with different drivers. Community health services are often delivered through local health clinics that provide primary care and related services for local communities. In contrast, public health generally relates to state-wide services and functions, aimed at improving the wellbeing of all residents of a state generally. These public health programs may be targeted to specific groups, however, predominantly are whole-of-state activities. Public health services are certainly not the same as hospital services, which is the current proxy data used.

Victoria's Department of Health categorises these services distinctly for its own organisation. Public health programs include broader initiatives like regulation of medicines and poisons, cemeteries, food safety, environmental health and, as highlighted during the pandemic, immunisation and responses to infectious diseases. Hospital activity is not an accurate proxy for the driver of need for these services.

In contrast, community health focusses on primary care, and the states' networks of community health services and funded providers. Community health services often provide services that sit alongside general practice and other privately funded specialists, to provide similar services to those with higher need. These individual-focussed services are different to the broader public health spending.

Given the nature and breadth of public health services, it should be assessed separately on an EPC basis if material. An EPC approach is preferred as the CGC does not have data on the drivers of

public health expenditure. Given the conceptual disconnect from hospital services that are currently used as a proxy, Victoria considers there is a case for an EPC treatment.

CGC consultation questions and Victoria's positions

Q2. Do states agree that the proposed changes to the community and public health assessment in this paper will contribute to making the assessment more responsive to developments affecting this part of the health system?

- Victoria considers these changes improve the accuracy of the assessment, at least in part.

Q4. Do states agree to:

- **use the Australian Institute of Health and Welfare data on community mental health activity, adjusted to compensate for lack of cost weights, to determine per capita use rates for mental health services?**
- **expand the current proxy to include non-admitted patient services, applied to the balance of the component?**
- **continue to apply a discount of 12.5% to the community health socio-demographic assessment?**
- Victoria agrees with the CGC's suggested changes to the community and public health component, including continuing to apply the 12.5 per cent discount.
- Victoria suggests the CGC consider separating community and public health, and assessing public health equal per capita, in the absence of accurate data on the use of public health services.

4.3.3 Updates to non-state sector substitutability

4.3.3.1 CGC proposal to update Emergency Department Substitutability

Victoria understands the CGC's proposal to use Australian Institute of Health and Welfare (AIHW) data to update the previous Australasian College of Emergency Medicine (ACEM) method for estimating the general practitioner (GP) substitutable state public hospital ED activity largely replicates the previous approach, ensuring some consistency.

However, Victoria notes this is not an ideal solution, and would prefer a simpler approach with less uncertain approximation. The CGC's proposed approach takes different data from several sources and makes several strong assumptions to arrive at its conclusion, based in part on work from the 2015 and 2020 Reviews.

Victoria recommends the CGC contract an expert to review this approach for the 2025 Review, potentially recommending a way to update the ACEM method, or another similar method in the absence of the data required to make a straightforward update. The consultation paper does not discuss why a more fulsome review was not considered as an option.

The consultation paper notes the 2015 Review consultant's report concluded the AIHW method overstates the substitutability of GP-treatable ED presentations, and so should only be used as a proxy. This assumption should be tested again for the 2025 Review, either by the CGC presenting evidence updating the consultant's analysis or contracting a consultant for a piece of work to test this assumption.

In addition, the proposed method uses the 2020 Review relationship between AIHW and ACEM methods for the share of lower urgency presentations. It is clear this cannot be updated without

updated estimates from the ACEM method which are not available. In this case Victoria considers it is a reasonable proxy to use, however this adds to the uncertainty present in the proposed approach overall.

4.3.3.2 Admitted Patient services substitutability

Victoria is concerned with the use of judgement in the substitutability level for state AP services to non-state services (predominantly private). Victoria agrees with the CGC's rationale for reducing the substitutability level from what it calculates from AIHW and Australian Prudential Regulation Authority (APRA) data.

The proportion of total potentially substitutable AP services (non-emergency) is found to be between 50 and 60 per cent (AIHW), and the proportion of people with private insurance is 44.9 per cent (APRA). This implies a substitutability rate of 23 to 27 per cent. Victoria agrees that there may be a conceptual case that this rate is high, as not all who have private insurance use it when they go to a public hospital for AP services, for example due to potential out-of-pocket fees.

However, Victoria is concerned with the CGC's implementation of this conceptual case. In the 2020 Review the CGC used judgement to reduce the substitutability rate to 15 per cent (from 23 to 28 per cent) and for the 2025 review it suggests continuing this approach. There does not appear to be a quantitative basis for this adjustment. The CGC has not presented data establishing the substitutability rate should be so much lower than that suggested by the AIHW and APRA data. The adjustment is effectively a discount and the CGC notes it does not typically make discounts to account for uncertainty. Given this, Victoria considers it reasonable that there is no adjustment made to the substitutability level, and it is taken directly from the AIHW and APRA data.

Victoria would have preferred if the CGC had explored further the rationale or data to inform how they would apply this judgement for the 2025 Review. The 2025 Review presents an opportunity to improve this approach, rather than simply carrying over the uncertain methods of past reviews.

Without further evidence, Victoria considers the discretionary judgment cannot be applied to the substitutability level. If the CGC concludes an adjustment is warranted on conceptual grounds, then the standard discounting approach should be applied. Victoria recommends the low discount of 12.5 per cent is applied to this disability overall.

CGC consultation questions and Victoria's positions

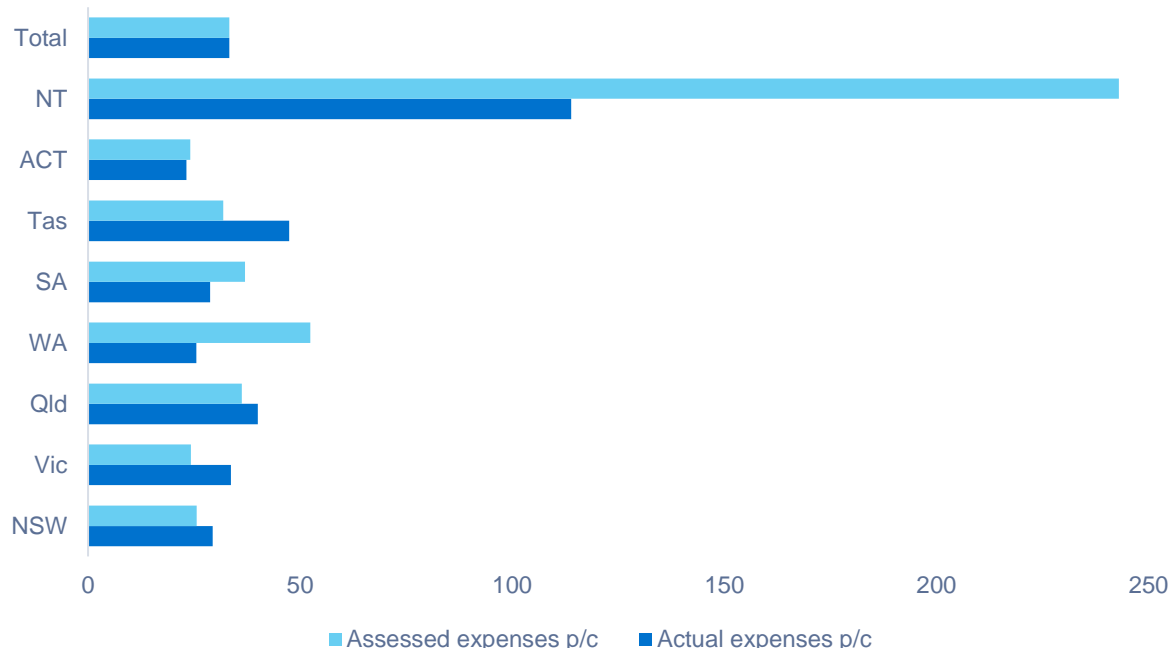
Q5. Do states support the use of Australian Institute of Health and Welfare data to update the non-state services substitutability level for the emergency departments component, while retaining the 2020 Review method for other components?

- Victoria supports in principle the CGC's proposed use of AIHW data to update ED substitutability levels. However, it requests the CGC engage an expert to test this method and any alternatives, including updating the previous ACEM method.
- Victoria recommends the CGC does not apply discretionary judgement to reduce the AP private sector substitutability driver. If the CGC concludes it still must be adjusted from the underlying AIHW and APRA data, it should implement a discount of 12.5 per cent, following its standard processes.

4.3.4 Non-hospital patient transport

Victoria has concerns with the CGC's assessment of non-hospital patient transport needs. Victoria's understanding is that the assessment is largely based on regional cost ratios derived from state data responses. The current approach results in the NT and WA being assessed to require just over double their actual expenditures, as in Figure 5. Victoria is concerned this approach does not reflect underlying need.

Figure 5: Actual and assessed expenditures per capita for non-hospital public transport, 2021-22

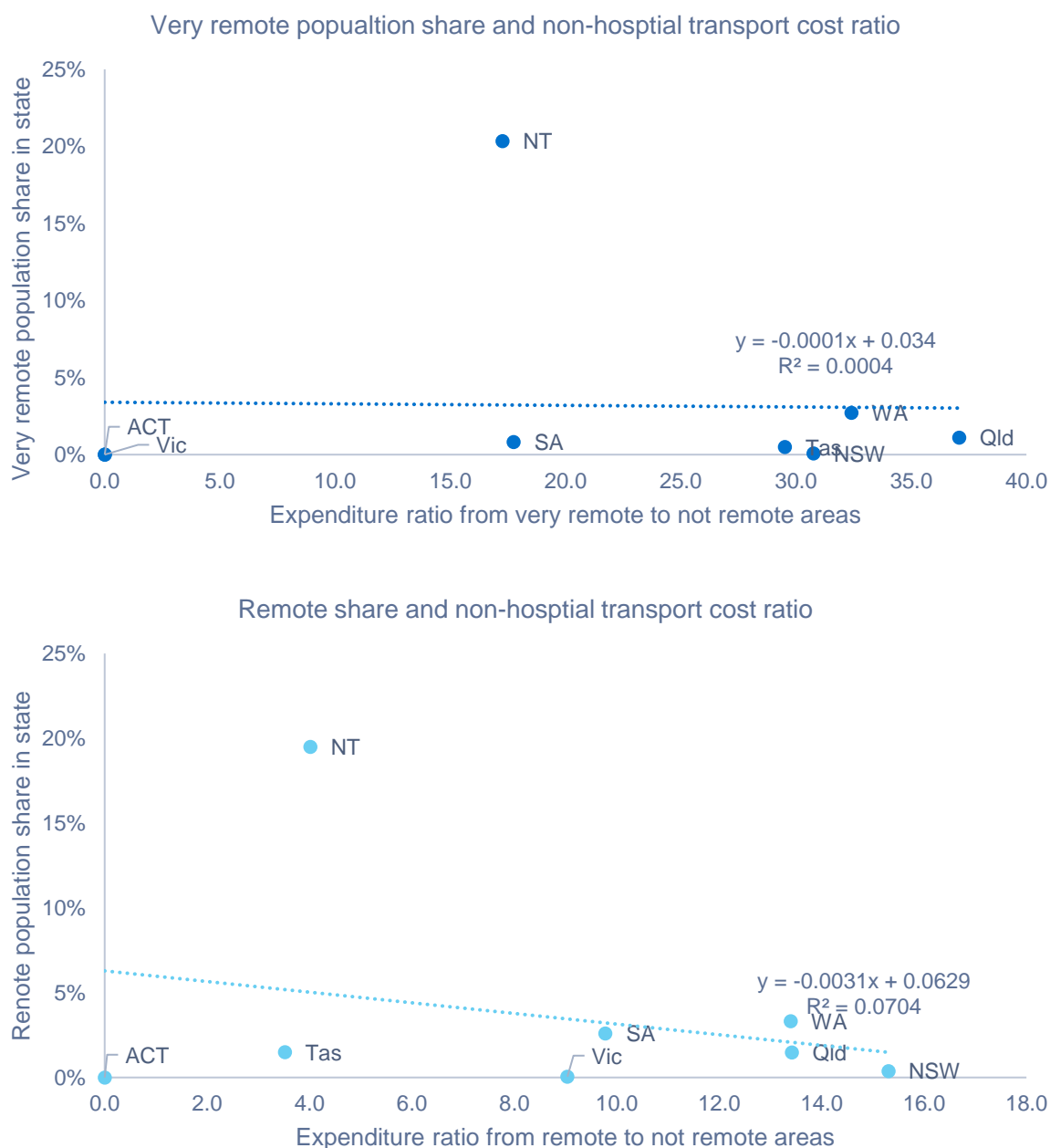


Source: CGC 2023 Update report supporting spreadsheets

The driver of need in the non-hospital patient transport assessment is states' remote and very remote populations. The assessment of which states require more expenditure is made by weighting these remote populations with cost ratios for remote and very remote areas. The cost ratios measure how much more is spent on non-hospital patient transport in remote and very remote areas, relative to major cities and regional areas.

However, the state data show the remoteness cost ratios are not strongly related to remote population shares, as in Figure 6 below. Figure 6 shows the relationship between the share of states' populations that are remote and very remote, and non-hospital patient transport remote spending ratios. NT is a significant outlier with a very high remote population share, but a relatively low additional remote cost. This suggests higher expenditure needs for non-hospital patient transport in remote areas are not driven by higher remote population shares.

Figure 6: Remoteness cost ratios for non-hospital patient transport and remote population shares, 2021-22



Source: CGC 2020 Review supporting data

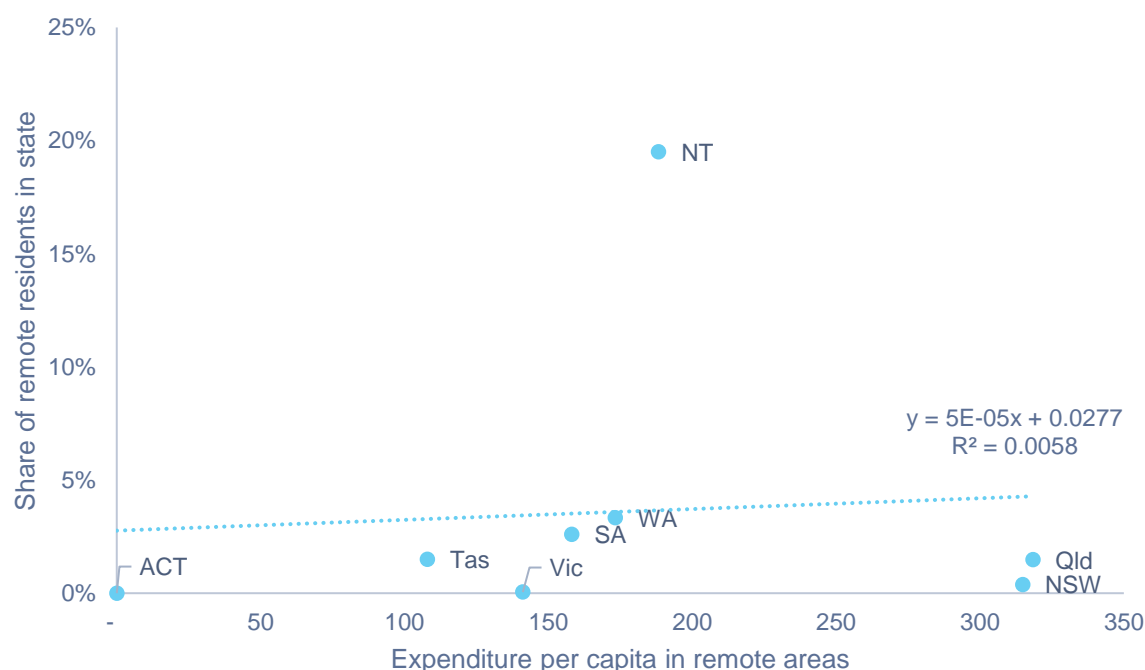
State data from the 2020 Review do show a weak positive relationship between remote population share and spending per capita on non-hospital patient transport in remote areas, as in Figure 7 below. However, this was not a strong relationship and was heavily influenced by the NT as an outlier with a very high remote population share.

Despite its high remote population share, the NT did not have the highest spending per capita on remote or very remote residents. In 2017-18 it had the third highest spending per capita behind

Queensland and Tasmania for very remote; and behind Queensland and NSW for remote, even though these states had far lower remote population shares.

The NT also had the highest spending per capita for non-remote residents, which may influence its high spending per capita on remote residents, as opposed to its higher remote population share.

Figure 7: Actual expenditures per capita for non-hospital patient transport in remote areas and remote population share, 2021-22



Source: CGC 2020 Review supporting data

Victoria accepts that non-hospital patient transport costs more to deliver in remote areas. However, given the aim of separating Patient Assistance Transport Scheme (PATS) and aero-medical transport is to focus on remoteness costs, this assessment based on remote populations is inappropriate as higher remote costs do not appear related to higher remote population shares.

To resolve this issue Victoria recommends the CGC discontinue the current separate non-hospital patient transport assessment and combine this expenditure into the admitted patient assessment. The admitted patient assessment already accounts for remoteness and combining the assessments would improve achievement of the supporting principle of simplicity for the Review.

As CGC staff are aware, Victoria's data providers had difficulty understanding the scope of the data request for this component, requiring effort from Victorian and CGC staff to determine the data for this relatively minor assessment.

CGC consultation questions and Victoria's positions

- Victoria recommends the CGC move spending on non-hospital patient transport to the admitted patients assessment and discontinue the separate assessment on the basis that the driver used, remote populations, does not relate strongly to differential expenditure needs in remote areas.

4.3.5 Cultural and linguistic diversity and health service use

Victoria celebrates the cultural and linguistic diversity of its residents from a breadth of backgrounds and experiences. However, a successful multicultural society requires proactive commitment to delivering programs that meet the diverse and sometimes complex needs of culturally and linguistically diverse (CALD) populations.

As CALD populations face challenges in accessing and navigating services all states make significant effort to ensure services are inclusive for all their residents. In Victoria this includes:

- delivering tailored and targeted multicultural health services that provide specialised care to address distinct health disparities
- promoting accessible and culturally competent mainstream health services, through access policies and funding language services provision such as credentialed interpreters, translating health information into multiple languages or investing in bicultural workforce
- funding sector coordination, community engagement and capability building activities that complement and build capacity of mainstream health services.

The CGC's assessments do not currently recognise the distinct need for these programs, or the drivers for this expenditure. Victoria considers the CGC should examine implementation of a driver of need for expenditure, or separate assessments if warranted, that reflect multicultural and language services expenditure.

Victoria presents evidence that CALD populations have distinct needs from health services. However, this is also relevant to other service delivery areas, as noted in those sections of this submission. This issue is also pertinent to Tranche 2 consultation topics including housing, welfare and services to industry.

4.3.5.1 Definitions of culturally and linguistically diverse groups

A difficulty in quantifying the challenges diverse residents face related to states' service delivery is identifying and defining CALD populations. Common definitions of CALD populations used by the AIHW¹⁵ or ABS¹⁶ include reference to:

- Country of birth of person or of parents
- Language proficiency or preferred language
- Religious affiliation

¹⁵ <https://www.abs.gov.au/statistics/standards/standards-statistics-cultural-and-language-diversity/latest-release>

¹⁶ <https://www.aihw.gov.au/reports/cald-australians/reporting-health-cald-populations/summary>

- Ancestry
- Year of arrival in Australia, or length of stay in Australia
- Temporary visa status.

There are distinct cohorts within the broader CALD population that have unique experiences, needs and health disparities. Depending on the definition used, CALD populations represent a significant share of the population. Taking a large subset of the population is likely to produce small or insignificant differences to the larger population simply due to the size and likely averaging of characteristics.

The 2021 ABS Census data for Victoria indicates that:

- 30 per cent of Victoria's population were born overseas (compared to national average of 28 per cent)
- over 49 per cent of Victorians were either born overseas or have a parent born overseas
- more than 41 per cent of Victorians reported having both parents born overseas.
- over 27 per cent of Victorians speak a language other than English at home (compared to Australian average of 23 per cent)
- 285,875 of Victorians speak English not well or not at all (4.4 per cent of Victorian population compared to the Australian average of 3.4 per cent).

To narrow the focus and definition of CALD for consideration of health expenditure, Victoria suggests the CGC focus on refugees and people seeking asylum, temporary residents and people with low English proficiency. These groups each have a direct link to specific services or challenges in delivering mainstream health services, as detailed below.

Victoria acknowledges cultural and linguistic diversity can also relate to Aboriginal and Torres Strait Islander people. However, as these populations are already accounted for in the GST methods, this section focusses on CALD in relation to multicultural and multifaith communities.

4.3.5.2 The conceptual case for cultural and linguistic diversity as a driver of state service need

Victoria considers there is a strong conceptual case that CALD populations both place greater demand on mainstream health services and require additional tailored and targeted services, including for language and other cultural needs, as well as impacts of the refugee experience of trauma, torture, and deprivation. There is significant academic evidence supporting this, demonstrating the challenges CALD populations face accessing the health system in Australia, in addition to quantitative evidence of higher costs when they do.

According to the AIHW (2022) CALD populations “can face greater challenges when navigating the health-care system ... [including] language and cultural barriers, such as not knowing where to seek help or how to access services.”

A recent AIHW report (2022) includes a literature review citing issues CALD populations commonly faced interacting with the health system including:

- Language barriers, lower health literacy, and difficulty navigating unfamiliar systems (Bowden et al. 2020; Caperchione et al. 2013)
- Misinformation and a lack of health information in languages (Khatri and Assefa 2022)

- perceived or actual cost of care, cultural difficulties and a workforce unfamiliar with the health needs of refugees (Murray and Skull 2005)
- Diverse health beliefs and mistrust of government based on historical experiences (Forrest 2018).

Victoria notes several other recent academic analyses of the experience of CALD patients and the health system with similar findings, including from Javanparast S, Naqvi S, Mwanri L. (2020)¹⁷, Cyril et al (2016)¹⁸ and Rasi (2020)¹⁹. Common themes include barriers due to language barriers, low health literacy and issues with cultural competency of providers and services.

The recent experience of the COVID-19 pandemic also serves to highlight the distinct health needs of CALD populations, and their risk of poor outcomes. ABS data show more COVID-19 deaths occurred among people born overseas compared to those born in Australia, despite a lower population share of the overall population²⁰. For example, during the Delta wave over 70 per cent of people who died from COVID-19 were born overseas, and 37 per cent of deaths during the Omicron wave were people born overseas. Khatri and Assefa (2022) refer to a three-fold higher COVID-19 mortality among CALD groups than the general population, suggesting vulnerability. Commenting to the ABC, Dr Aletha Ward from the University of Southern Queensland noted “COVID has shone a light on the significant health inequities occurring in disadvantaged communities in Australia, including migrant communities” and that “the language barrier is partly to blame”.²¹

There is also quantitative academic evidence of poorer health outcomes among CALD populations, compared to non-CALD populations. The AIHW (2022) showed people who do not speak English well or at all were less likely to rate their health condition as ‘excellent’ or ‘very good’, adjusted for the effect of age, shown in Figure 8 below. Mortality rates were also shown to be higher for this group, also age adjusted.

¹⁷ Javanparast S, Naqvi S, Mwanri L. Health service access and utilisation amongst culturally and linguistically diverse populations in regional South Australia: a qualitative study. *Rural and Remote Health* 2020; 20: 5694

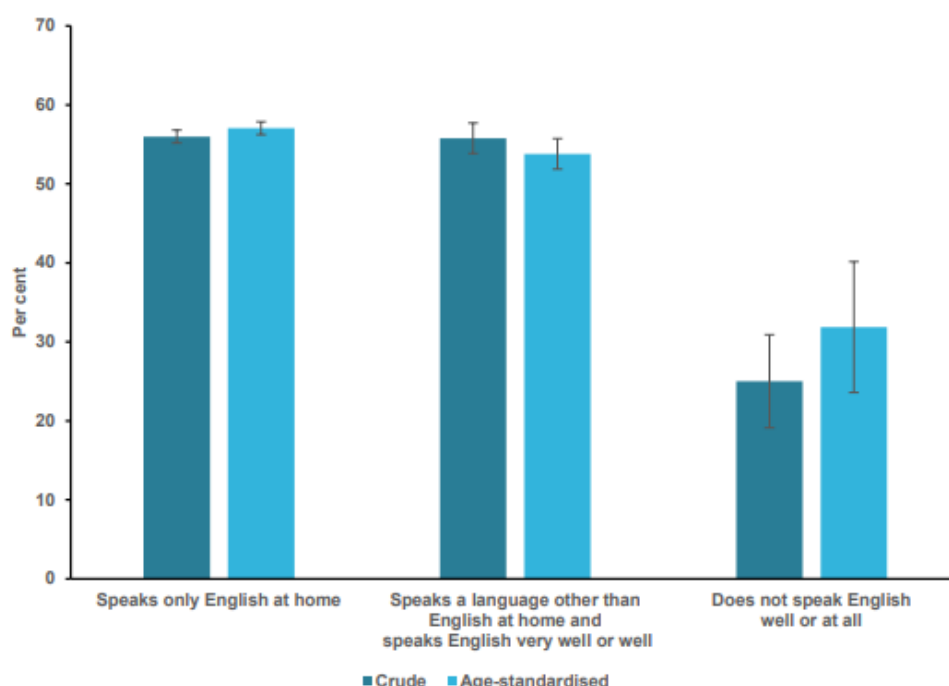
¹⁸ Barriers and facilitators to childhood obesity prevention among culturally and linguistically diverse (CALD) communities in Victoria, Australia Sheila Cyril, Jan M. Nicholson, Kingsley Agho, Michael Polonsky, Andre M. Renzaho, *Aust NZ J Public Health*. 2017; 41:287-93; doi: 10.1111/1753-6405.1264

¹⁹ Rasi, S. (2020). Impact of Language Barriers on Access to Healthcare Services by Immigrant Patients: A systematic review. *Asia Pacific Journal of Health Management*, 15(1), 35-48.

²⁰ <https://www.abs.gov.au/articles/covid-19-mortality-wave#deaths-from-covid-19-by-country-of-birth>

²¹ <https://www.abc.net.au/news/2023-01-27/language-barrier-getting-in-the-way-of-migrant-health/101874334>

Figure 8: Proportion of Australian adults who assessed their health as ‘excellent’ or ‘very good’, by proficiency in spoken English, 2014-15 and 2017-18



Note: Age-standardised proportions were calculated using the 2001 Australian Standardised Population
Source: AIHW

A recent AIHW report from June 2023 on chronic disease for multicultural communities²² reported that Australians born overseas have higher prevalence of dementia, heart disease, stroke, diabetes, and kidney disease, particularly those born in Polynesia, South Asia and the Middle East. Higher rates of chronic disease are associated with low English proficiency and over 10 years of settlement in Australia.

Queensland recently released a report examining data on the health of CALD populations²³. It found some overseas born communities, particularly those born in the Oceania, North African and Middle East regions, experience higher rates of potentially preventable hospitalisations than those born in Australia, including vaccine-preventable, chronic and acute health conditions.

Moore et al²⁴ note “there is growing evidence to suggest that culturally and linguistically diverse (CALD) patients cost the health system more than non-CALD patients because of a higher burden of disease and increased resource consumption.” Using data from the ED at a tertiary hospital in

²² <https://www.aihw.gov.au/reports/cald-australians/chronic-conditions-cald-2021/contents/about>

²³ <https://www.health.qld.gov.au/research-reports/population-health/multicultural-health-research-and-data/reports>

²⁴ Multicultural emergency medicine epidemiology: A health economic analysis of patient visits
Nicholas Moore, Ali Abid, Shiquan Ren, Kent Robinson, Paul Middleton, 2022, Emergency Medicine Australasia, Vol 35, Issue 1

Sydney, they find CALD status is associated with worse outcomes such as increased risk of hospital admission and hospital mortality²⁵.

Al Shamsi et al (2020)²⁶ note “language barriers in healthcare lead to miscommunication between the medical professional and patient, reducing both parties’ satisfaction and decreasing the quality of healthcare delivery and patient safety. In addition, the review found that interpreter services contribute indirectly to increased cost and the length of treatment visits.”

4.3.5.3 Victorian multicultural and language services

Responding to the challenges recognised in the literature, Victoria and other states provide tailored and targeted health services and programs for CALD populations. These are not currently accurately assessed by the CGC’s current methods. This spending is included in various expenditure assessments that do not weight for the presence of diverse populations as a driver of need or patient complexity. This expenditure is directly driven by CALD populations, and not the other drivers typically used in the CGC’s assessments including age, remoteness, socioeconomic status and Indigenous status.

In 2021–22, the Victorian Government committed \$103.3 million in funding through the Multicultural Affairs portfolio for programs and initiatives that support Victoria’s multicultural communities.²⁷

Victoria’s legislative framework requires that it provide distinct multicultural services and support. This includes the *Multicultural Victoria Act 2011*, which establishes a Victorian Multicultural Commission and requires the development and implementation of cultural diversity plans by all government departments, the *Equal Opportunity Act 2010*, *Charter of Human Rights and Responsibilities Act 2006* and the *Racial and Religious Tolerance Act 2001*.

Recent initiatives and programs specifically for CALD populations in Victoria include:

- Targeted CALD programs and services responding to COVID-19
- Initiatives under the Crime prevention strategy supporting multicultural and multifaith communities
- Support for asylum seekers initiative, providing critical health, mental health, case coordination and financial support to people seeking asylum who are ineligible for safety net supports
- Diverse Communities Mental Health and Wellbeing Grants program.

In addition to these short-term initiatives, the Victorian Department of Health (DH) invests in a range of long-term targeted multicultural health programs including:

- Refugee Health Program nursing, allied health and bicultural workers in community health
- Foundation House torture and trauma counselling and mental health programs

²⁵ Note Moore et al also find CALD status does not appear to be an independent predictor of ED resource utilisation. In the CGC’s context this finding is not directly relevant, as the CGC does not control for clinical factors. In fact, the paper also found Indigenous status of patients was not an independent predictor of resource utilisation, which the CGC includes as a current driver of need.

²⁶ Al Shamsi H, Almutairi AG, Al Mashrafi S, Al Kalbani T. Implications of Language Barriers for Healthcare: A Systematic Review. *Oman Med J*. 2020 Apr 30;35(2):e122

²⁷ Victorian Government report on multicultural affairs 2021-22.

- Victorian Transcultural Mental Health capacity building and professional development
- Refugee Health Fellows Program clinical services, telehealth, education and capacity building in hospitals and primary care
- Hospital and outreach immigrant and refugee health clinics
- Victorian Refugee Health Network sector support and coordination
- Centre for Cultural, Ethnicity and Health resource development and professional development and training in cultural competency, health literacy and language services
- Multicultural Health and Support Service community and workforce education on sexual health, HIV/AIDS and blood-borne viruses
- Health Translations online portal for health.

An example of the comprehensive service response to Afghan refugee arrivals is presented in the case study below from Victoria's report on multicultural affairs 2021-22. While the Commonwealth funds settlement services for refugees, states absorb additional demand and complexity to deliver culturally appropriate health services.

Case study – Afghan evacuee’s health response – Victorian Government report in Multicultural affairs 2021-22

Between August and December 2021, following the fall of Kabul to Taliban rule, more than 2,700 Afghan evacuees arrived in Victoria seeking safety.

After leaving in distressing circumstances, many evacuees arrived with significant health needs and very few possessions – and into an escalating COVID-19 pandemic outbreak. Their first experience of Australia was hotel quarantine. High-density short-term accommodation and Medicare registration delays exacerbated the health and public health challenges.

DH worked quickly to set up a multi-faceted health response, working with refugee health sector partners and settlement services.

Cohealth started a nurse-led outreach clinic in Melbourne city, within walking distance of the short-term accommodation for around 1,500 Afghan evacuees. Within days, the clinic was providing health care, advice and referrals to a pro-bono GP network and allied health partners, including maternal health, dental and catch-up immunisation services.

Refugee health teams across Melbourne worked together to create a responsive surge capacity, including IPC Health, Monash Health, EACH and Your Community Health. Collectively, they performed 1,500 on-arrival health assessments and 2,000 comprehensive refugee health assessments between September 2021 and March 2022.

DH’s COVID-19 testing and vaccination partners ran pop up sessions at the short-term accommodation. DH also conducted site assessments and provided infection prevention and public health advice to settlement services.

The **Victorian Refugee Health Network** facilitated weekly coordination meetings, including logging risks and escalating systemic issues to Australian and Victorian Government departments.

Foundation House provided culturally responsive mental health services through community engagement, individual and family counselling, group work, referrals and school support.

Foundation House conducted more than 570 assessments and therapeutic interventions to help people and families manage a range of post-traumatic stress symptoms. Between August 2021 and June 2022, they also ran more than 40 psycho-education and sector professional development sessions in community languages and in partnership with legal services. This helped Afghan community members understand trauma symptoms and signs of mental ill health. Community members felt better equipped to support their families and communities.

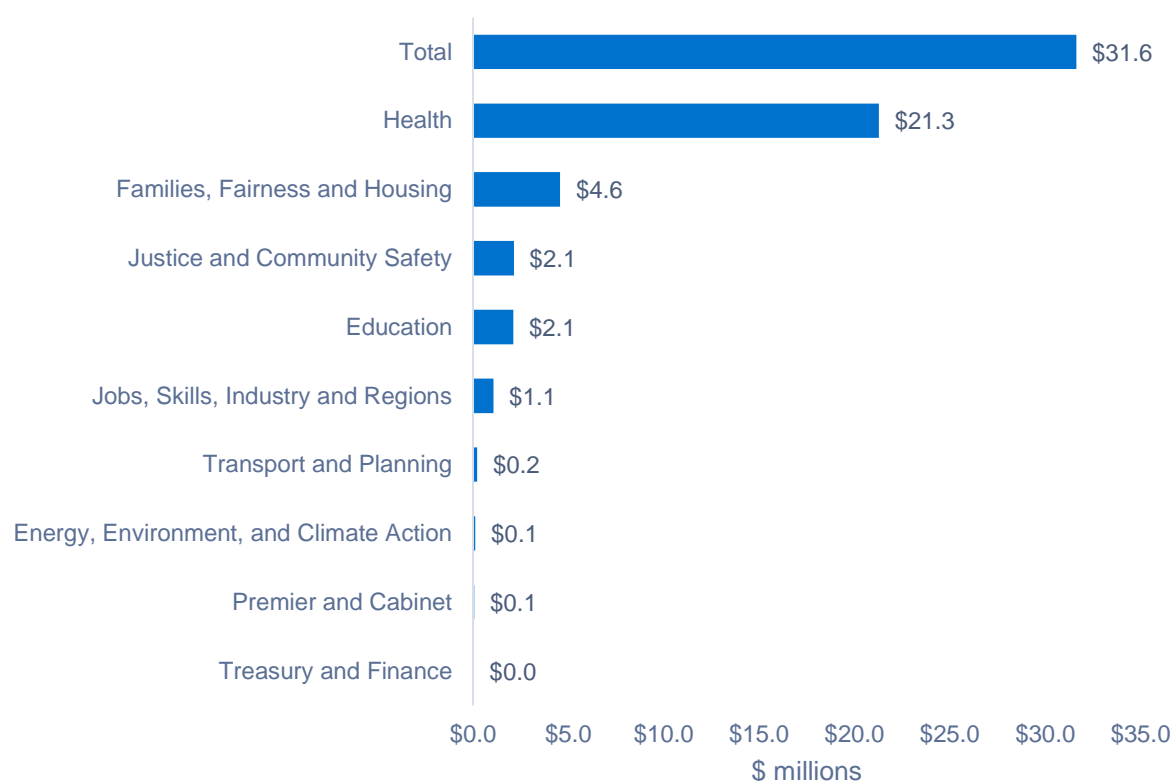
Many people and families supported through this initiative reported:

- improved mental health and wellbeing
- a greater sense of control over previously distressing symptoms
- better connection with family, community and services.

In addition to specific multicultural programs and services, Victoria spends significantly on interpreting and translation services, see Figure 9 below. In 2021-22 over \$30 million was spent on language services. The majority of this, around 67 per cent, was provided by the Department of Health, predominantly for hospital services.

Victoria has also committed to ensuring that departments and agencies allocate at least 15 per cent of government public advertising and communications spend to multicultural media.²⁸ This includes ensuring communications are made in a variety of languages and channels and are culturally appropriate.

Figure 9: Expenditure on interpreting, translating and language allowance services by Victorian Government departments, 2021–2022



Source: Victorian Government report in multicultural affairs 2021–2022

4.3.5.4 Health use of CALD populations

Victoria has sourced data from health services that provide insight into the intensity of health use of CALD populations when they interact with health services, in addition to the tailored and targeted multicultural health services detailed above.

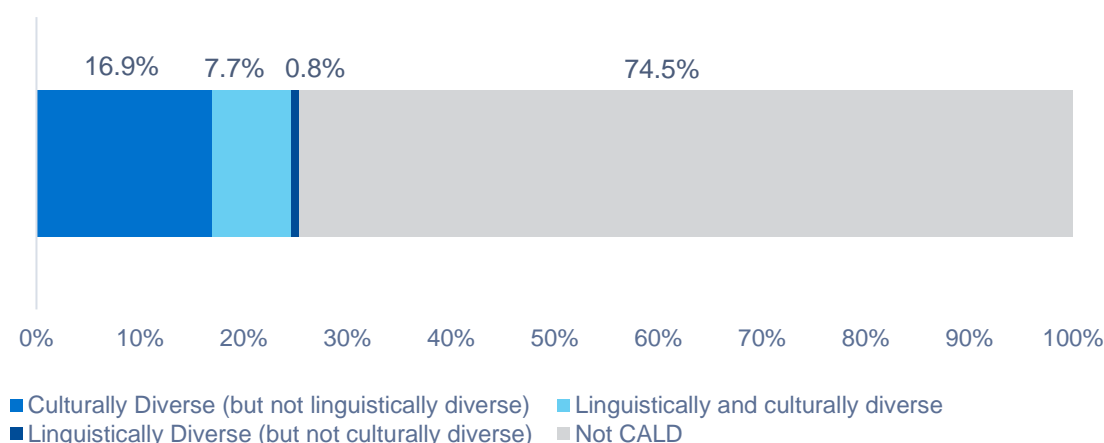
²⁸ <https://www.vic.gov.au/ensuring-we-reach-all-Victorians-with-our-communications>

Victoria uses the following definitions for this analysis, based on *ABS Data Standards for Statistics on Cultural and Linguistic Diversity*²⁹:

- Cultural diversity: based on country of birth (born in a country that was not Australia, British Antarctic Territory, Canada, England, Ireland, New Zealand, Scotland, United States or Wales)
- Linguistic diversity: based on preferred language (anything except English as a preferred language)

Overall, CALD populations made up around a quarter of total admitted patient episodes in Victoria, in between 2016-17 and 2021-22. Of these, 8.5 per cent were linguistically diverse, and likely required additional language services as described above.

Figure 10: Share of total admitted patient episodes by cultural and language background, 2016-17 to 2021-22 pooled



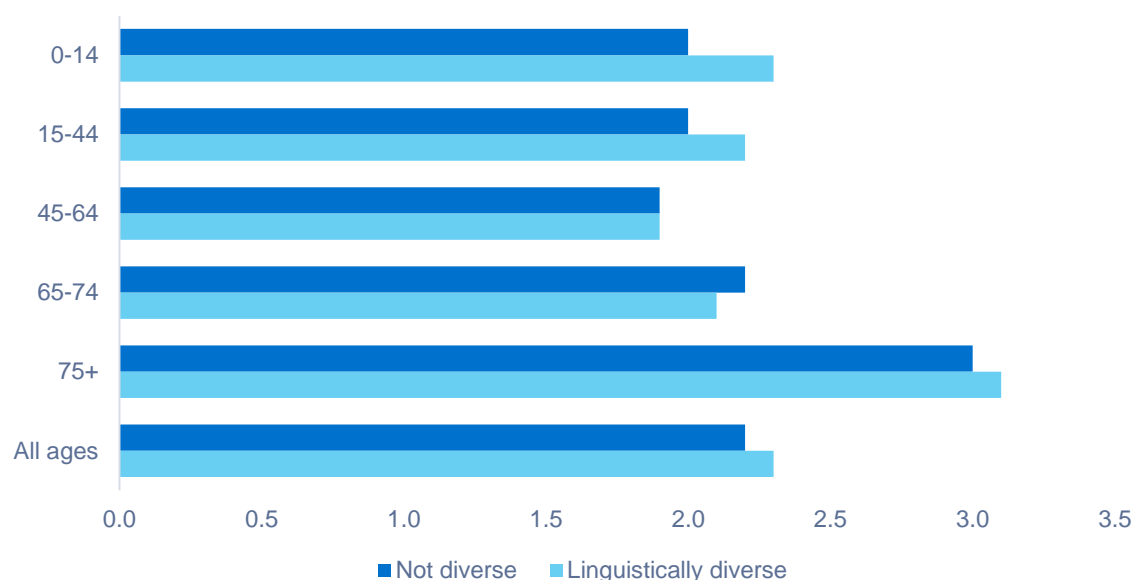
Source: Victorian administrative data

Further analysis focusses on linguistically diverse people in Victoria, whose main language is not English. This was considered the most appropriate measure for the analysis, as there is a closer nexus between potentially poor health outcomes and the need for additional support through language services such as interpreting services, translated health information and resources and bicultural workers.

CALD populations had slightly higher lengths of stay in admitted patient services across most age groups between 2016-17 to 2021-22, shown in Figure 11 below.

²⁹ <https://www.abs.gov.au/statistics/standards/standards-statistics-cultural-and-language-diversity/latest-release>

Figure 11: Average length of stay by age group and linguistic diversity, 2016-17 to 2021-22, pooled



Source: Victorian administrative data

Overall, Victoria considers the conceptual case that CALD populations have distinct service needs for health services is strong. It accepts that nationally consistent and easily implementable data are not currently available for immediate incorporation into the CGC's methods.

However, Victoria's view is that the review is an opportunity to develop improvements to the CGC's methods and data sources collaboratively. Victoria recommends the CGC agree to the conceptual case and work with states to develop an appropriate assessment. This can be as part of the review or following in the subsequent update years. For example, working on linked Commonwealth and state data, for example between immigration and health, could support the CGC's methods better identifying CALD populations and tracking health outcomes and expenditures across visa categories.

CGC consultation questions and Victoria's positions

- Victoria recommends the CGC make a separate assessment of expenditures on multicultural health services and language services, based on the CALD populations of states as a driver, rather than grouping these expenditures under other categories.
- Victoria recommends the CGC accept the conceptual case that CALD populations are a driver of health expenditures, and that it works with states to establish an assessment method to account for this.

4.3.6 Adjustments for state bilateral cross border arrangements

All states and territories have bilateral agreements in place to reconcile funding for treatment of interstate patients. Victoria is a net exporter of hospital treatment to other states and territories, so there are consistent funding inflows for interstate patients. States have bilateral agreements for the reconciliation of state contributions, whereas Commonwealth contributions for interstate patients are

provided as part of NHRA payments. That is, the provider hospital receives Commonwealth activity-based funding.

According to clause A111 of the NHRA, cross border funding flows are specifically exempt from being subject to HFE by the CGC to avoid disadvantaging any state.

Victoria supports the CGC's current adjustment for cross-border health flows for Commonwealth payments under the NRHA. However, Victoria questions the extent to which this fully captures cross border arrangements. The CGC appear not to make adjustments for state-to-state funding flows (separate to the Commonwealth contribution) for cross border arrangements both through the NHRA, and for separate state-to-state arrangements including for high cost and highly specialised therapies and nationally funded centres.

Victoria would like confidence that it is not disadvantaged by its role as a net exporter of health services, and that the clauses under the NHRA agreeing to independence from the HFE system are fully upheld for all cross-border activity. Victoria requests the CGC examine how these state-to-state funding flows for health services impact its assessments and confirm for states they align with clause A111 of the NHRA.

CGC consultation questions and Victoria's positions

- Victoria requests the CGC examine how state-to-state cross border health funding flows are assessed in its methods and proposes any necessary adjustments to ensure the methods align with the NHRA clause A111.

4.3.7 Concerns with the geographic disabilities applied to the health assessment

4.3.7.1 Potential for double counting impacts of remoteness

Victoria has broader concerns with the application of geographically related disabilities, remoteness, SES and Indigenous status. Victoria aims to provide a more fulsome discussion on this topic as part of its response to the tranche 2 consultation paper on regional costs and remoteness. However, Victoria's views are presented here in summary where they are relevant to the health assessment.

There is extensive evidence showing the geographic socio-demographic factors are correlated, specifically for health outcomes. That is, people who live in more remote areas are more likely to be in low SES areas and be Indigenous Australians. For example, an AIHW report notes "differences in health by remoteness could be due to remoteness factors such as distance or access to services, or the lower socioeconomic status of people who live in remote areas (Indigenous and non-Indigenous), or the higher proportions of Indigenous people who live in remote areas — or a combination of all 3."³⁰

Where each is applied as a cost weighting, there is a risk of doubling counting. For example, taken in isolation, the higher cost of services for remote residents may partially be indicative of the higher cost of low SES and Indigenous residents.

³⁰ Remoteness and the health of Indigenous Australians, https://www.aihw.gov.au/getmedia/3fae0eb7-b2be-4ffc-9903-a414388af557/7_indigenous-health-remoteness.pdf.aspx

In other assessments this issue is managed through the use of regression models with separate variables for these factors, aiming to isolate the effect of each on costs. For health, cost weightings by demographic group are calculated from the NWAUs of those groups. Double counting is aimed to be addressed by obtaining these for each sociodemographic group separately.

However, the CGC's current socio-demographic composition calculation has key differences from considerations under the NHRA informing the NWAUs, which may mean this approach does not remove all potential double counting.

The most significant of these is the use of SES. SES is not considered part of NWAUs or the NHRA. The CGC's calculations show a relationship between SES and health activity. However, as SES is not part of the NWAU calculation, IHACPA does not have data directly on NWAU and ascribes this via a correspondence to postcodes for the CGC. The IHACPA uses this same correspondence to calculate NWAUs by the remoteness classifications (ARIA) to provide the CGC. This effectively undermines the CGC's method for ensuring it captures the effects of these variables separately. As the SES and remoteness weightings are based on the same information, including both may overweight remoteness in the calculations, as any variation between the two factors is potentially not captured.

In addition, the NWAUs already include weightings for remote residents and remote service delivery. It is possible that the CGC's assessment approach therefore overweights the impact of remote residents given the inherent remoteness weighting within the NWAUs data. This negates the need for an additional remoteness weighting to be applied to states' remote populations.

Victoria requests the CGC examine the potential for double counting of the impacts of SES and remoteness in the health assessments. It suggests the CGC work with IHACPA to resolve this issue. If it cannot be resolved, and IHACPA will not collect separate information for these variables, Victoria suggests the CGC develop an adjustment to remove the potential for double counting.

4.3.7.2 Clustered design of Victoria's health system

In addition, Victoria highlights the geographic structure of its health system, and how this may not be reflected by the CGC's assessments. The CGC's assessment makes a remoteness weighting from NWAUs based on where patients reside – residents of more remote areas tend to have higher NWAUs. In addition, there is a service delivery scale remoteness adjustment for smaller block funded hospitals.

However, Victoria's health system follows a clustered design, where specialised and high-cost services and facilities are located in higher density areas closer to Melbourne's CBD. This clustering of services allows for efficiency in service delivery.

Residents of regional areas travel to access some more specialised services in Melbourne. It would be inappropriate to apply a regional cost weighting to these services, as they are not provided in remote areas, despite being for residents from those areas. Victorian data reflects this trend. Around a third of admitted patient services for residents from inner regional areas were in hospitals in major cities of Australia – this was around 20 per cent for residents of inner regional and outer regional areas. Data from emergency departments showed similar trends.

Victoria requests the CGC examine the potential for the misapplication of its remoteness weighting to services provided in major cities to remote residents and develops an adjustment to remove any overweighting of remoteness in the assessment.

Table 1 Admitted patient services (episodes) – patient residence by location of hospital, 2016-17 to 2021-22

Residence of patient	Location of hospital			Total
	Major Cities of Australia	Inner Regional Australia	Outer Regional Australia	
Major Cities	99%	1%	0%	100%
Inner Regional	32%	68%	0%	100%
Outer Regional	17%	22%	61%	100%
Remote Australia	20%	17%	63%	100%
Total	83%	15%	3%	100%

Source: Victorian administrative data

CGC consultation questions and Victoria's positions

- Victoria requests the CGC examine the potential for double counting of the impacts of SES and remoteness in the health assessments, working with IHACPA to resolve this issue. If it cannot be resolved, Victoria suggests the CGC develop an adjustment to remove the potential for double counting.
- Victoria requests the CGC examine the potential for the misapplication of its remoteness weighting to services provided in major cities to remote residents, and develops an adjustment to remove any overweighting of remoteness in the assessment

4.4 Services to Communities

Victoria generally supports the 2020 Review methods for the Services to Communities assessment, however it makes the suggestions detailed below to improve the methods for specific components.

4.4.1 Water subsidies

4.4.1.1 Remoteness as a driver of cost

Victoria has concerns with the use of small communities and regional costs as the only drivers of the cost for water subsidies. It notes there are other drivers of demand and cost for water services not accounted for in the assessment.

Victoria acknowledges there is a conceptual case for remoteness as a driver due to unavoidably high costs. There are conceptually economies of scale for large utilities such as water and wastewater services to residential households that mean on average operating costs per connection are higher for small communities.

However, by focusing only on remoteness, the assessment doesn't fully capture other drivers of costs for water in small communities which could include:

- distance from water supply
- water quality
- water availability
- ageing assets
- the number of users per fixed infrastructure.

These drivers can mean that a particular level of service can be more costly in some areas than others due to factors distinct from remoteness.³¹

In addition, Victoria has concerns with the specific calculation of the regional costs weighting for the water subsidies component. In the 2020 Review, only data from WA, NT and Qld were able to be used to inform the regional cost gradient. The Commission made a number of assumptions to calculate final cost weightings.

As in the 2020 Review, Victoria considers if only data from a few states is available and the final cost weighting is assumption driven it must be discounted by at least the minimum discount of 12.5 per cent. The CGC stated its conservative assumptions had the similar effect of a discount. Victoria does not consider this is the case and does not agree that the conservative assumptions resolve the uncertainty from the lack of data and requirement for uncertain assumptions. Assumptions by their nature are not the same as calculating the discount based on actual data and Victoria considers discounting is required to account for this.

Victoria is also concerned that the use of remoteness and remote communities as the main drivers of need may provide an incentive for states with higher remote populations to continue inefficient Community Service Obligations (CSOs), even though through the National Water Initiative (NWI) all states have agreed to remove them where possible. Through the NWI, jurisdictions agreed that regional providers capable of covering their costs should prioritise doing so and should consider alternative arrangements to remove the need for ongoing CSOs. CSOs should only be considered as a last resort.³² The CGC should avoid any incentive to retain or increase CSOs through this assessment.

Similar issues exist with the electricity assessment, that also uses remoteness as the predominant driver of need and may incentivise states to continue to offer effective subsidies, without considering other cost-reduction measures or market efficiencies.

CGC consultation questions and Victoria's positions

- Victoria recommends the CGC discount the remoteness factor applied to water subsidies expenses by 12.5 per cent.

³¹ For example, see <https://www.pc.gov.au/inquiries/completed/water-reform-2020/report/water-reform-2020-supportingg.pdf>

³² <https://www.pc.gov.au/inquiries/completed/water-reform-2020/report/water-reform-2020-supportingg.pdf>

4.4.2 First Nations Community Development

Most States provide support for Indigenous community development in discrete Indigenous Communities. Victoria recognises that expenses are allocated for supporting the governance and management of these discrete Indigenous communities in recognition of their higher need due to remoteness and smaller populations with lower incomes. However, Victoria, Tasmania and the ACT have very few or no Indigenous communities which fall under this categorisation.

4.4.2.1 An assessment based on land area and size

Service delivery to small and remote First Nations communities which come under the categorisation for discrete Indigenous communities are the main driver of expense needs within this component. This categorisation does not consider needs of First Nations communities in the case of low and dispersed populations. Victoria has a smaller proportion of Indigenous people living in discrete Indigenous communities compared with other states. This is in part due to historical circumstances including the impacts of colonisation which has led to many communities being displaced into Victoria's larger cities and regional centres.

These historical events are important to give context for the current situation in Victoria, with Traditional Owners still having significant areas of Country to manage. To accurately account for the need to support communities under these population distributions, the size and land area under management should be considered as a key cost driver for this category. This would be more reflective of need than provisions based solely on populations in discrete Indigenous communities. Victoria proposes an appropriation method based on hectares managed by traditional owners under settlement agreements or treaties which would retain relevance to this category in future.

To make this assessment based on land area and size, there is ABS data available³³. Australia's Indigenous land and Forest estate shows the proportions of Australian Indigenous land area between the states. This includes the percentages of land area under Indigenous ownership, management arrangement or other special rights.

4.4.2.2 Considering low and dispersed populations

The current assessment does not consider funding provided to Indigenous communities in low and dispersed populations. Victoria has 0.06 per cent of Indigenous populations across Australia living in remote and very remote communities. However, Australia's Indigenous Land and Forest Estate shows that Victoria has 2 per cent of land area under Indigenous ownership, management, or other special rights. Victoria delivers its community development programs differently due to the spread of the Victorian Indigenous population.

The existence of current programs highlights that there is need for this type of community support in Victoria, despite its provision being unrelated to discrete Indigenous communities. Victoria has provided a number of Indigenous community development programs including the Aboriginal Community Infrastructure program, Victoria's First Mortgage and Community Infrastructure Program, Right People for Country Program and Treaty Readiness and Nation Building. These programs show

³³ [https://www.agriculture.gov.au/abares/forestsaustralia/forest-data-maps-and-tools/spatial-data/indigenous-land-and-forest#:~:text=Australia's%20Indigenous%20land%20and%20forest%20estate%20\(2020\)%20presents%20information%20on,land%20and%20forest%20estate%3A%20separate](https://www.agriculture.gov.au/abares/forestsaustralia/forest-data-maps-and-tools/spatial-data/indigenous-land-and-forest#:~:text=Australia's%20Indigenous%20land%20and%20forest%20estate%20(2020)%20presents%20information%20on,land%20and%20forest%20estate%3A%20separate)

that there exists a need for state funded community development programs and initiatives under population distributions which are not currently being assessed.

Victoria's position is that the drivers of need for Indigenous community development outside of discrete Indigenous communities where remoteness and concentration of populations are drivers of need should be considered.

CGC consultation questions and Victoria's positions

- Victoria does not agree to retain the current methods, and instead recommends the CGC introduce an assessment method based on hectares managed by traditional owners under settlement agreements or treaties rather than the current assessment based on populations in discrete Indigenous communities.

4.4.3 Environmental Protection

Victoria generally supports the use of the 2020 Review methodology for environmental protection, noting that Victoria proposes some specific changes described below.

4.4.3.1 Accounting for need from population growth, population density and capital programs

Victoria recommends the CGC consider a differential treatment of some environmental protection costs including those responding to the need for spending from infrastructure development, population density and population growth.

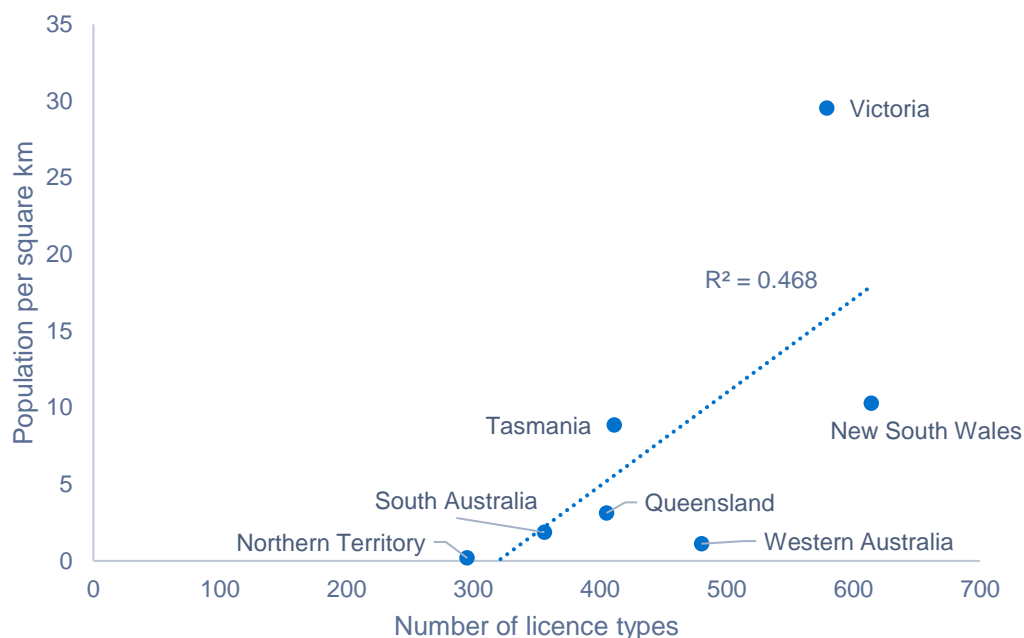
Victoria has a higher-than-average intensity of effort in relation to environmental protection, including delivering substantial reform of the legislative framework over the last few years. This is partly in response to Victoria's historically high population growth and density (barring the impacts of COVID-19) requiring significant infrastructure development, creating the need for additional spending on environmental protection. The rate of infrastructure development means there is a significant strain on the limited supply of labour and natural resources required for major projects, translating to higher costs for the state. Major projects present sustainability risks and opportunities into the future for environmental protection, including resource use, waste management, value for money, cultural heritage and liveability.

Victoria's environmental regulator has increased operating costs and effort to support the intensity of the capital program in Victoria. Victoria has spent more to develop a more progressive regulatory framework that has allowed the government's capital expenditure program to go ahead while minimising harm to the environment. For example, the environmental regulator has also appointed a chief environmental scientist and a research and development program to assist in the cost effectiveness of these programs by embedding sustainability into investment considerations.

Victorian analysis presented in Figure 12 shows the intensity of states' regulatory activity (shown by the number of licenses administered) is related to population density. This may reflect population density driving a greater need for prevention of harms through regulation. Victoria's diverse industries operate in close proximity to communities, whereas in other jurisdictions lower population density may reduce the potential for harms and the intensity of their impacts. Many of these licenses relate to environmental protection. The impacts of environmental harms such as pollution may have greater consequences for Victoria given the large population reliant on limited environmental resources.

This is also a relevant consideration for the assessment of the need for business regulation under the Services to Industries assessment, part of the CGC's second tranche of consultation papers.

Figure 12: Number of licence types by population density for states, 2022



Note: ACT is omitted from presentation as an outlier with a very high population density due to its smaller geographic size.

Source: Victorian analysis of state licence types, ABS and Geoscience Australia

7.8.4.1 Biodiversity and Landscape protection subcategory

Victoria recommends land prices are considered as a driver of cost for biodiversity and landscape protection. Biodiversity and Landscape protection costs are driven by land prices in all states and territories. Victoria spends relatively more than other states to compensate landowners for land set aside for biodiversity measures due to its high land prices.

Victoria has continued to see growth above the national median in the price of farmland, the most relevant land for biodiversity spending, across the country aside from Tasmania. The Commonwealth Government's commitment to reserve 30 per cent of land for conservation and biodiversity efforts makes this issue particularly relevant to the current assessment methods.

This compensation to landholders is required to offset their loss of productive land and revenues. For example, Victoria's Bushbank program is designed to reduce carbon emissions and create habitat for threatened species, by paying landholders to set aside some of their land for revegetation purposes. Since landholders can choose to rent or sell their land instead, payments made under the program reflect the opportunity cost of participating in it, which is directly related to property values.

Victoria proposes an assessment based on land prices, given the Commonwealth's commitment to biodiversity targets which are based on land area. Higher land prices are an issue for Victoria in meeting these biodiversity protection commitments because they are based upon land area. The associated compensatory costs resulting from high land prices in Victoria are compounded by Victoria's small farm sizes. The lack of available land means that small farms require higher

compensation to participate in biodiversity programs. Therefore, Victoria incurs higher costs in meeting the Commonwealth's biodiversity commitments and its own biodiversity programs.

The general land value is likely to appropriately reflect differences in costs of meeting biodiversity commitments across states. Under Victoria's Bushbank framework there are a range of minimum requirements for privately owned land to be considered in the program, including a minimum 10-hectare site for those suitable for fostering biodiversity and promoting carbon sequestration. These factors require the consideration of relative farm size, as other states and territories generally have larger farm sizes than Victoria. Victoria's smaller farms may be less inclined to engage in nature-based solutions due to limited land, therefore increasing the compensation requirements in Victoria to meet biodiversity commitments. It is Victoria's position that the CGC should consider the potential to reflect the intensity of effort by Victoria in environmental protection, including land price and farm size in the assessment of drivers of costs for the environmental protection subcategory.

CGC consultation questions and Victoria's positions

- Victoria recommends the CGC include a measure of the population density and the intensity of states' capital programs as drivers for the need for environmental protection spending.
- Victoria recommends the CGC include land prices and farm size as key drivers of cost for spending on environmental protection, through biodiversity programs.

4.4.4 Other Community Development and Amenities

Victoria supports the use of the 2020 Review methodology for community development and amenities, assessed on an EPC basis. Victoria agrees that there is a lack of reliable data on the drivers of expense, population, degree of urbanisation, remoteness, and wage costs. Expenses between states were not found to be materially different between states. There are also difficulties in disaggregating expenses such as land management expenses, and the assessment should therefore remain EPC.

CGC consultation questions and Victoria's positions

- Victoria supports the use of the 2020 methodology and EPC assessment for community development and amenities.

4.4.5 Net Zero Transition

Victoria provides initial views on a potential separate treatment of expenditures under the transition to net zero, in response to the CGC's early engagement with all states on this topic as part of the review. Although not included in the assessment paper, CGC staff indicated this is an area the CGC will continue to monitor, and Victoria provides its initial views here. When considering the implications for HFE for the transition to net zero, policy neutrality and differences in natural resource endowments and the current use of non-renewable energy across states should be factored in to accurately reflect the true costs of the net zero transition.

Victoria also recommends the CGC considers the inherent advantages and disadvantages for each state and territory when evaluating progress toward net zero emissions targets. Different jurisdictions face unique time horizons, challenges and advantages in their pursuit of these goals. Recognising

these factors will contribute to a more comprehensive understanding of the efforts being made and the associated costs required.

The share of non-renewable energy use, individual jurisdictions' resource endowments, and the extent to which they may or may not support the transition to net zero, are important considerations in assessing the intensity of effort and investment required. A significant consideration should be the share of non-renewable energy use within a state as a driver of cost, impacting the relative costs of energy transition across states.

Currently, Victoria uses more gas than any other Australian state or territory due to a historical dependence. Victoria became reliant on gas in the 1970s due to natural resource discoveries and global energy crises, creating a need for diversification through government support and investment. These factors created a historical reliance, which is important to heating homes and businesses as a key input to manufacturing processes and gas-powered electricity generation.

This reliance has an impact on the pace of Victoria's transition to net zero. Residential gas use contributed around 8 per cent of Victoria's total emissions in 2020, compared to a national average of 2 per cent. Victoria has committed to implementing a Gas Substitution Roadmap³⁴, including legislated bans on gas in new residential builds from 2024. Given this exposure to non-renewable energy, it may be prudent for the CGC to consider the share of non-renewable energy use as a driver of cost, impacting transition costs across states.

This highlights the interaction between states' inherent challenges in pursuing the transition reflected in the intensity of effort required, and highlights the importance of the commission considering differences between states as drivers of cost.

4.4.5.1 State Electricity Commission

CGC staff also requested information on the introduction of Victoria's State Electricity Commission (SEC). Victoria notes the SEC may affect components of the CGC's methodology, including a potential new assessment for spending under a transition to net zero emissions discussed in the preceding section. Decisions on the capital structure of the SEC are yet to be finalised, and Victoria can provide the CGC with more information when it becomes available.

CGC consultation questions and Victoria's positions

- Victoria supports in principle consideration of a separate assessment for state expenditure under the transition to net zero.
- Victoria recommends the CGC consider the share of non-renewable energy use of states and their effects on their net zero transition.

4.4.6 Natural disaster mitigation

This section responds to the specific consultation questions the CGC posed to the states on natural disaster mitigation, noting it is difficult to make definitive recommendations due to the lack of a clearly defined proposed assessment method in the consultation paper. In addition, the subject is complex, with the need for mitigation likely driven by relationships between mitigation, risk, previous mitigation

³⁴ https://www.energy.vic.gov.au/__data/assets/pdf_file/0025/586411/Victorias-Gas-Substitution-Roadmap.pdf

efforts and the need for disaster responses. It is therefore difficult to recommend a policy neutral driver of the need for spending in the time available for the review.

Victoria considers implementation of an assessment for natural disaster mitigation must be considered in tandem with the assessment of natural disaster relief. It is difficult to comment on an assessment of natural disaster mitigation, without the CGC's views on its assessment of natural disaster relief which is a topic for later consultation as part of tranche 2. Victoria will provide comments on natural disaster relief in its tranche 2 response, however given it is an APC assessment Victoria's initial view is concern for policy neutrality.

In lieu of direct recommendations for an assessment method for natural disaster mitigation, Victoria highlights a number of potential cost drivers that may be useful to inform a potential future assessment.

4.4.6.1 Bushfire and flood risk

The impacts of climate change related events are already severe and costly for the Victorian population, economy, and natural environment. While climate change is accelerating the pace of these losses, there is an opportunity for government to reduce these costs through effective adaptation activities. Investment in adaptation and mitigation can reduce risks, protect quality of life, and reduce costs associated with climate related natural disasters which include bushfire, flooding (riverine and coastal), drought, and extreme heat.

Relative to other states, Victoria's dense population means that there are fewer options for development to avoid natural hazards such as bushfire. Victoria's terrain, flammable vegetation and frequent exposure to hot, dry, and windy weather make it one of the most bushfire-prone states. Various factors, such as fuel type and condition, weather conditions, topography, and the location of people and assets, influence the overall risk of bushfires and contribute to the high level of risk faced in Victoria.³⁵

Bushfires and bushfire risk have high cost implications for Victoria. The costs associated with bushfires are extensive and affect infrastructure, the environment, businesses, and communities. In Victoria, the management of privately owned land for mitigation purposes also incurs expenses and additional biodiversity costs need to be considered. An additional high-cost implication is the health impacts of bushfire smoke.

Various bushfire mitigation activities include preparing and positioning firefighters and aircraft across Victoria for rapid response to bushfires when they start, building standards for new housing, developing neighbourhood shelters, issuing community warnings, and coordinating evacuations.

Victoria is also vulnerable to flash flooding and rising sea levels due to its topography and density of fixed assets. Victoria has a number of residences built on flood plains, as well as risk areas for flooding in the CBD and inner metropolitan areas.

Flooding and flood risk also have high cost implications for Victoria and are compounded by similar factors to bushfires. Other cost implications for flooding include costs associated with property damage. These costs are expected to increase in future due to the density of housing in areas exposed to rising sea levels and flood plains.³⁶

³⁵ <https://www.safertogether.vic.gov.au/understanding-risk>

³⁶ https://www.climatechange.vic.gov.au/__data/assets/pdf_file/0025/558421/WaterCycleAdaptationActionPlan.pdf

In Victoria, the interconnectedness of water systems, coupled with population and asset density create heightened risk and costs associated with managing these events. Water systems are affected by flooding, including water supply, sewerage and drainage and flood management. These face increased costs due to the increasing risk of extreme weather events.

There are also other indirect systems that are at risk when water systems are affected, such as health and human services, the natural environment, transportation, primary production, education and the built environment. The share of these systems in high density areas and their associated costs increase with population size, requiring a greater intensity of effort to prevent the negative flow on effects resulting from flooding on Victoria's water systems.

Various flood mitigation strategies include creating dams, levees, weirs and the diversification of water sources. Other flood mitigation strategies include the mapping of overland and riverine flood risks and their direct impacts of the water cycle system and Victorian population.

Victoria has a high population and fixed asset density, meaning there are more people, assets and public infrastructure at risk from bushfires and flooding. This feature compounds the high-cost implications already faced through an inherent natural higher level of risk. In Victoria, implementing planned burning strategies has proven effective in reducing the risk of bushfires in Victoria³⁷. Extensive water cycle adaptation plans and investment have also been important in reducing risks associated with flooding. These efforts have contributed to more favourable Victorian bushfire risk forecasts for the state up to the year 2024³⁸.

4.4.6.2 The National Partnership on Disaster Mitigation Spending

Victoria does not support the use of the National Partnership on Disaster Risk Reduction as the basis for an assessment of the need for natural disaster mitigation spending. The partnership agreement is not an appropriate measure as Victoria spends much more on natural disaster mitigation than it accounts for.

The existing assessment methods are unlikely to be appropriate as the total financial contribution made by the Commonwealth Government under the National Partnership on Disaster Risk Reduction resulted in Victoria receiving a total of \$3.34 million in 2021-22. In contrast, Victorian state expenditure relating to planned burning, mechanical and strategic fuel breaks (i.e. bushfire mitigation alone) was approximately \$150 million for the same period (2021-22).

If the CGC does decide to move forward with an assessment of natural disaster mitigation risk, it should explore alternative, broader definitions of spending than only the categories currently defined under the National Partnership. This could involve an annual data request to states to identify the relevant spending.

³⁷ <https://www.vic.gov.au/victorias-bushfire-risk-management-report-2021-22/print-all#statewide-outcomes-and-delivery>

³⁸ <https://www.ffm.vic.gov.au/fuel-management-report-2020-21/statewide-achievements/bushfire-risk>

CGC consultation questions and Victoria's positions

Q1. Do states agree that the existing assessment methods for spending on disaster mitigation remain appropriate?

- Victoria supports the CGC exploring a new alternative assessment of natural disaster mitigation if material, however reserves any views on this until the CGC provides states a definitive proposal for how it would make this assessment.

Q2. Do the definitions used in the National Partnership on Disaster Risk Reduction provide an appropriate basis for describing the type of spending that could be classified as natural disaster mitigation?

- Victoria does not support the use of the National Partnership on Disaster Risk Reduction as the definition for spending on natural disaster mitigation. If the CGC wishes to make a separate assessment of natural disaster mitigation it should work with states for a more fulsome measure that recognises upfront investment to minimise or avoid a future disaster.

Q3. Where is this spending currently classified in the Government Finance Statistics framework?

- Expenditure for natural disaster reduction related functions, including bushfire mitigation, preparedness and reducing bushfire risk, generally sit under the COFOG category 'Public Order and Safety'.

Q4. Is spending on mitigation measures expected to increase significantly over the next five years?

- Victoria agrees that mitigation measures are expected to increase in future, commensurate with the increased risk of natural disasters.

4.4.7 Feedback on data requests for electricity and water subsidies

Victoria has some recommendations and proposed adjustments to the 2025 review state data request for electricity and water subsidies. Victoria considers the request is very detailed and suggests it is simplified where possible and the overall size of template is reduced. To aid understanding the requirement for the level of detail requested, more information could be provided in the request template. Specifically, it would be useful to include some information on the purpose of the detail being requested. This additional context would be beneficial and should detail how this information will be used and the value and purpose in the CGC collecting it, in addition to the annual requests.

In terms of the energy subsidy request, Victoria specifically suggests the CGC provide:

- a clear definition of energy services, in the 'Definitions' tab
- examples of relevant energy services (e.g., subsidies to better align regional and metropolitan supply costs) to illustrate this data request is likely to be more relevant to states with state-owned entities and public non-financial corporations.

These adjustments would assist to improve the efficiency and communication of purpose for engaging relevant departments for the commissions' data requests in future.

CGC consultation questions and Victoria's positions

- Victoria recommends a simplification of the data request and overall size of template be reduced and text it contains.
- Victoria suggests the addition information on the purpose of the detail being requested including context on how the information will be used and what the value and purpose in the CGC collecting it in addition to the annual requests.
- In terms of the energy subsidy request, Victoria suggests the CGC:
 - Provide a clear definition of energy services, in the 'Definitions' tab
 - Provide some examples of relevant energy services, to illustrate this data request is likely to be more relevant to states with state-owned entities or public non-financial corporations.

4.5 Justice

Victoria does not support the use of the 2020 Justice assessment methodology in the 2025 Review. There are weaknesses in the conceptual cases for the assessments and some data used are incomplete and incomparable. Victoria acknowledges the CGC faces a difficult task in the Justice assessment, where national data like that used in the Schools and Health assessments are not available. Victoria appreciates that the CGC can only work with data that are available and that some states, including Victoria, have not been able to provide all the data the CGC has requested previously. Victoria recommends the CGC work with the states to develop a more comprehensive methodology and dataset. However, until this is available, Victoria recommends a conservative approach with EPC assessment components and discounts or exclusions to account for uncertain supporting evidence.

Victoria has commissioned an external expert consultancy to review the Justice assessment. The consultancy report has not been completed at the time of this submission and has not informed Victoria's preliminary position on the Justice methodology outlined below. Victoria would appreciate the CGC's consideration of the expert report, and any additional Victorian commentary, when it is available.

4.5.1 The impact of COVID-19 on Justice data

Victoria agrees that COVID-19 resulted in a temporary departure from long term patterns of justice service provision and use. Although justice service usage may not have returned to pre-pandemic trends, 2022-23 data is likely more representative of future trends than 2020-21 and 2021-22 data. Victoria anticipates 2022-23 justice data to be available by the CGC's nominated deadline of 31 March 2024.

CGC consultation questions and Victoria's positions

Q1. Do states agree that COVID-19 resulted in a temporary departure from long term patterns of justice service provision, use and costs such that the 2020 Review Justice model remains appropriate if used with fit for purpose data?

- Victoria agrees that COVID-19 resulted in a temporary departure from long term patterns of justice service provision and use.

- However, Victoria does not agree that the 2020 Review Justice model is appropriate, as discussed in more detail in this section.

Q2. Do states agree that data from 2019–20, 2020–21 and 2021–22 include the effects of COVID-19 related public health orders and do not reflect typical justice services and costs?

- Victoria agrees that 2019-20, 2020-21 and 2021-22 include the effects of COVID-19 related public health orders and do not reflect typical justice services. Furthermore, some justice spending was certainly different during that period.
- However, Victoria does not agree that the number of offences, defendants, or prisoners are adequate representative drivers of Justice costs regardless of the specifically cited assessment years.

Q3. If data from 2019–20 to 2021–22 are not fit for purpose, do states support using data from 2022–23 to update the justice assessment? If so, can states provide an indication of when 2022-23 data could be provided to the Commission? An indication of the data required from states for the 2025 Review justice assessment is shown in Attachment A.

- Victoria agrees that 2022-23 data is preferable. Victoria anticipates 2022-23 justice data to be available by the CGC's nominated deadline of 31 March 2024.
- However, where robust and comparable data are not available for all disabilities for all states and territories, an EPC assessment should be considered or those disabilities should be excluded or a discount should be applied, following the CGC's stated principles and the review terms of reference.

Q4. If data from 2022–23 are considered fit for purpose but are not available in time for inclusion in the 2025 Review, do states support updating the assessment in an update following the 2025 Review?

- Victoria agrees with the proposal. However, where data are not fit for purpose because of incompleteness or incomparability between states, such as in the 2020 Review, waiting for an update is unlikely to resolve the problem. In that case, an appropriate discount should be applied and any disabilities unsupported by robust data should be excluded from the assessment.

4.5.2 Policy neutrality and barriers to efficient policy reform

The Justice assessment is distinct from other major assessments that redistribute large amounts of GST, such as Schools and Health, even though all three assessments are driven by sociodemographic composition. Victoria's view is that the current Justice assessment is open to influence from states' policies, and conversely could present barriers to efficient policy reform.

Unlike Schools and Health, the Justice assessment lacks a national agreement and a nationally consistent data framework that the CGC's assessment could build upon. The CGC has developed a reasonable methodology within the rubric it has set itself and the data it has collected. However, Victoria considers that the current dataset and methodology doesn't adequately capture the drivers of Justice expenditure need.

Justice service provision and expenditure can be thought of as both reactive and preventative. A large proportion of Justice expenditure is understood to be preventative, aimed at reducing offence rates, court attendance and incarceration – the very measures the CGC uses to determine expenditure needs. The current assessment approach could therefore result in barriers to efficient policy reform.

For example, a state attempting to reduce Indigenous offence or imprisonment rates may spend more, including on diversionary programs, and successfully reduce offence or imprisonment rates for Indigenous residents. However, if that state has a higher-than-average proportion of Indigenous residents, reducing offence rates for that group would reduce the national average offence rate, and therefore the number of assessed offenders in that state, resulting in a reduction in its assessed justice expenditure needs. The state would effectively be punished through the GST distribution for implementing good policy and improving outcomes for its residents.

Regrettably, data on preventative justice expenditure or expenditure needs is not as readily available as data on reactive indicators such as the number of offenders, finalisations and prisoners.

However, measures of reactive justice activity, such as the number of offenders, defendants or prisoners are not good indicators of total spending needs. The CGC has previously stated that the underlying drivers of relative preventative justice expenditure needs include the same sociodemographic factors as for the number of offenders, defendants or prisoners. But the extent to which those drivers influence spending cannot be quantified without appropriate data.

The CGC has not provided any evidence that the quantitative relationship between sociodemographic composition and preventative justice spending needs is the same as the relationship with reactive justice spending. Therefore, applying cost-weightings derived from relationships between reactive justice measures, such as offence rates, to overall expenditure, including preventative justice, is not appropriate and could lead to a departure from HFE.

Victoria encourages the CGC to develop a dataset that better captures preventative justice expenditure needs, and an assessment methodology that better reflects modern justice policy and eliminates barriers to efficient reform.

Until such a methodology is available, Victoria recommends the CGC take a conservative approach to redistribution to account for the current incompleteness of the dataset and the resulting uncertainty. This could include assessing portions of Justice expenditure on an EPC basis if the portion not attributable to reactive expenditure needs can be identified. Alternatively, a discount could be applied where only reactive measures of expenditure needs are available, such as the Police, Criminal Courts, and Prisons components.

CGC consultation questions and Victoria's positions

Victoria recommends that:

- the CGC develop an improved methodology that incorporates preventative justice expenditure needs and removes barriers to efficient policy reform, or
- assess the preventative component of justice expenditure on an equal per capita basis, if it can be identified, or
- discount the existing assessment to account for the incompleteness of the dataset covering the drivers of justice expenditure need.

4.5.3 Causality

Even within the 'reactive' component of Justice expenditure there are difficult issues affecting how the CGC makes its assessments. In some cases, the relationship between reactive justice measures, such as offence rates, and expenditure needs is uncertain because the direction of causality has not been proven. For example, although the police regression results indicate a positive relationship between the number of offenders and spending, they do not indicate that an increase in the number of

offenders causes or requires an increase in spending. It may be the case that some amount of offences are induced by higher spending. For example, a costly increased police presence in a particular area may lead to more offences being recorded in that area. This is problematic for the CGC's assessment in which a higher need for spending is attributed to higher numbers of offenders.

The research literature presents mixed results on this matter. Weatherburn (2001), notes that "The few studies which have attempted to determine the direction of the causal relationship between arrest rates and crime generally find that the higher level of police activity, the lower the crime rate."³⁹ For example, Sherman (1995),⁴⁰ concluded that an increased police presence acted as a deterrent and reduced the number of offences – supporting the argument that policing is about preventing crime. Other studies such as those from Devlin (2018),⁴¹ and Marvell (1996),⁴² found that an increased police presence resulted in an increase in reported crimes – supporting the positive relationship between offenders and police expenditure, but with the direction of causality reversed compared to the CGC methodology.

Victoria agrees that different sociodemographic composition is related to different levels of justice service usage and expenditure. However, modern justice policy is increasingly about prevention and the causality between expenditure and reactive indicators is difficult to establish. The current indicators – offenders, defendants, prisoners – are not a good way to quantify the relative relationship between justice spending need and sociodemographic composition.

A dataset capturing the preventative aspects of justice expenditure needs, as described in 4.5.2, would alleviate the problem of undetermined causality by reducing the impact of potential misattribution of expenditure needs to reactive indicators.

However, until such a dataset is available, the issue of undetermined causality further highlights the need for a conservative approach, including discounting parts of the assessment.

With the above in mind, the following sections provide further suggestions for improvements to the CGC's current methodology.

CGC consultation questions and Victoria's positions

Victoria recommends that:

- the CGC develop an improved methodology that incorporates preventative justice expenditure needs, or
- discount the existing assessment to account for uncertainty in the direction of causality.

³⁹ Weatherburn D (2001), 'What causes crime?', *Crime and Justice Bulletin*, no. 54, NSW Bureau of Crime Statistics and Research, Sydney

⁴⁰ Sherman LW, and Weisburd D (1995), 'General deterrent effects of police patrol in crime "hot spots": A randomized, controlled trial', *Justice Quarterly*, 12(4), 625-648

⁴¹ Devlin DN, and Gottfredson DC (2018), 'The Roles of Police Officers in Schools: Effects on the Recording and Reporting of Crime', *Youth Violence and juvenile justice*, 16(2), 208-223

⁴² Marvell TB, and Moody CE (1996), 'Specification problems, police levels, and crime rates', *Criminology*, 34(4), 609-646

4.5.4 Police

Victoria does not support the use of the 2020 Review methodology for the Police component. Modern policing is complex, with a growing focus on preventative and proactive services. Costs are not primarily driven by remoteness or offence rates as the CGC's assessments suggest. Furthermore, the assessment inappropriately attributes central costs to regions.

Victoria proposes making a number of changes to the assessment, detailed below.

4.5.4.1 Allocation of central costs to districts

For the 2020 Review police cost-weighting regression, the CGC allocated central police expenditure to the various police districts. However, Victoria considers this to be inappropriate because doing so overweights both the remoteness cost factor and the sociodemographic usage factors. Examples of central costs include corporate costs related to human resources, corporate finance, I.T. and legal services, in addition to state-wide policing activities like counter terrorism, forensic services, or intelligence and covert support. It's more likely that these costs are driven by state population size rather than the number of offences or the remoteness of the population. By including these costs in the cost-weighting regression, any relationship between expenditure, offence rates and remoteness will be amplified.

Victoria considers that central costs should be excluded from the regression and assessed separately on an equal per capita basis.

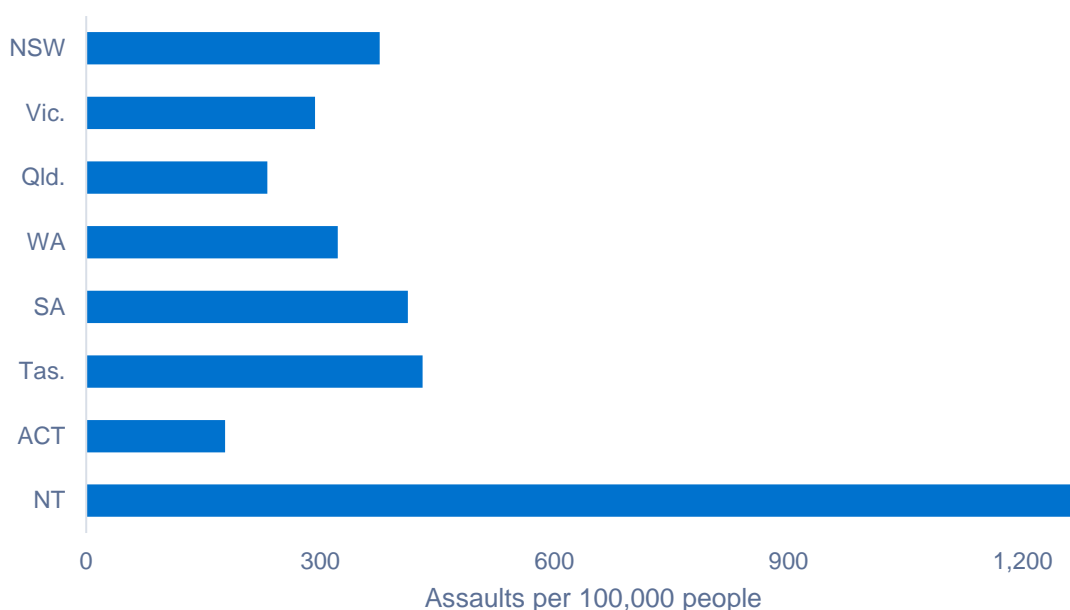
4.5.4.2 Bias in the cost-weighting regression

The police cost-weighting regression is based on data on 139 police districts. However, each police district is not a standardised data point. Each district has a different sized area, population and composition. More importantly, each state has different numbers of police districts. This means that the regression results could be biased by the policies of states including the size, number, and location of police districts.

For example, of the 139 police districts in the dataset, 58 were from New South Wales, representing approximately 42 per cent of the national total, compared to New South Wales' population share of approximately 31 per cent. Similarly, the Northern Territory has 9 out of 139 police districts, representing approximately 6 per cent of the total, compared to its population share of approximately 1 per cent.

A complete national dataset is important because there is high variability between states in offence rates, arguably at least partially due to differences in policy. For example, Figure 13 shows high variability between states in ABS recorded crime assault rates per 100,000 people in 2018-19.

Figure 13: ABS recorded crime assault offender rates per 100,000 people, 2018-19



Source: Australian Bureau of Statistics, Recorded Crime – Offenders, 2018-19

Unless the regression can be adjusted to account for differences in state policy, the regression should not be used, or a discount should be applied.

4.5.4.3 Preventative and reactive policing

As noted in 4.5.2, the number of offenders is a reactive measure of police activity. Even if causality could be determined in the relationship between the number of offenders and expenditure (see 4.5.3), the current assessment is incomplete.

The CGC's consultation paper showed that there was a downward trend in offender numbers since 2015-16, yet an upward trend in police expenditure. This supports the argument that the number of offenders is not a good indicator of police expenditure needs.

As noted in 4.5.2, the CGC has not provided evidence that the drivers of preventative policing are the same as the drivers of reactive policing, nor quantified that relationship.

Given the weakening relationship between the number of offenders and expenditure, the bias in the regression described in 4.5.3.2 and the lack of evidence directly linking sociodemographic composition with preventative police expenditure, Victoria considers the current assessment incomplete.

4.5.4.4 Policy neutrality and barriers to efficient policy reform

As noted in 4.5.4.3 and 4.5.2, the assessment suffers from a lack of policy neutrality and potentially presents a barrier to efficient policy reform.

An improved methodology with a more complete dataset, capturing preventative expenditure needs, should be developed in such a way as to eliminate perverse incentives and barriers to policy reform. If such a methodology cannot be developed, Victoria recommends a conservative approach to account for the uncertainty arising from the incomplete dataset, such as applying a discount. Failure to account for this uncertainty could result in a material departure from HFE.

CGC consultation questions and Victoria's positions

- Victoria recommends that central costs be assessed equal per capita, not allocated to districts.
- Victoria considers that the current cost-weighting regression is biased so should not be used, or a discount should be applied, unless appropriate adjustments can be made to the regression.
- Victoria recommends that the CGC develop a more complete dataset and methodology to adequately describe preventative policing needs. Alternatively, the assessment should be discounted to account for the incomplete data and resulting uncertainty.

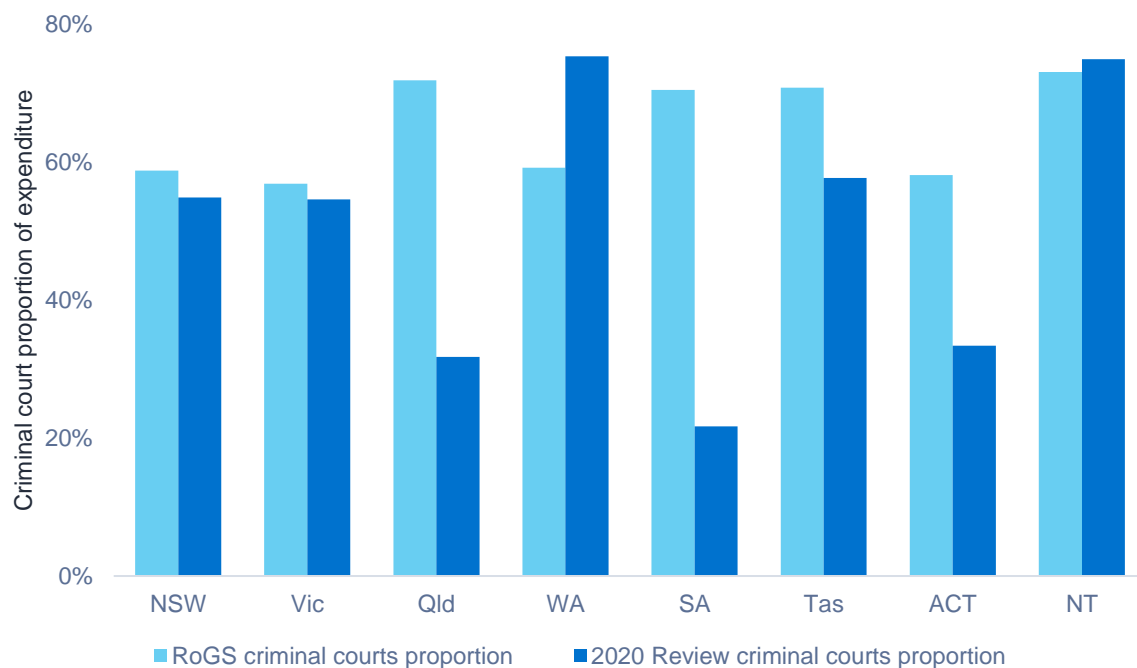
4.5.5 Other legal expenses

Victoria does not support the use of the 2020 Review method to split Criminal court and Other legal expenses. Victoria considers the state-provided data too unreliable to determine the split.

The 2020 Review methodology uses state-provided data to calculate the splits between Criminal court and Other legal expenses, and Productivity Commission Report on Government Services (RoGS) data to split expenditure from the Other legal expenses component into civil court and non-civil court expenses. The CGC takes the RoGS values for civil court expenditure directly and assigns any remainder from the GFS expenditure to non-civil court expenditure.

For the 2020 Review there was high variability between the states for this split, as shown in Figure 14. Western Australia had 75 per cent of expenditure attributed to criminal courts while South Australia's criminal courts proportion was only 22 per cent and nationally the value was 51 per cent. An explanation for this variability is not readily available. By way of comparison, the RoGS data, split by criminal vs civil court expenditure, show much less variability between states. The range between minimum and maximum in the state-provided data was 53 percentage points, whereas in the RoGS data it was only 16 percentage points.

Figure 14: Criminal courts proportion of expenditure, 2016-17



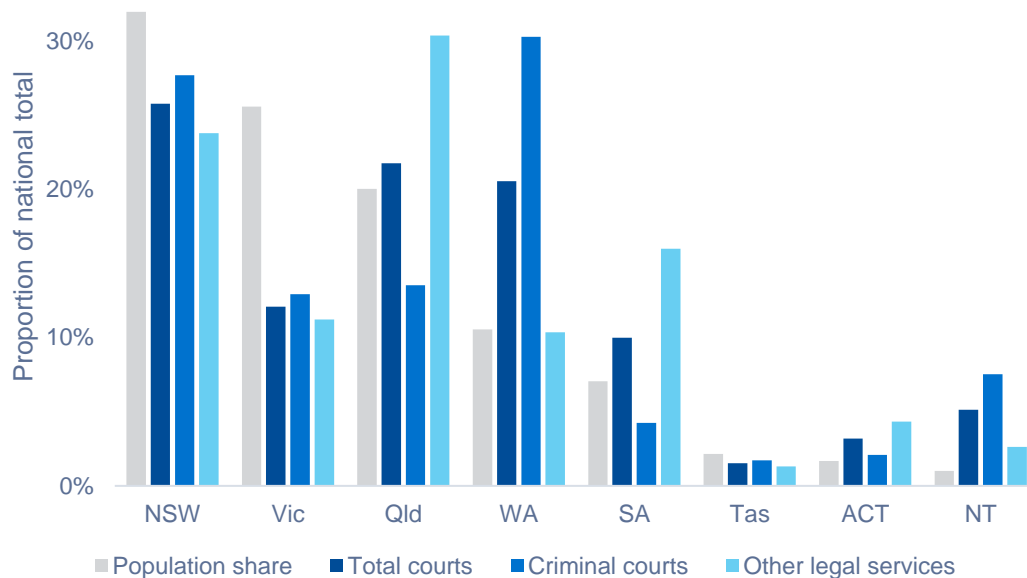
Source: Productivity Commission Report on Government Services 2023 Part C, Section 7, and CGC 2020 Review simulator - 610-20 Criminal Court and OLS splits State references.xlsx

Note: RoGS split is between criminal courts and civil courts expenditure. 2020 Review split is between criminal courts and other legal services, including civil courts.

This variability is likely explained by inconsistency between states in what is captured under each category.

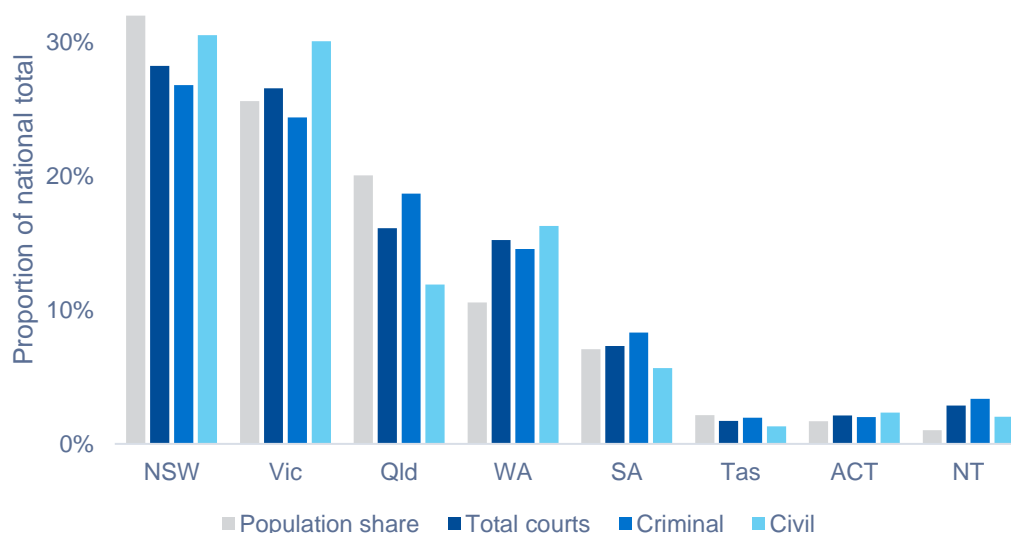
RoGS data is generally considered reliable, and more broadly correlates to population share than the state-provided data for the 2020 Review, as shown in Figure 15 and Figure 16.

Figure 15: Proportion of national total expenditure and population, 2020 Review state-provided data, 2016-17



Source: CGC 2020 Review simulator - 610-20 Criminal Court and OLS splits State references.xlsx

Figure 16: Proportion of national total expenditure and population, RoGS data, 2016-17



Source: Productivity Commission Report on Government Services 2023 Part C, Section 7, real recurrent expenditure.

Victoria recommends an alternative approach to splitting expenditure data by criminal courts and civil and other legal services, consistent with other aspects of the Other legal services methodology.

In the 2020 Review the CGC used the RoGS civil courts real recurrent expenditure dollar values to determine the civil courts component of Other legal services. A remoteness cost weighting was then applied to the civil courts component.

Victoria recommends the CGC take the same approach to determining the criminal courts component of court expenditure. The CGC should use RoGS real recurrent expenditure dollar values for both criminal courts and civil courts and allocate the remainder of GFS court expenditure to other legal services. Such an approach would mean only data that can be reliably identified as court expenditure would form the basis of the differential Criminal courts assessment and the civil courts cost-weighting, leaving the remainder assessed EPC.

CGC consultation questions and Victoria's positions

- State-provided data is not reliable enough to split criminal court expenditure from expenditure on other legal services. Victoria recommends that the CGC follow the 2020 Review approach for determining civil court expenditure and use RoGS data to determine both criminal court expenditure and civil court expenditure and attribute the remainder of GFS court expenditure to other legal services

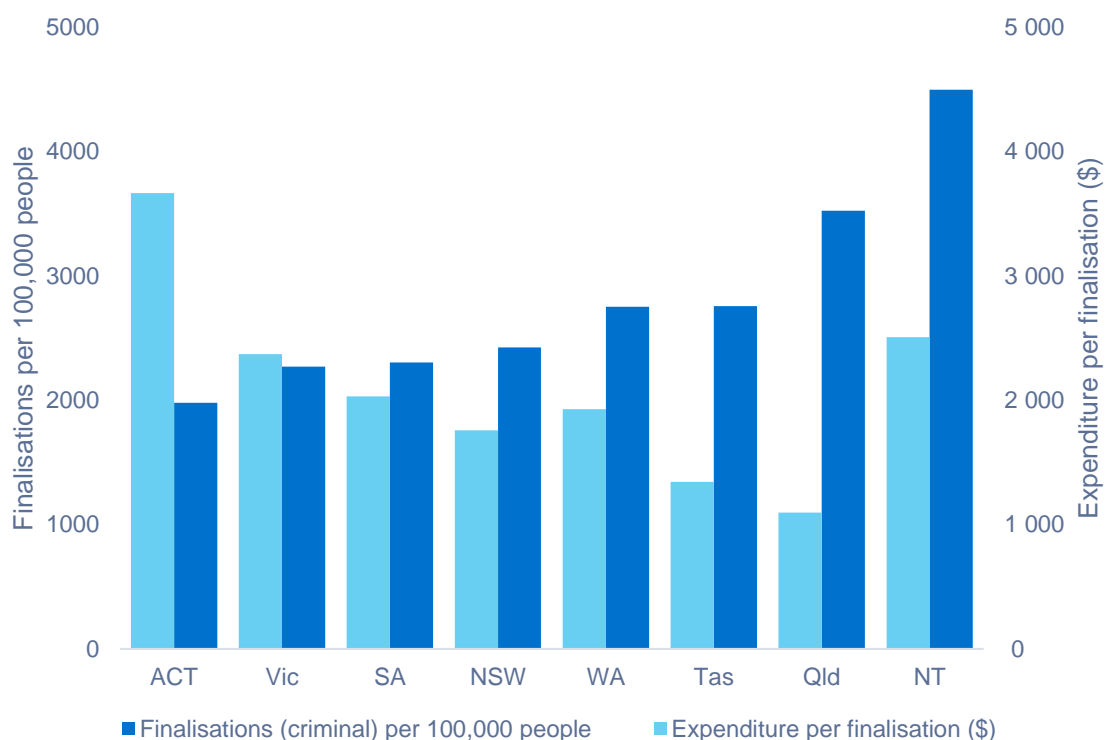
4.5.6 Criminal courts

Victoria does not support the use of the 2020 Review methodology for the criminal courts component. Both the conceptual case and the data to support it are lacking in robustness.

4.5.6.1 The relationship between finalisations and expenditure varies significantly between states

The relationship between expenditure and the number of defendants (finalisations) appears highly variable between states. For example, as shown in Figure 17, data from the Productivity Commission's 2023 Report on Government Services indicate that Queensland has very high rates of finalisations per capita but spends much less than average per finalisation, whereas the Australian Capital Territory has the lowest rate of finalisations per capita and the highest expenditure per finalisation.

Figure 17: Comparison of finalisation rates and expenditure, RoGS, 2021-22



Source: Productivity Commission, Report on Government Services 2023, Part C, Section 7

Note: Expenditure is real recurrent expenditure.

This variability suggests that the number of finalisations alone does not adequately represent criminal court expenditure needs. The current assessment is arguably lacking the required data to adequately describe expenditure needs. Victoria recommends the CGC gather data and develop a methodology better able to explain the demonstrated variability in expenditure between states. For example, certain types of criminal case may be more prevalent or more costly in certain states due to underlying factors not captured by the existing methodology.

Failing that, Victoria recommends a discount of the assessment to account for the lack of adequately descriptive data.

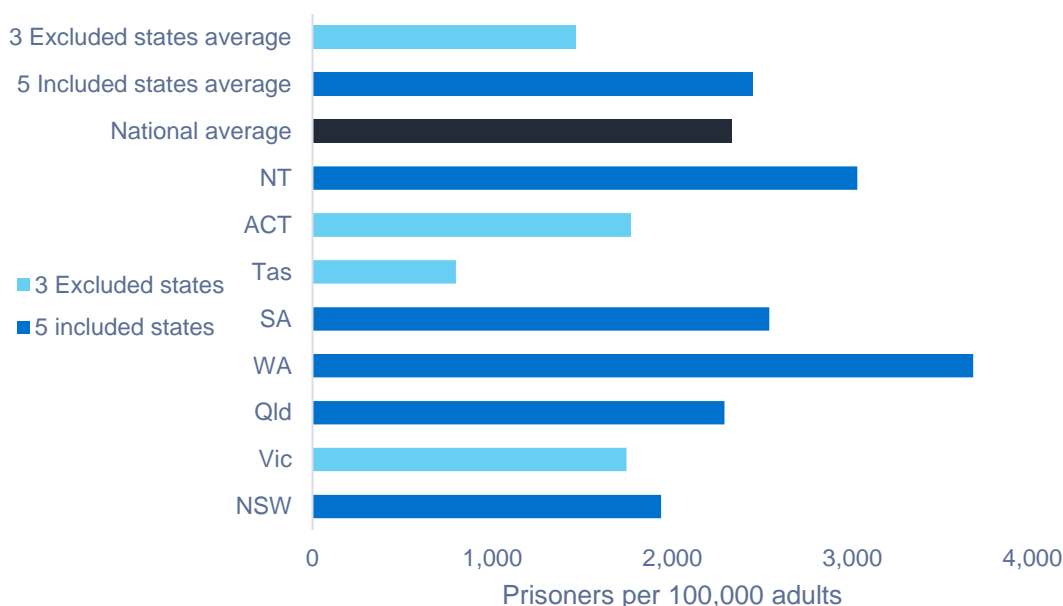
4.5.6.2 Data relating sociodemographic composition to finalisation rates is incomplete

Victoria agrees that there is a conceptual case that finalisation rates vary between different sociodemographic groups. However, Indigenous status for defendants was only reliably available from 5 states and territories.⁴³ The CGC therefore based the assessment on data from those 5 states, excluding approximately 29 per cent of the national population. State data on finalisation rates per capita were not available but given the known variability in incarceration rates between states, using data from only 5 states and territories is not likely to result in an accurate representation of national average defendant rates. Figure 18 and Figure 19 show that both Indigenous and non-Indigenous incarceration rates are lower in the states excluded from the assessment than those included.

⁴³ Victorian Courts and VCAT are continuing to improve the accurate, consistent and holistic capture of Koori user and staff data across the Victorian courts through the development and implementation of a Koori Data Strategy.

Assuming that similar variability exists in the rates of finalisations, excluding those states distorts the assessment.

Figure 18: RoGS Indigenous imprisonment rates and average with and without states excluded from the Criminal courts dataset, 2021-22



Source: Productivity Commission Report on Government Services 2023 Part C, Section 8

Note. Averages are weighted by state Indigenous populations

Figure 19 RoGS Non-Indigenous imprisonment rates and average with and without states excluded from the Criminal courts dataset, 2021-22

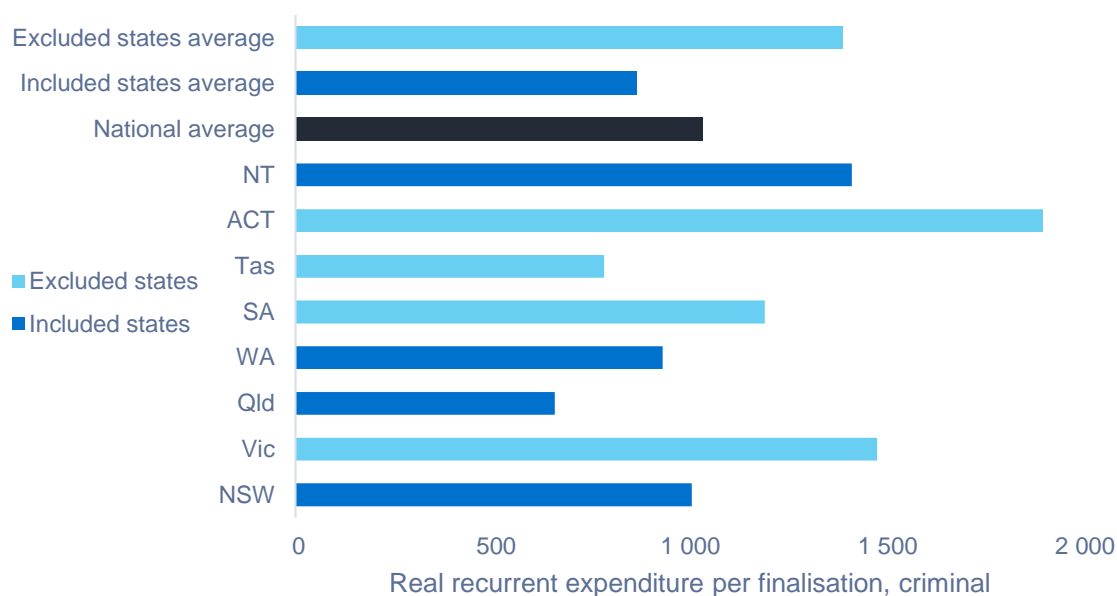


Source: Productivity Commission Report on Government Services 2023 Part C, Section 8

Note. Averages are weighted by state non-Indigenous populations

Similarly, regional cost data was only available from 4 states and territories. RoGS data presented in **Figure 20** indicates that the excluded states have some of the highest expenditure per finalisation. Overall, these states also have fewer remote courts. If data from these states were available the calculated Magistrates Court remoteness weighting would likely be significantly lower, because the national expenditure per non-remote finalisation would be relatively higher.

Figure 20: RoGS real recurrent expenditure per finalisation, criminal courts, Magistrates courts including children's courts, 2021-22



Source: Productivity Commission Report on Government Services 2023 Part C, Section 8

Note. Averages are weighted by the number of finalisations per state.

Therefore, given the lack of sufficiently robust data, Victoria considers a discount should be applied to the assessment.

CGC consultation questions and Victoria's positions

- Victoria recommends that the CGC gather a more detailed dataset and develop a methodology to better describe expenditure needs, or discount the assessment due to the lack of sufficiently descriptive data.
- Victoria recommends that the CGC discount the assessment because the national dataset relating to sociodemographic composition to finalisations is incomplete and likely biased.

4.5.7 Prisons

Victoria does not support the use of the 2020 Review methodology for the Prisons component for the reasons described below.

4.5.7.1 The remoteness cost-weighting

Victoria considers the conceptual case for a cost-weighting for prisons for remote residents is weak. Prisons are not located based on population dispersion, nor are prisoners commonly imprisoned in prisons near to their prior residence.

The CGC has not presented a compelling case that there is a material relationship between population remoteness and prison remoteness. In the 2015 Review report the CGC stated “Prisons and juvenile detention centres are located so that family and community ties can be maintained. This aims to reduce the difficulty of re-entering the community after release and to reduce the incidence of recidivism. Prisons (and hence prisoners) tend to be located disproportionately more in inner regional, outer regional and remote areas, compared with the distribution of the general population.” However, the first sentence was not supported by any accompanying evidence and does not align with the second sentence which suggests prison dispersion is not related to the distribution of the population.

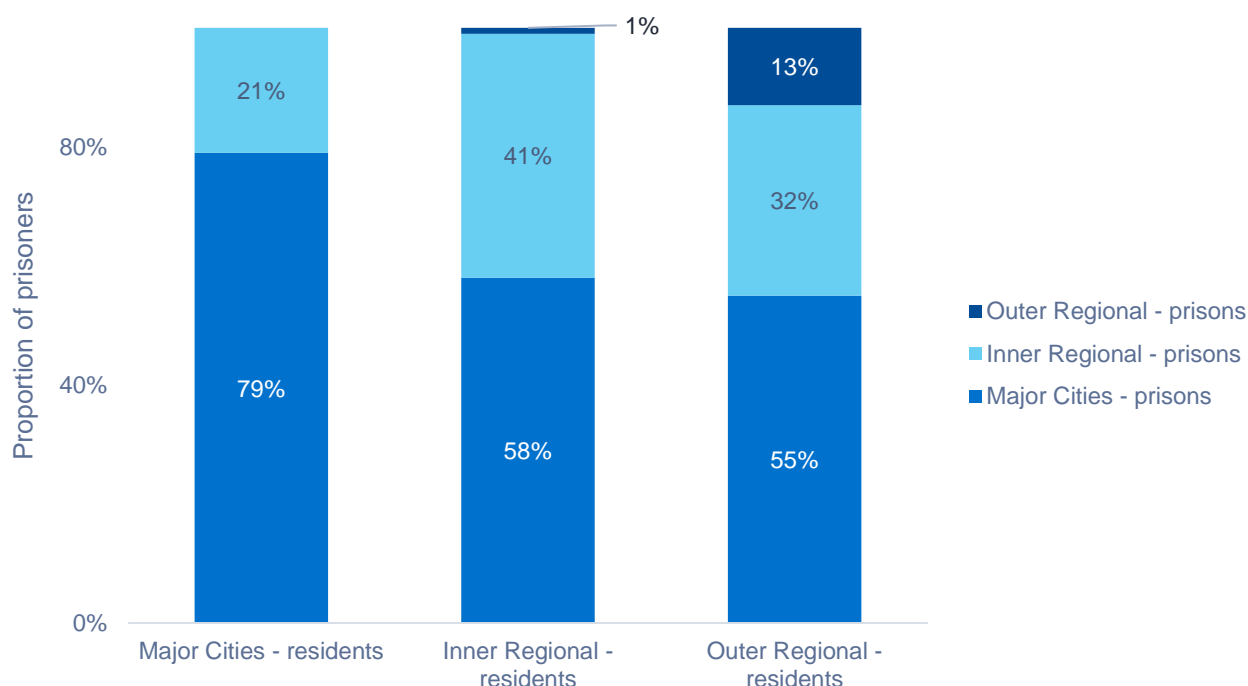
In Victoria, prison location is independent of prisoner origin. Prisons are not built in a particular location to be able to service the imprisonment needs of the surrounding area. Prison locations are often based on historical circumstances or are a policy choice. Prisoners are placed, and move between prisons throughout their sentence, based on capacity and prisoner characteristics and needs such as gender, medical needs, security needs, and the stage of their sentence.⁴⁴ The situation appears similar in other states, with security being the primary driver and proximity to family sometimes not referenced at all.⁴⁵

Victoria does not have any remote or very remote prisons. However, Victorian administrative data, summarised in Figure 21, indicate that regardless of last known place of residence, the majority of prisoners are imprisoned in major cities. This supports the descriptive evidence above, demonstrating the lack of relationship between prisoner origin and imprisonment location.

⁴⁴ A list of factors affecting prisoner placement in Victoria is available at <https://www.corrections.vic.gov.au/prisons/going-to-prison/prisoner-placement>

⁴⁵ A description of factors affecting prisoner placement in NSW is available at <https://www.correctiveservices.dcj.nsw.gov.au/documents/csnsw-fact-sheets/classification-and-placement.pdf>

Figure 21: The proportion of residents originating from each remoteness category that are imprisoned in each remoteness category, 2017-2022, excluding 2019-2021 pandemic years.



Source: Victorian administrative data

Note: Last known place of residence is based on most recent police interaction, which may or may not have occurred while the person was in custody.

The evidence to support the conceptual case is also weak. The results of the prison regression for the 2020 Review were not statistically significant, with high standard errors. Victoria contends that the results are not sufficiently robust to meet the CGC’s principles or the Review Terms of Reference.

In response to state concerns about the regression in the 2020 Review, the CGC stated that “the regression approach represents the most reliable available measure of the likely magnitude. As such it has decided to use the regression based approach. It is worth noting that one reason for the low explanatory power of the model **is major differences between States** in the cost per prisoner. However, **whether this reflects different levels of efficiency, or different accounting treatment and data standards, cannot be determined.**”

The above approach does not meet the CGC’s own requirements for a driver to be included⁴⁶, which are:

- “there is **sufficient empirical evidence** that material differences exist between states in the levels of use or unit costs, or both, in providing services”.
- “data are available that are of suitable quality – the collection process and sampling techniques are appropriate, the **data are consistent across the states** and over time and are not subject to large revisions.”

⁴⁶ CGC 2025 Review, Consultation paper on fiscal equalisation, supporting principles and assessment guidelines, p21

The CGC used judgment to apply the results, without any discount to account for associated uncertainty. In the 2025 Review position paper on fiscal equalisation, supporting principles and assessment, the CGC stated that it “does not discount judgment-based estimates, because in making that judgment the Commission has already incorporated all relevant information and weighted it according to its reliability”. However, in the above example, the CGC admitted that there was uncertainty, but neither made any adjustment to the regression results in their judgement nor applied a discount.

Given the weak conceptual case and lack of robust evidence, Victoria considers neither a remoteness cost-weighting nor a combined remoteness and service delivery scale cost-weighting should be applied to the Prisons component. At the very least, a high discount should be applied.

4.5.7.2 Defendant socioeconomic status as a proxy

The use of defendant socioeconomic status data as a proxy for prisoner data is inappropriate because, as described in 4.5.5, the defendant data is itself incomplete and likely biased. Socioeconomic status should be excluded from the Prisons assessment or an additional discount should be applied.

4.5.7.3 Cost weight for juvenile detainees

Victoria does not support the proposal to apply a cost weight for juvenile detainees in the prisons assessment if material.

The RoGS 2023 juvenile detention expenditure shared in the CGC’s consultation paper are “not comparable across jurisdictions”.⁴⁷ Since the RoGS data is provided by states and territories, there is no reason to expect data provided by the states to the CGC to be any more comparable. Victoria’s responses to the CGC’s review data request are provided from the same source as that provided to the PC for RoGS. This is likely also the case in other states, meaning the same comparability issue with the RoGS data would exist.

As a robust juvenile detention cost weight cannot be determined a cost weight should not be applied.

4.5.7.4 Changes to the juvenile detainees age groups in the prisons assessment

Victoria agrees that, given the changes would not be material, no changes should be made to the juvenile detainees age groups in the prisons assessment.

CGC consultation questions and Victoria’s positions

- Victoria recommends that the CGC does not apply a remoteness cost weighting because prisoner remoteness is independent of prison remoteness, and the cost-weighting regression results do not meet robustness requirements. At the very least, a high discount should be applied.
- Victoria recommends that the CGC exclude socioeconomic status as a driver because the data is not available for prisoners and the proposed proxy is based on incomplete data. Alternatively, a discount should be applied.

⁴⁷ Source: Productivity Commission, Report on Government Services 2023, Part F, Table 17A.21

Q5. Do states agree that the Commission:

- **apply a cost weight for juvenile detainees in the prisons assessment if material?**
 - Victoria does not support the proposal because juvenile detention data is not comparable between states. A cost weight should not be applied and juvenile detention expenditure data should be excluded from the assessment.
- **not make any changes to the juvenile detainees age groups in the prisons assessment?**
 - Victoria agrees that no changes should be made to the juvenile detainees age groups in the prisons assessment.

4.6 Transport

Victoria considers the experience of the pandemic has highlighted pre-existing conceptual issues with the urban Transport model, described below. However, on balance it agrees the 2020 Review methodology remains broadly appropriate. Victoria has a number of suggestions to improve the model described throughout this section.

4.6.1 Impact of COVID-19 on the urban Transport assessment and data

4.6.1.1 The impact of COVID-19 on the underlying assumptions of the urban Transport assessment

Victoria provides service levels commensurate with pre-COVID-19 conditions, as it did during the pandemic. As a result, costs did not decrease during COVID-19. If anything, as the CGC has noted, net state expenses have increased as patronage has declined.

This is the urban Transport service delivery challenge all states currently face and highlights an issue with the CGC's model that demand is assumed to meet supply under theoretical conditions. However, the pandemic has highlighted real-world factors that mean this does not reflect 'what states do'.

States don't amend public transport services to equalise supply and demand in the short or medium term. For example, there is considerable time and effort that goes into training and retaining the transport workforce like train, tram and bus drivers. If states were to significantly decrease services following a reduction in demand this would compromise their ability to provide services in the future when normal demand patterns return. This would be particularly unreasonable with an expected time limited shock like COVID-19.

A key role of states is to provide transport services that may be 'uneconomical', but service social equity goals to ensure all residents are able to access employment and essential services. Generally, no state public transport fully cost recovers through fare revenue. For example, certain school bus routes are serviced that only have a few students.

4.6.1.2 Reliability of data to update the urban Transport assessment

Victoria's Department of Transport and Planning (DTP) advises it is too early to assess public transport use patterns without COVID-19 influence. Since declines during COVID-19, patronage has been increasing. However, it is still unclear what long-term trends will be.

It will be at least 5-10 years before trends are clear, and a long-term assessment would be required before Government would seek to materially change service levels. Current data suggest that the rate

of growth of patronage is slowing, but Victoria is not yet in a new normal (or stable) environment for patronage growth.

CGC consultation questions and Victoria's positions

Q1. Do states agree that the 2020 Review model for assessing urban transport needs remains appropriate?

- Victoria agrees the 2020 Review model is the best currently available approach and should be retained.

Q2. Do states consider the urban transport net expense data from 2019–20 to 2021–22 are likely to be overstated?

- Victoria considers urban transport net expenses data from 2019–20 to 2021–22 are influenced by COVID-19 and not appropriate for the CGC's purposes.

Q3. If 2019–20 to 2021–22 data are not fit for purpose, do states support updating the regression with data from 2022–23? Can states provide an indication of when this data could be provided to the Commission?

- Victoria does not support updating the regression with data from 2022–23. Victoria considers 2022–23 is too early to establish a 'post-COVID-19 normal' for transport travel needs.

Q4. If 2022–23 data are considered fit for purpose but are not available for inclusion in the 2025 Review, do states support updating the assessment in an update following the 2025 Review?

- Consistent with the response to Q3, Victoria does not support updating the regression with data from 2022–23.

Q5. Do states support retaining the 2020 Review proxy variable data in the regression model until fit for purpose net expense data are available?

- Victoria supports retaining the 2020 Review net expense data and associated regression coefficients until appropriate data are available after the review.
- Victoria recommends the Review allow for any necessary method changes in the relevant annual update should updated reliable data become available before the next review. This will assist avoiding any potential constraints to necessary method changes from Terms of Reference for future annual updates or delaying uptake of new data.

Q6. Do states agree that the 2021 Census journey to work data were distorted by the COVID-19 lockdowns and are not a fit for purpose measure of current passenger numbers?

- Yes. Victoria agrees the 2021 Census journey to work data are distorted by COVID-19 lockdowns as the 2021 Census took place while many states had COVID-19 health measures in place impacting transport use, including stay at home direction on Census day in Victoria in 2021.

Q7. If the 2021 Census journey to work data are not fit for purpose, do states support the continued use of 2016 Census journey to work data in the model?

- Victoria supports the continued use of the 2016 Census journey to work data.

Q8. Do states agree that 2021 Census distance travelled to work data were not significantly distorted by COVID-19 lockdowns and are a reliable measure of network complexity?

- Victoria does not agree as it considers the impact of the pandemic on the data are unknown. Even though the data show distances travelled stayed at similar levels between 2016 and 2021, they may have increased or decreased in that time in the absence of a pandemic. Victoria supports retaining the 2016 Census data given this uncertainty.

4.6.1.3 Indexation approach to passenger numbers

Victoria does not support the use of either indexation method proposed by the CGC in the consultation paper. Victoria accepts retaining the 2016 Census Journey to Work data are not ideal and impacts the contemporaneity of the assessments, given the time between 2016 and the 2026 Census. However, neither proposal from the CGC addresses the issue of the influence of COVID-19 and associated health restrictions on the proposed alternative data sets.

Both the distances travelled collected by the Bureau of Infrastructure and Transport Research Economics (BITRE) and the state ticketing data will be influenced by COVID-19, in the same way 2021 Census data are. They likely reflect the same health restrictions that influence the 2021 Census or are likely influenced by other restrictions or changes to travel patterns including public caution regarding mass transit use due to health concerns. This is clear in that the states most impacted by COVID-19, Victoria and NSW, have the greatest decreases in passenger numbers in the BITRE and state ticketing data, as expected.

The BITRE data may additionally introduce bias as it only includes capital cities, which is different to the Census data from all SUAs. Further, data appear to be unavailable for Tasmania and the Northern Territory and Victoria suggests would need to be separately sourced from a state data request. This would lead to inconsistent data and potential other unforeseen issues.

CGC consultation questions and Victoria's positions

Q.9 Do states agree that, if material, 2016 Census journey to work data should be adjusted using the Bureau of Infrastructure and Transport Research Economics measure of passenger kilometres travelled until the 2026 Census data are available.

- Victoria does not support an adjustment to 2016 Census journey to work data, either using the BITRE or state ticketing data. Victoria recommends retaining the 2016 data until the 2026 Census data are available.

Q.10 Do states agree that if net expense data are available before the 2026 Census passenger numbers it is appropriate to use Bureau of Infrastructure and Transport Research Economics data to index actual passenger numbers?

- As per its response to question 9, Victoria does not support an adjustment to the 2016 Census data.

4.6.1.4 Blending with the urban population approach

Victoria supports the use of blending with the previous approach using populations in urban centres. Victoria considers the same concerns with the reliability of data underlying the urban centre characteristics model remain, as well as concerns with the proxy variables used in the model to ensure policy neutrality. Victoria considers there is a greater rationale for retaining the blending now

given the concerns with COVID-19 influence on any potential new data to update the urban centre characteristics model, and that data collected for the 2020 review are increasingly dated.

CGC consultation questions and Victoria's positions

Q11. Do states support retaining the 2020 Review blending ratio for the urban transport assessment.

- Victoria supports retaining the 2020 Review blending of the approach based on the population in urban centres and the urban centre characteristics model.

4.6.2 Ferries

4.6.2.1 The current approach to assessing ferry expenses

There is scope to improve the robustness of the current approach to determining whether an area has a ferry service. Victoria suggests this is included as part of the annual data request, as it is intended this should be updated annually.

Victoria has a number of ferry services including:

- Geelong to Docklands (Melbourne CBD) – state
- Portarlington to Docklands – state
- Geelong to Portarlington – state
- Westgate punt (Melbourne CBD) – state
- Stony Point to French Island and Philip Island – private
- Sorrento to Queenscliff – local government.

The provision of these services is in response to demand and the transport needs of Victorians, including those who live and commute around Port Philip Bay. The current ferries assessment does not adequately account for this need. Currently, only the Westgate Punt ferry is assessed.

Geelong is not counted as having ferry services in the current assessment, with the rationale that ferries to and from Geelong service transport between urban areas rather than within. This leaves the need for this service unassessed, and its expenditures potentially misallocated. Victoria considers trips between Geelong and Docklands (Melbourne) are urban transport and should be included in the model and characteristics of the Geelong SUA. Particularly as the trips do not cross any non-urban areas.

Additionally, the Portarlington ferry forms part of the same network of services between Geelong and Melbourne. It sits just outside the Melbourne and Geelong SUAs but still largely services urban transport. Victoria considers this spending should also be captured in the assessment of ferry expenses.

4.6.2.2 The CGC's proposal for a measure of the share of ferry trips

Victoria does not support the CGC's proposed adjustment to the ferry variable. Victoria accepts in principle that a more granular measure of the intensity of ferry use would be preferred, however Victoria's view is the Census data on journeys to work by mode for ferries are not fit for this purpose.

The proposed measure has conceptual issues as the proportion of travel by ferries does not capture the intensity of effort required to provide services. For example, a smaller less costly ferries could serve more frequent users taking less-complex trips, than longer services over more complex waterways with fewer patrons. For example, comparing relatively short trips for the Westgate Punt ferry in Melbourne, and longer Geelong to Docklands trips.

In addition, Victoria considers the rationale for this change has not been established strongly enough, given the 2020 Review concluded a dummy variable was preferable, and early CGC guidance on the 2025 Review stresses a preference to retain the 2020 Review methods. The 2020 Review notes a ferry dummy variable was preferred stating: "it was determined that the scale of ferry usage is not necessarily related to the overall level of transport demand in an urban centre. For this reason, a dummy variable is used to indicate the presence or absence of this service rather than passenger numbers." Victoria is unclear why the consultant's advice is being questioned now without a strong basis.

In early documentation for the 2025 Review, the CGC noted requirements for changes to the 2020 Review including changes in what states do and availability of data, which Victoria considers are not met for this change⁴⁸. It is unclear why this change should be made at this time, given the Tasmanian ferry service can be incorporated simply into the current approach. ABS Census data were available at the time of the 2020 Review, when more expertise and effort were applied to this assessment through the transport consultant.

Victoria does not support the use of this measure on examination of the Census journey to work data.

There are significant issues on inspection of the data, see Figure 22 below. The data show that in Victoria, the areas with the highest share of public transport trips including ferry as a transport mode are inland regional centres. Wangaratta and Horsham are the SUAs with the fifth and sixth highest share of ferry use in Australia respectively, calculated on all public transport trips that include ferry as one of the modes used. Taking only the primary mode of transport, Horsham was the SUA with the highest use of ferries in Victoria, and eighth highest SUA in Australia.

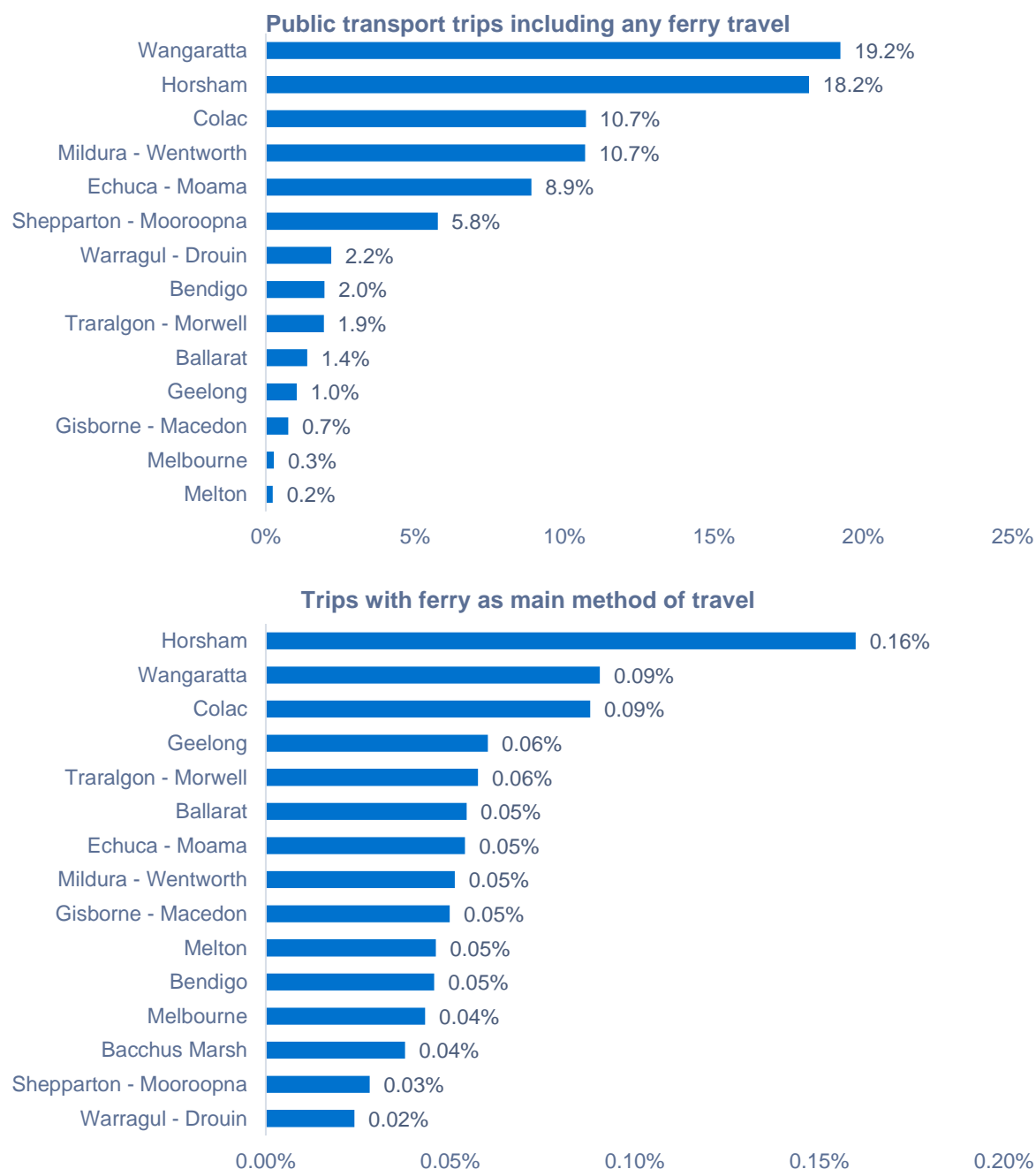
It is possible residents of these areas travel to Melbourne or Geelong and then take a public ferry to work. However, it is also possible they take smaller private ferries over smaller waterways or have not responded to the question accurately. This raises an issue for the appropriateness of the data, even for areas where the CGC has already established there are ferries.

These Census data also do not distinguish between state provided ferry services and those provided by other entities like local governments or private providers. As such, an assessment based on this data could allocate need where there are no state services. Victoria has state, local government and private ferries operating in parts of Port Philip Bay. It is unclear how the CGC would separate these out for an accurate picture of state need.

In addition, given the data are available, it is unclear why the CGC would restrict its consideration to only those areas previously identified to have ferry services using this measure – the data show ferries are used across many other SUAs.

⁴⁸ Commission's position on approach and work program for the 2025 Methodology Review. April 2023

Figure 22: Share of trips that include ferry as a method of travel to work by Victorian significant urban areas



Source: ABS 2016 Census, counting persons by place of usual residence, by method of travel to work.

Note: Those that worked from home, did not go to work, did not state a mode or were not applicable were excluded from proportions.

CGC consultation questions and Victoria's positions

Q 12. Do states support replacing the ferry dummy variable in the urban transport model with the proportion of total commuters using ferry services?

- Victoria does not support replacing the ferry dummy variable with the proportion of total commuters. Victoria recommends retaining the current ferry dummy approach.
- Victoria recommends the CGC collect data from states on state operated ferries in its annual update data request.
- Victoria recommends the CGC account for ferry services in Geelong in both its model and the characteristics of areas, to reflect the Geelong to Docklands ferry.

4.6.3 Regression approach to model policy neutral passenger numbers

Victoria supports the proposed regression model approach to model passenger numbers. Victoria agrees the changes in populations since 2020 warrant a reconsideration of the population ranges approach to modelling passenger numbers. Victoria also agrees with the CGC's point that the use of population ranges can create sometimes arbitrary differences in assessment of SUAs with populations either side of the range limits.

Victoria would have preferred that the supplementary detail on the CGC's proposed regression approach was provided earlier in the review process, ideally with the consultation paper. This would have allowed states to make more informed comments in response.

CGC consultation questions and Victoria's positions

Q 13. Do states agree that using a regression model to recognise the growth in passenger numbers in urban areas is a more suitable method for modelling passenger numbers?

- Victoria supports the proposed regression approach.

4.6.4 A new assessment approach to non-urban Transport

Victoria provides specific comments on aspects of the current non-urban Transport assessment below. However, overall, Victoria questions the utility of a separate non-urban Transport assessment. Given the issues raised below with the definitions of the split between urban and non-urban, it may be appropriate to combine these assessments.

Combining the assessments would improve simplicity. Non-urban Transport is only a minor component of total Transport spending needs and has a relatively minor impact on the GST distribution.

Notwithstanding this suggestion, Victoria makes a number of specific comments on the current and proposed non-urban Transport assessment below.

4.6.4.1 CGC proposal for an assessment by the share of non-urban train commuters by state

Victoria supports in principle the Commission's proposal to move the non-urban Transport assessment from an equal per capita assessment to one driven by the share of non-urban train commuters by state. However, Victoria has reservations about how accurate the calculation will be,

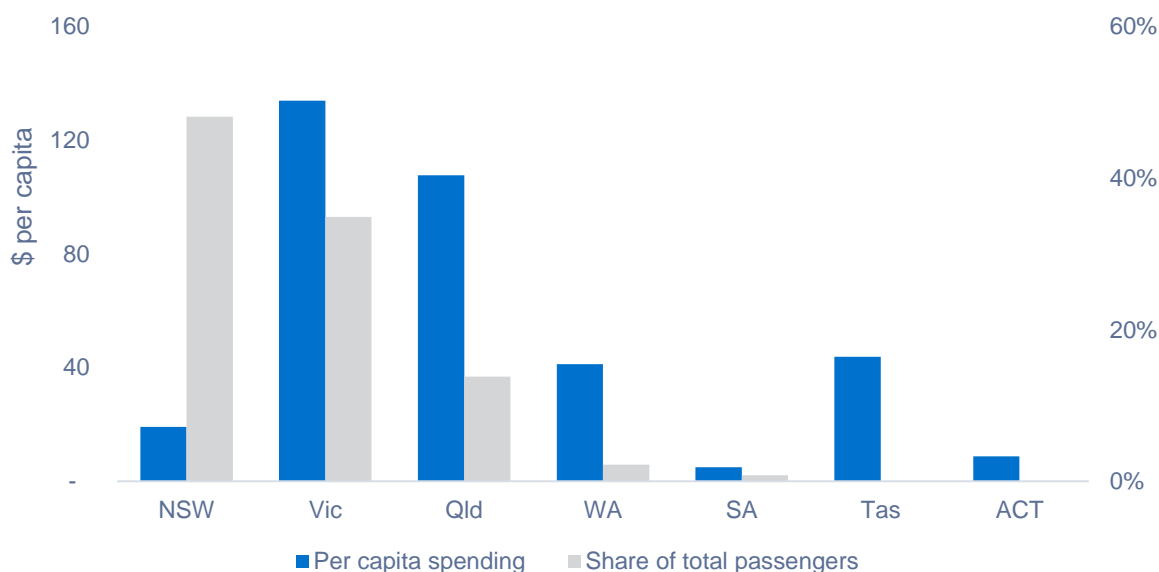
based on the CGC's current approach to identifying and allocating non-urban Transport. For example, Victoria's concerns with accounting for Melbourne's satellite areas (section 4.6.4.2) and improving accounting for V/Line expenditure (section 4.6.4.4) impact the appropriateness of this approach. These are underlying issues Victoria considers must be resolved before it can fully support this approach.

As previously noted, Victoria also agrees that retaining 2016 Census data is not an ideal solution, as the data are already dated. However, due to the influence of COVID-19, Victoria does not support updating to 2021 Census data.

Victoria's key concern with the CGC's proposal to introduce the share of non-urban train commuters as the driver of need (as opposed to only population) is that, while it appears an improvement on EPC, it still does not explain the differences in per capita non-urban transport expenses between states.

Taking actual per-capita expenses as presented in the consultation paper, Victoria's non-urban Transport spending is around 7 times higher than NSW's, shown in Figure 23 below. However, its share of total non-urban train commuters is lower than NSW's.

Figure 23: Per capita non-urban Transport net expenses, 2020-21, and share of total non-urban train commuters by state



Source: CGC 2023 Update supporting spreadsheets

Victoria suggests the extent of this differential cannot be only policy driven but is driven by the need for non-urban public Transport through factors such as those mentioned by the CGC including geography, the spatial distribution of populations and cities or other factors like asset age.

Victoria has several large regional centres close to Melbourne where commuting by train to the CBD is a common way for residents to access employment. Issues with this proposed adjustment may be indicative of other issues in the non-urban Transport assessment not reflecting Victoria's needs, discussed below.

Victoria also questions the implied 80 to 20 per cent split between the new approach and an EPC assessment in the consultation paper. Victoria is unclear on the rationale for how the 80 to 20 per

cent ratio was decided. Victoria requests that before the draft report the CGC provide states with detail on how this split was determined.

4.6.4.2 Definitions of urban and non-urban transport for Melbourne's satellite areas

The CGC's non-urban Transport proposal highlights concerns Victoria has previously raised, where the CGC may not be accurately accounting for the extent of urban Transport in Victoria.

The current assessment methods only count urban Transport as transport that occurs wholly within SUAs. This is because the assessment aims to account for the costs of providing mass transit within urban areas. However, the strict use of SUA boundaries to define this understates the extent of urban transport within Victoria due to the unique structure of Melbourne and its outlying suburbs, and nearby satellite SUAs.

The CGC makes an adjustment for Gisborne and Bacchus Marsh in its econometric model, recognising they are satellites of Melbourne⁴⁹. This follows decisions in the 2020 Review, where the CGC noted "SUAs of Gisborne-Macedon, Melton and Bacchus Marsh could be considered labour market integrated satellites to Melbourne based on their self-sufficiency index values". The CGC's assessment simulator files further state: "In [the consultant's] analysis, they determined that the SUAs of Gisborne-Macedon, Melton and Bacchus Marsh could be considered labour market integrated satellites to Melbourne based on their self-sufficiency index values. ... This is reflected in the table below, and later used in the application of the regression model."

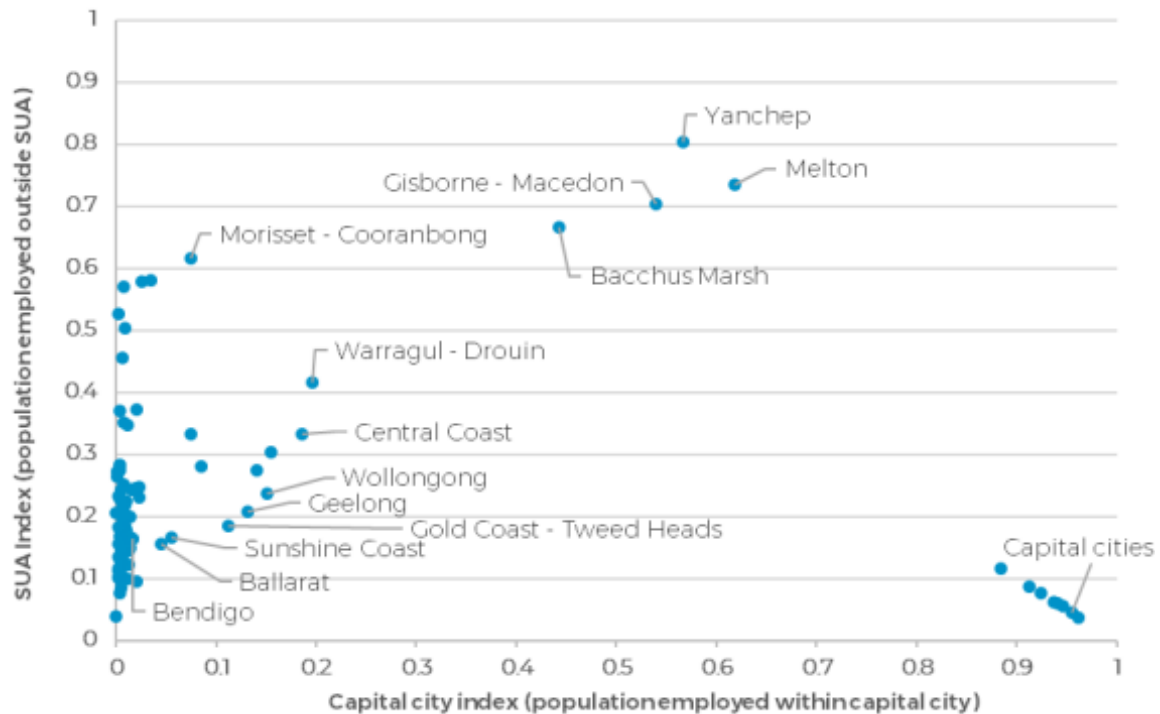
While this is reflected in the regression model, it appears no adjustment was made as a result to the characteristics of SUAs that the regression outputs are applied to. The result is these areas are currently not counted as having urban heavy rail Transport. The 'characteristics of areas' are inconsistent with how the regression model was developed. There doesn't appear to be a stated rationale for this difference. It is unclear to Victoria why these satellite SUAs should be treated separately for the annual application of regression coefficients compared to within the model itself.

Victoria recommends the Gisborne and Bacchus Marsh SUAs are combined with the Melbourne SUA for the purposes of calculating the characteristics of SUAs. This would reflect that these areas are effectively integrated in their transport networks and labour markets.

The CGC presented self-sufficiency indices to support the adjustment to the regression model in the 2020 Review, noting Bacchus Marsh, Gisborne and Melton (separate from Melbourne at the time) had very high proportions of population employed within the capital city and outside their own SUA of residence. Given these areas are such significant outliers on this measure an adjustment should also be made to the characteristics of the SUAs.

⁴⁹ Note the SUA of Melton was absorbed into the Melbourne SUA in the 2021 Census.

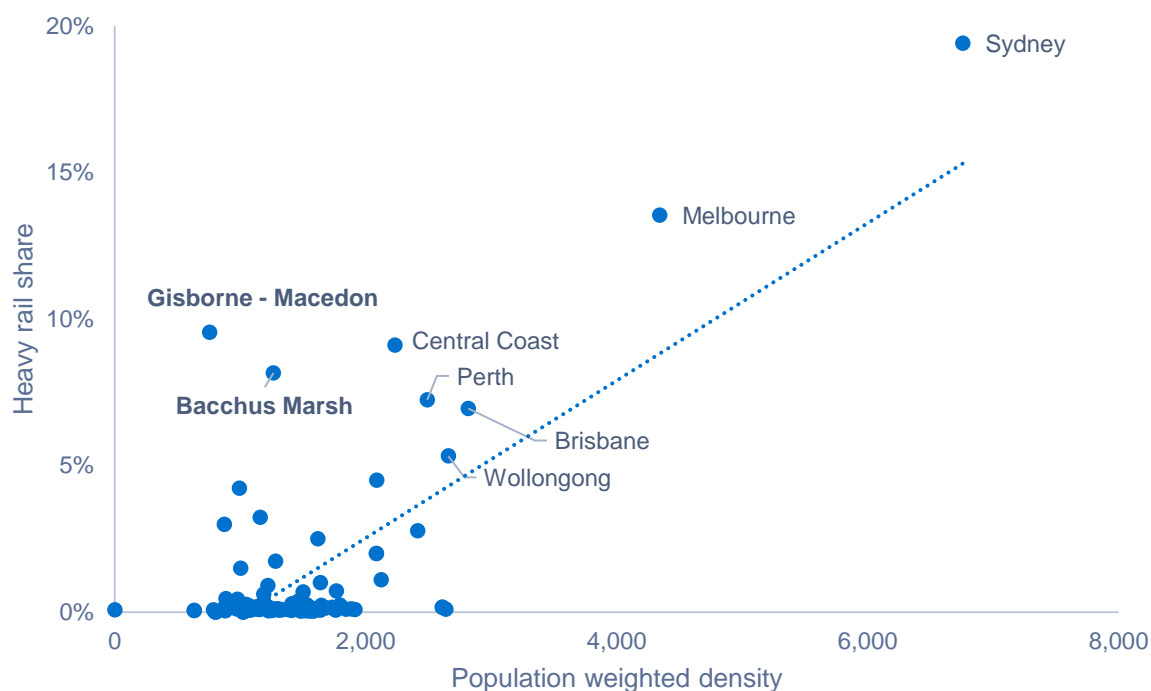
Figure 24: Self-sufficiency indices for all SUAs, 2016, CGC 2020 Review



Source: CGC 2020 Review report, volume two, part B

Shown in Figure 25 below, Census data show Bacchus Marsh and Gisborne are clear outliers in terms of the share of heavy rail Transport use on trips to work. These areas have the third and fifth highest heavy rail use, far above what is suggested by their population weighted density. This indicates the urban nature of these areas and their transport patterns as contiguous to Melbourne.

Figure 25: Share of heavy rail as a method of travel to work by population weighted density and significant urban area



Source: ABS 2016 Census

Note: Respondents who worked from home, did not go to work, did not state a method of travel or where not applicable are excluded.

4.6.4.3 Definitions of urban and non-urban Transport between contiguous urban areas

In addition to the issues with definitions of urban areas above, Victoria additionally recommends the CGC consider combining urban Transport for all contiguous SUAs.

This would address the issue of Melbourne's satellite areas as above, but also a conceptual issue where transport that takes place wholly within urban areas can be defined as 'non-urban'.

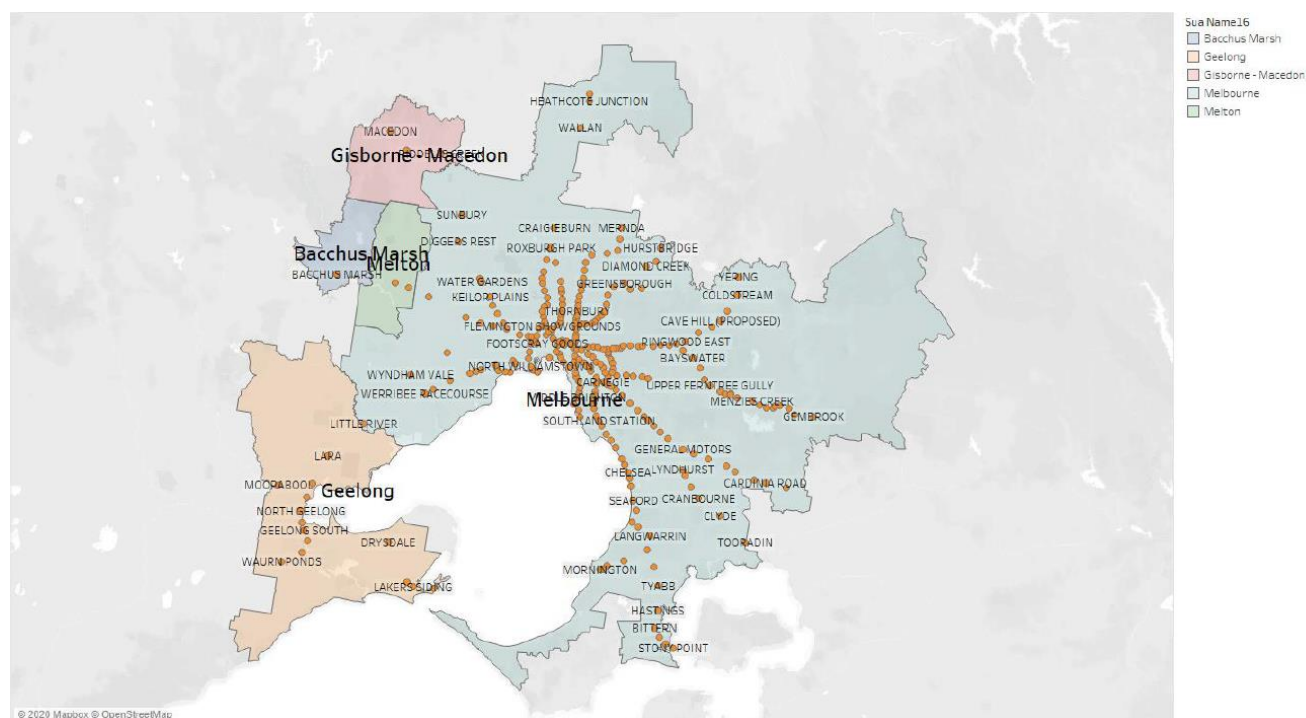
The Geelong, Gisborne, Bacchus Marsh and Melbourne SUAs are all geographically connected. No travel between these areas takes place in non-urban areas. Victoria recommends expenditure related to travel directly between urban areas, where no travel takes place over non-urban areas, should be included in the urban Transport assessment.

Even if this travel is not within the same urban area, it is still distinct from travel between regional centres that largely takes place over regional and rural areas. Travel that is completely within urban areas but goes between them still poses the same complexity issues faced within an urban area, as it is essentially all within a larger 'urban area'.

Otherwise, Victoria appreciates if the CGC could provide an explanation of the rationale behind the choice not to count transport between two geographically joint urban areas as 'urban', and offer states the opportunity to provide comment.

Strictly, the current assessment already does not fully reflect only 'intra-urban' transport as the mode shares taken from the Census method of travel to work are from the residents of SUAs, without a control or adjustment for only those that travel within their SUA.

Figure 26: Victorian significant urban areas and Transport network



Source: Victorian Department of Transport and Planning

4.6.4.4 Reallocation of V/Line expenditures to urban Transport

As Victoria has extensively discussed with the CGC previously, the assessment methods currently inaccurately attribute the majority of Victoria's V/Line expenditures to non-urban Transport. A significant proportion of V/Line activity and associated spending is for intra-urban area travel, particularly in the Melbourne SUA.

Rail services within Greater Melbourne (the SUAs of Melbourne, Bacchus Marsh, Gisborne-Macedon and formerly Melton) are provided in a different manner to those in other capital cities. There are two service providers—Metro Trains Melbourne (MTM) which is contracted to provide services on the electrified rail network and V/Line which provides services on the non-electrified lines within Greater Melbourne. V/Line, although a provider of regional rail services, also provides passenger rail services within Greater Melbourne.

The Commission had originally considered that V/Line services are for non-urban Transport, and all V/Line expenses were subsequently moved to the non-urban Transport component.

Following the 2020 Review Victoria noted that a portion of V/Line expenses should be allocated to the urban Transport component, to account for the provision of heavy rail services within Geelong and metropolitan Melbourne by V/Line.

In the 2021 Update, the Commission accepted Victoria's position to recognise that Geelong had a commuter heavy rail network since the level of service provision was comparable to that of the Gold Coast. The resulting decision was to allocate 8 per cent of V/Line expenses in the urban Transport component and retain the remaining 92 per cent in the non-urban component.

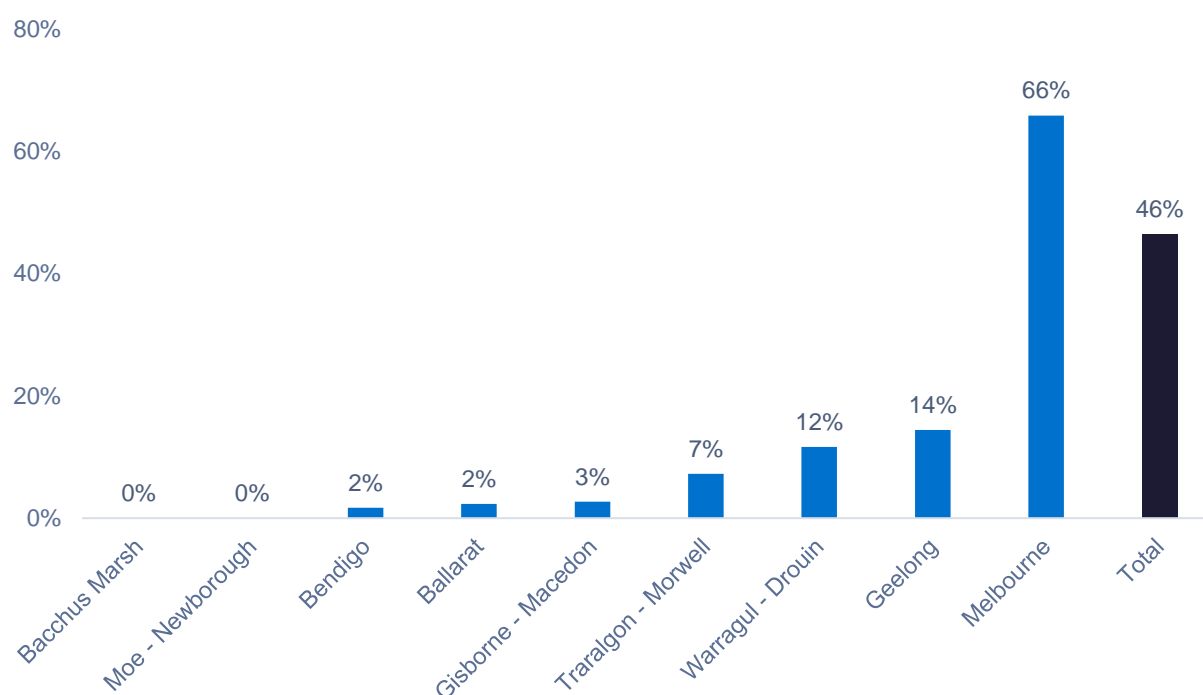
With a new opportunity to consider this issue in the 2025 Review, Victoria again calls on the CGC to reallocate the correct level of V/Line expenses to the urban Transport component. This will more accurately account for the provision of heavy rail services by V/Line within urban areas.

As the CGC is aware, Victoria's General Government subsidies to V/Line are recorded as urban Transport by Victoria and the ABS – adding to the case that a significant proportion of this spending is for urban Transport.

Data from Victoria's Department of Transport and Planning show that 46 per cent of V/Line's patronage can be classified as intra-metropolitan travel within the same SUA. DTP data noting the origin and destination of trips was used to calculate how many trips went between each SUA, with 46 per cent having the same destination SUA as origin.

A significant portion of within-SUA V/Line trips occur within Melbourne – 66 per cent of V/Line trips commencing in the Melbourne SUA ended within that SUA.

Figure 27: Share of total V/Line journeys within the same SUA, by origin SUA, 2022-23



Source: Victorian DTF and DTP

Notes:

- 1) Analysis draws on DTP's Train Service Usage Model, there may be minor errors arising from the model's approach.
- 2) Paper tickets are not included in the model data and are assumed to all not be intra-urban travel.
- 3) The SUA of Melton has been incorporated into the Melbourne SUA, following the 2021 Census reclassification.
- 4) It is not possible to adjust for boundary changes impacting the Donnybrook Station, which was reclassified to be within Melbourne in the 2021 Census. Combined with note 2, this means figures on the share of intra-urban travel are likely an underestimate.
- 5) Data include journeys that contained at least one leg on V/Line, the first and final destination is used.

CGC consultation questions and Victoria's positions

Q 14. Do states support the following changes to the non-urban transport assessment:

- **assessing non-urban rail passenger expenses based on shares of non-urban train commuters?**
- **assessing all remaining expenses based on shares of non-urban populations?**
- Victoria supports the CGC's suggestion to use shares of non-urban train commuters as the basis for non-urban rail assessment, noting there are issues with this measure. Victoria has suggested an approach above to remedy this issue.
- Victoria requests the CGC outline how the 80 to 20 per cent ratio was chosen for the new assessment based on the share of non-urban train commuters and an EPC assessment.
- Victoria recommends the Gisborne and Bacchus Marsh SUAs are combined to the Melbourne SUA for the purposes of calculating the characteristics of SUAs.
- Victoria recommends the CGC combine urban Transport between all contiguous SUAs, without intervening non-urban areas.
- Victoria recommends the CGC allocate a portion of V/Line services to the urban Transport component, in line with data provided above.

4.6.5 The urban transport regression model

Victoria appreciates the CGC has provided a technical note including the outputs of its regression model to states. However, it notes states are unable to access the full regression model as data from some states is marked as confidential. This significantly limits states' ability to comment on the core of the urban Transport assessment.

Victoria is concerned a number of the variables in the model are statistically insignificant, according to the outputs provided to states. Given the limited ability to update the model with COVID-19 impacts, this issue is likely to persist. Linking to Victoria's overall concerns with robustness, certainty and reducing volatility in the assessments, Victoria recommends the CGC investigate improvements to the model to remedy this. Victoria requests the CGC update states on progress on this issue before the draft report.

Specifically, the variables for the presence of ferry services, bus and light rail passengers and mean slope are all insignificant. There is certainly a conceptual case for each of these variables however, the statistical model suggests these do not meaningfully explain expenditures.

In the 2020 Review, the Commission noted it did not include a number of variables in the model as they did not improve the explanatory power of the model. It is unclear why the CGC is now recommending use of insignificant variables, based on model outputs it has provided. This links to Victoria's broader points noting a desire for greater certainty and robustness in the CGC's methods.

4.7 Native title and Land Rights

4.7.1 Appropriateness of an actual per capita assessment

Victoria questions the APC assessment of native title expenses and considers states do have scope to respond to claims differently with varied policies. The basis for an APC assessment is policy consistency between states, however Victoria considers there is scope for differences between states in responding to native title claims.

Victoria has a unique system to other states for native title claims, as it has an alternative process under the *Traditional Owner Settlement Act 2010*. Victorian native title claimants have the option of pursuing claims through the Victorian *Traditional Owner Settlement Act 2010* or the *Commonwealth Native Title Act 1993*. As such, it is not the case that all native title claims and compensation are made directly under the same national framework as the CGC suggests.

The *Traditional Owner Settlement Act 2010* allows for an alternative system for resolving native title claims. It is intended to streamline and expedite the claims processes in a cost-effective way. It places an emphasis on mediation and negotiation, rather than more costly and time consuming formal legal processes.

The High Court of Australia's 'Timber Creek' decision (*Northern Territory v Griffiths* [2019] HCA 7) ruled on compensation for native title rights, potentially setting a precedent for future cases through the *Native Title Act 1993*. States will implement policies to align compensation to the outcomes of this decision, however these processes may not yet be complete and may not exactly match outcomes from the Timber Creek decision.

For that case, the High Court ruled for compensation calculated on the basis of:

- 50 per cent of the freehold value of the land for economic loss assessed as at the date of the compensable act that brought about extinguishment
- interest payable on that economic loss, from the date of the compensable extinguishing act
- an amount for cultural and spiritual loss.

Victoria's current arrangements under *Traditional Owner Settlement Act 2010* Land Use Activity Agreements (LUAAs) use stepped-percentages to calculate community benefit payments, with a diminishing proportion of an activity's value the more the value increases. This starts at 50 per cent of the unimproved net market value for under \$100,000 to 0.5 per cent for value over \$10,000,001. This is distinct from the set 50 per cent of freehold value of land from the Timber Creek decision. In addition, Victoria's LUAAs payments do not include interest, as they are made at the time that Traditional Owners give their consent. This distinction between Victoria's *Traditional Owner Settlement Act 2010* and outcomes set by the Timber Creek ruling highlights the potential scope states have to respond to native title and land rights claims.

The Timber Creek case also did not provide clear guidance for compensation on cultural or spiritual loss, with this left to negotiation in individual cases. This highlights again some discretion states have in responding to claims, even now there is clearer guidance from the Timber Creek case. The Timber Creek decision included a cultural loss component, but the amount was based on the specific facts of the case, rather than a formula or calculation that states can follow. As such, states can develop distinct policies regarding compensation for cultural loss. Victoria's current arrangements include 10 per cent of the unimproved net market value for solatium (intangible loss).

Recent state settlements demonstrate the variance between compensation provided and the range of rights recognised. For example, WA recently concluded its South West Native Title Settlement with the Noongar people, which it notes was the 'most comprehensive Native Title agreement in Australian history'⁵⁰. The settlement with the Noongar people includes establishing a trust, land estate, housing program, economic participation program, capital works and community development. WA also

⁵⁰ <https://www.wa.gov.au/organisation/department-of-the-premier-and-cabinet/south-west-native-title-settlement>

recently settled the Tjiwarl Palyakuwa Indigenous Land Use Agreement which includes a research and development fund and an economic empowerment fund.

4.7.2 Impact of treaty processes on native title claims

4.7.2.1 Progress of treaty processes in Victoria

Treaty processes in Victoria are advanced compared to other jurisdictions. Victoria is the first jurisdiction in Australia to action all elements of the Uluru Statement of the Heart – Voice, Treaty and Truth.

In 2018, Victoria enacted Australia's first ever Treaty legislation – Advancing the Treaty Process with Aboriginal Victorians Act 2018 (Treaty Act) – which led to the establishment of the First Peoples' Assembly of Victoria. The First Peoples' Assembly of Victoria is the independent and democratically elected body representing First Peoples in Victoria's Treaty process.

The Assembly began operations in 2019 following a state-wide election. It held its second general election in May-June 2023 and elected a new Assembly that intends to begin state-wide Treaty negotiations with the Victorian Government.

The 2023-24 State Budget invests \$138 million over four years to support Treaty negotiations. This includes \$82 million to support the independent First Peoples' Assembly of Victoria as the voice of First Peoples in the Treaty process.

The 2022-23 State Budget also included an investment of more than \$151 million to support First Nations Victorians to prepare for Treaty negotiations. This builds on over \$93 million allocated in Victorian State budgets since 2016 to support treaty milestones, engagement and communications.

Extensive work by the Victorian Government and the First Peoples' Assembly of Victoria meant that all Treaty elements required by Victoria's Treaty Act were agreed by the end of 2022, including the establishment of a Treaty Authority and Self-Determination Fund, as well as the agreement of a Treaty Negotiation Framework. Treaty negotiations are expected to commence by early 2024.

4.7.2.2 Impact of treaty processes on native title and land rights claims

Victoria notes treaty processes are a relatively new area for governments and represent a significant and complex undertaking. Treaty processes in Victoria are advanced compared to other jurisdictions, however outcomes are unknown and are subject to future negotiations.

Victoria recommends the CGC continue to work with states to ensure the impacts of treaty negotiations and outcomes are accurately accounted for in its assessments. Victoria considers it is likely treaty processes will impact native title and land rights claims. It may be appropriate for some spending related to treaty to be included in the current Native Title assessment.

Treaty will provide services related to First Nations land rights. Victoria's treaty act, the *Advancing the Treaty Process with Aboriginal Victorians Act 2018* makes clear that Victoria's treaty is a pathway to acknowledge, recognise and agree on First Nations' land rights. Specifically, the Act notes:

- "The State of Victoria acknowledges Victorian traditional owners as the first peoples of what is now known as Victoria. From time immemorial Victorian traditional owners have practised their laws, customs and languages, and nurtured Country through their spiritual, cultural, material and economic connections to land, water and resources."
- "In recent times, Victorian traditional owners and the State have worked together to ensure traditional owners play a lead role in managing and protecting land, natural resources and cultural heritage. To date, consultations with Aboriginal Victorians have emphasised the

leading role and authority of traditional owners when it comes to treaty. Through this historic Act, all Aboriginal Victorians and the State are building on this and other good work and embarking on a renewed and mature relationship."

Victoria's treaty processes must also align with current Native Title arrangements under the Commonwealth *Native Title Act 1993*. The *Advancing the Treaty Process with Aboriginal Victorians Act 2018* explicitly ensures treaty aligns with the Commonwealth *Native Title Act 1993*. Section 6 of the Act notes:

- "Act does not affect native title rights and interests
 - (1) Nothing in this Act is intended to affect native title rights and interests otherwise than in accordance with the Native Title Act 1993 of the Commonwealth.
 - (2) The provisions of this Act must be interpreted in a way that does not prejudice native title rights and interests to the extent that those rights and interests are recognised and protected by the Native Title Act 1993 of the Commonwealth.
 - (3) In this section, affect and native title rights and interests have the same meanings as in the Native Title Act 1993 of the Commonwealth."

In addition, Victoria's Treaty Negotiation Framework, agreed in October 2022, includes similar provisions that make clear treaty provides services related to land rights, and is intended to capture obligations under the *Native Title Act 1993*. It notes:

- "[Preamble - Clause C] The Parliament of Victoria, by section 1A of the Constitution Act 1975 (Vic), recognises that Aboriginal people of Victoria, as the original custodians of the land on which the colony of Victoria was established, have a unique status as the descendants of Australia's first people; have a spiritual, social, cultural and economic
 - relationship with their traditional lands and waters within Victoria; and have made a unique and irreplaceable contribution to the identity and wellbeing of Victoria.
- [Section C - First Peoples' Sources of Authority and Treaty]
- [Part B and C] - Minimum Standards for Treaty require Land and Water elements
- [Part E - Conduct of Negotiations] Which outlines subject matter for Treaty negotiations and directly addresses alignment with the Native Title Act 1993 (Cth)."

It is likely that treaty the treaty process in Victoria will impact Native Title claims. The CGC should work with Victoria, and other states engaging in treaty processes to identify the impact of this on its assessments. Some of Victoria's treaty spending may be most appropriately assessed under the CGC's current APC treatment of Native Title spending, in the case that the CGC does not accept Victoria's recommendation to assess Native Title spending EPC. As noted, Victoria's treaty legislation and negotiating framework specifically note the requirement for alignment to the Commonwealth's *Native Title Act 1993*, which the CGC references as the basis for its confidence of policy neutrality in Native Title spending.

Not including Victoria's its treaty expenditure as native title could lead to inconsistency with other states' reporting under the current Native Title assessment. Other states could be implementing expenditures similar to Victoria's potential outcomes under treaty through settlements under the current native title processes. An example is the significant increases in native title spending recorded under the CGC's assessments, for example for WA reflecting its settlement with the Noongar peoples.

CGC consultation questions

Q1. Do states agree that the APC assessment of Native Title expenditure remains appropriate?

- Victoria does not agree that the actual-per-capita assessment remains appropriate. Victoria recommends native title expenditures are assessed on an equal-per-capita basis.

Q2. Do states anticipate that treaty processes will affect how they negotiate Native Title and land rights claims?

- Victoria anticipates its treaty processes will affect its native title and land rights expenditures, and requests that the CGC work with states to determine the most appropriate accounting for this in its methods.

5. Other

5.5 Commonwealth payments

Victoria supports all proposals in the Commonwealth payments consultation paper.

However, the Commission could indicate the information sources used in determining the treatment of each payment, including where those sources left sufficient uncertainty for a treatment to default to impact.

Victoria supports the proposal to discontinue the assessment of Commonwealth own-purpose expense payments. However, should the materiality of those payments increase substantially, the Commission should reconsider the decision.

CGC consultation questions and Victoria's positions

Q1. Do states agree the guideline for deciding the treatment of Commonwealth payments remains appropriate?

- Victoria agrees.

Q2. Do states agree to a default treatment of 'impact' in cases where there is substantial uncertainty about the payment's purpose or whether relative state expenditure needs are assessed? It remains open to states to provide evidence in support of no impact.

- Victoria agrees. However, the Commission should indicate the source of information that supports each non-default treatment decision.

Q3. Do states agree to discontinue the assessment of Commonwealth own-purpose expense payments?

- Victoria agrees. However, should the materiality of COPE increase in the future this decision should be reviewed.

Q4. Do states agree that the guideline for determining the GST treatment of Commonwealth payments should be applied in cases where payments include elements aimed at addressing pre-existing structural disadvantage?

- Victoria agrees.

5.6 Socio-economic status

Victoria supports the use of the current Socio-Economic Indexes for Areas (SEIFA) measure of socioeconomic status (SES) based on the Census⁵¹. Victoria prefers assessments that are simple and based on the most robust and commonly accepted measures where possible. Victoria's view is

⁵¹ Specifically, the CGC uses the Index of Relative Socio-Economic Disadvantage (IRSD) to measure disadvantage. It refers to this as the Non-Indigenous Socio-Economic Indexes for Areas (NISEIFA) as it uses another SES measure for Indigenous SES produced by the Australian National University, the Indigenous Relative Socioeconomic Outcomes index (IRSEO).

that an annual measure would add complexity, volatility and uncertainty to the CGC's assessments, without a strong definition of a problem this would solve.

5.6.1 Evidence of changes in SES in the short term

Victoria is concerned the need for an annual SES measure is not fully established in the consultation paper. The paper presents analysis based on the Labour Force Survey however it is unclear from the paper how this has been constructed, and how closely it relates to SEIFA.

The paper also suggests the CGC found 2021 Census SEIFA measures were not affected by lockdowns. This suggests SES was not affected by temporary conditions posed by the pandemic and may be 'sticky' or a more persistent measure, again questioning the need for an annual measure.

If the CGC considers SES is volatile and changes materially between years, Victoria requests the CGC detail its confidence that SES is not influenced more directly by state policies. Improving the SES of residents is a clear aim of governments. Most state policies aim to improve the SES of its residents, but states have specific policies to address disadvantage. State spending may influence SES directly, meaning it is endogenous to the spending it is intended to explain.

Victoria understands the aim of the low SES disability in assessment categories is to measure underlying disadvantage, outside the control of states – at least in the short term. If SES was variable between years, some extent of the changes could be influenced by state policies. This calls into question the appropriateness of SES as a driver of need.

5.6.2 Issues with the MADIP based measure

Victoria is concerned the MADIP measure does not fully represent the core concepts of SES and disadvantage required for the assessments. Victoria understands the MADIP measure weights equally between the proportions of people in an area that:

- receive selected Department of Social Services (DSS) pensions
- have a prescription for certain lifestyle-related conditions
- have high incomes.

SEIFA IRSD in contrast includes a range of measures:

- Low income
- Families with children under 15 that are jobless
- Level of education
- Low rent
- Employment status
- Occupation
- Disability
- Single parent
- Overcrowded
- Divorce and separation
- Car ownership
- English proficiency.

Victoria is concerned the MADIP measure is much narrower than SEIFA, and weights towards more specific measures. This could result in volatility between years simply due to sampling issues and data variability. Victoria's preference is for consistent, simple assessments.

In addition, the measures MADIP is based on appear to miss some core concepts of SES. SES can be defined as: “the position of an individual or group on the socioeconomic scale, which is determined by a combination of social and economic factors such as income, amount and kind of education, type and prestige of occupation, place of residence, and—in some societies or parts of society—ethnic origin or religious background” (APA Dictionary of Psychology).

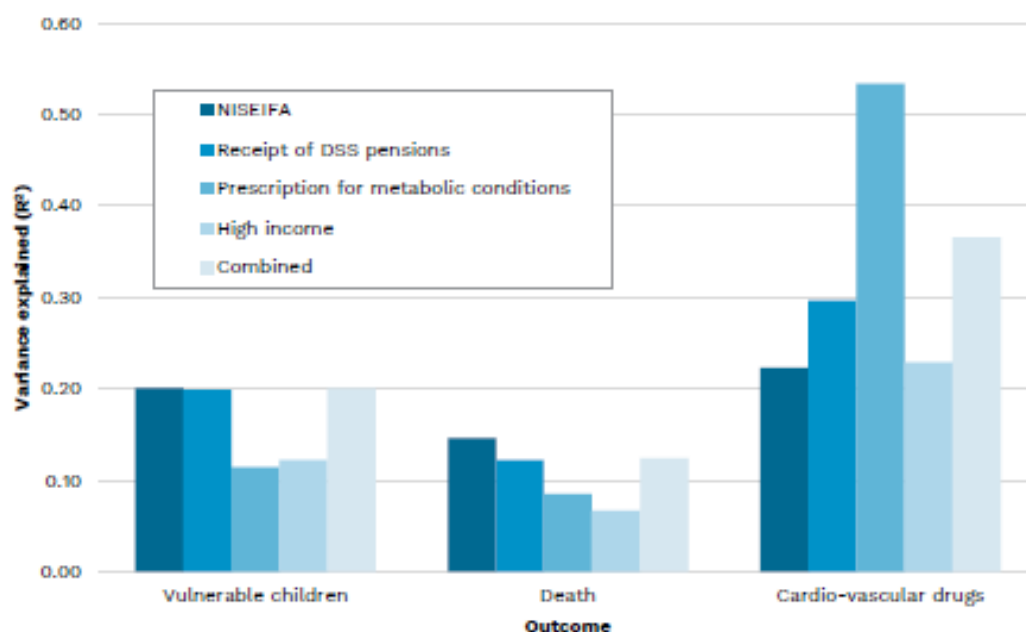
The MADIP measure does not include any labour market variables like employment or occupation, or human capital factors like education levels. Victoria considers these to be core to a definition of SES.

Further, through the assessments the CGC requires a measure of disadvantage of areas – low SES is a driver of need in many assessment categories. For this, the CGC specifically use the SEIFA Index of Relative Socio-economic Disadvantage measure, as opposed to measures that include advantage.

Given this, it is unclear how the MADIP measure is appropriate as it only measures high incomes. The paper notes the MADIP measure only measures advantage, taking couples’ incomes (individuals in a relationship for tax purposes) over \$200,000. This appears to be a structural issue with the data source, as the paper notes MADIP is unable to provide low-income information.

The CGC’s tests of the SES measure do not provide Victoria comfort it is more reliable or more representative than SEIFA. First, the tests measure association with other measures that may also not represent SES or be a subset of SES. The combined measure was only better at explaining the variance in the use of cardio-vascular drugs measure, which could be because the MADIP measure includes prescriptions for metabolic conditions, whereas SEIFA does not include medical measures other than presence of a disability. This could also suggest the MADIP measure weights overly to medical measures, which are potentially related to low SES but are not in themselves representative of low SES.

Figure 28: CGC chart on predictive power of various indicators of Socio-economic status, 2016



Source: CGC consultation paper

A new measure from MADIP could also cause discrepancies between the Indigenous and non-Indigenous measures. Currently the Indigenous and non-Indigenous measures are different but based on the same source data and underlying concepts. The MADIP measure is greatly different from the SEIFA based Indigenous SES measure currently used.

Victoria appreciates the CGC has engaged the expertise of the ABS in calculating a measure of SES. Victoria provides its initial comments on the proposal here, but state views should be sought again once the outcome of this consultation with the ABS is known. Victoria suggests an additional, separate, issues paper be released once this consultation is finalised for consultation with states.

CGC consultation questions and Victoria's positions

Q1. Do states agree that an annual MADIP-based measure of socio-economic status for non-Indigenous people has the potential for a more contemporaneous assessment?

- Victoria does not agree to an annual MADIP-based measure of Socio-economic status. Victoria recommends the CGC retain the current use of the ABS Census based SEIFA.
- Victoria recommends the CGC release an additional paper for states' views, once consultation with the ABS is complete.

