



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: 2014/11828  
Your ref: [Secretary@cgc.gov.au](mailto:Secretary@cgc.gov.au)

Mr John Spasojevic  
Secretary  
Commonwealth Grants Commission  
CANBERRA ACT 2600

Dear Secretary

**ACT RESPONSE TO 2015 REVIEW UPDATE AND SUPPLEMENTARY ISSUES FOR  
THE 2015 REVIEW – Staff Discussion Paper CGC 2014 -03-S**

I am writing to provide you with a copy of the above submission in response to the Staff Discussion Paper issued by the Commission via email dated 20 August 2014 with a response date of 26 September 2014.

Our submission provides responses on the full range of matters canvassed in the paper and builds on a number of responses outlined in the ACT's earlier Final Submission forwarded separately to the Commission on 22 September 2014.

Of particular note in this response is a request for the Commission to reverse a decision in the context of the 2013 New Developments process to treat Emergency Services payments made to the ACT in 2012-13 and 2013-14 as impacting on the relativities. For the reasons stated in the submission it is paramount that this matter be treated in confidence and we request that the supporting letters between the Chief Minister of the ACT and the Prime Minister of the day not be placed on the Commission website as part of this Review.

Similarly to avoid a repeat of the same circumstances in this Review, we ask the Commission to advise parties of any unilateral decision to reverse a staff position based on the new developments process with jurisdictions to ensure transparency and full consultation.

Should you wish to discuss this submission and in particular, any matters relating to the Emergency Services payments treatment, please contact John Purcell on 62070269 in the first instance.

Yours sincerely

Karen Doran  
Executive Director  
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Chief Minister, Treasury, Economic Development Directorate  
ACT Government

1 October 2014





**AUSTRALIAN CAPITAL TERRITORY**

**Response to 2015 Review Update and Supplementary Issues for the 2015  
Review**

**October 2014**

**Chief Minister, Treasury and  
Economic Development Directorate**



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## **CHANGES TO ECONOMETRICS USED IN SCHOOLS EDUCATION AND REGIONAL COSTS**

Staff intend to recommend the Commission:

- update the econometric model used in the schools regression to include changes specified above.

The ACT agrees with the proposed updates to the econometric model in the schools regression.

## **POST-SECONDARY EDUCATION USER CHARGES**

Staff propose to recommend the Commission:

- net all post-secondary education user charges off the post-secondary education expenses rather than assessing them in Other revenue.

The ACT supports the proposed changes. In its Rejoinder and Final Submissions to the 2015 Review the ACT supported the netting off of all user charges from expenses, as the expenditure then represents what it actually costs States to deliver the service. The approach suggested by the Commission Staff for Post-secondary user charges is consistent with the view the ACT holds on user charges in general.

## **LOW SOCIO-ECONOMIC STATUS DISABILITY FOR OTHER GENERAL WELFARE SERVICES**

Staff propose to recommend the Commission:

- use an up-to-date broad indicator of disadvantage such as the proportion of one parent families with dependants for the assessment of other general welfare services.

In its Final Submission to the 2015 Methodology Review the ACT argued for the application of a discount to proposed measures which attempt to capture relative general disadvantage. In the longer term, it would be preferable for SEIFI to be updated and used for assessments where usage data by socio-economic status are available at an individual level. The ACT considers that the Commission should request the ABS to update SEIFI using 2011 Census data.

In the absence of an updated SEIFI, the ACT supports the staff proposal that an up-to-date broad indicator of disadvantage, such as the proportion of one parent families with dependants, be used for the assessment of other general welfare services. It would be desirable for evidence to be presented in the final report to support the appropriateness of this indicator compared with other possible alternatives. As stated in our Final Submission to the 2015 Review, we consider that a discount of 25% should be applied to this assessment.

## REVISED WEIGHTS FOR THE JUSTICE ASSESSMENT

Staff propose to recommend the Commission:

- derive Indigenous use rates for police by adjusting the Australian Institute of Criminology (AIC) 2007 data based upon State provided data for 2010-11 to 2012-13 on offenders
- continue to apply a 25% discount to the specialised police socio-demographic composition (SDC) factor
- derive Indigenous use rates for courts based upon State provided data for 2010-11 to 2012-12 on defendants
- fix the Indigenous use rates for the duration of the Review, unless a more current data source (such as updated AIC data) becomes available
- recognise socio-economic status (SES) in the Justice assessment based upon the index of Indigenous Relative Socio-economic Outcomes (IRSEO) for Indigenous people and the non-Indigenous Socio-economic Index for Areas (NISEIFA) for non-Indigenous people
- derive SES use rates for police and courts separately based upon State provided data for 2010-11 to 2012-13 for offenders and defendants respectively
- apply SES groupings based on the two most disadvantaged quintiles, the middle quintile and the two least disadvantaged quintiles
- apply the same SES groupings for police, courts and prisons
- apply the courts SES use rates in prisons
- fix the SES groupings and weights for the duration of the Review.

The ACT supports these recommendations.

## ADJUSTMENTS TO JUNE DISAGGREGATED ESTIMATED RESIDENT POPULATION (ERP) DATA

Staff propose to recommend the Commission:

- adjust disaggregated 30 June ERPs in proportion to match 31 December State population totals for each assessment year.

The ACT agrees with this recommendation, noting that this proposal refers to disaggregations of population other than populations by State.

## **BACKCASTING OF NATIONAL SPECIFIC PURPOSE PAYMENTS AND AGREEMENTS (SPPs)**

Staff propose to recommend the Commission:

- backcast the National Health Reform funding using the 2014-15 National health reform distribution in MYEFO, adjusted for cross-border payments.

The ACT agrees with backcasting Students First and National Health Reform funding as proposed in the discussion. The ACT supports removing cross-border funding from the National Health Reform funding to reflect the requirement in the terms of reference, with an adjustment being made using the MYEFO distribution.

## **TREATMENT OF PAYMENTS NOT MADE IN THE APPLICATION YEAR**

Staff propose to recommend the Commission:

- only consider backcasting payments not made in the application year when they are the result of major change in Commonwealth-State financial arrangements
- not backcast any of the payments made in the assessment years but not made in the 2015-16 application year because their cessation is not the result of major change in Commonwealth-State funding arrangements.

The ACT agrees with the recommendation to not backcast payments that are no longer being made in the application year.

## **ACT EMERGENCY SERVICES PAYMENTS 2012-13 & 2013-14**

The ACT formally requests a reversal of a Commission decision in the context of the 2013 New Developments process to treat Emergency Services payments made to the ACT in 2012-13 and 2013-14 as impacting on the relativities.

### ***Context***

The Commission released the 2014 Update Report under embargo in the normal manner on 24 February 2014. Chapter 4 titled 'New Issues in this Update' included a reference to the ACT emergency services payment in 2012-13 with an ascribed treatment as impacting on the relativities.

This was at odds with the initial draft issued by Staff to the States and Territories calling for submissions - in the normal manner for any Update - where we are asked to comment on which Commonwealth payments should come into the equalisation process and whether they should impact on the relativities.

In the Table below (extract only), the Commission staff had initially indicated that this specific payment to the ACT should not impact on the relativities.

Original CGC proposal.

**TABLE A-1 PROPOSED TREATMENT OF COMMONWEALTH PAYMENTS COMMENCED IN 2012-13, AUSTRALIA'S FEDERAL RELATIONS, BUDGET PAPER NO. 3, 2013-14 (CONT'D)**

| Commonwealth payment                            | Description  | 2012-13 \$m | Proposed treatment | Reason for No impact treatment                                      |
|---|--|-------------|--------------------|---|
| Other payments                                  |  |             |                    |   |
| Australian Capital Territory emergency services | Funding to assist in the operation of the ACT Rural Fire Service, as well as to support the ACT State Emergency Service and the Emergency Management, Risk and Spatial Services program. | 4.0         | No impact          | Payment relates to State expenses where needs could not be assessed |

The ACT in responding to the draft agreed with this approach in our New Developments Submission back to the Staff in October 2013 and did not see the need to offer any further view.

However, it appears some jurisdictions disputed this treatment in their respective submissions. We understand Staff subsequently contacted officials from the Commonwealth Treasury and Department of Finance and, based on their advice, reversed their recommendation to the Commission.

At no point was the ACT consulted. The first we became aware occurred when briefing the ACT Treasurer on the 2014 Update Report and it was at that point it would be fair to say the ACT seriously contemplated challenging the draft relativities [as it was material at \$10 per capita] but given the political sensitivity of the matter between Governments at the time chose not to do so in that Update:

- We did however, highlight our displeasure with the way the matter came about in our response back to Staff via an email dated 6 May 2014 (Messer's Purcell/Nichols) when invited by Staff to provide feedback on the 2014 Update process.

In doing so, we also liaised with Staff beforehand where it was implied that we had access to State submissions with the inference that we could have taken action at that point. In

practical terms the ACT simply does not have the same resourcing capacity as others to undertake such detailed reviews of other submissions in the timeframes presented.

This reversed decision in effect, saw the equalisation process redistribute the bulk of this grant to the ACT to other jurisdictions – with the ACT receiving its actual population share only.

It is most unfortunate that this equalisation outcome should impact on this specific payment as it has been, and continues to be, politically sensitive between the two governments which has seen a trail of correspondence between the Chief Minister of the ACT Katy Gallagher, MLA and former Prime Minister Julia Gillard MP.

### ***Background***

In short, the Commonwealth and the ACT Government are in negotiation over a more equitable cost sharing agreement for the provision of fire services to Commonwealth property in the National Capital.

This issue underpins Canberra's role as the National Capital and the Seat of the Federal Government and goes to the core of the principle of self-government in that its citizens should not be asked to unfairly subsidise costs arising from Canberra's unique role.

A 2012-13 Federal Budget decision was taken in which the Commonwealth set out to achieve savings from a reduction in the fire services levy payments it made to State and Territory governments. The vehicle to achieve this was through the application of a single Memorandum of Understanding (MOU) titled 'MOU for the Provision of Fire Services' to all jurisdictions.

The desire of the Commonwealth through the MOU, we believe, was to address perceived imbalances in payments across jurisdictions by achieving a more equitable arrangement relative to payments made by commercial property owners for fire service protection through respective State/Territory levies.

The ACT from the outset argued the application to the territory in this instance failed to recognise the unique circumstances of a National Capital:

- The MOU provisions simply did not allow for the considerable scale, distribution and operational service requirement differences that existed between jurisdictions and the ACT.

In effect, the payments under the MOU represented a large cost shift of a Commonwealth responsibility to the citizens of Canberra. This was reflected in the 2013-14 Federal Budget with payments to the Territory reported as \$4.6 million in 2012-13, and approximately \$5 million in the out years. The current ACT claim is approximately \$12 million per annum consistent with the principles and negotiations deemed in the old agreement.

Through a series of negotiations and correspondence at the highest level, namely the Prime Minister and the Chief Minister of the ACT, an agreement was reached whereby the ACT reluctantly signed the MOU in return for an additional payment to the ACT for two years so that parties to the MOU could undertake an ad hoc review, to be finalised by early 2014.

This additional funding took the form of two payments commencing in 2012-13 and 2013-14 respectively of \$4 million each year via correspondence between the Prime Minister and the Chief Minister dated 11 October 2012. The Prime Minister's letter specifically acknowledges it as a contribution to the ACT's emergency services funding in 2012-13 and 2013-14.

In order to facilitate the payment the ACT Minister for Police and Emergency Services, Simon Corbell, MLA and the Commonwealth Minister for Home Affairs the Hon Jason Clare, MP agreed by letter to provide the funding in terms of assistance to the Territory for support to the ACT State Emergency Service and the Emergency Management, Risk and Spatial Services program. No formal National Partnership Agreement under the umbrella of the IGA on FFR was signed or a separate MOU entered into in support of this additional payment. There are no reporting obligations assigned to these payments.

### ***The ACT Claim***

The ACT seeks an immediate reversal of the 2014 Update decision to correctly classify the treatment as not impacting on the relativities for the two relevant years of the grant, 2012-13 and the new year 2013-14 respectively.

These payments, in the case of the ACT, simply reflect the extension of the existing MOU arrangements to which the ACT is a party along with all other jurisdictions which the Commission has quite correctly classified as not impacting on the relativities - it represents a service purchased by the Commonwealth from the States and Territories.

The additional payments to the ACT were agreed between the two relevant Heads of Government as a form of compensatory assistance while the matter could be reviewed further, hence should not be unwound via the equalisation process.

Selected key copies of relevant correspondence in chronological order are at Attachment A:

- 1. Andrew Barr MLA to Senator the Hon Penny Wong expressing dissatisfaction with the Department of Finance and Deregulations' proposed new methodology for the fire services payment proposals.*
- 2. PM Gillard MP to ACT Chief Minister Katy Gallagher MLA on 11 Oct 2012 advising that the Commonwealth will provide the grants.*
- 3. The Hon Jason Clare MP to Simon Corbell MLA on 21 January 2013 advising payment mechanism and the response from Simon Corbell MLA dated 7 March 2013 accepting the funding contribution to assist with the operations of the ACT Emergency Services.*

4. *Chief Minister Gallagher MLA to PM Gillard MP on 22 May 2013 seeking support to resolve outstanding issues and response dated 5 June 2013 from PM Gillard MP agreeing to parties undertaking an ad hoc review.*
5. *Simon Corbell MLA to The Hon Mark Dreyfus QC MP dated 7 June 2013 attaching the signed MOU for the Provision of Fire Services (multi-party Australia wide MOU) while stating strong reservations in doing so and reminding of the obligations entered into between respective Heads of Government.*

## **TREATMENT OF OTHER COMMONWEALTH PAYMENTS**

Staff propose to recommend the Commission:

- only exercise its discretion in relation to the treatment of Commonwealth payments where doing so will make a material change at the proposed disability materiality threshold and the impact can be assessed reliably.

The ACT agrees with the proposed treatment of other Commonwealth payments.

## **TREATMENT OF COMMONWEALTH PAYMENTS COMMENCING IN 2013-14**

Staff propose to recommend the Commission:

- adopt the treatment of each Commonwealth payments commenced in 2013-14 as sets out in Table B-1 of Attachment B.

The ACT agrees with the treatment of these agreements, with one exception detailed below.

## ***IMPLEMENTATION OF NATIONAL INSURANCE AFFORDABILITY INITIATIVE***

Table B-1 of the Staff Discussion Paper, Staff have proposed that the National Insurance Affordability Initiative (NIAI) be treated as having no impact, on the grounds that needs for the protection of the environment are not assessed.

The ACT contends that this agreement was not intended for environmental purposes but to reduce the risk of natural disasters and lower the cost of insurance. The initiative established the National Insurance Affordability Council, which plays a major role in the national coordination of flood risk data collection management, makes recommendations to the Australian Government on flood and other natural disaster mitigation projects and undertakes other functions directed at reducing natural disaster insurance premiums.

The mitigation component of the NIAI is intended to demonstrate that lowering risk can lower insurance premiums by reducing the size and frequency of claims.

The NIAC will also take steps to reduce other components of the premium structure by improving the quality of data, and monitoring and reporting on premiums.

Accordingly, the ACT considers that both the revenue from this payment and the associated expenses should be assessed as impacting on the relativities.

#### **TREATMENT OF COMMONWEALTH PAYMENTS COMMENCING IN 2014-15 AND 2015-16**

Staff propose to recommend the Commission:

- not backcast Commonwealth payments commencing in 2014-15 and 2015-16 as set out in Table B-2 of Attachment B because they are not the result of major change in Commonwealth-State financial arrangements.

We expect terms of reference for the 2015 Review will require the Commission to ensure the Infrastructure Growth Package payments from the Asset Recycling Fund have no impact on the relativities. The Commission will act accordingly.

The ACT agrees with the recommendation not to backcast any of the Commonwealth payments commencing in 2014-15 and 2015-16 as set out in Table B-2 of Attachment B.

#### ***PAYMENTS FROM DISABILITYCARE AUSTRALIA FUND***

In its Final Submission to the 2015 Methodology Review, the ACT supported the backcasting of changes relating to the introduction of the National Disability Insurance Scheme (NDIS). We also supported the treatment of drawdowns of the Medicare Levy surcharge revenue from the national funding pool as affecting State fiscal capacities, upon full implementation of the scheme.

However, we took issue with the Commission over the assessment of NDIS expenses during the Transition period, which in the ACT will run for the two years 2017-18 and 2018-19, requesting that an actual per capita (APC) treatment be applied during this period. In accordance with this approach, drawdowns from the Medicare Levy surcharge revenue should also be assessed APC, thus aligning the assessment of expenditure needs and revenue capacity (noting that the arrangements for State drawdowns are that these must be in accordance with coverage of the population within the scheme). Full equalisation of drawdowns can only be justified if there is full equalisation of the associated expenses.

The ACT agrees that arrangements relating to NDIS in 2015-16 should not be backcast, and thus have no impact on the relativities for 2015-16. However, this approach will need to be reviewed in the 2016 Update process, depending on what is known about the NDIS Transition strategy at that time eg: taking into account the Federal Government's response to the recent KPMG report on the optimal approach to Transition.

## ***INFRASTRUCTURE GROWTH PACKAGE, PAYMENTS FROM THE ASSET RECYCLING FUND***

The ACT agrees that it is expected that the Asset Recycling Initiative will be quarantined from equalisation and that the Commission should act accordingly.

### **WATER FOR THE FUTURE**

Staff propose to recommend the Commission:

- retain the current approach to all three components of the program unless data and other information from the States can establish that environmental spending is now the main purpose of the third component of the program and that the interstate pattern is not overly influenced by State policy.

The ACT agrees with retaining the current approach to all three components of the program.