



Australian Government

Commonwealth Grants Commission

2020 REVIEW

OTHER DISABILITIES

Cross-border

National capital

Native title and land rights

STAFF DRAFT ASSESSMENT PAPER
CGC 2018-01/25-S

APRIL 2018

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| Paper issued | 20 April 2018 |
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- 1 The paper provides the Commission staff proposals for the assessment of Other disabilities (cross-border, national capital allowances and native title and land rights) for the 2020 Review.

CROSS-BORDER

2015 REVIEW APPROACH

- 2 Cross-border costs are incurred when residents of one State use the services provided in another. Cross-border flows can occur across any border (for example, the New South Wales-Queensland border in the region of Tweed Heads-Coolangatta, or the New South Wales-Victoria border around Albury-Wodonga). This is because:
 - residents of one State use higher level regional or capital city services in another State
 - some services are unavailable in the local area
 - it is more convenient to use the services of other States for reasons such as employment and studies.
- 3 A cross-border disability is assessed when a net cross-border flow of services results in a State incurring a material level of extra costs and it is not reimbursed by other States.
- 4 Where actual cross-border use data are available, they are used to assess cross-border needs. For a number of services, the Commission does not have access to cross-border use data. In these cases and on practicality grounds, the Commission assesses separate cross-border disabilities to recognise the additional costs incurred by the ACT only. This is because Canberra acts as a major regional centre for south eastern New South Wales and the net costs incurred by the ACT are material.
- 5 The revenue assessments recognise cross-border disabilities by taking into account that taxes can be exported to another State, another level of government or overseas.

Data sources and assessment methods

Services where comprehensive actual data exist

- 6 In the 2015 Review, the Commission had access to comprehensive and reliable actual cross-border use data for four services:
 - schools
 - post-secondary education

- hospitals
 - roads.
- 7 **Schools.** In this category, service use was measured using actual enrolments, which include cross-border students. Therefore, a separate cross-border assessment was not required.
- 8 **Post-secondary education.** A separate cross-border assessment was made. It was based on National Centre for Vocational Education Research data on the number of hours the ACT training system supplies to New South Wales residents and the number of hours the New South Wales training system supplies to ACT residents. In 2015, 16% of the annual contact hours in the ACT were provided to residents of New South Wales.
- 9 Needs were assessed only for the ACT and New South Wales because cross-border use between other States was not material.
- 10 **Hospitals.** There are two aspects to the Commonwealth-State arrangements for funding hospitals which ensure States are compensated for the costs of treating residents of other States.
- First, the National Health Reform funding payments the Commonwealth makes to the States include an element which compensates the States for part of the costs of treating interstate residents. In making its assessments, the Commission ensures any Commonwealth contributions received by each State for the costs of treating interstate residents do not affect its share of the GST.
 - Second, the National Healthcare Agreement provides for bilateral agreements between States under which a State can obtain reimbursement for its share of the cost of treating non-residents. There is such a bilateral agreement between New South Wales and the ACT covering costs¹ for services provided to admitted and non-admitted patients.
- 11 These arrangements mean a cross-border factor was not required in the hospital assessments.
- 12 **Roads.** In this category, the indicator of road use measures the actual use of roads by residents and non-residents alike. Therefore, a cross-border factor was not required.

Services where no comprehensive data exist

- 13 In the 2015 Review, the Commission considered there was a conceptual case for the cross-border use of some services even though comprehensive data on cross-border use were not available. For these services, the Commission assessed cross-border

¹ Costs include the opportunity cost of capital.

needs for only the ACT and New South Wales through the general method described below. This approach represented a simplification, consistent with the Commission's supporting principles.

- 14 The services where the general method was used were:
 - community health services
 - welfare - non-National Disability Insurance Scheme (NDIS) disability and other general welfare services
 - recreation and culture.
- 15 **Community health.** Data supplied by the ACT in the 2010 Review indicated that around 10-12% of community health services in the ACT were provided to non-ACT residents. This ranged from around 40% of the post-natal services provided in the Queen Elizabeth II facility to 6% of alcohol and drug programs.
- 16 While the Commission acknowledged that the figures do not allow for the use by ACT residents of community health services provided by New South Wales, it expected those numbers would be small. Overall, it concluded that, on a net basis, approximately 7-10% of ACT community health services were used by New South Wales residents.
- 17 **Welfare.** Indicative evidence provided by the ACT in the 2010 Review pointed to a cross-border flow for some welfare services having a material impact on the ACT's costs. The Commission accepted there was a conceptual case that some welfare services provided by the ACT were used by New South Wales residents and that the reverse flow was much smaller.
- 18 It applied a cross-border factor assessed by the general method to 50% of non-NDIS disability expenses and to other general welfare expenses, which mainly cover homelessness expenses. The factor was not applied to child protection, aged care services, and concession expenses in the category because, normally, people must be a resident in the ACT to access those services.
- 19 **Recreation and culture.** Data provided by ACT Library and Information Services in the 2010 Review indicated 4% of all ACT library members were interstate residents. It also noted most library services available to the public do not require the user to be a member of the library.
- 20 The Commission accepted expenses for the ACT library, sportsgrounds and other recreation and culture services were increased because of their use by New South Wales residents. Consequently, a cross-border factor based on the general method described below was applied to all of the ACT's recreation and culture expenses.

Summary

21 Table 1 shows the 2015 Review categories where a cross-border disability was assessed and the method of calculation.

Table 1 Cross-border assessment, 2015 Review

| Category | Expenses | Method |
|---|---|---|
| Schools | All service delivery expenses | Implicit in use data |
| Post-secondary education | All service delivery expenses | Category specific adjustment based on actual data |
| Hospitals | All service delivery expenses | Adjustment to Commonwealth payments |
| Out-of-hospital services (Community health) | All service delivery expenses | General method |
| Welfare | 50% of non-NDIS expenses and all other general welfare expenses | General method |
| Roads | All service delivery expenses | Implicit in use data |
| Other expenses | Culture and recreation | General method |

Source: 2015 Review report.

The general method for cross-border factors

22 The Commission developed a simple general method to estimate net cross-border use of ACT services where there was inadequate reliable and comprehensive data.

23 The information available to the Commission suggested that, on a net basis, between 7-10% of community health, some welfare, and cultural and recreational services provided by the ACT are used by New South Wales residents.

24 The Commission, therefore, decided to determine the assessed use of ACT services by applying national average use rates to the ACT population plus a proportion of the population of the surrounding areas of New South Wales which would increase the use of ACT services by 7-10%. The population of New South Wales was reduced by the same amount.

25 With an ACT population of 380 000 (at the time of the 2015 Review) and national average use rates, a 7-10% cross-border use of ACT services was equivalent to approximately 33 000 extra residents. This equated to about 30% of the population of the Statistical areas level 2 (SA2s) in the following surrounding parts of New South Wales and which are shown in Figure 1:

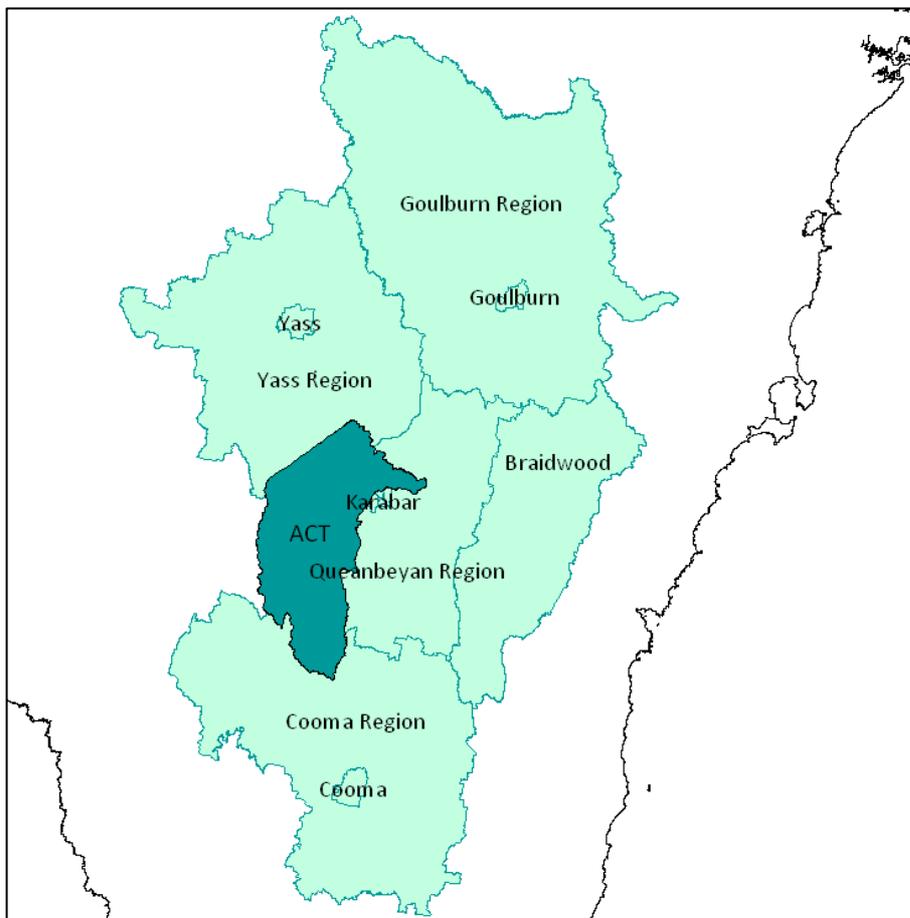
- Queanbeyan region
- Karabar
- Braidwood
- Cooma region

- Goulburn region
- Yass region.

26 The SA2s were chosen on the basis that they are largely within an hour’s drive from the ACT and, thus, it was not unreasonable to assume that many of their residents would travel to the ACT on a daily or weekly basis for various purposes. While many New South Wales residents from outside this catchment area may also use ACT services, they would tend to do so on a less frequent basis. In the absence of better information, the Commission considered the areas chosen were a reasonable compromise.

27 Basing the assessments on the ACT population plus a proportion of the population of surrounding regions allowed for the possibility that the demand for ACT services from people in those areas may grow at a different rate from that of ACT residents. The population estimates of the surrounding regions are updated annually.

Figure 1 Catchment for the cross-border assessment



Source: Commission illustration.

The cross-border assessments

28 Table 2 shows the calculation of the cross-border factors for 2016-17.

29 These factors are subsequently weighted to reflect the proportion of expenses in each category affected by cross-border costs.

Table 2 Cross-border factor calculations, 2016-17

| | NSW | ACT |
|---|-----------|---------|
| | no. | no. |
| A. State population | 7 797 791 | 406 403 |
| B. Total population of catchment area (a) | 125 388 | |
| C. Cross-border weight | -0.3 | 0.3 |
| D. Cross-border population [D = B * C] | -37 616 | 37 616 |
| E. Adjusted population [E = A + D] | 7 760 175 | 444 019 |
| F. Weight factor [F = E / A] | 0.995 | 1.093 |

(a) Population of New South Wales regions surrounding the ACT from the ABS, June estimated resident population.

Source: State population from the ABS, December estimated resident population.

GST redistribution

30 Table 3 shows the impact on the GST distribution of the cross-border disabilities.

Table 3 GST redistribution, cross-border

| | NSW | Vic | Qld | WA | SA | Tas | ACT | NT | Redist |
|------------------|-----|-----|-----|-----|-----|-----|-----|-----|--------|
| | \$m |
| Community health | -21 | 0 | 0 | 0 | 0 | 0 | 21 | 0 | 21 |
| Welfare | -2 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 2 |
| Other expenses | -5 | 0 | 0 | 0 | 0 | 0 | 5 | 0 | 5 |
| Total | -46 | 0 | 0 | 0 | 0 | 0 | 46 | 0 | 46 |

Source: 2018 Update.

ISSUES AND ANALYSIS

Services where comprehensive actual data exist

- 31 Staff preference is to use actual service use data to measure cross-border disabilities where possible. As such, we intend to retain the 2015 Review approaches to cross-border disabilities for schools, post-secondary education and roads.
- 32 We expect the reimbursement arrangements for cross-border use of hospital services between the Commonwealth and the States to continue. We intend to retain the current adjustments to the National Health Reform funding payments. There is a more detailed discussion of the hospital services cross-border arrangement in the Staff Draft Assessment Paper *CGC 2018-01/12-S, Health*.

Staff propose to recommend the Commission:

- retain the 2015 Review approaches to cross-border disabilities for schools, post-secondary education, roads and hospitals.

Community health

- 33 In previous reviews, the ACT provided evidence of significant cross-border use of its community health services by New South Wales residents. That situation is likely to continue, implying there is a strong case to retain a cross-border assessment for community health expenses.
- 34 Since the 2015 Review assessment was based on data provided in the 2010 Review, staff consider the cross-border use data should be updated. We propose to work with the ACT to identify the current net level of cross-border use of ACT and New South Wales community health services.

Staff propose to recommend the Commission:

- retain a cross-border assessment for community health expenses
- collect updated evidence on cross-border use of ACT community health services by residents from New South Wales and use of New South Wales community health services by ACT residents.

Other services

- 35 We do not propose to assess cross-border disabilities for any other services, unless States can make a conceptual case, supported by current data that cross-border use materially affects their costs.
- 36 **Welfare - disability services.** A cross-border assessment will not be required for disability services after the full implementation of the NDIS, since NDIS services do not attract cross-border use. While some residual State disability services will remain, cross-border use of them is expected to be negligible.
- 37 In its response to the Staff Research Paper *CGC 2016-10-S, What States Do — Welfare Services*, the ACT said it would continue to support peak organisations but would not fund ‘residual’ specialist disability services. The Community Assistance and Support Program (CASP) (new name for the under 65s Home and Community Care program funded through ACT Health) provides support for people under the age of 65 years who are not eligible for NDIS, but it is only available to ACT residents.²

² ‘To be eligible for CASP you must live in the ACT, be under 65 years and require home and community support for daily living activities due to a health issue’, ACT Health, [ACT Community Assistance & Support Program \(CASP\)](http://www.health.act.gov.au/our-services/community-based-services/act-community-assistance-support-program), (<http://www.health.act.gov.au/our-services/community-based-services/act-community-assistance-support-program>), [accessed Apr 2018].

- 38 Therefore, Commission staff propose not to apply a cross-border factor to these expenses unless there is evidence that they are significant, the services attract cross-border use and that use leads to identifiable costs for the ACT.
- 39 **Other general welfare services.** In the 2015 Review, a cross-border factor was applied to the other general welfare expenses, which were mostly for homelessness services. Government funded homelessness services include supported accommodation, counselling, advocacy, links to housing, health, education and employment services, outreach support, brokerage, meals services, and financial assistance. Other general welfare expenses also include small amounts for prisoners' aid, care of refugees, aboriginal welfare services and women's shelters.
- 40 According to the Housing and Community Services Directorate's website³, eligibility for social housing assistance, which includes, at least partly, homelessness services, is restricted to ACT residents.
- 41 Staff understand the ACT may act as a hub for homeless people from the surrounding areas of New South Wales, which may result in the ACT having a higher number of homeless persons than its population suggests. However, any higher number should be included in the census estimated resident population, which aims to cover all people in the ACT on census night.
- 42 The other services included in other general welfare are unlikely to be available to non-ACT residents and, in any case, the related expenses are small.
- 43 These considerations indicate the extent of cross-border use and the impact on the costs of providing homelessness services and other services included in other general welfare expenses are likely to be small. Staff do not propose to apply a cross-border factor to other general welfare expenses unless the ACT provides evidence of significant cross-border use that leads to material costs for the ACT.

Recreation and culture

- 44 A cross-border factor is currently applied to recreation and culture expenses, which include services such as:
- public halls and civic centres, swimming pools and other recreational facilities
 - public libraries, facilities and services for the creative and performing arts, museums, art galleries, and other cultural facilities and services
 - broadcasting services and film production.

³ 'All applicants must have lived in the ACT for at least the previous 6 months to be eligible for social housing', ACT Government Community Services, '[Eligibility for Social Housing Assistance](http://www.communityservices.act.gov.au/hcs/policies/eligibility_for_public_housing_assistance#ACT)', (http://www.communityservices.act.gov.au/hcs/policies/eligibility_for_public_housing_assistance#ACT), [accessed Jan 2018].

- 45 The matters listed below suggest the use of recreational and cultural facilities by New South Wales residents is unlikely to have a noticeable impact on costs.
- Some services, such as swimming pools and theatres, are provided on a user charge basis. So, their use by New South Wales residents may reduce ACT net expenses. In addition, the level of services provided is unlikely to have been set to cater for additional demand from New South Wales residents.
 - The use of sportsgrounds by New South Wales sporting teams was previously used as an example of cross-border use of recreational services. However, it is not clear what extra costs the ACT would incur. Moreover, any costs would be partially offset by the use of New South Wales' sportsgrounds by ACT teams.
 - Membership of library services is restricted to ACT residents.⁴ While New South Wales residents can use library services that are not restricted to members, such as reading newspapers and magazines, it is not clear how this use would noticeably increase costs.
 - The allowance for cross-border use of cultural services includes an amount for Floriade. Services such as Floriade are set up with the purpose of attracting interstate tourists. Overall, Floriade has a positive effect on the ACT.
- 46 Staff, therefore, propose not to apply a cross-border factor to recreation and culture expenses, unless the ACT provides evidence of significant cross-border use and that use leads to identifiable costs for the ACT.

Staff propose to recommend the Commission:

- not apply a cross-border factor to residual State disability expenses, other general welfare expenses and recreation and culture expenses, unless the ACT provides evidence of significant cross-border use and that use leads to identifiable costs for the ACT.

General method

- 47 Staff consider the general method produces appropriate results. However, if the Commission decides to retain a cross-border factor for only community health, staff would consider whether a community health specific method could be developed.
- 48 If the Commission decides to retain other cross-border assessments, we would retain the general method, but would review whether 30% of the population of surrounding areas is still the appropriate addition to the ACT population.

⁴ ACT Government Libraries, '[Join the library](https://www.library.act.gov.au/how_to_use_the_library/join_the_library)' (https://www.library.act.gov.au/how_to_use_the_library/join_the_library), [accessed Apr 2018].

Staff propose to recommend the Commission:

- consider whether a community health specific method could be assessed to measure a cross-border factor or whether the general method, subject to a review of the proportion of the population from surrounding areas who are considered to use ACT services, should continue.

CONCLUSION AND WAY FORWARD

- 49 Comprehensive and reliable cross-border use data are available to assess cross-border costs for services such as schools, post-secondary education, hospitals and roads. The use of these data provides an appropriate assessment of cross-border needs and staff intend to retain them for the 2020 Review.
- 50 Of the four cross-border assessments that use the general method, staff propose to retain only the community health assessment. However, we will seek updated information from the ACT on cross-border use of community health services by New South Wales residents and use of New South Wales community health services by ACT residents.
- 51 Staff consider there is insufficient evidence to show that the ACT incurs material extra expenses because of cross-border use of residual State disability expenses, other general welfare services and recreation and culture services.

Proposed assessment

- 52 Staff propose the following assessment for cross-border costs in the 2020 Review.

Table 4 Proposed cross-border assessment

| Category | Expenses | Method |
|--------------------------|-------------------------------|---|
| Schools | All service delivery expenses | Implicit in use data |
| Post-secondary education | All service delivery expenses | Category specific adjustment based on actual data |
| Hospitals | All service delivery expenses | Adjustment to Commonwealth payments |
| Community health | All service delivery expenses | Category specific adjustment based on actual data if data are available, otherwise general method |
| Roads | All service delivery expenses | Implicit in use data |

Information sought from States

- 53 Staff will seek the following information from the ACT:
- use of community health services by New South Wales residents
 - use of New South Wales community health services by ACT residents.

- 54 The ACT may wish to provide information to support a cross-border assessment for other services, such as the use of cultural and recreational services by New South Wales residents.

NATIONAL CAPITAL ALLOWANCES

2015 REVIEW APPROACH

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

Services included in this disability

- 56 The Commission recognised three types of national capital allowances in the 2015 Review:
- planning allowances
 - police services
 - roads.

Data sources and assessment methods

Planning allowances

- 57 In 1989, when the ACT was granted self-government, the Commonwealth established the National Capital Authority (NCA) to manage its continuing interest in the strategic planning and development of Canberra as the nation’s capital. It did so, in part, through the development and management of the National Capital Plan (NCP). This plan placed restrictions on some of the planning and development decisions in the ACT and the Commission considered that these led to higher costs for the ACT Government at that time. The Commission concluded similar additional costs were not incurred by other States.
- 58 The 2004 Review is the last time these allowances were comprehensively reviewed. They were reviewed in the 2010 Review in the light of the 2010 Review assessment guidelines, with their extra emphasis on simplification, reliability and materiality. This resulted in fewer national capital allowances.
- 59 The 2010 Review allowances were retained in the 2015 Review and subsequent updates. The amounts assessed for 2016-17 in the 2018 Update are shown in Table 5.

Table 5 National Capital Plan allowances, 2015 Review

| | 2002-03 (2004 Review) | 2016-17 |
|--|-----------------------|-------------|
| | \$m | \$m |
| The impact of the National Capital Plan on the ACT's capital works program | 1.0 | 1.5 |
| The impact of the National Capital Plan on planning and development activities | 1.5 | 2.3 |
| The impact of the National Capital Plan on the costs incurred by the ACT in operating a leasehold land management system | 2.5 | 3.8 |
| The additional costs incurred by the ACT in managing and maintaining above average urban open space and land classified as Designated Land Areas under the National Capital Plan | 4.9 | 7.5 |
| The above average areas of urban/bush interface | 0.5 | 0.8 |
| The impact on ACTION pricing subsidies of the ACT's urban form | 1.0 | 1.5 |
| Total | 11.4 | 17.5 |

Source: 2018 Update and 2015 Review.

Police services

60 The Commission has long accepted that the ACT has no practical alternative but to use the Australian Federal Police (AFP) as the provider of its policing services. This leads to higher costs because the AFP pays above average salaries to its employees.

61 The foundation of the constraints on the ACT's policing arrangements lies in:

- the *Australian Capital Territory (Self-Government) Act 1988* - Section 23(1)(c), which says: '...the [ACT Legislative] Assembly has no power to make laws with respect to ... the provision by the Australian Federal Police of police services in relation to the Territory'
- Section 28 of the same act, which states that any law passed by the ACT Legislative Assembly will have no effect if it is inconsistent with '...a [Federal] law in force in the Territory...'
- Section 8(1)(a) of the *Australian Federal Police Act 1979*, which states that a primary function of the AFP is '... the provision of police services in relation to the Australian Capital Territory'.

62 **Police allowance calculation method.** Table 6 shows the police allowance was calculated in the 2015 Review by:

- deriving a nominal level of ACT police staffing by applying an adjusted national average per capita number of police staff (sworn and unsworn officers combined) to the ACT population
- multiplying that nominal staffing by the difference between average AFP and average State police staff salaries (sworn and unsworn officers combined) discounted for the wage costs factor to avoid double counting the higher underlying wage levels in the ACT.

- 63 The national average staffing level used in those calculations was adjusted because the ACT's demographic characteristics examined in the Justice services assessment indicated it needs less than the average police staff to population ratio. The ACT staffing level was calculated by multiplying the national average per capita level of police staff by the ACT's justice services socio-demographic composition factor and its population.
- 64 Data used in the assessment were taken from the Productivity Commission's *Report on Government Services*, which is a reliable and comparable data source. The assessment is updated annually. However, due to the time lag in the production and availability of these data, the Commission indexes the most recently calculated allowance using ABS' national public sector wage price index.

Table 6 National capital allowance, police services

| | 2013-14 | 2014-15 | 2015-16 | 2016-17 |
|---|------------|------------|------------|------------|
| A. Total staff | 69 462 | 69 282 | 70 651 | 70 651 |
| B. Total population | 23 318 772 | 23 669 720 | 24 009 961 | 24 381 012 |
| C. Average staff [C = A / B] | 0.003 | 0.003 | 0.003 | 0.003 |
| D. ACT population | 386 714 | 392 605 | 399 578 | 406 403 |
| E. Assessed staff [E = C * D] | 1 152 | 1 149 | 1 176 | 1 178 |
| F. ACT socio-demographic composition factor | 0.916 | 0.914 | 0.913 | 0.911 |
| G. Adjusted assessed staff [G = E * F] | 1 055 | 1 050 | 1 073 | 1 073 |
| H. Average State salary (a) \$ | 113,363 | 119,397 | 121,095 | 121,095 |
| I. ACT labour factor | 1.026 | 1.020 | 1.035 | 1.045 |
| J. Adjusted State salary [J = H * I] \$ | 116 302 | 121 822 | 125 321 | 126 545 |
| K. Average ACT salary (a) \$ | 124,882 | 134,427 | 130,146 | 130,146 |
| L. Difference [L = K - J] \$ | 8 580 | 12 605 | 4 824 | 3 601 |
| M. Wage price index adjustment | | | | 1.024 |
| N. Assessed allowance [N = G * L * M] \$ | 9 050 005 | 13 240 675 | 5 176 679 | 3 957 147 |

(a) Excludes payroll tax because the AFP is exempt from paying payroll tax.

Source: Productivity Commission, Report on Government Services.

ABS, Wage Price Index, Australia, Cat. No. 6345.0, Table 4a.

Roads

- 65 In the 2004 Review, the Commission considered that the allowance for roads recognised the extra costs the ACT incurred because, when it gained self-government, it inherited roads that were wider than Australian standards. The Commission expected this allowance would continue to be required for a further 15 years. By then the ACT would have had sufficient time to rebuild or restructure the wider roads it inherited.
- 66 This means the last roads transitional allowance will be assessed in the 2019 Update.

GST redistribution

67 Table 3 shows the GST redistributed by the national capital assessment in the 2018 Update. The assessment is material for the ACT.

Table 7 GST redistribution, national capital assessment

| | NSW | Vic | Qld | WA | SA | Tas | ACT | NT | Redist |
|--------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| | \$m |
| Planning | -6 | -4 | -4 | -2 | -1 | 0 | 17 | 0 | 17 |
| Police | -3 | -2 | -2 | -1 | -1 | -0 | 9 | -0 | 0 |
| Roads | -1 | -1 | -1 | 0 | 0 | 0 | 4 | 0 | 4 |
| Total | -8 | -7 | -5 | -3 | -2 | -1 | 25 | 0 | 25 |
| | \$pc |
| Planning | -1 | -1 | -1 | -1 | -1 | -1 | 41 | -1 | 1 |
| Police | 0 | 0 | 0 | 0 | 0 | 0 | 21 | 0 | 0 |
| Roads | 0 | 0 | 0 | 0 | 0 | 0 | 9 | 0 | 0 |
| Total | -1 | -1 | -1 | -1 | -1 | -1 | 70 | -1 | 1 |

Source: 2018 Update.

ISSUES AND ANALYSIS

Planning allowances

68 These allowances fall into two groups:

- allowances relating to the influence of the NCP and the NCA, such as the impact of the NCP on the ACT's capital works program, its planning and development activities, the extra costs incurred because the ACT must operate a leasehold land management system and manage and maintain land classified as Designated Land Areas under the NCP
- the impact of the ACT's urban form which led to above average areas of open space (urban/bush interface) and higher pricing subsidies for ACTION transport services.

69 **Impact of National Capital Plan.** The main argument used in the past to support the planning allowances was that the ACT faced expenses beyond its control in relation to planning, land management and capital works, while other States did not face similar constraints and, therefore, had lower costs.

70 The Commonwealth, through the NCA and the NCP, has imposed a constraint on the ACT in relation to its planning, land management and capital works - the NCP states it is a strategy and blueprint giving effect to the Commonwealth's interests and intentions for planning, designing and developing Canberra and the Territory.

- 71 However, the ACT's circumstances have changed since the planning allowances were first introduced in the 1999 Review. The ACT Government has had the time to adapt its practices to reduce the financial impact of the NCA and NCP on the ACT's planning, land management and other matters inherited from the Commonwealth.
- 72 Furthermore, the NCP is being reviewed for the first time since it was introduced in 1990. An exposure draft was released in 2015. It said the NCA is undertaking a reform process to update the plan and amend the planning arrangements between the Commonwealth and ACT Governments. The reform sought four key outcomes.
- A revised and modernised NCP.
 - Changes to metropolitan planning arrangements to provide greater flexibility to the ACT Government to accommodate the growth of Canberra.
 - Reduce duplication and complexity in planning for a substantial portion of Territory land by removing Special Requirements.
 - Minor adjustments to areas identified as having the special characteristics of the National Capital (Designated Areas).
- 73 If the revised plan is adopted it should reduce the costs faced by the ACT.
- 74 It is also the case that the other States incur costs in their planning, land management and capital works activities through having to interact with other levels of government. While most of that interaction is with local governments and States have the power to change the relevant legislation to achieve their aims, it still results in costs being incurred.
- 75 Many States also face some circumstances outside their control in relation to planning and management of land and water. For example, they must deal with the implications of world heritage sites, which are governed by Commonwealth legislation. The ACT is the only State and Territory without a world heritage site.⁵ Some States must also adhere to the terms of the Murray-Darling Basin agreement.
- 76 It is also the case that some other States have found it necessary to establish their own legislation and authorities to regulate the use and management of some locations with a State. For example, the New South Wales has set up the Sydney Harbour Foreshore Authority, which is responsible for the care, protection, management and promotion of the land and buildings of Sydney's most historically and culturally significant waterfront locations.⁶ While such bodies are a policy choice of the State, they are created out of necessity and the State bears the cost of operating them.

⁵ Department of the Environment and Energy, '[Australia's World Heritage List](http://www.environment.gov.au/heritage/places/world-heritage-list)', (<http://www.environment.gov.au/heritage/places/world-heritage-list>), [accessed Apr 2018].

⁶ Property NSW, '[Annual Review 2015-16](https://www.property.nsw.gov.au/sites/default/files/Property%20NSW%20Annual%20Review%202015-16_web_sml.pdf)', (https://www.property.nsw.gov.au/sites/default/files/Property%20NSW%20Annual%20Review%202015-16_web_sml.pdf), [accessed Apr 2018].

- 77 Before any planning allowances are assessed in the 2020 Review, the Commission needs to re-establish the conceptual case for them. This must consider how, and to what extent, the financial impact of the NCA and NCP on the ACT differs from the costs other States face in dealing with other governments and their own authorities on planning and land management matters. It must also consider whether:
- the passage of time since self-government has enabled the ACT to adapt its processes to minimise the costs resulting from the NCP
 - being the seat of the federal parliament only increases costs for the ACT. For example, while the presence of national institutions, such as the National Gallery and the National Library, in the ACT does not remove the need for it to provide some State-type library and museum services, it may mean they do not need to be as extensive as those in comparable States. The ACT also benefits from the tourism created by the national institutions.
- 78 **Other allowances.** The changes in Canberra since the 1990s, including the large increase in its population and the resulting urban development, appear to remove the case for retaining the allowances for above average urban open space and public transport pricing subsidies.
- 79 After nearly three decades of self-government, staff consider any amount of urban open space above that in other cities is now the result of policy choice by the ACT Government. We note the ACT Government has, for several years, had an urban planning policy of urban infill, which has reduced the amount of urban open space.⁷
- 80 The ACT has also undertaken several redesigns of its public transport network and routes to address the needs of its larger population, encourage higher patronage and minimise its pricing subsidies.
- 81 In addition, evidence from the Bureau of Infrastructure, Transport and Regional Economics (BITRE) shows the average commute distance in the ACT is short compared with that other major cities (Table 8). While the data include all modes of transport and public transport is used for other purposes in addition to commuting, they imply that urban form does not have a noticeable impact on commuting distance in the ACT.

⁷ ACT Environment and Sustainable Development, '[Background Paper 3: City structure, form and land use](http://www.planning.act.gov.au/__data/assets/pdf_file/0005/893426/Planning_Background03_City.pdf)', October 2011, (http://www.planning.act.gov.au/__data/assets/pdf_file/0005/893426/Planning_Background03_City.pdf), [accessed Apr 2018].

Table 8 Average commuting distance of major cities

| Average commuting distance | Cities |
|----------------------------|---|
| 9 to 12 kms | Townsville, Cairns, Launceston, Albury-Wodonga, Toowoomba and Canberra-Queanbeyan |
| 12 to 14 kms | Bendigo, Darwin, Adelaide, Ballarat, Hobart |
| 14 to 15 kms | Melbourne, Brisbane, Geelong, Perth, Sydney |
| 15 to 20 kms | Newcastle-Maitland, Gold Coast-Tweed Heads, Sunshine Coast, Mackay and Wollongong |

Source: BITRE, *Australia's commuting distance: cities and regions*, 2015, Canberra.

Police allowance

- 82 We propose to retain the police allowance and the 2015 Review method for calculating it. The legislation used to justify the allowance in past reviews remains unchanged and there is no evidence of any intention to change it.
- 83 While Table 7 shows that the police allowance was not material at the \$35 per capita threshold in the 2018 Update, the size of the allowance can vary markedly between years. For example, it redistributed \$36 per capita in the 2017 Update, which is above the materiality threshold.

Other issues considered and settled

- 84 The roads allowance will cease in the 2019 Update. The circumstances which led the Commission to phase it out remain and staff see no case to argue for its continuation. The roads allowance is not an issue for the 2020 Review.

Staff propose to recommend the Commission:

- discontinue all the planning allowances unless the ACT can make a case for their continuation
- retain the police allowance and the 2015 Review method for calculating it and assess it as a separate factor in the Justice category.

CONCLUSION AND WAY FORWARD

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

Proposed assessment

- 86 For the 2020 Review, Commission staff propose to:
- retain the police allowance because the ACT has little practical alternative but to use the AFP as its police force
 - retain the 2015 Review method to calculate the police allowance
 - assess the police allowance as a separate factor in the Justice category.
- 87 We do not propose to continue the other allowances unless the ACT makes a case for their continuation.

Information sought from States

- 88 The ACT may wish to provide information regarding planning allowances and other costs to demonstrate that a national capital allowance should continue. The case for the planning allowances would need to demonstrate how the costs are currently affected and that they are both beyond its control but higher on a per capita basis than comparable expenses in other States. These comparable expenses would include the costs to State governments of dealing with local councils and federal agencies for planning, land management and capital works purposes.
- 89 Submissions relating to other national capital costs are also welcome.

NATIVE TITLE AND LAND RIGHTS

2015 REVIEW APPROACH

- 90 The assessment recognises the additional costs incurred by the States due to the operation of:
- the Commonwealth’s *Native Title Act 1993* — in all States
 - the Commonwealth’s *Aboriginal Land Rights (Northern Territory) Act 1976* — in the Northern Territory.

Disability expenses

- 91 Native title and land rights expenses are small. However, they are concentrated in Queensland, Western Australia and the Northern Territory. Table 9 shows total native title and land rights expenses for 2016-17.

Table 9 Native title and land rights expenses, 2016-17

| | NSW | Vic | Qld | WA | SA | Tas | ACT | NT | Total |
|--------------|-----|-----|-----|-----|-----|-----|-----|-----|-------|
| | \$m |
| Native title | 11 | 9 | 49 | 69 | 8 | 0 | 0 | 4 | 149 |
| Land rights | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 28 | 28 |
| Total | 11 | 9 | 49 | 69 | 8 | 0 | 0 | 31 | 176 |

Source: 2018 Update, State provided data.

Data sources and assessment methods

- 92 Details of expenses due to native title and land rights claims are sourced from the States. Figure A-1 and Figure A-2 of Attachment A show State native title and land rights expenses over time.
- 93 The assessments for both components are made on an actual per capita (APC) basis. The Commission considered this to be the simplest and most reliable way of assessing what States need to spend. State spending is due to Commonwealth legislation and States have adopted uniform policies in response to their individual circumstances.

Native title

- 94 The Native Title legislation (*Native Title Act 1993*) was enacted following a High Court decision which recognised as common law Indigenous people’s traditional rights to their land, that pre-date European colonisation and had not been effectively extinguished by the Crown.

- 95 Native title expenses include the costs of administering the legislation, compensating holders of native title, the cost of processing future acts⁸ and associated compensation, and any on-going costs associated with joint management of land.
- 96 The expenses incurred in each State due to native title matters vary, depending on the number and type of native title and compensation claims made in the State as well as the number and nature of future acts processed.

Land rights

- 97 The *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)* (Land Rights Act) only applies in the Northern Territory and recognises a group of traditional Aboriginal land owners as having common spiritual affiliations with the land that gives them a primary spiritual responsibility for that area of land and which entitles them by Aboriginal tradition to forage as a right over that land. It allows for areas of Crown land (excluding land in towns) to be transferred by a deed of grant to land trusts, administered by the mainland Northern Territory land councils, as a result of claims being recommended for grant by the Aboriginal Land Commissioner.
- 98 The Northern Territory incurs costs in negotiating claims and preparing submissions to the Commissioner and in challenging claims through the Federal and High Courts. Compensation or other arrangements relating to the settlement of a claim can also lead to ongoing costs. Ongoing costs are associated with securing interests in land under the Land Rights Act but also in administering Northern Territory legislation mandated by the Land Rights Act such as the *Northern Territory Aboriginal Sacred Sites Act* and the *Aboriginal Land Act*. Although there is a sunset clause in the legislation, with no new claims made since 1997, it is expected that costs associated with ongoing claims will be incurred for many years. There are also on-going costs associated with joint (Indigenous and Northern Territory government) management of land.

⁸ A future act is a proposal to deal with land in a way that affects native title rights and interests. Examples of future acts include the grant of a mining tenement or the compulsory acquisition of land.

GST redistribution

99 Table 3 shows the GST redistributed by the native title and land rights assessment. The assessment is material for the Northern Territory.

Table 10 GST redistribution, native title and land rights assessment, 2018 Update

| | NSW | Vic | Qld | WA | SA | Tas | ACT | NT | Redist |
|--------------------|-----|-----|-----|-----|-----|-----|-----|-----|--------|
| | \$m |
| Dollars million | -55 | -43 | 9 | 60 | 3 | -4 | -3 | 34 | 106 |
| Dollars per capita | -7 | -7 | 2 | 23 | 1 | -8 | -8 | 140 | 4 |

Source: 2018 Update.

ISSUES AND ANALYSIS

Native title

- 100 Native title expenses are driven by the size of the Indigenous population, the extent of areas of undeveloped land, and mining and agricultural activities. In some cases, past legislation can also have an influence.
- 101 The validity of an APC assessment is predicated on States having little influence on their expenses. While general frameworks for the implementation of native title and land rights legislation are imposed by the Commonwealth, States have adapted them to fit their own circumstances. However, the focus of States has been similar. It has been to develop cost-effective processes through, for example, the use of templates.⁹
- 102 That said, the APC assessment method involves a substantial annual data collection and staff cannot fully verify their accuracy.
- 103 In response to the Staff Research Paper, *CGC 2016-19-S, What States Do – Native title and land rights*, the ACT argued that the case to retain an APC assessment has been weakened. It said that the shift to negotiation rather than litigation in relation to native title could be considered as potentially opening up this area of expenses to State policy influence.
- 104 The ACT proposed two alternatives to the APC assessment:
- Indigenous population shares
 - presence of large mineral resources.
- 105 The ACT noted a strong correlation between Indigenous population shares and the number of native title claims. The ACT also said that most future acts applications and determinations were made in States with significant mining activities and that the

⁹ Staff Research Paper, *CGC 2016-19-S, What States Do – Native title and land rights*.

presence of large mineral resources may be an alternative driver of the assessment. These distributions are shown in Table 11.

Table 11 Native title claims, Indigenous population and native title expenses 2016-17

| | NSW | Vic | Qld | WA | SA | Tas | ACT | NT | Total |
|--------------------------------|------|-----|------|------|-----|-----|-----|------|-------|
| | % | % | % | % | % | % | % | % | % |
| Future act applications (a) | 0.1 | 0.0 | 7.9 | 90.7 | 0.0 | 0.0 | 0.0 | 1.3 | 100.0 |
| Native title claims (b) | 24.5 | 3.5 | 27.0 | 26.4 | 3.7 | 0.2 | 0.2 | 15.6 | 100.0 |
| Indigenous population share | 33.4 | 7.3 | 27.8 | 12.6 | 5.3 | 3.5 | 0.9 | 9.3 | 100.0 |
| Share of Native title expenses | 7.1 | 6.0 | 33.2 | 46.1 | 5.2 | 0.0 | 0.0 | 2.5 | 100.0 |

(a) These applications relate to both objections to an expedited procedure and standard future act applications.

(b) Total of determinations made, applications otherwise resolved and active claims.

Source: [National Native Title Tribunal website](http://www.nntt.gov.au/searchRegApps/NativeTitleClaims/Pages/default.aspx), (<http://www.nntt.gov.au/searchRegApps/NativeTitleClaims/Pages/default.aspx>) [accessed Apr 2018], and estimated resident population, December 2016 (2018 Update).

106 Staff do not consider the APC assessment to be problematic. The evidence presented in the Staff Research Paper suggests that States are moving towards more cost-effective and faster processes, thereby reducing costs. Moving from litigation to negotiation is an example of this.

107 The alternative measures suggested by the ACT would capture needs only approximately. This is because there are other drivers that influence expenses, such as the ongoing connection to the land of the Indigenous population, the extent of areas of undeveloped land, agriculture activities and the extent to which native title claims have been resolved across the State. For example, Table 11 shows that the Northern Territory has 2% of the native title expenses but 9% of the Indigenous population. Another example is that 91% of future act applications relate to acts in Western Australia.¹⁰ However, Western Australia accounted for only 46% of total native title expenses in 2016-17.

108 Staff consider that the 2015 Review native title assessment remains appropriate. However, there may be benefits in considering assessment options that did not involve the annual collection of native title (and land rights) expenses. Options include:

- collecting native title expenses data for the 2020 Review and retaining the APC assessment but updating State expenses annually using an appropriate deflator
- collecting native title expenses data for the 2020 Review and assess them using a broad indicator of needs, such as Indigenous population shares. The expenses could be updated annually using an appropriate deflator

¹⁰ [National Native Title Tribunal website](http://www.nntt.gov.au/searchRegApps/FutureActs/Pages/default.aspx), (<http://www.nntt.gov.au/searchRegApps/FutureActs/Pages/default.aspx>), [accessed Oct 2017].

- collecting native title expenses data for the 2020 Review and allocating the expenses to the Indigenous community development component of the Services to communities category. The expenses would be assessed the same way as the component's other expenses.¹¹ The expenses could be updated annually using an appropriate deflator.

109 Staff seek State views on the assessment of native title expenses for the 2020 Review.

Compensation cases

- 110 A potential future issue could be the increase in compensation cases and accompanying compensation payments. Very few compensation claims have been made to date and only two of these claims have been successful. However, a recent court case (*Griffiths v Northern Territory*)¹² could lead to an increase in native title compensation claims in the coming years. The Northern Territory supported this view in its comments to the Staff Research Paper, *CGC 2016-19-S, What States Do – Native title and land rights*. Some commentators have suggested that compensation could reach billions of dollars.
- 111 Some States have policies in place that mitigate the potential for future compensation claims.¹³ If compensation claims do increase, these policies could spread to other States. Commission staff will monitor developments in this area.

¹¹ Staff are proposing to assess Indigenous community development using the Indigenous population living in these communities.

¹² Appeals by both the Northern Territory Government and the traditional owners are ongoing. In relation to its current appeal, the Northern Territory Government said it was not opposed to compensation but wants to test the case thoroughly. Dias, A., 20 Feb 2017. *Landmark Timber Creek native title compensation case 'being watched as test case', NT Attorney General says*. [ABC News website](http://www.abc.net.au/news/2017-02-20/timber-creek-native-title-case-watched-closely-by-governments/8287210), (<http://www.abc.net.au/news/2017-02-20/timber-creek-native-title-case-watched-closely-by-governments/8287210>), [accessed Jul 2017].

¹³ For example, in Victoria when a settlement is entered under the TOS Act, traditional owners must agree to withdraw any native title and compensation applications under the Native Title Act and not file any such application in the future. Similarly, in Western Australia the South West Native Title Settlement provides a final resolution to all Native title claims of the area, releasing the State from compensation liabilities. Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), [Native Title Information Handbook: Victoria](#), 2016, p. 6; Government of Western Australia, South West native Title Settlement, (<https://www.dpc.wa.gov.au/lantu/south-west-native-title-settlement/Pages/default.aspx>), [accessed Oct 2016].

Staff propose to recommend the Commission:

- continue to assess the native title component of the Native title and land rights assessment on an APC basis, subject to State views on alternative assessments.

Land rights

Land rights across the States

- 112 All States have processes to recognise Indigenous land rights but those rights are determined under Commonwealth legislation in the Northern Territory whereas State legislation applies in all other States. Some States had policies and legislation in place regarding Indigenous land rights prior to the Commonwealth's *Aboriginal Land Rights (Northern Territory) Act* coming into effect in 1976. Since this Act came into effect, all other States have also implemented State legislation and/or policies to acknowledge Indigenous land rights. A summary of the Indigenous land rights mechanisms across Australia is provided in Attachment B.
- 113 A significant part of the Northern Territory land rights expenses are for on-going management of land under land rights. It would be expected that other States face similar circumstances of on-going management.
- 114 It is clear that average policy is to recognise land rights regardless of the presence of Commonwealth legislation. However, we do not currently know how much States, other than the Northern Territory, spend because of land rights. If spending for all States is comparable to the Northern Territory ratio of land rights spending to native title spending (\$28 million on land rights and \$4 million on native title in 2016-17), the inclusion could lead to a material increase in expenses. Staff propose to collect State expenses on land rights prior to forming a view about whether needs should be assessed and, if so, how.

Measuring land rights needs

- 115 As States do not deliver Indigenous land rights under sole legislation as with Native title, and in fact use substantially different mechanisms in delivering these services, an APC assessment would not be appropriate. Therefore, we would need a policy neutral measure of land rights expenses.
- 116 While we cannot be sure of the distribution of land rights spending until expense data are collected, we expect that it is likely to be correlated with native title expenses as both reflect connections to land of a State's Indigenous people. As such, staff consider a possible measure of the State needs relating to land rights could be to use factors derived from the APC assessment of native title and apply them to total land rights expenses. Such a measure would remove the impact of differences in State

land rights policy but it implies land rights and native title expenses are driven by similar influences. Table 12 shows the native title factors used in the 2018 Update.

Table 12 Native title factors

| | NSW | Vic | Qld | WA | SA | Tas | ACT | NT | Total |
|---------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| 2013-14 | 0.173 | 0.348 | 1.205 | 4.800 | 0.935 | 0.000 | 0.000 | 3.035 | 1.000 |
| 2014-15 | 0.155 | 0.192 | 1.249 | 4.643 | 1.653 | 0.000 | 0.000 | 3.502 | 1.000 |
| 2015-16 | 0.172 | 0.207 | 1.383 | 4.309 | 1.687 | 0.000 | 0.000 | 3.679 | 1.000 |
| 2016-17 | 0.222 | 0.235 | 1.657 | 4.376 | 0.732 | 0.000 | 0.000 | 2.440 | 1.000 |

Source: 2018 Update.

117 Alternatively, land rights expenses could be assessed using one of the options discussed in the native title section.

118 Staff seek State views on the assessment of land rights expenses for the 2020 Review.

Staff propose to recommend the Commission:

- decide on whether land rights expenses should be assessed for all States and, if so, how, after collecting State expenses on land rights.

CONCLUSION AND WAY FORWARD

119 Staff propose to retain the APC assessment of native title expenses for the 2020 Review. We intend to collect State expenses on land rights to investigate whether an all-State assessment of land rights is warranted.

120 Staff seek State views on alternative assessment methods that would reduce or remove the need to collect expenses on native title and light rights annually. We also seek State views on an appropriate measure for assessing land rights needs.

Proposed assessment structure

121 Staff propose the following assessment of native title and land rights for the 2020 Review. Staff intend to continue to assess these expenses as a separate component in the Other expenses category.

Table 13 Proposed Native title and land rights assessment

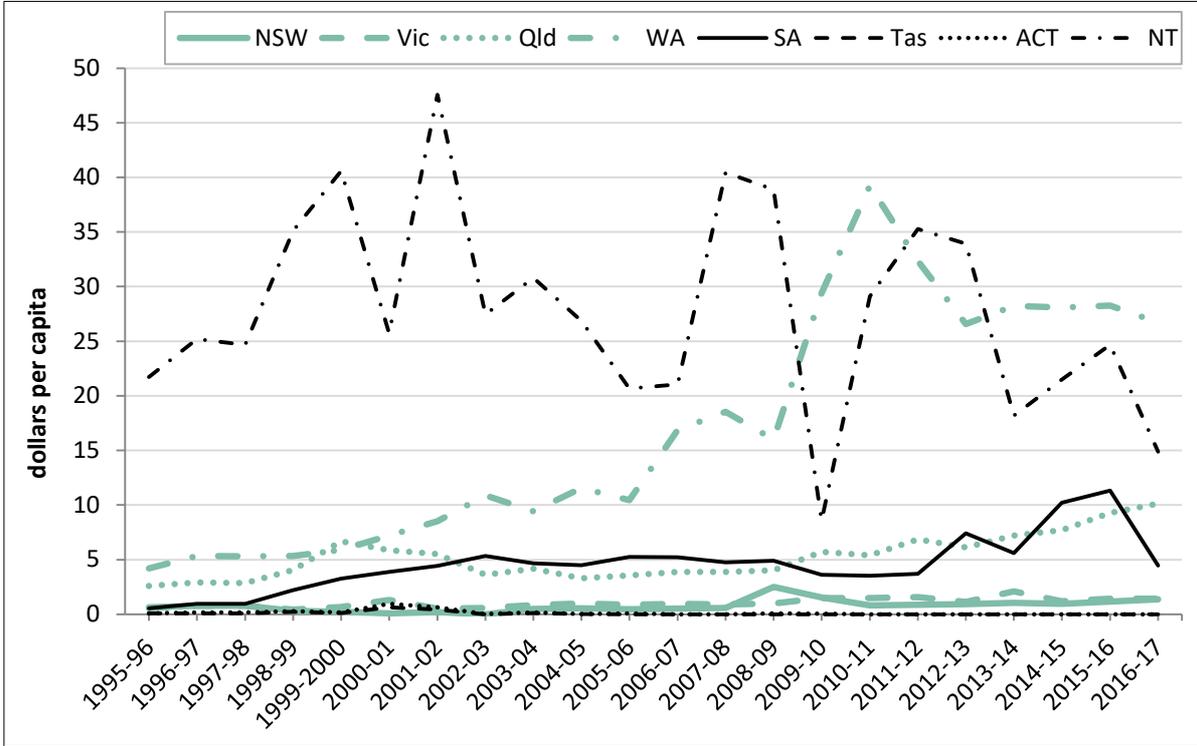
| | |
|--------------|--|
| Component | Influence measured by disability |
| Native title | State expenses on native title measured on an APC basis. |
| Land rights | To be determined. |

Data / information sought from States

- 122 Staff intend to provide States with a data request relating to land rights expenses in the second half of 2018.

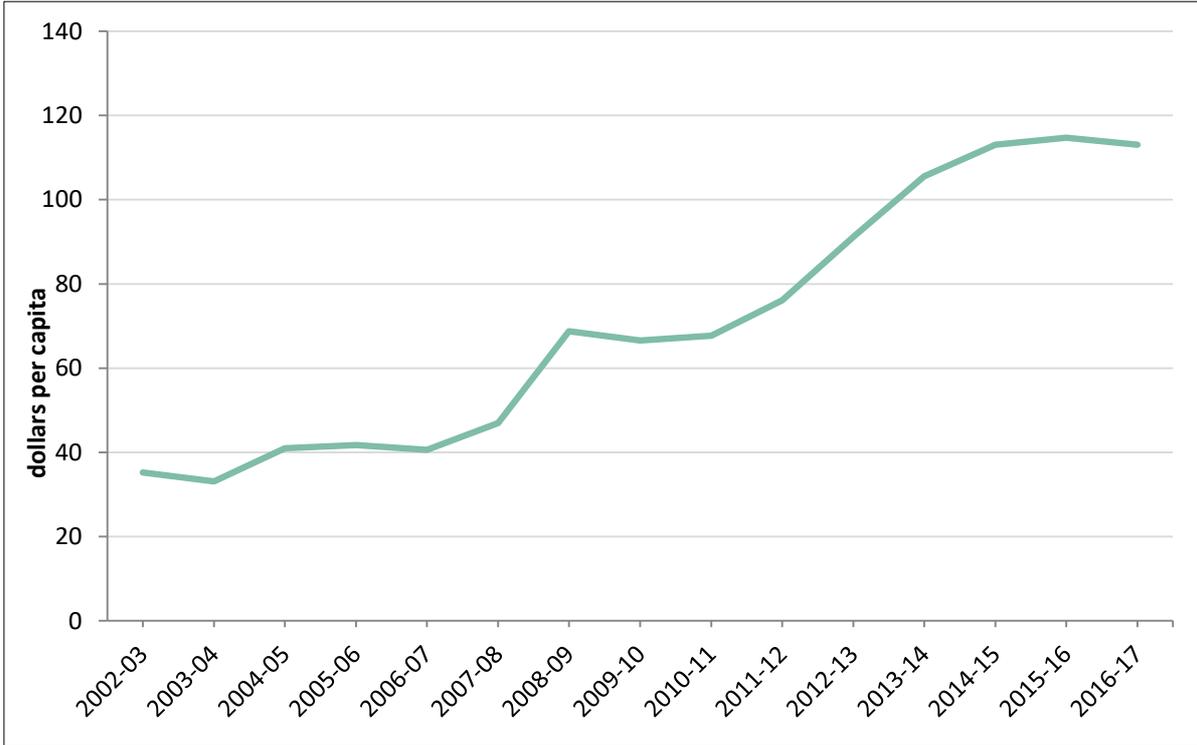
ATTACHMENT A: NATIVE TITLE AND LAND RIGHTS EXPENSES OVER TIME

Figure A-1 Native title expenses per capita, 1995-96 to 2016-17



Source: State data returns.

Figure A-2 Northern Territory's land rights expenses per capita, 2002-03 to 2016-17



Note: The Commission started collecting data on land rights in 2002-03.

Source: State data returns.

ATTACHMENT B: INDIGENOUS LAND RIGHTS

- 1 The current state of Indigenous land rights mechanisms across Australia is summarised below.
 - In New South Wales the *Aboriginal Land Rights Act 1983 (NSW) (ALRA)* established a land rights regime to provide recognition to the prior ownership and occupation of land by Aboriginal people and recognises the spiritual, social, cultural and economic importance of the land to Aboriginal people. It provides a mechanism for compensating Aboriginal people of New South Wales for the loss of their land by providing for Aboriginal Land Councils to lodge claims for certain Crown lands. The New South Wales Aboriginal Land Council (NSWALC) was formally constituted as a statutory corporation under the *ALRA*.¹
 - Victoria does not have a land claims regime, but several parcels of land have been granted to certain Aboriginal trusts and organisations. These land grants have been made under both Victorian and Commonwealth legislation. In Victoria the *Traditional Owner Settlement Act 2010 (Vic)* includes provision for the grant of land in freehold title to a traditional owner group entity.²
 - In Queensland the *Aboriginal Land Act 1991 (Qld)* and the *Torres Strait Islander Land Act 1991 (Qld)* enabled the transfer of all existing deed of grant in trust, reserve lands, and the Arukun and Mornington Island shire leases to trustees for the benefit of Indigenous people. The *Aboriginal Land Act 1991* also made provisions for claims to vacant Crown land. However, similar to the sunset clause in the Commonwealth's *Aboriginal Land Rights Act* these claims were required to be made within 15 years of commencement of the Act, no new claims have been made since 2006.³
 - Former Western Australian Aboriginal reserves held by the Native Welfare Department and other State government agencies have been vested in the Aboriginal Lands Trust under the *Aboriginal Affairs Planning Authority Act 1972 (WA)*. In 1999, the Western Australian Government announced a land transfer program, under which the estate of the Aboriginal Lands Trust was to be transferred to Aboriginal corporations by 2002; however this goal has still not been achieved. The *Land Administration (South West Native Title Settlement) Bill 2015* was introduced in November 2015 and facilitates the transfer of a large parcel of land for the creation of the Noongar Land Estate.⁴ This bill has implications for both native title and land rights expenses.

¹ Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), *Native Title Information Handbook: New South Wales, 2016*, p. 17.

² AIATSIS, *Native Title Information Handbook: Victoria, 2016*, p. 23.

³ AIATSIS, *Native Title Information Handbook: Queensland, 2016*, pp. 30-31.

⁴ AIATSIS, *Native Title Information Handbook: Western Australia, 2016*, pp. 30-31.

- In South Australia the *Aboriginal Lands Trust Act 2013 (SA)* replaced the *Aboriginal Lands Trust Act 1966 (SA)* which established the Aboriginal Lands Trust for the purpose of holding land in trust for the benefit of the Aboriginal people of South Australia. In addition the South Australian Government has also implemented the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981 (SA)* and the *Maralinga Tjarutja Land Rights Act 1984 (SA)*. The South Australian Government also introduced the Aboriginal Lands Parliamentary Standing Committee Act 2003 (SA) which establishes the Aboriginal Lands Parliamentary Standing Committee to review the operations of the South Australian land rights acts.⁵
- Tasmania does not have an Aboriginal land claims regime but introduced the *Aboriginal Lands Act 1995 (Tas)* to grant certain parcels of land of historical or cultural significance ‘for the benefit of all Aboriginal persons and in the interests of reconciliation with the broader Tasmanian community’.⁶
- The ACT established the Indigenous Land Corporation in 1995. Its purpose is to assist Indigenous people to acquire and manage land to achieve economic, environmental, social and cultural benefits. It acquires and grants properties to Indigenous organisations and assists Indigenous landholders to sustainably manage land and develop viable and sustainable land uses including: developing property management plans, purchasing equipment, or developing infrastructure.⁷
- As outlined in the 2015 Review approach section, the Northern Territory is the only State subject to Commonwealth land rights legislation through the *Aboriginal Land Rights (Northern Territory) Act 1976*. This act recognises the traditional connection and the ongoing cultural and social connection Indigenous Australians have to the land. It allows for areas of Crown Land (excluding land in towns) to be transferred to Indigenous Australians as a result of claims accepted by the Aboriginal Land Commissioner.

⁵ AIATSIS, *Native Title Information Handbook: South Australia, 2016*, p. 21.

⁶ AIATSIS, *Native Title Information Handbook: Tasmania, 2016*, pp. 10-11.

⁷ AIATSIS, *Native Title Information Handbook: Australian Capital Territory, 2016*, pp. 14.