Western Australia's Submission to the Commonwealth Grants Commission's 2020 Review

New Issues November 2019

This submission responds to the Commonwealth Grant Commission's (CGC's) discussion paper CGC 2019-01-S, which consults on new issues for the 2020 Review.

Mining revenue – BHP back payment

In June 2019, Western Australia reached a $250 million settlement of a dispute with BHP over past iron ore royalty deductions.

The relevant media release can be found at:

> https://www.mediastatements.wa.gov.au/Pages/McGowan/2019/06/250-million-dollars-secured-for-Western-Australia.aspx

This back payment covers the period 2008-09 to end 2017. However, as per the relevant accounting standards, Western Australia has brought the entire $250 million revenue to account in 2018-19.

The CGC should exclude this revenue (and the associated imputed values of production) from its assessments, for the following reasons.

- The payment relates to a complex legal argument about tax liabilities. Had Western Australia not pursued this issue, the revenue would have been lost. It was a State policy choice whether to pursue the back royalties.
- Most of the payment relates to years prior to the CGC's 2020 Review assessment period. The part that does fall within the assessment period relates to 2016-17 and the first half of 2017-18 (i.e. the first half of the CGC's assessment period). It would mostly fall out of the assessments in the 2021 Update (and completely in the 2022 Update).
- Part of the back payment could be attributed to interest, which is outside the scope of the CGC's mining revenue assessments.
  - The State's claim on BHP covered both royalties and interest. As the dispute was resolved with a settlement, it is not possible to determine how much of the $250 million relates to interest, so the entire payment has been included in the State accounts as royalty revenue.
  - Western Australia's published statistics for iron ore values of production for 2016-17 and 2017-18 have been revised by an imputed amount based on the part of the back payment related to those years. However, to the extent that this back payment reflects interest, those imputed values are overstated.

- There is a precedent in that the CGC decided to not assess a back payment of coal royalties received by Queensland, under what appear to be very similar circumstances.[1]
  - Although in practice Queensland could not provide the necessary data to exclude its back payment (due to confidentiality), it is unlikely that Queensland added any extra value of production (for the back payment) into the assessment years in its mining data return, in which case the impact on the assessments would have only been from an increase in the standard royalty rate. This would cost Queensland about 44% of its back payment, compared to a loss of about 88% of any additional Western Australian iron ore royalties.[2]

We acknowledge that under the fiscal equalisation reform arrangements, the CGC's treatment of the BHP back payment will have no impact on Western Australia's GST-related grants. However, it does affect the amount of funding required from the Commonwealth for the reforms, and we believe it is important to strive for integrity in the fiscal equalisation system.

Welfare – National Disability Specific Purpose Payment

We support the CGC staff proposal that the National Disability Specific Purpose Payment be treated on an equal per capita basis in the 2020 Review and later annual updates. This is consistent with our argument in our September 2019 submission.[3]

Commonwealth payments

Community health, hospitals and infrastructure projects

This payment includes funding for both the private and public health sectors. States in which a relatively large proportion of the payment goes to the public health sector will be disadvantaged if only the public funding impacts on assessed fiscal capacities. This is because their payment will be redistributed to States in which a relatively large proportion of the payment goes to the private health sector. Either the payment should be entirely excluded from the CGC's assessments, or both the public and private components of the payment should have an impact on the assessments.

1 Commonwealth Grants Commission (2018), *Report on GST Revenue Sharing Relativities, 2019 Update*, page 39, paragraphs 2.18-2.23.

2 The percentage loss of additional royalty revenue that is not accompanied by additional value of production is equal to the difference between the State's population share and its value of production share. In the 2017-18 data year, for Queensland coal this calculation is 64%-20%=44%, and for Western Australian iron ore the calculation is 98%-10%=88%. Because Western Australia has virtually all the national iron ore production, its loss of royalties is virtually the same regardless of the iron ore value of production used in the CGC's assessment.

3 Western Australia (September 2019), *Western Australia's Submission to the Commonwealth Grants Commission's 2020 Methodology Review - Draft Report*, page 42.

Remote housing

The CGC should exclude from its assessments the 2018-19 remote housing payments to Western Australia ($121 million) and South Australia ($37.5 million).

Equivalent payments to the Northern Territory of up to $550 million, over five years for remote housing commencing in 2018-19, has been quarantined (paragraph 7(h) in the 2019 Update terms of reference) by the Commonwealth Treasurer. It would be inequitable for payments to Western Australia and South Australia to impact assessed fiscal capacities, particularly as the Northern Territory would then effectively get a share of Western Australia's and South Australia's payments through GST grants (on top of keeping all of its own payment).