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3 - 6 August, 2017

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10 November 2017

Chairman
Productivity Commission
4 National Circuit
BARTON ACT 2600
E: hfe@pc.gov.au

Dear Sir,

Inquiry into Horizontal Fiscal Equalisation

Please find **attached** the Yothu Yindi Foundation's (YYF) submission to the Productivity Commissions' inquiry into the Australian system of Horizontal Fiscal Equalisation which underpins the distribution of GST revenue to the States and Territories.

YYF represents Yolngu people in North East Arnhem Land who, like other Aboriginal people, suffer high levels of social and economic disadvantage. An effective and equitable system of HFE is of great importance to Yolngu, as is emphasised in our submission.

We also submit that it is also of critical importance to the Commonwealths Closing the Gap initiative, which is complemented by the Stronger Futures in the Northern Territory package.

In this submission we wish to detail our concerns regarding why and how the current use of GST allocation is not effective in relation to social and economic disadvantage in the Northern Territory and requires reform.

The full potential of the Territory will never be realised until Aboriginal people living in remote and regional parts of the Territory are able to assume a rightful place in its economic and social life. An effective HFE system is critical to bringing this about.

Yours sincerely

A handwritten signature in black ink, appearing to read "Denise Bowden".

**Denise Bowden
Chief Executive Officer**

SUBMISSION TO THE PRODUCTIVITY COMMISSION INQUIRY INTO HORIZONTAL FISCAL EQUALISATION

INTRODUCTION

Yolngu people, like all other Indigenous people residing in the remote parts of the Northern Territory, suffer many disadvantages. These have been documented in many reports and Inquiries including the key report produced by the Productivity Commission entitled “Overcoming Indigenous Disadvantage 2016”.

In the Northern Territory, there has been a long history of government policies directed at Indigenous people ranging from the days of the Protector of Aborigines through paternal welfare policies and various self-determination, self-management and other well-intentioned policies, but always without any effective control of what happens to us.

This is not a thing of the past. The Northern Territory Emergency Response (“the Intervention”) was Commonwealth legislation that was directed specifically at Aboriginal people. The trauma of consequent government action, including the use of uniformed army personnel arriving in military transport in Aboriginal communities, remains alive in people’s minds today.

As is self-evident in the Productivity Commission’s own reports the situation of Indigenous people remains particularly dire in the Northern Territory and is deteriorating.

The system of Horizontal Fiscal Equalisation in its current form is failing to assist either the Northern Territory or the Commonwealth government in their efforts to Close the Gap and the impact upon Aboriginal people in the Northern Territory remains severe.

BACKGROUND to HFE in the NORTHERN TERRITORY

At the time of self-government in 1978 in addition to extraordinary levels of economic and social disadvantage amongst Aboriginal people and communities, there was also a major backlog of infrastructure needs, especially in the remote areas and in remote towns. Roads were poor or non-existent, communication was by slow and irregular mail or open channel radio (no telephones), housing was at best basic, and opportunities for award wage employment were minimal.

These deficits were inherited from the Commonwealth by the Northern Territory. In this respect we note the following:

1. These significant deficits have not been part of the Commonwealth Grants Commission (CGC) assessments of funding for the Northern Territory. The CGC methodology assumes an equal starting point for each of the jurisdictions and assesses the funding required to maintain parity across Australia given the various “disability factors” applicable.

This is important as these residual deficits are not going away and continue to impact upon actual spending in the Northern Territory – there is no way under the current methodology that these deficits can be addressed.

2. From the time of self-government until recently successive Northern Territory governments have failed to address the social and economic disadvantage experienced by Aboriginal people in the Northern Territory. Rather, as mentioned above, the situation is getting worse. The money provided by the Commonwealth to the NTG by way of the

CGC assessments, now form over 50% of the Northern Territory's income, and additional amounts are provided direct by the Commonwealth via a range of programmes bring the total of Commonwealth contributions to the NT to about 70% of total expenditure.

Further, there is nothing in the CGC published data that gives us comfort that the extreme levels of disadvantage in the NT is adequately addressed by the CGC's HFE methodology. We can only conclude that the application of the CGC's methodology of HFE has proven to be ineffective.

For example, YYF is aware of the published working papers by the CGC that which underpins their assessments. We are also aware of the actual spending as reported by the NT Treasury under the Uniform Presentation Framework.

In 2006/7 the comparison of figures was as follows and the difference is reflected in the table below:

Category Shortfall	CGC Assessment	Actual Spend	Difference
Transport of rural school children	\$14 million	\$2 million	\$12 million
Family & Children Services	\$179 million	\$43 million	\$137 million
Homeless & General welfare	\$62 million	\$48 million	\$14 million
Housing	\$136 million	\$121 million	\$15 million
Services to Indigenous communities	\$218 million	\$110 million	\$108 million
Police	\$166 million	\$136 million	\$30 million
Corrective services	\$133 million	\$68 million	\$65 million
Non urban transport	\$17 million	\$4 million	\$13 million
Roads	\$250 million	\$122 million	\$128 million

Total shortfall	\$522 million
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The NTG contests the accuracy of the above data but nevertheless people turn to CGC figures and conclude that the NTG has not applied the same level of spending that is assessed, with the assumption being made that the difference is spent on priorities other than the needs of Indigenous people. Indigenous Territorians in particular retain unresolved concerns that the Northern Territory government does not fully applying the funds it receives as assessed by the CGC for the benefit of Indigenous people.

We accept that there is no legal obligation on Northern Territory governments to spend the general GST funds distributed to them in accordance with the CGC assessments. But we believe that there is a compelling moral and ethical duty to provide services to Indigenous communities at least consistent with the CGC assessments, and that there should be transparent mechanisms in place that assure that this takes place¹.

What is certain from our point of view is that a pattern of underspending compared to need has become entrenched in the Northern Territory. To our knowledge this pattern had been occurring since the early 1990s, and presumably had been occurring since self-government in 1978.

¹ From 2009/10 onwards the Commonwealth Grants commission changed the way it reported its assessments and conflated various categories of expenditure but the difference on the relevant revised categories were still \$356 million.

COMPOUNDING THE DISADVANTAGE

The HFE methodology is part of this pattern and not the sole contributing factor. There are two further factors to mention in relation to the HFE methodology and then a number of exacerbating and compounding problems that we wish to raise:

Additional issues with the HFE methodology

1. The CGC applies weighting factors to the respective quintiles of socio-economic status. The lowest quintile obviously receives the highest weighting factor. This cohort Australia-wide comprised 4,576,384 people at December 2015, each generating equal GST distribution in respect of this factor.

There were 141,049 Indigenous people included in the overall quintile count of whom 53,204 were Northern Territory residents.

The level of disadvantage experienced by remote Indigenous residents is clearly at a vastly different level to the medium of the lowest quintile, resulting in under-recognition of their extreme needs.

2. There are also two issues concerning the way in which indigeneity is factored in to the HFE methodology.
 - (a) We can find nothing in CGC papers that gives us comfort that the CGC methodology adequately recognises the vastly divergent circumstances of a family in Parramatta, NSW with the parents having university degrees and being employed and owning their own home, with a family in Papunya suffering inter-generational welfare dependency, living in a humpy, with all of the socio-economic disadvantage that we know exists.
 - (b) It is alarming to see that the Territory has in fact a declining share of the national Indigenous population. This cannot be explained by natural increases in population growth but we assume it comes about because of lax census data, through self-identification in census, and through the children of marriages between Aboriginal and non-Aboriginal people in the other States and Territories henceforth identifying as Aboriginal. As the CGC says indigeneity is an important factor in the equalisation process and in our case it is drawing money away from the desperate need in the Northern Territory.

Other factors that compound the problem

1. The way in which the known disadvantage causes very high levels of expenditure by the Northern Territory, particularly in the areas of health care, prisons and policing.

Maintaining the status quo in these areas simply means continuing to spend large amounts from Treasury on treating chronic ill-health, or policing unlawful behaviour, or incarcerating people for unlawful behaviour. In another words, under HFE it will be business as usual, year after year.

2. The way in which the Commonwealth funds local government in relation to the Northern Territory.

There is no point looking to local government for Closing the Gap. Astonishingly the Commonwealth Government distributes Financial Assistance Grants on an equal per capita basis, notwithstanding that the other States and Territories have had at least a 100 year start on the Territory.

Basically, the residual general purpose grant (above the 30% minimum grant) from the large urban areas in Brisbane and Perth is redistributed to small regional councils in Qld and WA. For example in Queensland, Barcoo receives \$7787 per capita, Diamantina \$7673 and Croydon \$8401; and in WA Murchison receives around \$20030 per capita, Sandstone \$12772, Upper Gascoyne \$10030, Merredin \$4033 and Menzies \$4033; but in the Northern Territory the highest is East Arnhem at around \$314 per capita.

This is another anomalous outcome that arises from universal principles that are applied to the Northern Territory, which has special needs and characteristics.

3. The Territory's demography is unlike any other. 70% of the Northern Territory's Indigenous population live in remote areas where everything costs more, or costs are inflated – and no adjustment is made for the living costs in Centrelink payments.
4. Aboriginal people are undercounted in the statistical data. For example, the chart at **Attachment 1** shows the difference between ABS unemployment data, the Census data and the actual recipients of Newstart and Youth Allowance.

Further, the NT Co-ordinator General for Remote Services has previously reported that:

“The rate of Aboriginal people who have responded to the question on labour force status in the Census, that they are ‘Not in the Labour Force’ (NILF), has remained largely unchanged for the last 20 years at between 45% and 50% and closer to 60% in the 15-24 age group. With falling school attendances since the commencement of the NTER and the growing disengagement of youth it is difficult to see how these figures will turn around in the foreseeable future”.

We also refer to the work of the demographer Dr John Taylor, particularly in relation to the largest Aboriginal community in Australia, Wadeye, where his team made similar findings (see: *The Opportunity Costs of the Status Quo in the Thaamrurr Region*, CAEPR Working Paper 28/2005, Taylor & Stanley).

5. The pattern of spending by successive Northern Territory governments has favoured the amenities of urban residents in the main cities (particularly Darwin and Alice Springs) over and above the needs of remote or regional residents.

Combined with the infrastructure deficits existing at 1978 and the policy of the CGC to assume equal starting points, the decades of underspending on areas relating to Indigenous disadvantage has manifestly compounded the social, physical, economic and emotional disadvantage of Indigenous people.

FURTHER DISCUSSION

In relation to the difference between the CGC assessment and actual NT Government expenditure the Yothu Yindi Foundation has analysed in detail the Indigenous component included in the CGC assessments in respect of the Northern Territory for 2015/16.

We undertook with advice a three stage reverse engineering process to reconstruct the proportion of NT expenditure that the CGC considers should be applicable to Indigenous Territorians. He found that 68% of the assessments were intended for the benefit of Indigenous people; this compares to 53% reported by the Northern Territory government in its Indigenous expenditure review. The difference is 15% of the CGC distribution, being in the vicinity of \$500 million.

One major contributing factor in these inequities is the continued growth of the Northern Territory public service.

In 2003 in the NT public service there were 14,538 full-time equivalent positions for a population of 201,725.

By 2016 there were 20,596 full-time equivalent positions for population of 244,900.

Public service up 41.7%: population of 21.4%. The increase in the public service over and above the population increase is almost 3000 positions or about \$400 million per annum. Presumably the cost of the additional staff in Departments responsible for services to Indigenous people will be treated as "Indigenous expenditure" despite the apparent inefficiency inherent in the numbers, and the fact that the spending is on non-Aboriginal people who may, or may not, provide a public service to Aboriginal people, and who ordinarily live in the main urban centres (particularly Darwin and Alice Springs).

We Indigenous people in remote Arnhem Land observe these matters with a great deal of cynicism and dismay. We also observe some of the geographic injustices that are not represented in the above figures. For example there has been perhaps \$400 million spent on roads in greater Darwin within the last three years when there were already adequate roads in our opinion. We compare that to the state of the central Arnhem Highway (so-called) which is a dirt road from north-east Arnhem land to the Stuart Highway at Mataranka 100 km south of Katherine.

We point out all the foregoing simply to inform you of some of the things that bloat the issue of Indigenous disadvantage and the ongoing failure to Close the Gap. It is particularly galling that we are often held responsible for the actions (and inactions) of the Northern Territory's fiscal distribution. The situation is neatly summarised on page 3.19 of the "Overcoming Indigenous Disadvantage report 2016":

The former Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma, considered that much of the failure of service delivery to Aboriginal and Torres Strait Islander Australians was a direct result of the failure to engage and to support and build the capacity of communities:

"put simply, governments risk failure if they develop and implement policies about Indigenous issues without engaging with the intended recipients of those services. Bureaucrats and governments can have the best intentions in the world, but if their ideas have not been subject to the reality test of the life experience of the local Indigenous peoples who are intended to benefit from this, then government efforts will fail. (Calma 2006)"

We support the primary objective of horizontal fiscal equalisation as we understand it – to allow each State/Territory to "have the fiscal capacity to provide services and the associated

infrastructure at the same standard, if each made the same effort to raise revenue from its own sources and operated at the same level of efficiency” (CGC Methodology Review 2015).

But the problems we have with HFE arise from the facts that the Northern Territory has such extreme disadvantage amongst its Indigenous population, relative to other States and the ACT; that it has only recently come into the CGC system, and that when it did so self-government came with a major infrastructure deficit. Therefore Horizontal Fiscal Equalisation as applied by the CGC entrenches the deficits because, under the model used, it is simply not possible to assume an equal starting point and simultaneously overcome past deficits.

THE IMPACT of the CURRENT SYSTEM of HFE on PRODUCTIVITY EFFICIENCY and ECONOMIC GROWTH

It is not possible to assess the impact of the current system of HFE on the productivity efficiency and economic growth in remote communities. This is simply because the constraints outlined above make significant achievements in economic growth, productivity, and efficiency impossible for all practical purposes.

We are aware of the findings of Richard Wilkinson and other researchers into economic inequality that directly correlate inequality with a raft of negative social factors. Imagine then the productivity and economic benefits that would flow from having the Indigenous population of the Northern Territory fully participating in the business economy of the nation. Instead of being significantly dependent on governments for jobs and welfare we dream of thriving communities, home-ownership, widespread business activities and real control over our own destinies. The current system does not allow this.

COMMENTS on PRODUCTIVITY COMMISSION DRAFT REPORT into HFE

In your report under draft finding 7.4 you made an information request for further views on the potential to apply a simple cost benchmark approach to the expenditure assessments. If this is to mean consideration of an equal per capita approach across Australia it is simply not sustainable unless there are corresponding tied special-purpose grants made to the NT to overcome the structural and other deficiencies identified above.

To illustrate, compare the costs of providing a service in a remote community where there is perhaps one regular flight a week from Darwin, at a cost of several hundred dollars each way or alternatively a charter flight, and there is no residential accommodation available in the community, to provision of the corresponding service in a capital city or major urban centre. It is not unrealistic to conclude that the cost of service provision in the remote location is 20 or 30 times that of the urban centre. This calculation is achieved by say one to two full days’ pay of the service provider plus \$1,000 for travel and associated costs (charter flight say \$2000). When allowance is made for per hour on-costs and overheads, the time cost becomes say \$1,000 - \$2000, giving a total cost of \$2,000 to \$3,000. The corresponding cost of delivering the same service in an urban setting would be say \$100 for one hour of time.

Your draft report describes Indigenous status as a genuine and significant key factor affecting the distribution of GST, and mentioned that there has been suggestions that Indigeneity be removed from HFE.

Our major concern, as mentioned above, has two threads:

- The Northern Territory has a declining share of the national Indigenous population, with the increase in the states not able to be explained by natural growth. This isn’t the place

to unpack the reasons for this, but it means funds are drawn away from the desperate needs here

- Second, the CGC methodology, rather than assume an equal rating for Indigeneity right around Australia, should refine Indigenous disadvantage between the jurisdictions – eg. Illiterate welfare dependent families living in humpies in Papunya clearly should rate higher than a double income, University educated family living in their own home in Parramatta.

A simple loading for the Indigenous factor based on ABS census data is grossly inadequate.

SUGGESTIONS

For the reasons outlined in this submission we are very strongly of the view that the financial relations between the Commonwealth and the Northern Territory as they affect remote Indigenous communities and Indigenous disadvantage in general **should be fundamentally reformed**.

The Territory is not to blame for the deficits that they inherited in 1978. On the other hand Indigenous people are not to blame for that deficit or for the spending decisions of NT governments over the years, which have failed to deliver services commensurate with the CGC assessments, or with identified need. In this context it is no surprise that Closing the Gap targets are not being achieved.

Because of the comprehensive failure of Governments in respect of Indigenous affairs, we propose, as a minimum, that the following reforms occur:

- the CGC provide full disclosure and reporting of the assessments intended for the benefit of Indigenous people, especially in respect of remote locations, in order that equitable distribution of resources can be monitored;
- That the CGC adopt an additional disability factor to recognise the extreme levels of disadvantage suffered by Indigenous people in the remote parts of the NT;
- That the CGC review its methodology in relation to indigeneity;
- That the Productivity Commission establish itself as an independent umpire to monitor expenditure of the funds intended for the benefit of Indigenous people similar to the Indigenous Policy Productivity Council as recommended by the Empowered Communities Design Report 2015; and
- Notwithstanding CGC assertions that it cannot assess deficits in infrastructure we believe that changes to the methodology so that the CGC make assessments of the level of the historic infrastructure deficit in the Northern Territory. Without this reform the Territory's levels of disadvantage will be entrenched forever.

CONCLUSION

In summary government policies have prevented Indigenous people in the Northern Territory from contributing fully to the national economy and participating in the wealth of the nation. Not hindered – actually prevented.

Collective governments have been spectacularly unsuccessful at 'Closing the Gap'; all governments give lip service to consultation; the Australian Government 'supports' the 'Empowered Communities' initiative; and now the Uluru Statement from the Heart recommending an Indigenous Consultative Body be entrenched on the Constitution presents a key opportunity. With both of these proposals there was an opportunity to link a few dots and give Indigenous people their voice, sadly lacking since other national bodies have been removed or ignored – to date, nothing of substance has eventuated.

The Northern Territory is uniquely disadvantaged in that the states all joined the Commonwealth in 1901, having been in existence prior to that as separate entities, but in effect the NT joined in 1978 and was well behind in its infrastructure from the beginning.

Subsequently, fiscal policy in the Northern Territory has embedded a system marked by systemic failures to appropriately or effectively spend funds or deliver key programs intended to deal with the issue of rampant Indigenous disadvantage and improved Indigenous futures. The problem is structural and the misapplication, or ineffective application, of funds will not change until there is a change to the way money is controlled, managed, spent and reviewed in a transparent manner. The spending patterns and public service numbers as stated above clearly suggest that remote Indigenous disadvantage is a direct result of the failures in fiscal policy and will not improve until the policies are changed. Further, remote areas such as ours will not develop economically until funds are spent in accordance with the development agenda that takes into account historic disadvantage in need and include strong levels of local empowerment and decision-making.

In the interests of our children, our grandchildren and the future Indigenous generations ahead we are unable to tolerate being short-changed and disempowered by bureaucratic and political processes.