
F Indigenous local governing bodies

The purpose of this appendix is to provide insights into issues related to the revenue-raising capacity of Indigenous local governing bodies (ILGBs) and mainstream local governing bodies with large Indigenous populations (MILGBs). The circumstances of ILGBs are different from those of MILGBs but the two share some issues that warrant exploration. Section F.1 provides the context about Indigenous Australians and their LGBs and section F.2 describes the level and composition of revenue raising in ILGBs. Section F.3 attempts to identify the factors influencing the revenue-raising capacity of ILGBs and explores a number of related issues.

Case studies of three LGBs (two ILGBs and one MILGB) are presented in section F.4, using statistics and qualitative material based on interviews, to illustrate the issues raised in section F.3. Interview material reflects the insights and views of various local government officers from the three councils discussed in section F.4.

F.1 Indigenous Australians and local governing bodies

This section provides contextual material about Indigenous Australians by local government area. The Council of Australian Governments endorsed the *National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal peoples and Torres Strait Islanders* in 1992. That agreement clarifies the role of local government, which is to maintain its responsibilities to ensure the provision of a full range of local government services to Indigenous people in accordance with appropriate planning, coordination and funding mechanisms.¹ The Australian and State Governments signed the *Bilateral Agreement on Indigenous Affairs* in July 2006. Its purpose is to improve and streamline government (including local government) services to Indigenous people by having one level of service delivery to Indigenous communities.

In rural and remote areas, Indigenous communities are often represented by local governing bodies established under specific State legislation, or the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cwlth)*, to enable direct grant

¹ For a history of Australian Indigenous government administrative arrangements see for example FACHSIA 2008, Gardiner-Garden 1997, MCATSIA 2007, Pratt 2003 and Taylor 2006).

funding. The community associations (in some cases ‘declared bodies’) do not have the same statutory independence with respect to decision making and funding allocations (Dodson 1991; Local Government Acts). ILGBs’ administrative arrangements by type and State are shown in table F.1. These LGBs are eligible to receive Australian Government financial assistance grants (FAGs). ILGBs generally have Indigenous councillors, with operational management drawn from their own community or appointed by the various departments of local government.

Table F.1 ILGBs by type and State, by legislative or administrative arrangement^a

June 2006

<i>State</i>	<i>Established under state local government legislation</i>	<i>Established under separate State government legislation</i>	<i>Declared LGBs under Australian Government legislation</i>	<i>Total Indigenous councils</i>
Qld	2	32	0	34
WA	1	0	0	1
SA	0	2	3	5
NT	26	1	24	51
Total	29	35	27	91

^a Councils can be established under mainstream local government legislation in the State or under separate State legislation or as bodies that the Australian Government minister, on advice from the applicable state minister, has declared to be local governing bodies that can receive FAGs.

Source: DOTARS 2007.

Table F.1 is one method of describing legislative and administrative structures surrounding ILGBs. However, LGBs can also be described by proportions of Indigenous people in the local government area (table F.2). Descriptive statistics in tables F.3 and F.4 are based on ABS data on Indigenous populations as described in table F.2. Analyses included in this appendix (tables F.4 onwards) are based on the DOTARS classification of ILGBs.

Table F.2 LGBs by type and State, by Indigenous population

2006

<i>Indigenous people</i>	<i>Unit</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>NT</i>	<i>Total</i>
LGBs with >50%	No	1	0	35	5	2	0	52	95
Total pop. in LGBs	No	138 156	30 080	127 086	58 645	24 901	16 658	42 146	437 672
Share of pop. in LGBs	%	2.0	0.6	3.1	2.9	1.6	3.4	22.3	2.2

^a Data are based on 691 observations. Population data disaggregated by Indigenous status was unavailable for 29 councils categorised as Indigenous by DOTARS, therefore, these were assumed to have majority Indigenous populations and counted in the ‘LGBs with >50 per cent Indigenous people’ category.

Source: ABS Census of Population and Housing unpublished; DOTARS 2007; PC calculations.

Collectively, the tables identify Queensland and the Northern Territory as the jurisdictions with a substantial number of ILGBs. In addition, New South Wales, Western Australia and South Australia have a small number of LGBs with majority Indigenous populations. It is likely that issues identified in this appendix also affect those local governments.

General characteristics of populations residing in LGBs

Indigenous Australians' are concentrated in the remote and rural areas of the Northern Territory, Queensland, Western Australia and South Australia. In these areas, Indigenous people tend to live separately from other people and sometimes represent a majority of the total resident population of LGBs. By contrast, there are much smaller concentrations (albeit larger numbers) of Indigenous people living in urban LGBs. In urban areas, Indigenous people may be integrated or may reside segregated, or on the fringe, of the rest of the community (Sanders 2006).

Table F.3 shows the characteristics of populations residing in LGBs. The populations residing within the boundaries of ILGBs are characterised by low income and low literacy rates by comparison with the national average (ABS unpublished; MCEETYA 2007).

Table F.3 Characteristics of populations residing in LGBs
2004-05, 2005-06, 2006^{a, b}

<i>Population</i>	<i>LGBs</i>	<i>Total population</i>	<i>Indigenous population</i>	<i>Annual net personal income^c</i>	<i>Weekly median household income</i>	<i>Unemployment rate</i>
No	No	No	%	\$/person	\$	%
Less than 500	76	22 944	52.4	10 129	828	6.0
501-1000	54	42 142	30.9	12 670	836	3.7
1 001-2 500	85	134 162	21.4	14 460	795	4.5
2 501-10 000	164	909 836	6.2	14 332	758	5.0
10 001-50 000	185	4 237 585	2.9	15 951	864	5.4
More than 50 000	127	14 980 057	1.4	17 803	1 050	5.4
Australia	691	20 326 726	2.2	15 152	850	5.1

^a Data are based on 691 observations for number of LGBs and population. Data are based on 666 observations for the other variables. ^b Data for 2004-05 are adjusted to 2005-06 dollars using the ABS non-farm GDP deflator. Annual net personal income data are for 2004-05. ^c Care must be exercised when interpreting personal income because of its estimation.

Source: ABS unpublished; DOTARS unpublished; Productivity Commission calculations.

Data suggest that in LGBs with populations greater than 500 and less than 2501, with substantial Indigenous populations, unemployment is lower than in LGBs with lower Indigenous populations (table F.3). This is likely due to many Indigenous

people in small LGBs receiving a CDEP allowance which then does not classify them as unemployed in ABS labour force statistics and that unemployment is generally higher for Indigenous people than for all Australians (ABS National Aboriginal and Torres Strait Islander Health Survey 2004-05, unpublished; ABS National Health Survey 2004-05, unpublished).

The number of local governments by the proportion of Indigenous people is described in table F.4. For a large number of LGBs (78 per cent) Indigenous people comprise up to 10 per cent of the population. There are 56 LGBs (8 per cent) for which the proportion of Indigenous people is greater than 70 per cent.

Table F.4 Number of LGBs by the proportion of Indigenous people
Per cent, 2005-06^a

<i>Proportion of Indigenous people</i>	<i>Number of LGBs</i>
Less than 2%	270
Between 2 and 5%	183
Between 5 and 10%	83
Between 10 and 30%	51
Between 30 and 50%	9
Between 50 and 70%	39
Greater than 70%	56
Total	691

^a Data are based on 691 observations. Population data disaggregated by Indigenous status were unavailable for 29 councils categorised as Indigenous by DOTARS, therefore, these were assumed to have majority Indigenous populations and counted in the 'between 50 and 70 per cent' category.

Source: ABS unpublished; Productivity Commission calculations.

F.2 Revenue raising in ILGBs

This section seeks to explore the differences in the level and composition of revenue raised in ILGBs relative to non-Indigenous LGBs (NILGBs). Specifically, it describes the major revenue-raising instruments, expenditure and fiscal capacity (as measured by the income of the LGB population) of LGBs, by providing comparisons of ILGBs and NILGBs, exploring differences in revenue, expenditure and FAGs on a per person basis.

Sources of revenue

Revenue sources for ILGBs and NILGBs are provided in table F.5. The revenue raised in per person terms for ILGBs varies markedly from those in NILGBs both for the weighted mean and the mean weighted by population.

Table F.5 Total revenue, averages by revenue category
2005-06, per person^{a, b, c}

<i>LGB type</i>	<i>Grants and subsidies^d</i>	<i>Rates</i>	<i>Sales of goods and services</i>	<i>Other</i>	<i>Interest and dividends</i>	<i>Total</i>
Unweighted	\$	\$	\$	\$	\$	\$
Indigenous	4 996	35	1 675	945	83	7 733
Non-Indigenous	1 002	623	652	194	62	2 532
All	1 321	576	733	254	63	2 947
Weighted by population						
Indigenous	4 635	62	1 451	980	69	7 197
Non-Indigenous	193	441	318	184	33	1 169
All	201	441	320	185	33	1 180

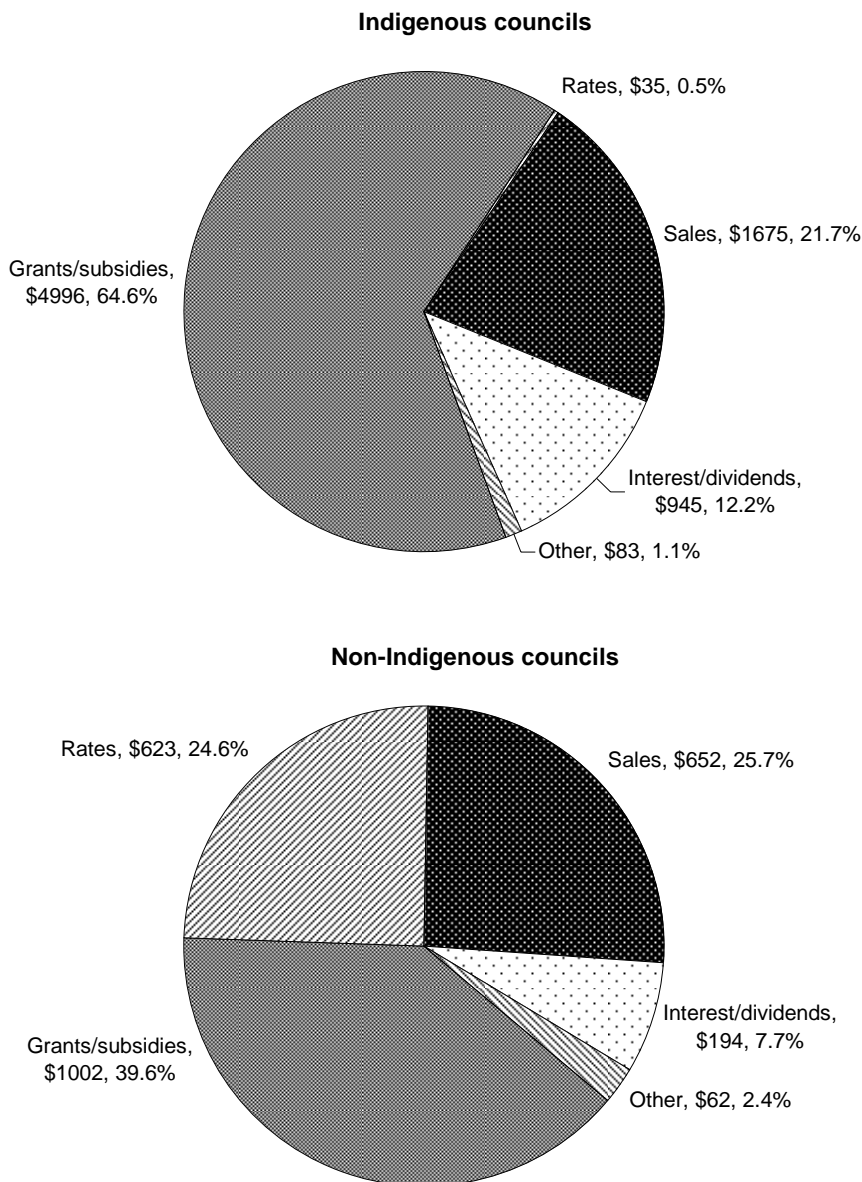
^a Data are categorised as Indigenous or non-Indigenous according to DOTARS classification for 2005-06. The classification of rate equivalent payments depends on the nature of each particular payment. For example, NT poll tax amounts are included under sales of goods and services, whereas, in lieu of rates amounts are included under other revenue. Contract and commission income is treated as service income, and is classified as sales of goods and services. Other revenue also includes fines, developer contributions and other current and capital revenue not classified elsewhere. ^b Data are based on 651 observations including 52 ILGBs. ILGBs' data are likely to be overestimated because missing data are for mostly low population ILGBs that are likely to have little to no own-source revenue. ^c Means are calculated using individual LGBs' data. These differ chapter 2 means for two reasons. First, chapter 2 means are calculated using jurisdictional totals, whereas, in table F.5 averages of individual LGBs are summed. Second, chapter 2 presents weighted means (by population) only (unweighted means are calculated using individual LGBs' observations). Totals may not add due to rounding. ^d Australian Government FAGs and subsidies plus state grants and subsidies.

Source: DOTARS 2007; ABS unpublished; PC calculations.

In per person terms, ILGBs have higher revenue than NILGBs, with the exception of rates revenue. The differences in the revenue raised between LGB types for grants and rates are as expected. Interestingly, sales of goods and services and other revenue for ILGBs is significantly higher per person than for NILGBs. This may be a result of many ILGBs' activities in business enterprises where thin markets exist (discussed subsequently in section F.3 under *Functions and services*). Revenue from some of these business activities may be captured under other revenue, with the remainder under sales of goods and services depending on the nature of each payment (ABS unpublished).

The differences in the shares of revenue sources between ILGBs and NILGBs are shown in figure F.1.

Figure F.1 Revenue of LGBs, by Indigenous status and source
Per cent share, dollars per person, 2005-06^a



^a Data are based on unweighted means. See footnotes to table F.5.

Source: DOTARS 2007; ABS unpublished; PC calculations.

On average, ILGBs raise 69.6 per cent of their total income from grants and subsidies. This is significantly higher than NILGBs which raise 39.6 per cent of their revenue through grants and subsidies. There is also a significant difference in the shares of revenue collected from rates (0.5 per cent in ILGBs and 24.6 per cent in NILGBs).

Proportion of grants to expenditure and own-source revenue to grants

The proportion of total grants to expenditure is higher for ILGBs than NILGBs. The proportion of own-source revenue to total revenue is lower for ILGBs than NILGBs (table F.6).

Table F.6 Grants to expenditure and own-source revenue to total revenue, by Indigenous status
Per cent, 2006^{a, b, c}

<i>LGB type</i>	<i>Share of grants to total expenditure</i>	<i>Ratio of own-source revenue to total revenue</i>
Indigenous	68.7	34.1
Non-Indigenous	17.8	84.8
All	17.9	84.7

^a Data are categorised as Indigenous or non-Indigenous according to DOTARS classification for 2005-06.

^b Data are based on 651 observations and are weighted by population. Data are likely to be overestimated for ILGBs because missing data are for mostly small LGBs which are likely to have little to no own-source revenue. ^c Grants are Australian Government grants and subsidies plus State grants and subsidies.

Source: DOTARS 2007; ABS unpublished; PC calculations.

Financial assistance grants

Australian Government general purpose grants are significantly higher per person in ILGBs, than in NILGBs. Identified roads grants per kilometre are significantly lower in ILGBs, than in NILGBs (table F.7).

Table F.7 Financial assistance grants, by Indigenous status
Dollars, 2005-06^a

<i>LGB type</i>	<i>General purpose grants per person</i>	<i>Identified roads grants per person</i>	<i>Identified roads grants per kilometre</i>
Indigenous	791	112	771
Non-Indigenous	507	176	990
All	504	169	968

^a Data are based on 667 observations.

Source: DOTARS 2007; PC calculations.

Information received during visits suggests that, in most jurisdictions, ILGBs receive significantly higher grant funding per person and that even with that assistance ILGBs still have a paucity of resources.

F.3 Factors affecting revenue-raising capacity

Own-source revenue — rates

Revenue from rates, or rates equivalents, in ILGBs is affected by the rateability, or non-rateability, of land determined by:

- land tenure arrangements
- applicability of rates exemptions to particular types of land
- history of not having to pay property rates
- ability to raise rates equivalent amounts.

There are revenue-raising capacity restrictions facing ILGBs resulting from the existence of non-rateable land (whether this be from land tenure arrangements or exemptions).

Indigenous land tenure, rateability and exemptions²

The capacity of ILGBs to raise revenue through property rates is constrained by land tenure structures. Indigenous people reside on land under different tenure arrangements. Land tenure arrangements by State are summarised in table F.8.

Table F.8 **Indigenous owned or controlled land by State**
Kilometres squared, December, 2006

<i>Land tenure type</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>NT</i>	<i>Australia</i>
Freehold (inalienable) ^a	–	50	–	–	188 820	46	568 367	757 283
Freehold (alienable)	3 582	48	25 212	438	167	31	10 765	40 243
Old system	–	2	–	–	–	1	–	3
Leasehold	369	–	29 080	161 640	14 909	47	23 123	229 168
Licence	64	–	–	–	25	–	–	89
Aboriginal Reserve	–	–	51	202 353	–	–	–	202 404
Deed of Grant in Trust (Queensland)	–	–	156	–	–	–	–	156
Tenure not stated	167	–	259	5	1	44	2 588	3 064
Total Indigenous land	4 181	100	54 758	364 437	203 923	169	604 842	1 232 410

^a 'Inalienable' implies that the land cannot be sold or mortgaged and the government is restricted in its ability to compulsorily acquire the land. ^b Data may differ from those published elsewhere due to rounding.

Source: Indigenous Land Corporation unpublished.

² The CGC (2001, p. 56) states 'local government representatives noted that legal issues, generally associated with the land tenure in Indigenous communities, sometimes impact on the requirement or the ability of local councils to provide services on community land.'

This constraint is mainly due to the rates-exempt nature of much Aboriginal land, but there are also isolated cases where there is resistance to ratepaying. That is, even where land is rateable, rates cannot always be collected. This is evident in Litchfield Shire Council for example, where rates notices are issued for some Indigenous land but are left unpaid.

In New South Wales, the types of land exempt from all rates under section 555 of the Local Government Act include land that is vested in the NSW Aboriginal Land Council or a Local Aboriginal Land Council and is declared under the Aboriginal Land Rights Act 1983 (Division 5 of Part 2). This may also exempt land from all charges in some circumstances.

In Queensland, section 957 of the *Local Government Act 1993* provides that all land is rateable but generally excludes Aboriginal land other than that used for commercial or residential purposes (Queensland Government, sub. 63). The 34 ILGBs in Queensland have no rateable land, that is, this land is rates exempt.³ Further, even where rates raising is possible, it can be difficult where landowners are not liable to pay rates. For example, one rural shire in Queensland contains a large pastoral property owned by the Indigenous Land Corporation (ILC) which is not liable for rates. The ILC has held the property for over 10 years and although the property is leased to a major non-Indigenous cattle enterprise, the ILC has refused for many years to contribute to rates revenue.

The Queensland Department of Local Government, Planning, Sport and Recreation recognises that the large proportion of conservation land and other forms of non-rateable land in some LGB areas has a significant impact on the rating capacity of local governments (Queensland Government visits 2007). However, while some rates exemptions exist for Indigenous land, the State Government pays an assistance grant to Queensland ILGBs in compensation for the non-rating capacity of the land. Further, under new Queensland (2007) arrangements for Torres Strait Island LGBs, there will be some rateable leasehold land which may enable LGBs to raise additional rates revenue (Queensland Government visits 2007).

In the Northern Territory, top-up funding is considered necessary by the NT Government because of the very restricted capacity to raise own-source revenue for the small, remote councils, including many ILGBs.⁴ NT LGBs have retained a

³ This statement relates to pre-amalgamation status of Queensland councils.

⁴ There are also perceived equity issues in the Northern Territory regarding pastoral leases and mining fees because, generally, pastoral and mining land will be classified as rateable, whereas Indigenous land will not be rateable. According to some NT participants in this study, this is because the base for applying property rates is non-existent in Indigenous communities. Notwithstanding this, an example was given by NT Government officials, whereby the NT pastoralists pay very low rates and lease fees compared to their Western Australian and

moderate level of rating, less than in other jurisdictions. Revenue-raising capacity from rates, however, would increase if leases on NT Indigenous land are implemented because the land will then be rateable. Jabiru Town Council is raising rates from business ratepayers and utilises user charges instead of residential rates.

Reserve land

Information from Western Australia is used to illustrate the implications for LGBs' ability to rate Aboriginal reserve land because the amount of reserve land is significant in that State.

Reserve land is exempt from rates under the *Local Government Act 1995*. However, if a service is delivered to people on reserve land, a service charge may be levied. Where reserve land is leased, the exemption from rates may no longer apply, for example if a business is operating, in which case the lessee is responsible for the rates payment (Department of Indigenous Affairs 2007).

Freehold and leasehold land

Freehold and leasehold lands are subject to rates unless they are held by associations or corporations which are deemed to be charitable or benevolent organisations, which are then non-rateable under local government acts. Many Aboriginal associations and corporations are deemed to be benevolent because they are operating for public benefit. Even where charitable or benevolent status is granted, these freehold or leasehold lands may remain liable for service charges such as provision of sewerage or garbage collection (Dodson 1991; Department of Indigenous Affairs 2007).

The capacity of local governments to raise rates revenue is restricted by land that is held as Aboriginal land under the *Aboriginal Land Rights (Northern Territory) Act 1976*. This land is inalienable and held in trust under a form of 'communal title' (multiple land owners and very few individual surveyed land allotments) which not only makes rates recovery impossible but negates section 77 of the *Local Government Act 2005*, which says in part 'the owner of land in relation to which a rate or charge is levied is liable for the payment of all such rates and charges' (LGANT, sub. 46). Rating of Indigenous land is a major issue currently for the Northern Territory LGBs because many of these areas were unincorporated and therefore unrateable prior to the implementation of the new local government reforms.

Queensland counterparts.

The NT issues described in relation to inalienable land likely relate to South Australia also, as that State is the only other jurisdiction that has a substantial amount of inalienable land.

Voluntary 'rates' and charges

Some ILGBs encourage the use of voluntary payments to raise revenue. This is through both voluntary 'rates' (that is payments in lieu of rates) and rates equivalent charges per head.

The Queensland Department of Local Government, Housing and Sport notes that most ILGBs have a rates equivalent applied and this fee (calculated as a percentage of the CDEP, or Centrelink, payment) is similar to the residential rate level applied in NILGBs.

Further to the Queensland example cited in the rating exemptions section, the ILC offered to make an ex gratia payment of three years rates in 2007. The LGAQ notes however that such payments are at the discretion of the body concerned and therefore cannot be relied upon by LGBs for raising revenue (LGAQ, sub. 11, p. 28). It is sometimes the case that an LGB is at risk of incurring expenses in attempting to collect such revenues, as illustrated by the following Western Australian example (WALGA, sub. 51, pp. 21-22):

The State Administrative Tribunal has made a determination to uphold a claim for an exemption from rates levied by the Shire of Derby/West Kimberley on a pastoral lease in the far North West of the State. The exemption from rates was sought on the basis that the whole of the land was being used exclusively for charitable purposes. The applicant is an organization representing the local Indigenous population, including the Aboriginal elders of the area. While the taxation authorities had recognised the organization as a charity for some purposes, it had, until recently, paid rates. The land is run as a pastoral station and the Council (basing its rating on land use) deemed the property as rateable, as it believed a pastoral station was not a charitable purpose. The Tribunal's decision is based on the view that the pastoral enterprise use is charitable because it serves the social, economic and 'traditional' advancement of a clearly disadvantaged group. This view is at odds with case law on charitable purposes which focuses on the actual use of the land and it is difficult to see that the actual use of the land in this case is any different to any other pastoral enterprise. The decision essentially means that any enterprise run by an Indigenous group is likely to be considered a charitable land use, unless the use can be established to operate to profit individuals, or a group of Aboriginal people that are not disadvantaged. This decision has the potential to seriously erode the rate base of some local authorities. The Shire of Derby/West Kimberley has advised that they are appealing this decision to the Supreme Court. The cost of the appeal is likely to be between \$40 000 to \$60 000. If the Council loses the case it will also have to pay the legal costs of the other party.

According to the NT Government, an implication of a rates exemption is that it may be perceived to absolve the local government from its responsibility to deliver services to the population in the LGB. It is thought, at least in the Northern Territory, that it is better for people residing in exempt LGBs to pay an in lieu 'rate' which in turn implicitly contracts local government service provision. Therefore, some Indigenous people, at least in Queensland and the Northern Territory pay a levy, or a rates equivalent amount. Some local governments operating on Aboriginal land have tended to set general charges based on households as a means of recovering rate equivalent revenues. According to participants in the NT visits a general charge per household can be most useful because it is often difficult to identify the number of people residing in a house. Increasingly NT ILGBs are charging a rate equivalent so the 'no fee' culture has changed somewhat.

Debits from welfare payments direct to LGBs are used in some ILGBs to overcome their constraints on raising revenue either through rates exempt property or lack of ability to collect rates owing. In LGBs such as the Tiwi Island Shire, where most property is unrateable, a rates equivalent is used. This is implemented by individuals signing a deduction form enabling a direct debit from their Centrelink/CDEP payment (through their bank account) to the local government. This works well in some areas. However in others, there is evidence of people changing bank accounts or indicating that less people live at a particular address than is the case to reduce the rates equivalent charge.⁵

Great variation exists over the setting and collection of such charges between the current mix of LGBs in the Northern Territory. According to NT Government Officials (personal communication, April 2007), this is likely to change once the new shires are created under the new local government reforms. If leases on Aboriginal land increase to the extent proposed by the Federal Government then it is possible for LGBs to rate them in the future (LGANT, sub. 46).

Own-source revenue — user fees and charges

Australian and State local government legislation permits LGBs to raise fees and charges from Indigenous constituents.

Queensland LGBs have the capacity to levy service charges and this provides some own-source revenue from services such as solid waste management, water and

⁵ The CGC (2001, p. 56) notes that the reliance on CDEP schemes to provide funding for local government services was another particular concern raised in its inquiry. In relation to any material additional capacity to raise revenue from a rates equivalent charge, according to visit participants in the NT Government, the Indigenous CDEP dollars have been stretched to the upper limit.

sewerage and housing. According to study participants visited in the Queensland Government, councils obtain a contribution to housing maintenance through rentals, however, the rental amounts set are insufficient to cover actual housing related costs.

Although ILGBs may undertake some business operations, most of these do not cover operational costs and those that do (for example, taverns) have conflicting obligations in terms of community wellbeing (limiting alcohol consumption) and maximising profits (Queensland Government Officials, personal communication, April 2007).

According to the SA Government (sub. 64) there is little or no capacity for smaller or remote LGBs such as ILGBs to raise revenue through user charges because of the nature of these ILGBs (small populations and geographical remoteness) which are sometimes characterised by low incomes and high unemployment.

According to the NT Government, fees have not been implemented as successfully in Darwin as in other states' cities, but have been more successful than in other NT LGBs. Some NT LGBs have a general charge for garbage, rent and all other services, whereas other LGBs have separate charges for services. The NT Grants Commission noted that there is some unutilised capacity for NT local governments to raise own-source revenue, even in the small, remote, ILGBs. This is particularly evident when comparing levels and extent of rates, fees, fines and charges with other jurisdictions, identifying that the Northern Territory has a relatively minimal user pays approach.

Own-source revenue from fees and charges in ILGBs is affected by the scope of services provided, the ability of people to pay and the ability of ILGBs to directly access welfare payments from individuals. Indigenous populations, where fees and charges may apply, appear to have a significantly lower ability to pay than other populations (discussed in the following section). This suggests that the fiscal capacity in ILGBs is relatively lower than in NILGBs.

Fiscal capacity of LGBs

The fiscal capacity of LGBs (measured by the incomes of LGBs' communities) influences the ability of their communities to pay rates and rates equivalents. The needs of ILGBs and the factors that influence their fiscal capacity differ from NILGBs. ILGBs typically have a low economic base, serve populations with low personal incomes and generally do not have rateable property (LGAQ, p. 3; table F.3). Indigenous populations (even where some land is rateable) appear to have a significantly lower capacity to pay than other populations.

The relatively low personal income available to individuals in ILGBs compared with LGBs limits the capacity of their local governments to raise any significant own-source revenue. Personal income levels per person in ILGBs are, on average, less than a third that of those in NILGBs. ILGBs, on average, are therefore far more reliant on Australian and State government grant funding for general operational revenue.⁶ Available data suggest that grants in ILGBs are, on average, about 68 per cent of their expenditure. These data are likely to be understated because there are missing observations for 34 ILGBs which receive grants, but data items on other revenue and expenditure are unavailable (for example, Erub Island has a population of 320 and a general purpose FAG of \$1112 per person). Some study participants indicate that some ILGBs are completely reliant on grants funding.

Personal, business and combined income and revenue-raising effort

The fiscal capacity of LGBs was estimated in chapter 5. It comprises business income and personal income (including some welfare payments — those that are recorded through the tax system). Table F.9 shows that personal income per person, is significantly lower for ILGBs, than for NILGBs. The higher business income per person for ILGBs might reflect both mining and energy operations of large corporations and local arts and tourism enterprises.

Table F.9 Income and revenue-raising effort

Per person, average, 2004-05^{a, b}

<i>LGB type</i>	<i>Personal income^c</i>	<i>Business income</i>	<i>Combined income</i>	<i>Revenue-raising effort</i>
	\$	\$	\$	Per cent
Indigenous	5 110	16 999	22 109	11.6
Non-Indigenous	17 170	9 262	26 433	3.7
All	17 157	9 271	26 429	3.7

^a Data are based on 651 observations. ^b Data for 2004-05 are adjusted to 2005-06 dollars using the ABS non-farm GDP deflator. ^c Care must be exercised when interpreting personal and business income because of their estimation.

Source: ABS unpublished; BTRE unpublished; State grants commissions unpublished; Productivity Commission estimates.

Notwithstanding this, data suggest that revenue-raising effort (measured by the ratio of own-source revenue to combined income) is about three times higher for ILGBs compared with NILGBs. Revenue-raising effort is likely to be somewhat overstated for the ILGBs reported here because smaller ILGBs (by population) are not

⁶ For example, the Queensland Government provides untied revenue support through the State Government Financial Aid (SGFA) program. This is in addition to funding provided from FAGs. Other jurisdictions provide similar State government funding to councils.

included in the estimated average. These bodies are likely to have lower revenue-raising efforts.

High costs of service delivery

The implications of a low fiscal capacity are highlighted in this and the following sections, where it is established that costs of services are higher, and governance challenges are greater, in ILGBs compared with NILGBs.

Due to location, many ILGBs face the same challenges as other remote LGBs: higher input costs, the need to provide a wider range of services due to the absence of alternative private or government supplier(s), and higher costs due to factors such as climate and a lack of economies of scale and density, and lack of competition in thin markets.

Service delivery in small, remote LGBs

Size and scale

Many ILGBs are characterised by multiple, small, remote populations. This can lead to higher overheads per person or property relative to larger LGBs and, consequently, more expensive service delivery. For example, diseconomies of scale can be so large that a comprehensive range of services cannot be provided across most of the Northern Territory.

According to Sanders (2006), many LGBs comprise less than 200 people, which is insufficient for self-funding infrastructure provision and maintenance. Where Aboriginal residents are differentiated from the mainstream LGB community (for example, Halls Creek), the service provision to Aboriginal residents requires subsidisation from the non-Indigenous population. Where the entire LGB population is Aboriginal, there is likely to be an under provision of services due to a lack of funds.⁷

Functions and services

There are core elements of services that local government is generally expected to deliver. However, the scope, level, and quality of these services differs across LGB

⁷ Sanders (2006, p. 10) notes that the argument of recent regionalisation policy is that these populations are too small [populations of less than 1000] to sustain viable community government councils.

communities, largely due to remoteness of some populations.

The roles and responsibilities of small, remote ILGBs range from providing rubbish collection services to running the local shop and CDEP programs. Some ILGBs provide little to no services to Indigenous residents, particularly in town camps and settlements that are adjacent to mainstream communities but which do not receive services such as garbage collection or water supply (Commonwealth Grants Commission [CGC] 2001; Department of Indigenous Affairs 1999). Some ILGBs focus on core services such as rubbish, roads and sanitation services. Others provide these core services together with a wide range of other services (Tiwi Island is an example). Examples of these wider services are operating business enterprises in arts/culture and tourism as well as providing many basic business activities such as postal, banking and hotel services.⁸

Dual service delivery can also occur where a LGB provides a service to the town residents and replicates this service to remote, separate Indigenous residents in the LGB. Other LGBs do not provide services directly to separate Indigenous populations because these services are delivered within the township and may be accessed by Indigenous people (Department of Indigenous Affairs 1999).

Infrastructure in small, remote LGBs

The Department of Indigenous Affairs (1999) claims that in order for local governments to adopt responsibility for the maintenance of infrastructure on Aboriginal lands, this infrastructure needs to be brought up to the standard which exists elsewhere within the LGB area. Recent reports into local government financial sustainability suggest that these infrastructure needs remain.

According to the Law Reform Commission of Western Australia (2006) the comparative sub-standard of infrastructure creates a cycle for levels of welfare in remote settlements, indicating a causal relationship between Indigenous disadvantage in Western Australia and the lower level of infrastructure and essential government services provided. It is this sub-standard infrastructure starting point which is seen as a barrier to local government involvement in Indigenous communities (CGC 2001). The barrier may be that such infrastructure would require grants funding because there is no own-source revenue capacity to pay and the responsibility amongst the different spheres of government for its provision has not been settled.

⁸ Core and other (non-core) services identification and focus is a major part of the NT Government's New Local Government reforms, to identify services that local government should be providing and assess whether there are funds for non-core services after that, recognising that the breadth of service types will vary across council type.

Another issue identified as creating a disincentive to LGBs investing in infrastructure is uncertainty about land tenure. In Western Australia, access to reserve land declared under the *Aboriginal Affairs Planning Authority Act 1972* is by permit only. The essentially privately owned nature of this land has led to a reluctance by local governments to provide infrastructure and services, such as road maintenance, which are deemed to be for the benefit of the wider general public. One of the ways in which this has been resolved is to declare the roads to be public under the *Land Administration Act 1997*. However, this clashes with the original intention of the lands being isolated for social and cultural reasons (Department of Indigenous Affairs 1999). An alternative arrangement is through agreements between the service provider — which may be the local government — and the Aboriginal trust or corporation charged with managing the reserve as has occurred in the Northern Territory (Dodson 1991).

Finally, there is a reluctance of local government to invest in, or to maintain, infrastructure assets because of the significant costs involved.

There is anecdotal evidence, however, that partnership agreements between the different spheres of government and Indigenous groups improve infrastructure provision and service delivery (CGC 2001, p.175).

Governance

A framework for improving governance is provided in chapter 8. This framework, while generally applicable to LGBs, may not be able to be adopted by small, Indigenous, remote LGBs because of their unique characteristics, particularly if assistance is not provided. This section identifies governance issues for ILGBs (and provides some references that discuss these) but does not develop them in detail. They are likely to *indirectly* impact upon ILGBs' ability to raise revenue and affect expenditure. These include:

- lack of available skilled labour (Cleary 2006; Costello and O'Donohue 2005; LGANT unpublished; NT Department of Local Government, Housing and Sport [DLGHS] unpublished; Queensland Government, sub. 63)
- lack of policy and program coordination between spheres of government (Cleary 2006; Costello and O'Donohue 2005)
- poor asset management (NT DLGHS unpublished)
- various governance strategies (application of differential rates in ILGBs [Dodson 1991; Department of Indigenous Affairs 1999]; development of entrepreneurship [CGC 2001], development of skills for Indigenous people [DOTARS 2007; NT DLGHS unpublished], central and/or shared service arrangements [(CGC 2001; Framework Service Agreement between the Shire of Broome and the Aboriginal

Communities of the Dampier Peninsula and Bidyadanga, July 1999; LGANT unpublished])

- lack of political representation and Indigenous engagement in council (Dodson 1991; DOTARS 2007)
- differences between Indigenous peoples' culture and the cultures of those predominantly managing council operations (Cleary 2006; Mowbray 2005; Sanders 2006a).

F.4 Local governing bodies — case studies

This section provides information on three LGBs chosen as case studies. A series of interviews was undertaken in December 2007 with three local governing bodies that service Indigenous residents. Two are majority Indigenous population LGBs (Tiwi Islands Local Government and Shire of Halls Creek) and the other is a minority Indigenous population LGB (Port Augusta City Council). These LGBs have been chosen to illustrate the diversity among LGBs servicing Indigenous populations, with a focus on the issues outlined earlier in this appendix.

The views expressed in this section reflect information collected by interview with LGB officials and documentation such as strategic plans and annual reports, unless otherwise referenced. These are supplemented by available data (ABS and DOTARS unpublished). Table F.10 provides a statistical profile of economic and demographic characteristics of these LGBs. Table F.11 provides a statistical profile of revenue and expenditure for these LGBs. Some key indicators, consistent with earlier material in this appendix, are presented in table F.12.

Table F.10 Economic and demographic profiles of the case study LGBs
2006, 2005-06

<i>Variable</i>	<i>Unit</i>	<i>Tiwi Islands</i>	<i>Halls Creek</i>	<i>Port Augusta</i>
Economic				
Median individual income	\$ per week	213	248	418
Median household income	\$ per week	620	696	798
Unemployment rate	%	6.5	5.6	6.9
Demographic				
Indigenous population ^a	%	88.2	65.1	16.2
Indigenous population ^a	no	1 868	2 378	2 267
Total population	no	2 117	3 655	14 024
LGB area sq km	no	2 115	142 908	1 193
Total road length km	no	905	1 251	408

^a The ABS population statistics are recognised as being significantly understated.

Source: ABS (unpublished); DOTARS (2007); PC calculations.

Table F.11 Revenue and expenditure profile of case study LGBs
2005-06, \$'000s^a

<i>Variable</i>	<i>Tiwi Islands</i>	<i>Halls Creek</i>	<i>Port Augusta</i>
Revenue			
Rates	342	941	6 553
Total all governments' grants	16 219	6 015	8 694
FAG (\$ per person)	415	835	211
General purpose grants	447	2 400	2 812
Roads grants	613	700	203
Total Commonwealth grants	1 059	3 100	3 016
Sales of goods and services ^b	2 872	742	4 208
Interest	181	50	177
Fines	0	5	23
Other revenue ^b	3 366	102	500
Total own-source revenue	6 761	1 840	11 461
Total revenue	22 980	7 855	20 155
Expenditure^c			
Transport and communications	0	3 234	2 232
Housing and community amenities	10 257	1 565	1 998
General public services	4 351	301	2 378
Recreation and culture	352	994	2 361
Health	0	201	5 449
Social security and welfare	1 100	321	2 147
Education	74	0	0
Public order and safety	20	92	212
Other services ^c	11 545	388	3 640
Operating expenditure	27 629	7 078	20 046
Total expenditure^d	27 699	7 140	20 607

^a Data are expressed in \$000s except where indicated. ^b See footnotes to table F.5 for inclusions in sales of goods and services and other revenue. ^c Data categorised by expenditure category may be unreliable. 'Other' services includes expenditures not classified elsewhere, including fuel and energy, construction, agriculture, forestry and mining. ^d Capital and operating (recurrent) expenditure.

Source: ABS (unpublished); DOTARS (unpublished); PC calculations.

Table F.12 Indicators of revenue-raising effort and fiscal capacity
2004-05, 2005-06^a

<i>Variable</i>	<i>Unit</i>	<i>Tiwi Islands</i>	<i>Halls Creek</i>	<i>Port Augusta</i>
Total all governments' grants	\$ per person	7 661	1 646	620
Combined (personal and business) income ^a	\$ per person	16 818	15 547	20 956
Own-source revenue	\$ per person	3 194	503	817
Own-source revenue to total revenue	ratio	0.29	0.23	0.57
Own-source revenue to grants	ratio	0.42	0.31	0.13
Own-source revenue to combined income (revenue-raising effort)	%	18.1	3.1	3.7

^a Data for 2004-05 are adjusted to 2005-06 dollars using the ABS non-farm GDP deflator.

Source: ABS (unpublished); DOTARS (unpublished); PC calculations.

Tiwi Islands Local Government

A case study of Tiwi Islands Local Government (TILG) is featured in this section. TILG is an example of a majority Indigenous population, separate, remote LGB. It might be described as drawing relatively heavily on its fiscal capacity, that is, it has a high revenue-raising effort (18.1 per cent) compared with other LGBs.

The Tiwi Islands local council functions are currently carried out by the TILG. A prospective body, the Tiwi Islands Shire Council, is undertaking establishment of the new Shire under the NT Government's new local government reforms. The Tiwi Islands Shire Council will come into full effect on 1 July 2008. The information provided in this case study describes the situation of the TILG. In addition, the case study mentions how changes are taking place under the auspices of the Tiwi Islands Shire Council in order to improve financial accountability and strength and to improve service provision to residents.

The Tiwi Islands are situated 80 km north of Darwin in the Arafura Sea. There are two islands, Bathurst Island and Melville Island, with a total land mass of 8320 square kilometres and a population of approximately 2235 in 2007 (1450 in Nguiu, 400 in Milikapiti, 335 in Pirlangimpi and 50 in Wurankuwu). TILG was established in 2001, when the previous community government LGBs in the three main communities were amalgamated to coordinate local government activities and governance. It has an unemployment rate of 6.5 per cent, and a median household income of \$620, according to 2006 Census data.

Service delivery in TILG

The TILG local government area has well defined, concentrated populations so the LGB can be reasonably sure that it is servicing most of the community if it targets the main community centres. There are some small outstations, but, most constituents are easily able to access LGB services.

There is a high cost of service delivery for the TILG due to a lack of economies of scale of the communities and levels of service, and its remoteness, with supplies delivered by sea or air transport. Further, targeting services to the Indigenous population is more expensive than servicing the non-Indigenous population. Factors here include dealing with low levels of literacy and English being the second language for a high proportion of residents. In addition, there can be confusion over what services TILG is responsible for and what services other agencies are responsible for. As a general comment, all services need to carry out intensive education and consultation campaigns to ensure residents understand the services available and the benefits of using services. For example, providing public health services can involve cleaning houses for lice, cleaning the community swimming pool, ensuring good medical services (medivac for serious cases). Effectively explaining why the house became lice infested to the householder and why the householder would want to eradicate the lice can be difficult. The provision of health services is a joint effort between the health agency and TILG.

Dog control is a major issue in TILG particularly in Nguuu (the largest community). A by-law limits the number of dogs to two per household. The by-law is difficult to police. This law is constantly ignored. Dogs are often dangerous, many have open sores, suffer mange and other health issues that have public health implications. Dogs are revered as part of the family home and are allowed to roam through the community, often in packs. To address these problems a vet service is brought in by TILG to de-sex pets and there is an animal registration service.

A positive example of service provision is garbage collection. Garbage collection is an essential service provided by TILG. Very frequent (daily) services are provided in communities such as Pirlangimpi. The regular garbage services are an essential element in improving the overall health of residents.

The new shire council will be required by law to concentrate on a set of core functions such as garbage collection, roads and lighting. This focus on core services aims to ensure the shire expends resources on the basic requirements so that the communities will have a reasonable standard of services. The shire may take on other services through funding agreements with agencies, but only on the basis that services are cost neutral or provide a financial gain to the shire. In the past there have been many instances of government agencies expecting TILG to provide

services at a certain level, but not providing sufficient funding. This has resulted in cross subsidisation and a drain on the TILG resources.

At present TILG carries out agency services such as the post office and has funding agreements for services such as child care, recreation and youth programs and night patrol.

The new NT shires, as a collective, are negotiating improved funding agreements with Australian Government agencies. The negotiations involve ensuring that the Australian Government understands that there needs to be sufficient funding provision for administrative overheads, vehicle replacement and maintenance, and superannuation to provide the service properly. TILG often feels pressured to take on a service as a community service obligation when no one else will provide it, and then takes funds from another service to meet expenses, potentially leaving these other services with a funding shortfall.

The postal and banking services are similar examples. If Australia Post wants to continue to provide a service in remote locations, it will need to pay for this in full. The TILG appears to be the only real choice of provider currently for these types of agencies.

It is a critical time for Tiwi (and other ILGBs) with the NT Government's latest reforms regarding provision of services at less than cost recovery. There is going to be considerable transparency as to full costs of services and where revenues are actually spent, and there will be explicit recognition up-front that if an organisation wants the LGB to provide a service, the relevant agency must pay for this in full.

Land tenure and land council issues for TILG

The Tiwi Islands comes under the jurisdiction of the Tiwi Land Council. Leasing must be negotiated through the Tiwi Land Council, except for Nguiu. In Nguiu, the Australian Government has negotiated a 99 year lease with the Tiwi Land Council. The Tiwi Islands Shire Council is negotiating with the Australian Government to obtain sub-leases and licences over roads, ovals and so on. TILG works cooperatively with the Tiwi Land Council on providing services to communities, however, the new shire will take the opportunity to strengthen and formalise the relationship between the two bodies. This can be an issue as there is no memorandum of understanding between the Land Council and TILG.

Own-source revenue raising

One way TILG raises own-source revenue is through rates equivalent payments. Almost everyone in the community pays a per house rates equivalent amount. There are schemes in place for collection of this with varying levels of success. The rates equivalent charges are calculated based on benefits received — for example a three bedroom house is charged at one amount, a 4 bedroom at a higher amount and a newer block home is charged at the highest level.

Deductions from Centrelink, or CDEP payment is the main collection mechanism, with the agreement of the person receiving the welfare or CDEP payment. Most people are reconciled to paying for the services they receive, but it is easy for a person to stop the payment and then the only way to collect payment is to convince the constituent to sign a new bank deduction authority or make payments direct to TILG offices. It can be difficult to obtain payments from defaulters, however there is a rule that no maintenance will be done on a house until the occupier pays rent.

It is proposed that in future Territory Housing (a Northern Territory Government agency) will be responsible for all community housing on the Tiwi Islands. When Territory Housing takes over the housing function (post the reforms), it will be responsible for collecting the rent and the Shire will then charge Territory Housing a rate, eliminating the collection from householders. The new arrangements with Territory Housing will be more rigorous in calculating the assessments and should provide greater scope for the Shire to collect rates revenue.

It is expected that Territory Housing will introduce increased rigour and fairness in the allocation of housing. At present there are instances where families simply move into vacant houses with no reference to a waiting list or allocation priority.

There is also a transport fee per person, per week, for the community bus which then provides bus services between communities. This provides partial cost recovery.

There are two major commercial enterprises on the Tiwi Islands. One is a forestry company and the other carries out sand mining. Both of these companies are heavy users of infrastructure, particularly roads. There is an arrangement between TILG and the companies for the payment of a service charge. The new shire will negotiate special rates with both companies in order to ensure the shire is fully compensated for the services it provides to these major users.

The other major category of revenue is other recurrent revenue which for TILG comprises mainly commercial activities (54.2 per cent in 2005-06, after subtracting insurance claims from total other recurrent revenue). These are income received for providing contracted services and commissions received on various activities.

These (non-core) services are, however, under re-negotiation with the Australian Government and other funding providers. The Australian Government has shown an understanding that TILG has been subsidising these services and the TILG anticipates that the Australian Government will contribute the full cost to the Shire (or another provider) to run these non-core services in the future.

Shire of Halls Creek

A case study of Shire of Halls Creek (SHC) is featured in this section. SHC is an example of a majority Indigenous population, separate, remote LGB. It might be described as drawing relatively lightly on its fiscal capacity, that is, it has a low revenue-raising effort (3.1 per cent) compared with other LGBs.

The SHC is a WA ILGB. Halls Creek is geographically isolated, located over 350 km from Kununurra (the nearest town with a population over 5000 people), 1288 km from Darwin and 2873 km from Perth. It is a physically large Shire covering 142 908 square kilometres of predominantly desert and pastoral country. Halls Creek is the fourth fastest growing shire within Western Australia. The Shire's population is estimated to be 3791 while the town's population is estimated to be 1300 in 2007. Approximately 80 per cent of the Shire's population are Indigenous Australians and almost 60 per cent live in remote settlements, but regularly commute to town for the purchase of goods and services. The average population age is 27, the third lowest in the State. It has an unemployment rate of 5.6 per cent, and a median household income of \$696, according to 2006 Census data.

Currently there is a State Government response to Indigenous issues including child protection and other initiatives generating a huge amount of activity in Halls Creek together with a Commonwealth-WA bilateral agreement. The SHC is the proposed trial shire in the recent bilateral agreement whereby on 1 July 2008 SHC is expected to take over delivery of municipal services to the Indigenous communities (*Bilateral Agreement on Indigenous Affairs Between The Commonwealth of Australia and The State of Western Australia 2006 – 2010*). The SHC Acting CEO reports that this is unachievable:

To do this we would need to be reimbursed financially and have all the resources in place (which we don't even have to pay for what we currently do and we do not have our normal staffing level in place to do our normal functions). The MUNS project was

made without agreement with the SHC. These agreements are negotiated between Commonwealth/State/Land Councils and these sorts of arrangements are widespread where local council is not included. This would not be the case in a community where the white population is the majority, council would then be consulted.

Service delivery in SHC

There are several Indigenous fringe communities in SHC and 48 surrounding communities, (6 major communities) with 250 people and above. The SHC acts as a hub for servicing these communities. There are 42 other communities which have between 20 and 500 people. A large proportion of the Indigenous population is in the remote communities. This presents challenges to the SHC in providing services. The main role of the SHC is to maintain the town, including the facilities such as the recreation centre, library and so on. The Acting CEO reports that the SHC also has a major role in maintaining the local road network but is significantly under resourced for that task.

The WA Government noted that there are difficulties for Indigenous communities where LGBs are not servicing them adequately. The Halls Creek Aboriginal community explored the possibility of breaking away from the SHC, however, the *WA Local Government Advisory Board* reported that both entities under such an arrangement would be unsustainable.⁹ Some WA ILGBs have been financially sustainable (WA Government Officials, visits).

The SHC Acting CEO indicated that:

Normally in a shire where there are remote communities (cited a similar shire “down south”) the local government body would be the provider of the basic services such as environmental health (for example waste removal and dog control). Here the SHC provides these services to the town only. There is WA Department of Health funding to SHC to provide assistance to Aboriginal communities to provide environmental health services. We do go out from time to time and look at things but have no regulatory power to provide services. For example:

- with a water supply problem, SHC plays an advisory role only whereby they would receive information about supply contamination and advise the remote community to boil their water or arrange for bottled water supplies
- the SHC provides advocacy services for the remote communities if requested
- if people are having issues with buildings, the SHC gets the building surveyor out there to provide advice.

⁹ Some ILGBs in WA have been sustainable. This has depended, inter alia, on the entrepreneurial ability of the LGB in deriving other own-source revenue (WA visits).

The remote communities, some 250 kilometres away from Halls Creek, are often cut off in the wet season when the roads are closed. While the State Government (through emergency services agencies) responds to needs generally with aircraft, the problem for the SHC is a resulting influx of itinerant people in town who have no accommodation, which leads to an increase in anti-social conduct. The SHC cannot stop the influx of people and finds it very difficult to manage.

There are council provided drop-in centres such as youth centres. Most of the cost is in management and administrative time because there are so many agencies of higher levels of government that SHC has to deal with in relation to these programs. The Acting CEO notes that at times he has struggled to keep abreast of even what programs are operating and by whom. Further, he indicated that everything the SHC does takes longer with the Indigenous community. This adds to SHC operational expenditure but such costs are difficult to quantify.

Regulatory and legislative constraints on revenue raising

Regulation, legislation and compliance issues are a major burden. The Acting CEO interviewed gave notice to resign his employment over this issue in November 2007 when the Department of Local Government and Regional Development, complained that the SHC *2006 Statutory Compliance Return* relating to the Local Government Act had not yet been completed (due on 31 March 2007). According to the Acting CEO (who once did this type of compliance reporting as a consultant), to complete the return properly and provide meaningful and relatively accurate information takes a lot of time and effort (about a week to satisfy himself that things are being complied with). At the time of the request follow-up by the Department, the Acting CEO had pressing community issues to deal with such as a chlorine gas leak in the main street and some major safety compliance issues to attend to in keeping the airport operating. Legal advice was sought by the SHC because the Acting CEO was uncomfortable about 'just ticking the boxes'. The Acting CEO commented:

I have been reduced to destroying dogs when we lost our ranger because no one else was available. When you are in crisis management mode it is very difficult to do strategic planning or proactive management.

There are multiple layers of government involved in service delivery and approvals processes in Halls Creek whereas in a mainstream WA council the local government is the main authority.

Land tenure and land council issues for SHC

The SHC is responsible for the whole shire, much of which is in remote communities, but in many cases are under land council (Aboriginal Land Trust control). The SHC however is prohibited from entering unless invited. For example, if there is a dog control problem, SHC has to wait to be invited by the Land Council before entering to provide assistance. So the SHC is responsible but experiences difficulties in providing core services. In these cases basic or essential services are provided by community corporations (which are resource centres funded by the Australian Government). In a recent example cited, however, a community corporation providing these services became dysfunctional.

Under the new bilateral agreement arrangements, an issue for SHC is that historically services to people residing in outstations (that is, within Land Council boundaries) were established under arrangements which differ from those in other councils that have remote communities. Residents in these outstations are not ratepayers and the SHC under normal conditions would be servicing these people. In any other local governing body the Acting CEO has worked in, the whole community is provided at least the basic municipal services (public health, planning and building compliance, roads, rubbish) by local government. Given this, the proposed timeline for the introduction of municipal service delivery (1 July 2008) is considered short by the SHC and management is unsure of the associated funding.

Another issue for the SHC is that parts of the Health Act apply on Aboriginal land and the Building code is an Australia-wide law regardless of location. If there is an issue of a public health risk nature, such as food poisoning, then the SHC authorities can deal with it at anytime. This is where the Health act overrides the Land Councils. Other sections of the Health Act are, however, overridden by the Land Councils. The Building Code overrides the Land Councils but the SHC reports that it does not have the resources to provide inspections to all the remote properties. The SHC can apply the Building Code, but for example, there are some requests for SHC to issue demolition orders on residences. However, there are families living in these houses and if demolished, there will be social issues, such as homelessness and dwelling overcrowding to contend with, so the SHC retains these dwellings.¹⁰

Own-source revenue raising in SHC

The SHC has a very limited rate base. The communities other than in the main town

¹⁰ To illustrate the housing shortage an example was given where in the last few months the Coroner's inquiry into suicides (based on Fitzroy Crossing) identified that there is a shortage of about 800 houses in the Kimberley region and SHC estimates roughly about 120 of these are in Halls Creek.

are unrateable. According to the Acting CEO, a rates equivalent (as is common practice in the NT) cannot be charged. Further, even if the communities were rateable, it is perceived that there is no financial capacity in the community to pay rates. The Acting CEO indicated that there probably is the willingness to pay if SHC provided the service, but there is little capacity to pay.

Further, fees are limited because there are few services provided to the communities, so SHC charges few user fees. SHC provides some fee-based garbage services to Aboriginal communities (where a satellite community or suburb of Halls Creek), but reports that it is often hard to collect the fee. The Acting CEO notes:

... strategies for trying to get payment for waste services are not generally useful in the Halls Creek communities because there is an absolute inability to pay.

The SHC sometimes provides services such as dog control to its remote communities, but that is funded through an arrangement it has with the WA Department of Health.

Port Augusta City Council

A case study of Port Augusta City Council (PACC) is featured in this section. The PACC is an example of a minority Indigenous population, integrated, urban LGB. It might be described as drawing relatively lightly on its fiscal capacity, that is, it has a low revenue-raising effort (3.7 per cent) compared with other LGBs.

The PACC is a non-ILGB in South Australia, with a population of 14 024 (and growing), of which, 16 per cent is Indigenous. Port Augusta is situated at the head of the Spencer Gulf, close to the Flinders Ranges. To the west and south-west lie hills which once marked the territory of the Nakuma Aboriginal tribe. It has an unemployment rate of 6.9 per cent, and a median household income of \$798, according to 2006 Census data.

The majority of the permanent Indigenous population live in the Port Augusta community. There are also two segregated groups.

- The Davenport Community is essentially an Aboriginal reserve with about 40–50 homes and a population of about 200 people (down from about 400 a few years ago). The community lives in very basic conditions located about 3 kilometres outside the city. The reserve was previously managed by the Davenport Community Council Inc. (which still exists) but with cuts to Commonwealth funding (previously about \$300 000 per year Commonwealth Municipal Services Program funding, to provide basic municipal services including roads) they are unsupported. PACC has no responsibility for this community.

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- There has been pressure on PACC from the Commonwealth to pick up these services but it has resisted in part through the LGASA because there are about 6 councils around SA that have similar reserves. The PACC may have some legal obligations that are yet to be resolved (the CEO says council is likely to have municipal obligations at least for people within the LGA boundary). The community can use the PACC library and pool facilities but the PACC is not, for example, maintaining its roads. The community is relatively permanent and PACC management indicates that Davenport people hardly use facilities in town. The CEO notes that PACC would be requiring extra funding from the Commonwealth if it was to service Davenport as part of the Commonwealth Government’s ‘normalisation’ process. The CEO indicates that there needs to be a much longer transition period — conditions are not much better than in the 1960s — so if the council takes this on it does not want to be held responsible for offering sub-standard conditions and, therefore, wants conditions improved first. Further PACC is not consulted about arrangements probably because the Aboriginal Lands Trust (ALT) owns these lands.
 - The rentals from Housing SA (perhaps in arrangement with the ALT) are much lower than they are in Port Augusta town and this provides an incentive for people to stay together with proximity to the community’s homeland. PACC sees that area as one large private property and cannot envisage how this would be rated without division into many separate titles within the land area.
 - The other group is a transient population that moves into the city, especially in summer, from the Anangu Pitjantjatjara Yankunytjatjara lands in the north and other locations. The population is difficult to service but there has been improvement in PACC’s management of the transient population in recent times. The whole city of Port Augusta is now a public dry-zone (where people can consume alcohol only in private and licenced premises, and this regulation has been extended for a number of years by the State Government due to positive community feedback). PACC now has many less itinerant people coming into town since prior to the regulation. It was 600 to 700 people in summer previously. At the same time Port Augusta has had a transitional housing facility built by the State Government (for about 70 people but had about 15 people staying in December 2007). The facility is next to the Davenport property and is owned and run by the State Government to meet temporary accommodation needs.

Service delivery in PACC

Beyond core services, other services provided by PACC to the Port Augusta

community are a 'sobering up' unit, a mobile assistance program and a needle exchange program.

Currently PACC provides a partial rubbish collection service to Davenport through a contractor. PACC management notes it would probably be more expensive to provide services to the separate Davenport community than if the population integrated and it could continue to provide a single, centralised service.

According to the CEO, servicing the Indigenous population costs PACC no more than the non-Indigenous population. PACC has no Indigenous specific programs. A large proportion of PACCs Indigenous population is unemployed, however, many Indigenous people are participating in TAFE courses and PACC envisages that this training, coupled with increased opportunities from the growing mining sector, will result in greater workforce participation by Indigenous people in Port Augusta. A specialised staff member is employed to manage Indigenous specific issues (within programs that are for the whole community), so there is a small cost but Indigenous specific programs are Commonwealth–State initiatives. The council has many Indigenous employees but wants to increase representation because it is well below the 17 per cent of the population. PACC service delivery has improved through better communication with community members.

Areas of service that PACC has moved into are security camera (owning and running) and crime prevention programs. These are needed for the whole community, but the PACC CEO noted:

... it is fair to say that a higher proportion of incidents involve Indigenous people. We have received some grants/subsidies in purchasing the cameras but not for monitoring and for our IT staff maintaining these. However, the annual cost is very small in our budget.

With health and education services, PACC works in close liaison with Australian and State government agencies.

A greater proportion of the population accessing the sobering-up program is Indigenous. There is no user fee charged by PACC but these services are heavily subsidised (about 75 per cent) by other spheres of government. PACC has a special needs facility where it assists children with a disability and it provides both aged and child care services but these are not specifically targeted to Indigenous people.

Land tenure and land council issues for PACC

The PACC receives an ex-gratia payment in lieu of rates from the ALT of about \$15 000 per year which is a token amount, but council is happy to get some funds. It does not subsidise the service, except for providing a little administration. PACC

considers that it is obliged to provide a token rubbish service as a result of this payment but the Commonwealth bears the main cost for environmental health services. PACC officers go into Davenport to provide assistance on occasion when asked to, but the Davenport community does not want council entering their land without permission. PACC entry rarely requires a permit, it is more a courtesy to telephone and let someone know staff want to access land for a particular reason. This is generally not a problem. Notwithstanding this, there have been times when PACC has accessed reserve land and people have resisted PACC services (particularly with road and dog services). There are some occupational health and safety issues for PACC in relation to servicing segregated communities which could be helped through a long term integration program.

Own-source revenue raising in PACC

Rates are paid by Indigenous people in the Port Augusta community or by Housing SA. PACC used 22 sub-categories under three differential categories (urban, non-urban and shacks) to set rating levels in 2006-07. The adoption of a self-imposed capping strategy delivered a rates increase of approximately 6 per cent for each differential rating category. The PACC management reported no particular issues with rates revenue raising.

With regard to fees and charges, most PACC services are provided fee-free with the exception of pool entry charges, effluent drainage charges, rental fees for halls and other community facilities, cemetery and stable leasing fees (City of Port Augusta 2006-07 Budget Papers). The PACC management reported no particular issues with fees and charges revenue raising.