
B Local government revenue-raising powers

The powers of local governments to raise various types of own-source revenue, as defined in State legislation are set out in this appendix. The legislative provisions relating to rates and property charges are described in section B.1. The powers of local governments to set fees and charges in each jurisdiction are detailed in section B.2. Local government powers to raise other revenue and to borrow are summarised in sections B.3 and B.4. Local governing bodies are defined in section B.5.

B.1 Rates and property charges

Rate structure

Local governments are permitted to impose rates on property. These rates can include general or ordinary, differential, separate, service and special rates. Local governments can change the composition of rates revenue by altering the:

- rate in the dollar applied to the value of rateable land
- structure of rates (for example, imposing fixed and variable components, tiered or differential rates)
- categorisation of land for the purpose of applying differential rates (for example, residential, commercial or farmland)
- valuation method applied to each category of land (where councils can choose between methods).

The composition of rates revenue is influenced by State government legislation. The methods for rate setting and land value assessments vary across States. Generally, local governments have some degree of autonomy in rate setting, including discretion in determining the structure of rates and setting differential rates. They are typically permitted to levy rates based on a flat rate or a combination of a fixed minimum charge and an *ad valorem* component. The provisions relating to rates and property charges across jurisdictions are compared in table B.1.

Table B.1 Local government rates and property charges

<i>State</i>	<i>Principal legislation</i>	<i>Type of rate</i>	<i>Type of charge</i>	<i>Rate structure</i>	<i>Land valuation method</i>	<i>Rate pegging</i>
NSW	<i>Local Government Act 1993</i>	Ordinary (s. 492), special (s. 492)	Annual charges for domestic waste management, other annual charges (s. 496)	Wholly <i>ad valorem</i> or base amount plus <i>ad valorem</i> (ss. 497–499). Categories of rateable land include farmland (s. 515), residential (s. 516), mining (s. 517), business (s. 518). Optional sub-categories (s. 529).	Land value (LV) (s.498(2), <i>Valuation of Land Act 1916</i> , s.6A,).	Yes
Victoria	<i>Local Government Act 1989</i>	General (s. 158), service (s. 162) or special (s. 163)	Municipal charges (s. 159), service charges (s. 162) and special charges (s. 163)	Uniform rates (s. 160), differential rates where CIV is used (s. 161) or limited differential rates where CIV is not used (s. 161A). Limited differential rates include urban farm rates, farm rates or residential use rates (s. 161A).	Site value (SV), net annual value (NAV) or the capital improved value (CIV) (s. 157; s. 13DC <i>Valuation of Land Act 1960</i>).	No (current) Yes (fixed period in 1990s)
Queensland	<i>Local Government Act 1993</i>	General, separate or special (s. 963)	Separate charges (s. 972), special charges (s. 971) and utility charges (s. 973)	Minimum general rate levy (s. 967). Special rates may include a minimum amount (s. 971(2a)). Councils may decide by resolution the categories of land for the purpose of levying differential general rates (s. 977).	Unimproved value (UV) (schedule 2; Part 3 <i>Valuation of Land Act 1944</i>).	No
SA	<i>Local Government Act 1999</i>	General, separate or service rates (s. 146)	Annual service charges (s. 155)	General rates may be based on land value, a fixed charge or a combination of both (s. 151(1)). Differential rates may vary according to the use of the land, the locality of the land or both, or some other basis determined by the Council (s. 156).	Capital value (CV) (s. 151(2)) and under some circumstances SV or annual value (AV) (s. 151(3)).	No (current) Yes (fixed period in 1990s)
WA	<i>Local Government Act 1995</i>	General, specified area (s. 6.37)	Service charges (s. 6.38)	Uniform or differential (s. 6.32(1)(a)). Specified area rates or minimum charges (s. 6.32(2)(b)). Differential rates may be imposed based on the purpose of the land, whether it is vacant or other characteristics (s. 6.33).	<i>Rural</i> : Unimproved value (UV) (s. 6.28(2)(a)). <i>Non-rural</i> : Gross rental value (GRV) (s. 6.28(2)(b)).	No
Tasmania	<i>Local Government Act 1993</i>	General (s. 90), service (s. 93)	Service charges (s. 94) or separate charges (s. 100)	General rates may include a land value and a fixed charge component (s. 91). Variation in rates according to any of the factors under s. 107.	LV, CV or assessed annual value (AAV) (s. 90).	No
NT	<i>Local Government Act 2005</i>	General (s. 66), local (s. 67), special (s. 69)	Charges for services in relation to land (s. 74)	Flat rate per parcel of land, uniform rate or differential rates with or without minimum payments (s. 64).	UCV, AV or improved capital value (CIV) (s. 65).	No (pre 2007) Yes (post 2007)
ACT	<i>Rates Act 2004</i>	General rates	na	Fixed charge (not imposed on rural properties) plus a rate charged on the amount that the average UCV exceeds a rate-free threshold (s. 14). Differential rates for residential, commercial and rural properties.	UCV averaged over the previous three years (s. 6).	No

Source: State government legislation various; DOTARS (2007).

Property charges

Generally, local governments are able to impose property charges in addition to or in combination with rates. These include service, utility, separate and special charges. Service and utility charges are typically used to provide services such as water, sewerage and waste management. Such charges are often determined and recovered on an annual basis similar to rates.

For example, in Queensland, councils are permitted to levy separate and special charges.

- *Separate* charges must be levied equally on all rateable land within the local government area to fund a particular service, facility, or activity that benefits the entire community, for example, environmental levies.
- *Special* charges may be levied on specific land that benefits from the provision of a particular service, for example, road maintenance.

Local governments in all jurisdictions are permitted to declare one type, or a combination of, service, separate or special charges for similar purposes. The Local Government Acts generally contain provisions that provide for councils to set both rates and property charges. The powers of local governments across jurisdictions to set and recover property charges is covered in more detail in section B.2.

The ability of local governments to raise rates revenue can be subject to regulatory limits, such as provisions which prescribe the method for assessing land value, rate pegging (currently in New South Wales only) rate exemptions and rate concessions.

Land valuation

The valuation methods used for assessing rateable land vary across jurisdictions (table B.1). In Victoria, South Australia, Tasmania and the Northern Territory, councils may choose to levy rates on the unimproved capital value (UCV), the capital improved value (CIV) or the annual value of rateable land.¹ In Western Australia, either the unimproved value or the gross rental value is used depending

¹ The legislative term used is 'annual value'. Although annual value is defined differently in each jurisdiction, it usually implies the gross rental value. In Victoria, it is defined as the rent at which the land might reasonably be expected to be let from year to year, less land tax, average insurance cost and other expenses necessary to maintain rental land. In South Australia, it may be computed as three quarters of the gross rental value or 5 per cent of the capital value (where gross rental value cannot be calculated).

on whether the land is used for rural or non-rural purposes, respectively. New South Wales councils may only use land value. In Queensland and the ACT, councils may only use the unimproved capital value.

In New South Wales, Victoria and the ACT, State legislation prescribes a number of categories of rateable land for the purpose of levying differential rates. These typically include residential, commercial and rural or farming land. In Queensland, South Australia and Western Australia, councils may determine the categories of land to be rated (usually by resolution), according to the purpose or locality of the land or based on some other characteristics. In addition, councils can use sub-categories of land to be valued and rated.

Restrictions on rates increases

New South Wales is the only jurisdiction in which the State Government currently enforces formal restrictions on the percentage by which local governments may increase rates. The *Local Government Act 1993* (NSW) provides for the Minister to determine the maximum percentage by which general income from rates and charges may vary from the previous year (s. 509). ‘General income’ is defined in section 505(a) of the Act to mean income from ordinary rates, special rates and annual charges other than:

- special rates for water supply and sewerage services
- charges for water supply and sewerage services
- annual charges for stormwater and waste management services
- annual charges referred to in section 611.

The statutory limit on general income effectively caps or ‘pegs’ increases in councils’ rates revenue. The limit for 2006-07 was set at 3.4 per cent (DLG 2007d). Councils can apply to the Minister for a variation to exceed this limit (s. 508(2) and s. 508A).

In Victoria and South Australia, temporary rate pegging policies were introduced in the 1990s during amalgamation processes, with the intention of ensuring that any costs savings that resulted were passed onto ratepayers.

Rate exemptions

All land in a council area is rateable except for that which is specified as exempt in legislation. Some land may be exempt from rating but liable for charges for use of a service such as supply of water. Rate exemptions are listed in table B.2.

Table B.2 Rate exemptions

<i>State or Territory</i>	<i>Rate exemptions specified in State legislation</i>
New South Wales	Land owned by the Crown, held in trust or subject to a conservation agreement, owned by a State water corporation or used for water supply works, used in connection with a religious purpose, public place, mines rescue stations, school or rail infrastructure facilities, public benevolent or charitable institutions, the Sydney Cricket and Sports Ground Trust, Zoological Parks Trust, land vested in Aboriginal land councils (<i>Local Government Act 1993</i> , s. 555).
Victoria	Land owned by the Crown, a Minister, a council or public statutory body, land used for public, charitable, religious or mining purposes or land held in trust for memorial of war veterans (<i>Local Government Act 1989</i> , s. 154).
Queensland	Land owned by the State or a government entity (other than non-exempt government-owned corporations), land in a State forest or timber reserve, Aboriginal land, land used to facilitate specific transport infrastructure, land used for religious, charitable, educational or public purposes (<i>Local Government Act 1993</i> , s. 957).
South Australia	Land owned by the Crown, occupied by councils, universities or emergency services organisations, land exempt under the <i>Recreation Ground Rates and Taxes Exemption Act 1981</i> , land subject to a mining lease, land subject to division under the <i>Community Titles Act 1996</i> (s. 147).
Western Australia	Land owned by the Crown or a local government, land used for the public, religious, charitable, agricultural purposes, non-government schools (<i>Local Government Act 1995</i> , s. 6.26).
Tasmania	Land owned by the Commonwealth, Crown-owned land used for conservation and nature recreation purposes, the Hydro-Electric Corporation, Aboriginal land or land used for charitable purposes (<i>Local Government Act 1993</i> , s. 87).
Northern Territory	Crown land occupied by the Territory or the Commonwealth, public land, land used for religious, educational or charitable purposes, public hospitals (<i>Local Government Act 2005</i> , s. 58). Councils can exempt classes of land or persons (s. 98), including Indigenous land holders.
ACT	Land used for public parks and reserves, cemeteries, public hospitals, benevolent institutions, land used for religious purposes, public libraries, land leased by the Commonwealth which is occupied by school, Commonwealth unoccupied land (s. 8).

Source: State government legislation, various.

The exemptions prescribed under State legislation typically include:

- land owned by the Crown
- land used for religious or educational purposes (for example, churches and schools)
- aged care facilities, charitable or benevolent institutions
- public parks, land used for conservation and nature recreation
- Aboriginal land (other than land used for residential or commercial purposes)
- some mining and agricultural land.

In all jurisdictions, rate exemptions apply to some Commonwealth land, State government land and State government enterprises. This includes defence land and national parks. In New South Wales, Crown lands, national parks and State forests are not subject to rates on land holdings other than those occupied by commercial premises (IIFS 2006).

To meet the competitive neutrality requirements of the National Competition Policy principles, government trading enterprises in these jurisdictions are required to make tax-equivalent payments to their State Governments. However, these payments are often not passed onto the local governments themselves.

State Agreement Acts in Western Australia can limit the rating powers of councils in relation to land leased for mining or resource development purposes. The State Agreements are typically long-term contracts between the WA Government and developers of resource projects including the North West Shelf natural gas processing projects, the Pilbara iron ore projects, timber processing, coal and other resource development projects. There are currently 72 State Agreements including the *Government Agreements Act 1979* (DOIR 2007). The State Agreement Acts typically specify that the unimproved value of land, which is subject to leases or easements as part of resource development projects, can be rated. The *Local Government Act 1995* (WA) states that

‘... the owner of any land —

(a) held or granted pursuant to a Government agreement, which agreement provides that for the purposes of imposing rates under this Act, the land is to be assessed on the unimproved value thereof; or

(b) held under a production licence for petroleum granted under the *Petroleum Act 1967*,

and to whom this section applies by virtue of the operation of section 533AA of the *Local Government Act 1960* as in force before the commencement of this Act is to have the land valued for the purpose of imposing rates under this Act on the following basis —

\$1.00 per 4 000 square metres for each of the first 40 000 hectares or part thereof;

\$0.75 per 4 000 square metres for each of the second 40 000 hectares of part thereof;

\$0.50 per 4 000 square metres for each of the third and fourth 40 000 hectares or part thereof;

\$0.25 for each 4 000 square metres in excess of 160 000 hectares.’ (s. 6.3)

These prescribed levels of rates are not set relative to the level of economic activity on such land. Land utilised for residential or non-rural purposes is rateable based on the gross rental value. Land covered by State Agreements is generally not subject to discriminatory rates. However, this may not necessarily prevent the use of

differential rates, provided that the differential rate is applied to all mining tenements or resource land (not just those covered under a State Agreement) (Hadlow, R., pers. comm., 30 August 2007).

Rate concessions

Concessions on annual rates and service charges are granted to persons on the grounds of financial hardship. Eligible persons generally include pensioners and persons in receipt of particular allowances, such as veterans allowances or social welfare payments. Concessions are usually granted as a partial reduction in the rates payable by a land holder. Concessions can also be granted to specified land or buildings for the purposes of preserving buildings or places of historical importance or encouraging proper development. The provisions relating to rate concessions are contained in each of the Local Government Acts (table B.3).

Table B.3 **Rates (and other) concessions**

<i>State or Territory</i>	<i>Rate (and other) waivers, concessions, discounts and rebates specified in State legislation^a</i>
New South Wales	<i>Local Government Act 1993 (s. 565, 582, 601, 610E)</i>
Victoria	<i>Local Government Act 1989 (s. 142, 171, 171A, 243)</i>
Queensland	<i>Local Government Act 1993 (1031–1035, 1035A)</i>
South Australia	<i>Local Government Act 1995 (s. 166, 181-2, 188)</i>
Western Australia	<i>Local Government Act 1995 (s. 6.12, 6.47-48, 6.50)</i>
Tasmania	<i>Local Government Act 1993 (s. 92, 99, 106A)</i>
Northern Territory	<i>Local Government Act 1993 (s. 81, 86-87, 89)</i>

^a 'Other' indicates that some waivers, concessions discounts and rebates relate to fees and charges.

Source: State government legislation various.

The majority of the States compensate local governments in part or in full for mandatory concessions. The NSW Government is only required to reimburse 55 per cent of the value of concessions granted by local governments to eligible pensioners (*Local Government Act 1993 (s. 581)*).

B.2 Fees and charges

The powers of local governments to impose fees and charges are defined in the principal legislation (Local Government Acts), Regulations and other Acts such as environment and planning legislation. The requirements of National Competition Policy (NCP) might also affect the powers of local governments in determining the level of fees and charges for local government services in situations where NCP principles require fees and charges to be set at full cost recovery or where prices are

subject to monitoring (box B.1).

Box B.1 National Competition Policy and local government

Local governments are not formally parties to the Competition Principles under NCP. However, each State and Territory Government (with the exception of the ACT) accepted reform obligations on behalf of local governments within their jurisdiction. State and Territory Governments are committed to apply competitive neutrality principles to significant local government business activities only where the benefits outweigh the costs.

Competitive neutrality requires that privately-owned businesses be able to compete on an equal footing with local governments for the delivery of services. For example, a childcare centre operated by a local government could be in contravention of competitive neutrality principles where it is able to offer lower prices for childcare than other providers, due to competitive advantages as a result of it being government owned (such as exemptions from paying rates or cross subsidisation from rates).

The application of competitive neutrality principles means that the prices charged by local government businesses should aim to recover the full costs of a business activity. Full costs include:

- the direct cost of providing the goods or services and an appropriate proportion of indirect costs (such as rent, payroll and personnel costs)
- all relevant taxes or tax equivalent payments
- a commercial level of interest payments
- a commercial rate of return (over a reasonable period).

In addition, NCP might require price monitoring of significant local government businesses that have a market monopoly, such as some water and sewerage services and garbage collection. For example, in New South Wales, the Independent Pricing and Regulatory Tribunal conducts investigations and makes reports to the Minister on the determination of pricing for monopoly services supplied by some local governments.

Source: NCC (2000).

Fees and charges provisions across jurisdictions

The following section summarises the provisions in each jurisdiction relating to fees and charges that local governments are permitted to collect under the legislation (table B.4).

Table B.4 Statutory setting of fees and charges^a

S/T	<i>Legislation, regulation or other mandatory stipulation</i>
NSW	<p data-bbox="336 383 639 412"><i>Local Government Act 1993</i></p> <p data-bbox="336 421 1398 533">Under section 501, local governments (LGs) may make and levy charges for the provision of water, sewerage, drainage, waste management and any other services prescribed by State legislation. Charges can be imposed on an annual basis or based on the level of usage of the service. The level of charges may be set to achieve partial or full cost recovery.</p> <p data-bbox="336 542 1398 598">LGs may impose and recover an approved fee for any other service they provide, whether the service is provided under the Local Government Act 1993 or any other Act or Regulation.</p> <p data-bbox="336 607 1398 775">Section 608 LGs may charge and recover an approved fee for any service it provides, other than a service provided, or proposed to be provided, on an annual basis for which it is authorised or required to make an annual charge under section 496 or 501. This includes supplying a service, product or commodity, giving information, providing a service in connection with the exercise of the council's regulatory functions—including receiving an application for approval, granting an approval, making an inspection and issuing a certificate, allowing admission to any building or enclosure.</p> <p data-bbox="336 784 1398 891">Under section 510(1), the maximum annual charge for domestic waste management services must not exceed the annual charge for the parcel for the previous year as varied by the percentage (if any) applicable to the council under section 507, 508 (2) or 508A for the year for which the charge is made.</p> <p data-bbox="336 900 1398 956">Under section 510A, the maximum annual charge for stormwater management services must not exceed the maximum annual charge prescribed by regulation under subsection (1).</p> <p data-bbox="336 965 884 994"><i>Environmental Planning and Assessment Act 1979</i></p> <p data-bbox="336 1003 1398 1115">Under section 94, councils can grant consent for developments conditional upon a developer contributing land free of cost, making a monetary contribution, or both. Division 1 of Environmental Planning and Assessment Regulation 2000 sets the maximum fees for various building developments. Dollar amounts are specified.</p>
Vic	<p data-bbox="336 1137 639 1167"><i>Local Government Act 1989</i></p> <p data-bbox="336 1176 1398 1232">Under section 162, LGs may declare a service rate or service charge, or a combination of both, for the provision of waste disposal, sewage or other prescribed services.</p> <p data-bbox="336 1240 1398 1296">Under section 113(2), LGs may make local laws that provide for the determination of fees and charges for goods and services, including setting maximum and minimum fees.</p> <p data-bbox="336 1305 1398 1384">Under section 159(1), LGs may raise municipal charges to cover some local government administrative costs. These charges may be declared on the basis of any criteria specified by the council.</p> <p data-bbox="336 1393 727 1422"><i>Planning and Environment Act 1987</i></p> <p data-bbox="336 1431 1398 1518">LGs may impose either a development infrastructure levy or a community infrastructure levy in accordance with a developer contributions plan. Section 46k(2) prescribes a maximum amount of community infrastructure levies.</p>
Qld	<p data-bbox="336 1541 639 1570"><i>Local Government Act 1993</i></p> <p data-bbox="336 1579 1398 1686">Under section 1071(B), LGs may set regulatory fees for functions such as processing of applications, recording changes in land ownership and providing information. Regulatory fees generally must not exceed cost recovery levels. However, Regulations made under the Act can prescribe circumstances in which a regulatory fee may include a tax component.</p> <p data-bbox="336 1695 655 1724"><i>Integrated Planning Act 1997</i></p> <p data-bbox="336 1733 1398 1787">Regulates the charge for the supply of trunk infrastructure and also the development for which the charge may be levied.</p>

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Table B.4 (continued)

<i>S/T</i>	<i>Legislation, regulation or other mandatory stipulation</i>
WA	<p><i>Local Government Act 1995</i></p> <p>LGs may levy fees and charges. Statutorily imposed fees and charges are limited to cost recovery. LGs may impose service charges on owners or occupiers of land to meet the cost of providing a prescribed service in relation to the land (includes rubbish collection and provision of surveillance and security services).</p> <p>Under section 6.16, LGs may impose a fee or charge for goods or services other than those for which a service charge is statutorily imposed. Section 6.16(3) Fees and charges are to be imposed in accordance with an annual budget but can be imposed during the financial year and amended from time to time.</p> <p>Under section 6.17(1), LGs may determine the amount of a charge but are required to consider the costs of providing the service, its importance to the community and the price at which it can be provided by an alternative supplier.</p> <p>Regulations made under the Act may, in prescribed circumstances, prohibit a local government from imposing, or limit the amount of, a fee or charge.</p>
SA	<p><i>Local Government Act 1999</i></p> <p>Under section 155, LGs may impose service rates and service charges to recover the cost of any prescribed service in relation to the land. This includes treatment or disposal of waste.</p> <p>Under section 188, fees and charges may be fixed, varied or revoked by by-law or by decision of council. Fees and charges for use of council property or facilities, or services carried out at a person's request, do not have to be fixed at cost recovery levels (s. 188(2)). Fees and charges for providing information, materials or copies of councils records must not exceed reasonable estimates of costs to the council of providing the information (s. 188(2a)).</p> <p>The State Government regulates some fees and charges imposed by councils including development assessment application fees, waste inspection and control fees and public notification fees (IIFS 2006).</p>
Tas	<p><i>Local Government Act 1993</i></p> <p>Under section 93, service charges can be imposed in addition to a service rate for water supply, sewerage removal, waste management, fire protection and any other prescribed service. Service charges for the supply of water must be calculated in volumetric terms (s. 94A).</p> <p>Under section 100, LGs may impose separate rates and charges for activities that benefit landholders.</p> <p>Under section 97-98, construction rates and charges may be levied for constructing water supply and sewerage infrastructure. These rates and charges must not exceed one-half of the service rate and charge, and must not be levied for longer than five years.</p> <p>Under section 205(1), LGs may issue fees and charges for the use of a council facility, services supplied or for carrying out work at a person's request, providing information, approving applications, registrations and authorisations and any other prescribed matter. Fees do not have to be set in reference to the cost of the council (s. 205(3)). Fees and charges cannot be imposed in relation to a matter if fees or charges are otherwise prescribed or where that particular matter is specifically exempt under legislation (LGAT sub. 42).</p>
NT	<p><i>Local Government Act 2005</i></p> <p>Under section 74, LGs may charge for services in relation to land but specifies only those services relating to the functions of environmental control, sanitation and garbage, and litter control.</p> <p>Under section 115, LGs may levy charges, fees, rents and recover amounts payable for the provision of other services not referred to in s. 74, including grants, registrations and issue of permits and licences.</p> <p>Under section 203, by-laws may prescribe that LGs can, by resolution, regulate or determine charges, dues, fares, fees and rents in relation to a property, undertaking, service, matter or thing.</p>

^a The table includes detail covering the majority of fees and charges that might be charged by local governments in Australia, as distinct from an exhaustive list of statutory arrangements.

Source: State government legislation various.

New South Wales

Local governments in New South Wales are permitted to collect charges to recover the costs of specific services. Section 501 of the *Local Government Act 1993* permits councils to make and levy charges for the provision of water, sewerage, drainage, waste management and any other services prescribed by State legislation. Charges can be imposed on an annual basis or based on the level of usage of the service. The level of charges can be set to achieve partial or full cost recovery. Councils can differentiate the level of charges but must have regard to the factors set out in s. 539:

- the purpose for which the service is provided
- the nature, extent and frequency of the service
- the cost of providing the service
- the categorisation for rating purposes of the land to which the service is provided
- the nature and use of premises to which the service is provided
- the area of land to which the service is provided
- in the case of water supply services — the quantity of water supplied.

Charges need not be limited to cost recovery levels except for domestic waste management charges which must be set so as not to exceed the reasonable costs to the council of providing the service (DLG 2007a). Limits on annual charges for domestic waste and stormwater management services are specified under s. 510 and s. 510A.

Further, local governments are permitted to impose and recover an approved fee for any other service they provide, whether the service is provided under the *Local Government Act 1993* or any other Act or Regulation (unless otherwise precluded by the Act). This includes those fees in connection with the exercise of regulatory functions such as applications for approval, inspections and certificates in relation to, for example, building or environmental and planning assessment regulation.

There are 107 Local Water Utilities (LWUs) responsible for providing water supply and sewerage services, mostly in non-metropolitan areas. The NSW Government undertakes performance monitoring and benchmarking of all NSW LWUs as required under NCP and the National Water Initiative. This includes monitoring of social, environmental and economic indicators including revenue, prices and costs of water supply and sewerage businesses. LWUs are required to comply with best practice management guidelines developed by the NSW Government (DWE 2007). The Independent Pricing and Regulatory Tribunal (IPART) also conducts investigations and makes reports to the Minister on the determination of pricing for monopoly services supplied by NSW Government entities. IPART's role includes

setting the maximum prices that can be charged for metropolitan water supply, wastewater and stormwater services provided by the Gosford City Council and the Wyong Shire Council (IPART 2006).

Victoria

In Victoria, councils have the power to make local laws that provide for the determination of fees and charges for goods and services, including setting maximum and minimum fees (*Local Government Act 1989* s. 113(2)).

Victorian councils may declare a service rate or service charge, or a combination of both, for the provision of water supply, waste disposal, sewage or other prescribed services (s. 162). A service rate or service charge may be declared on the basis of any criteria specified by the council. However, local councils in Victoria do not currently have a role in providing and charging for water services. These are supplied by metropolitan providers, non-metropolitan providers and regional water authorities.

Municipal charges are raised to cover some of the administrative costs of the council (s. 159(1)). These charges may be declared on the basis of any criteria specified by the council, and levied according to these criteria. Exemptions may be granted for farm land (s. 159(3)).

Queensland

Local governments are required to implement full-cost pricing when charging for significant business activities (*Local Government Act 1993* (s. 568)). The business activities of councils that provide water and sewerage services are subject to regulatory requirements relating to charging arrangements, including that utility charges for water are consumption-based and water and sewerage services are fully cost recovered (s. 783). Two-part pricing, cross subsidisation and some forms of price discrimination are permitted, with local governments required to disclose such arrangements. The amounts of utility charges (for supplying water, sewerage or gas services) may differ on the basis of factors under s. 973(5), including unimproved land value.

The Queensland Competition Authority (QCA) investigates the pricing practices relating to government monopoly business activities and water supply services. Councils providing urban water and sewerage services to the community must ensure that water charges are consistent with the pricing principles set by the QCA to protect consumers from being overcharged (NCC 2006, p. 4.31). In addition, the QCA is responsible for reporting to the State Government on the implementation of

NCP reforms by local government businesses including, where appropriate, reform of their water supply businesses.

Local governments are empowered to set regulatory fees for functions such as processing of applications, recording changes in land ownership and providing information. Regulatory fees generally must not exceed cost recovery levels. However, Regulations made under the Act can prescribe circumstances in which a regulatory fee may include an amount that is a 'tax' component (set above cost recovery) (s. 1071B).

Western Australia

The *Local Government Act 1995* enables local governments to levy fees and charges. Where they are statutorily imposed, fees and charges are limited to cost recovery. Local governments may impose service charges on owners or occupiers of land to meet the cost of providing a prescribed service in relation to the land. Examples of such services include rubbish collection and provision of surveillance and security services. When determining the amount of a charge, local governments are required to consider the costs of providing the service, its importance to the community and the price at which it can be provided by an alternative supplier (s. 6.17(1)). Regulations made under the Act may, in prescribed circumstances, prohibit a local government from imposing, or limit the amount of, a fee or charge.

Local governments may impose a fee or charge for goods or services other than those for which a service charge is statutorily imposed (s. 6.16). Fees and charges are to be imposed in accordance with an annual budget but can be imposed during the financial year and amended from time to time (s. 6.16(3)).

South Australia

The *Local Government Act 1999* (s. 155) permits local governments to impose service rates and service charges to recover the cost of any prescribed service in relation to the land. This includes treatment or disposal of waste. Local government fees and charges may be fixed, varied or revoked by by-law or by decision of council under section 188. Fees and charges for use of council property or facilities, or services carried out at a person's request, do not have to be fixed at cost recovery levels (s. 188(2)). However, fees and charges for providing information, materials or copies of councils records must not exceed reasonable estimates of costs to the council of providing the information (s. 188(2a)).

The State Government regulates some fees and charges imposed by councils including development assessment application fees, waste inspection and control fees and public notification fees (IIFS 2006).

Tasmania

Tasmanian local governments have broad powers to impose fees and charges under the *Local Government Act 1993*.

Service charges can be imposed in addition to a service rate for water supply, sewerage removal, waste management, fire protection and any other prescribed service (s. 93). Service charges for the supply of water must be calculated in volumetric terms (s. 94A). Local governments are also permitted to impose separate rates and charges on land holders for activities that benefit them (s. 100). Construction rates and charges may be levied for the purpose of funding the construction of water supply and sewerage infrastructure (s. 97). These rates and charges must not exceed one-half of the service rate and charge, and must not be levied for a period longer than five years (s. 98).

Local governments have authority to apply fees and charges for a range of goods and services. This includes the use of a council facility, services supplied or for carrying out work at a person's request, providing information, approving applications, registrations and authorisations and any other prescribed matter (s. 205(1)). Fees do not have to be set in reference to the cost to the council (s. 205(3)).

Northern Territory

Local governments may levy rates on property and charge for services provided in relation to land under section 74 of the *Local Government Act 2004*. Charges may be collected for environmental control, sanitation, garbage and litter control. In addition, councils may levy charges, fees, rents and recover amounts payable for the provision of other services not referred to in section 74, including registrations and issue of permits and licences (s. 115). By-laws may prescribe that local governments can, by resolution, regulate or determine charges, dues, fares, fees and rents in relation to a property, undertaking, service, matter or thing (s. 203).

Local governments are required to levy a fee or a charge in accordance with a business plan, revenue policy and an annual budget.

The current Local Government Reform Program in the Northern Territory will result in changes to the core services required by councils under amended

legislation. This will result in future changes to the fees and charges regime (ALGA unpublished).

Developer contributions and charges

There are two main types of infrastructure — economic and social — for which developers can face charges imposed by councils (PC 2004). Basic infrastructure (such as roads, water, sewerage, gas and electricity connections) is generally constructed by the developer and handed over to the relevant authority (often a local council) as a contributed asset. The developer recovers the costs of their contribution from land sales. In other cases, developers are sometimes charged for the costs incurred by the local government in providing the new infrastructure.

Legislative restrictions on the ability of local government to impose developer charges and contributions vary across States. Planning legislation in New South Wales, Victoria, Queensland and Tasmania allows for local government to impose charges to recover the costs of infrastructure. The *Local Government Act 2005* (NT) is silent on the power of local governments to impose developer charges and contributions.

In New South Wales, councils can grant consent for developments conditional upon a developer contributing land free of cost, making a monetary contribution, or both under section 94 of the *Environmental Planning and Assessment Act 1979* (NSW). Developer contributions may be levied for both economic and social infrastructure and are imposed in accordance with a Development Contribution Plan. Councils are required to take into account a number of principles for levying development contributions. This includes establishing the nexus between the development and the demand for public infrastructure created by those developments. It also includes taking into account reasonableness in the amount and timing of contributions and recovery of anticipated future costs (PC 2004). Local governments cannot require greater developer contributions than those permitted under the Plan. Alternatively, local governments may require a levy on all new development set at the maximum percentage of the cost of the proposed development prescribed by the State Government (s. 94A). Generally the maximum percentage prescribed is 1 per cent of the cost of development, although in regional cities the limit may be as high as 3 per cent (NSW Government, sub. 54). Moreover, local governments and developers may agree to an alternative contribution amount as part of a voluntary planning agreement in addition to, or substitution for, contributions determined under s. 94 or s. 94A of the Act.

The NSW Government administers a Special Contributions Areas Fund from which payments can be made to public authorities for the provision of infrastructure

(s. 94E). It may levy, or direct consent authorities to levy, special infrastructure contributions in areas deemed to be ‘special contributions areas’.

In Victoria, municipal councils may impose either a development infrastructure levy or a community infrastructure levy in accordance with a developer contributions plan under the *Planning and Environment Act 1987 (Vic)* as amended by the *Planning and Environment (Development Contributions) Act 1995* and the *Planning and Environment (Development Contributions) Act 2004*. Some specified land and types of development may be exempt from paying contribution levies under the plan. Section 46k(2) provides for differential rates or levies to be payable in respect of different types of land development or different parts of the area. Section 46L(1) prescribes a maximum amount of community infrastructure levies. Local governments also have the authority to specify conditions on planning permits and voluntary agreements between councils and developers.

In Queensland, local governments may impose a charge for the supply of trunk infrastructure and require development contributions for ‘development’ infrastructure under the *Integrated Planning Act 1997 (Qld)* as amended by the *Integrated Planning and Other Legislation Amendment Act 2003*. The basis for infrastructure charges is a priority infrastructure plan which identifies an infrastructure charges schedule for eligible developer contributions. The Act provides for regulation of the charge and also the development for which the charge may be levied. Infrastructure charges levied by a council are taken to be a rate, unless specified as a debt owed by the developer in a written agreement between the council and developer (s. 5.1.14).

The *Town Planning and Development Act 1928 (WA)* allows local governments in Western Australia to require contributions for on-site physical infrastructure and the ceding of land for primary schools and open space. The scope of contributions is guided by Western Australian Planning Commission policies.

Development contributions in South Australia are dictated by the *Development Act 1993 (SA)* and the *Local Government Act 1999 (SA)*. The *Development Act 1993* allows councils to require basic subdivision infrastructure (access roads, hydraulic connections) and the dedication of open space (s. 50A). Section 146 of the *Local Government Act 1999* allows the levying of separate rates, service rates and service charges which can be used as indirect development charges.

Tasmanian planning authorities, including local councils, are permitted to negotiate agreements with developers that specify development contributions for infrastructure as a condition of a permit, a planning scheme provision or a special planning order (*Land Use and Approvals Act 1993 (Tas)* (s. 73A)). Section 70 of the Act defines infrastructure as the ‘services, facilities, works and other uses and

developments which provide the basis for meeting economic, social and environmental needs’.

B.3 Other revenue

In addition to rates, fees and charges, local governments derive own-source revenue from investment income (interest and dividends), fines and other pecuniary penalties.

Local governments have the authority to make regulations, set fines or other pecuniary penalties, and enforce these regulations. The setting of fines is part of local governments’ regulatory activities. Examples of fines include those related to parking, health regulation, environmental and litter control and overdue library loans (FSRB 2005). Local governments in New South Wales can impose fines for a broad range of offences including breach of approval conditions, parking, dumping of rubbish and public disturbance (IIFS 2006).

To protect against the imposition of unjust fines and penalties, State governments may legislate to impose limits on the amounts which local governments may set. For example, the maximum penalty that can be fixed by a local government in South Australia is \$750 or \$50 per day for a continuing offence.

B.4 Borrowings

Borrowings are a non-revenue source of finance that local governments can use to fund council operations and the provision of infrastructure. Generally the borrowing powers of local governments are defined in the Local Government Acts. State governments, depending on jurisdiction, often impose restrictions on:

- the amount borrowed
- the purpose for which it is used
- the source of borrowings.

In every State, except for South Australia, local governments are required to seek approval from the relevant Minister prior to entering into contractual arrangements to borrow. In New South Wales, local governments cannot borrow at a rate which exceeds the indicative rate determined by the NSW Treasury Corporation. In addition, they may not borrow for a period of less than 30 days or for a period which exceeds the estimated life of the asset financed by the borrowings (DLG 2007a).

Victorian local governments have the power to borrow subject to the ‘principles of sound financial management’ (*Local Government Act 1989* (Vic) (s. 144(1))). They are restricted from borrowing for ‘ordinary purposes’ or for the purposes of municipal enterprises unless proposed in a budget, except where the borrowings are used to re-finance existing loans (s. 146).² Requests for borrowing are assessed by the Victorian Government based on analysis of financial ratios (ALGA unpublished).

Northern Territory local governments are required to seek ministerial approval prior to borrowing money. This includes where entering into individual leases with a capital value greater than \$10 000 or any combination of leases with a total capital value that exceeds \$35 000 (*Local Government Act 2005* (NT), s. 170(2A)). Local governments in Tasmania are restricted from borrowing an amount where the annual repayments required to service the debt would exceed 30 per cent of the council’s revenue (excluding specific purpose grants) from the previous year (*Local Government Act 1993* (Tas) (s. 80)).

In Victoria, South Australia, Tasmania and the Northern Territory there are no restrictions on the source of borrowings. In Queensland and Western Australia, borrowings are arranged through the Queensland Treasury Corporation and the Western Australian Treasury Corporation, respectively. In South Australia, the Local Government Finance Authority acts as a broker for borrowings and an investment authority for local governments. The *Local Government Act 1993* (NSW) restricts local governments from borrowing from foreign sources (DLG 2007a).

B.5 Defining local governing bodies

Local governing bodies are defined in the *Local Government (Financial Assistance) Act 1995* (s. 4) as:

- (a) a local governing body established by or under a law of a State, other than a body whose sole or principal function is to provide a particular service, such as the supply of electricity or water; or
- (b) a body declared by the Minister, on the advice of the relevant State Minister, by notice published in the Gazette, to be a local governing body for the purposes of this Act.

Declared bodies are provided with financial assistance grants and are treated as local governing bodies for the purpose of grant allocations. In total, 701 local governing bodies received grants in 2005-06, including 37 declared local governing

² This refers to any venture under s. 193 or any trading or entrepreneurial enterprise.

bodies and the Australian Capital Territory (DOTARS 2007, p.44). The distribution of declared bodies by State is shown in table B.5.

Table B.5 Local governing bodies by State, 2006

Number of bodies by type, as at June

Type	NSW	Vic	Qld	WA	SA	Tas	NT ^b	Total
Councils established by legislation ^a	152	79	157	142	68	29	36	663
Declared	3	1	0	0	6	0	27	37
Total	155	80	157	142	74	29	63	700

^a These are local governing bodies eligible under section 4(2)(a) of the Act, as they are constituted under State Local Government Acts. ^b Includes Northern Territory Road Trust Account.

Source: DOTARS (2007).

Declared bodies may have different legislative requirements than councils. For example, Lord Howe Island is managed by a Board under the *Lord Howe Island Act 1953* (NSW), which is empowered under the Act to make and levy fees and charges to recover the costs of supplying goods and services (s. 15). Declared bodies include certain Indigenous Community Councils.

... in relation to legislative frameworks, Indigenous councils are established under different arrangements. Indigenous councils can be established under the mainstream local government legislation of the State, or through separate, specific legislation, or can be 'declared' to be local governing bodies by the Australian Minister for Local Government, on advice from a State Minister (DOTARS 2006, p.9).

Some declared bodies are subject to provisions under Local Government Acts as well as other Commonwealth or State legislation. For example, the Outback Areas Community Development Trust is established under, and empowered by, the *Outback Areas Community Development Trust Act 1978* (SA). The Act defines the areas of the State to which its provisions apply, sets out the Trust's powers and functions and allows the Trust to borrow and apply money. The Act also enables specified provisions of the *Local Government Act 1999* (SA) to be applied by regulation to part, or all, of the Trust's area (s. 15(2)).

Recent amalgamations in Queensland, and proposed amalgamations in the Northern Territory, will significantly reduce the number of councils during 2008.