

# Rating policies – an ad hoc or principled balancing act?

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## Summary

- Principles of taxation, that have been influencing tax collection models for centuries, are strangely absent from any of the Australian statutes under which Local Governments set their rates.
- The plethora of statutory rating tools and options in most jurisdictions are implicitly focussed on either the ability to pay principle or the benefit principle, with little regard to the simplicity principle or the policy consistency principle.
- There is an absence of statutory direction (and often lack of capacity) for Local Governments to balance these principles.
- The absence of statutory references to taxation principles can and does lead to the adoption of rating policies that are internally inconsistent, such as the use of minimum rates within a valuation base that has been chosen to reflect the ability to pay principle.
- Appropriate and explicit regard to clearly articulated principles would lead to better policy decision-making and improved community acceptance of rating outcomes.

## Abstract

*"Let me have the benefits, and let others pay the costs." Frédéric Bastiat (1848)*

Setting or revising a Council rating policy is one of the most difficult balancing acts that Local Government elected Members are called upon to perform. However, the wide diversity between Council rating policies reflects not only the choices made by elected Council Members, but also the diversity between the respective Local Government Acts in each Australian jurisdiction.

The statutes, and the rating policy choices made by Local Government elected Members inevitably reflect, to a greater or lesser extent, certain principles of taxation. However, it is rare for these principles to be explicitly acknowledged. In many cases, the principles are applied due to local custom or default, or even disregarded altogether.

The result, at any given Local Government (or throughout an entire jurisdiction) may be rating practices that place undue emphasis on one or more principles of taxation, while minimising or ignoring other principles. A further difficulty in some jurisdictions is a lack of accurate, consistent and up-to-date valuation data, on which Local Governments might otherwise rely to implement a balanced rating policy.

These shortcomings may potentially contribute to public dissatisfaction with Local Government's rating practices and the rate-setting process and, ultimately, to sub-optimal policy decisions.

This paper outlines the relevant principles of taxation, and then examines both: the respective Local Government Act in each Australian jurisdiction; and the availability of valuation data in each jurisdiction; to determine the extent to which these factors may facilitate or hinder the balanced application of the principles of taxation.

It argues that the quality of public policy decisions would be improved, and public understanding and acceptance of Local Government's role and functions would be enhanced, if State legislation, State decisions on the availability of valuation data, and each Local Government rating policy all transparently acknowledged and explicitly attempted to balance the principles of taxation.

This paper draws upon previous work commissioned from, or published by:

- The Office for State/Local Government Relations (SA);
- John Comrie (JAC Comrie Pty Ltd); and
- Access Economics.

## 1. Introduction

### How much are your rates?

I get rubbish collected weekly, recycling collected fortnightly. Annual rates \$1,229.  
What a bloody rip off!! – “Bob3691”

Just got ours [rates notice], \$1,159 spread over a year.  
Local Government is a rort! – “Jeeves Melchington”

We pay just over \$2,400 a year and get stuff all for it. – “Woodchip”

Rates have gone from about \$1,000 to about \$1,400  
Hmmm ... am I getting \$400 more value out of my council this year for EXACTLY the same services? I think not.  
– “freq”

What extra services would you get for any house value above say \$400,000?  
Some ratings systems are stupid! – “PC-Lover”

Comments on a web discussion forum “How Much Are Your Rates?” 8 August 2011:  
<http://forums.whirlpool.net.au/archive/1752753>

It is common for ratepayers to complain that they get few if any services for the rates they pay. Rarely is there public or media acknowledgment (from persons outside Local Government) of the asset-intensive nature of Local Government, the high cost of maintaining public infrastructure, and the challenges associated with raising sufficient funds to pay for these and other services.

The provision, maintenance and renewal of a comprehensive local road network, footpaths, drains, bridges, culverts and sport, recreation and community facilities is invariably taken for granted rather than being recognised as means of *service provision* to the community. Potholes are frequently recognised as being the responsibility of Local Government, but a kilometre of well-formed road is assumed to be part of the landscape.

To some minds, it would appear that road repairs, the tending of parks and gardens and the staffing of libraries should come at minimal or no cost. To a person complaining about rates, it is a Council's responsibility to find the money, as long as it is obtained from someone other than the person complaining.

As French philosopher Frederic Bastiat said: *“The State is the great fiction through which everyone endeavours to live at the expense of everyone else.”* To Bastiat, it was inevitable that under our system of Government, citizens would always be thinking: *“Let me have the benefits, and let others pay the costs.”*

In an environment where most ratepayers want better services or at least the same service levels maintained, but with as much of the financial burden as possible shifted onto someone else, the elected Members of Local Government must come up with something similar to the miracle of the loaves and fishes. How can they satisfy ever-increasing demands, with minimal resources?

Can Councils come up with a rating policy; a formula that will reduce the risk of the type of complaints set out above? Even if that were possible, would it be appropriate?

By determining how to distribute a Council's overall rate burden between ratepayers, elected Members (whether they realise it or not) effectively weigh and apply competing tax design principles.

At its simplest level, elected Council Members have a choice between two fundamentally divergent political values or philosophies. A short-hand way of thinking about this choice is to characterise it as a choice between the values of user-pays and the values of social justice.

Should a Council be collecting rates based on some attempt to match rates paid to benefits provided, so that the persons who enjoy more than the average level of Council services are the persons who bear the largest portion of the funding burden?

Or should Councils instead be acting like Robin Hood, effectively redistributing the wealth of higher-value property owners in the process of providing a greater proportion of services relative to rates charged to less wealthy people?

Of course, this is a false dichotomy. There are more than two relevant sets of values or principles, and hence the choices available are more nuanced and shaded than this simple contrast suggests. Moreover, this short-hand way of presenting the choices pays no heed to the inherent characteristics of the services Councils provide nor the practical difficulties that would be associated with trying to determine the usage patterns of Council services, the levels of need in the community, individual ratepayers' capacity to pay or other variables.

This paper does not suggest that there is a single best way to balance competing principles, or to construct a rating policy. However, it does argue that appropriate and explicit regard to clearly articulated principles would lead to better policy decision-making and improved community acceptance of rating outcomes.

In each Australian jurisdiction, Local Governments have some flexibility in setting a rates policy; although the extent of flexibility permitted varies from one jurisdiction to the next.

However the flexibility that is offered under each of the respective statutes seems to exist in a principle-free legislative vacuum. The respective Local Government Acts in each jurisdiction provide a range of technical options for Local Government to use, as if devising a rates structure was only a mechanical exercise; divorced from any ethical values or principled guidance. (See Box, next page.) This perception might be inadvertently reinforced when legislative changes are presented to Local Governments as "more tools for your rating toolbox".<sup>1</sup>

Any Local Government in Australia that wishes to take a principled approach to rate-setting must look outside its own statute for guidance.

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<sup>1</sup> "Introduction to new and existing rating tools - expanding the rating toolkit - rating practitioner workshops on the *Local Government Amendment Bill 2011*" (Local Government Division, Department of Premier and Cabinet Tasmania) retrieved from <http://www.dpac.tas.gov.au/> on 14 November 2011

**'PRINCIPLED' GUIDANCE TO USE OF RATING POWERS IN EACH  
LOCAL GOVERNMENT ACT<sup>2</sup>**

**Victoria**

Councils are subject to “principles of sound financial management” which include the pursuit of “rating policies that are consistent with a reasonable degree of stability in the level of the rates burden.”<sup>3</sup>

**New South Wales**

The imposition of rates should be “fair”.<sup>4</sup>

**Queensland**

“Local Government principles” are set out<sup>5</sup> but these principles do not refer to rate-setting or taxation.

**South Australia**

Rates constitute “a system of taxation ... (generally based on the value of land)”. The principle of inter-generational equity is also to be taken into account in setting rates.<sup>6</sup>

**Tasmania**

No principles provided.

**Western Australia**

No principles are specific to rating powers, but inter-generational equity is acknowledged as an aim in carrying out all Local Government functions.<sup>7</sup>

**Northern Territory**

No principles provided.

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<sup>2</sup> *Local Government Act 1993* (NSW) subsequently cited as NSW LG Act; *Local Government Act 1989* (Vic) subsequently cited as Vic LG Act; *Local Government Act 2009* (Qld) subsequently cited as Qld LG Act; *Local Government Act 1999* (SA) subsequently cited as SA LG Act; *Local Government Act 1995* (WA) subsequently cited as WA LG Act; *Local Government Act 1993* (Tas) subsequently cited as Tas LG Act; and *Local Government Act 2008* (NT) subsequently cited as NT LG Act.

<sup>3</sup> Vic LG Act s136(2)(b)

<sup>4</sup> NSW LG Act s8(1)

<sup>5</sup> Qld LG Act s4

<sup>6</sup> SA LG Act s150

<sup>7</sup> “In carrying out its functions a Local Government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.” Section 1.3(3)

## 2. Distinction between public goods and private goods

It is not possible to discuss general principles of taxation without first examining the distinction between public goods and private goods. In this context, “goods” includes services. The distinction between “public” goods and “private” goods underpins the rationale for most systems of taxation.

### 2.1. Public goods

Public goods are those goods where:

- (i) the use of or enjoyment by one person does not diminish their availability to, or enjoyment by, others (that is, they are non-rival); and
- (ii) it is not practical to exclude access to them (that is, they are non-excludable).

These characteristics mean that if left to unregulated private markets, these goods would be provided and consumed at socially sub-optimal levels. The clearest examples are open space reserves, and national defence forces. The provision of public goods generally falls to government and their financing to general tax revenue, with consumers facing no direct charges for their consumption.

### 2.2. Private goods

Private goods are those goods which are both rival in consumption (that is, one person’s use diminishes the good’s availability to, or enjoyment by others) and excludable. Most goods and services in the economy can be characterised as private goods and their characteristics mean that they are produced and consumed at relatively appropriate levels in unregulated markets. Consumers and producers make market decisions based on the prevailing price signals and the market outcome (absent other distortions) is an efficient one.

Many goods have both “private” and “public” characteristics, and there may be disagreement regarding their appropriate classification. Some “public” goods, although available to all, suffer from congestion under high usage, tending to diminish their general availability. In addition, technology sometimes makes it possible to convert a “public” good into a largely private one. (For example, toll roads exclude those unwilling to pay for their usage).

However, the distinction is generally understandable and is relied upon by most Governments in raising general taxation revenue generally to provide public goods, while (in the typical case) directly charging users for private goods.

### 2.3. The goods and services provided by Local Government

The prime historical role of Local Government was as a road-making authority. Roads have public good characteristics (but are not pure public goods) and road-making authorities were, for example, established in the UK with the power to levy adjoining property-owners to pay for their construction and maintenance. This was considered fair because access to a road network invariably increased a property’s value.

Today, the mix of goods and services provided by Local Government is somewhat nuanced. Councils generally do not provide pure public goods (though many have public good characteristics). Rather, they provide a variety of ‘mixed goods’ (part public, part private) and private goods. In many cases,

the costs of providing goods with private characteristics are funded not through general revenue, but through user-pays charges.

The goods and services financed through general rates revenue include local roads, parks and gardens and community facilities such as libraries. These goods and services more closely align with the definition of public goods in that, firstly, their use by one person does not limit their availability to others (although at high levels of usage, congestion may be an issue); and, secondly, it is generally not feasible to exclude individuals either from their use, or from access to their indirect benefits. In these cases, directly charging users would be neither practical nor efficient.

Hence, Local Government rates are a form of taxation. That is, their purpose is to raise revenue for general government purposes, not to recover the cost of a particular service or activity (though some Council services are funded through user-pays charges). This distinction has important implications for the architecture of an optimal, or best-practice, system. For example, where charges are employed to recover the costs of providing specific services, identification of individual users and calibration with marginal costs are key issues. In the case of general revenue-raising, other issues are generally more important – efficiency is assessed differently and capacity to pay considerations are more significant.

### 3. Generic principles of taxation

#### 3.1. Background

The first attempt to devise any principle of taxation has been traced back to 16<sup>th</sup> century Britain. (Musgrave & Musgrave 1982, p. 242). Academics and policymakers have been debating appropriate principles ever since.

It is beyond the scope of this paper to summarise these debates. It is merely sufficient to note that the principles outlined below are not newly invented; though they may be expressed in slightly different terms from time to time.<sup>8</sup> The discussion here focuses on five key principles pertinent to Local Government rating:

- (i) ability to pay;
- (ii) benefit;
- (iii) efficiency;
- (iv) simplicity; and
- (v) policy consistency.

Other principles relevant to public policy deliberations more broadly include competitive neutrality, cross-border competitiveness and sustainability. The 2009 Henry Tax Review described “sustainability” of a revenue stream as a principle of taxation. (Commonwealth of Australia 2009, p. 17). This is rarely called into question in the context of Local Government rates.

#### 3.2. Ability to pay, or horizontal and vertical equity

The ability to pay principle was popularised by the 18<sup>th</sup> century British author Adam Smith, in these terms:

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<sup>8</sup> For example, the Henry Tax Review in 2009 highlighted five principles (“key criteria”) it deemed most significant in evaluating taxes and tax systems. These criteria: “efficiency, equity, simplicity, sustainability and policy consistency” are reflected, under slightly different names, in the key principles outlined below. Commonwealth of Australia (2009) *Australia’s Future Tax System: Report to the Treasurer Part 1: Overview* at p17.

*The subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state. (Smith 1776)*

There is some ambiguity in this expression of the principle, and of course there are significant practical difficulties in accurately measuring, for the purposes of taxation, any person's "abilities" otherwise known as "capacity to pay". Some of these difficulties in the Australian Local Government context are discussed below.

Later authors recognised that within the "ability to pay" principle, there are two sub-principles:

- Those with greater capacity should pay more. This is referred to as vertical equity.
- Those with equal capacity should pay equal tax. This is referred to as horizontal equity, or equal treatment under the law. (Musgrave & Musgrave 1982, p.242)<sup>9</sup>

The principle of horizontal equity is widely accepted, although there are significant practical difficulties in assessing the extent to which taxpayers have equivalent capacities, when taking account of varying sources and types of wealth, along with the timing of wealth accrual.

The principle of vertical equity is less widely accepted. On one view, graduated rates of taxation penalise people "for having worked harder and saved more than their neighbors." (Mill, J.S. 1885, p. 542) Accordingly, some Governments adopt a single "flat tax" rate, although (to minimise the impact of taxation on those with low resources) the single taxation rate is usually applied only to any income or wealth above a tax-free threshold. (Hall R.E. & Rabushka A. 2007). In Local Government rating systems, the extent to which fixed charges and minimum rates are adopted reflects a partial rejection of the principle of vertical equity (or at least a weighting of it with other conflicting principles).

On the other hand, the principle of vertical equity is considered a cornerstone of social justice and redistributive welfare. This principle is reflected in many systems of taxation, including the progressive scales of Australian personal income tax. (See discussion below.)

In the absence of a value-based differential, an ad valorem Local Government rate is neither progressive nor regressive. The amount payable is constant as a proportion of (property) wealth.

### **3.3. The benefit principle**

The benefit principle, stated briefly, is that there should be a positive relationship between the benefits received (or the resources consumed by the taxpayer) and the tax paid.

As a general principle, this potentially stands in some tension, if not in direct conflict with the "ability to pay" principle.

If it were possible to construct a taxation system which perfectly reflected the benefit principle, it would be equivalent to a list of fees for all government services. This would require all public goods to be re-defined as private goods, and each user charged according to the benefit personally derived from goods such as roads, parks, libraries etc.

This is the position advocated by some variants of libertarian or radical free-market politics. In most political discourse, however, it is accepted that to impose such a system would be impractical – or at

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<sup>9</sup> See also Groenewegen, P. (1979) *Public Finance in Australia; Theory and Practice*. Prentice Hall, Australia at pp75-76

least prohibitively costly – to implement, and also unfair because it would fail to reflect the merit of the other principles of taxation.

Nevertheless, the principle is respected to a greater or lesser extent in most tax systems, with user charges a common practice for many services previously provided through general taxation revenue.

Within Local Government, the principle is sometimes relied upon to argue that rural property owners should pay less because their properties derive less benefit from services provided in townships. The same principle may be raised within metropolitan areas, to argue to opposite effect: that ratepayers should all pay similar amounts, because all have similar access to the Council's services. This issue is discussed further in section 5.3.2 below.

### **3.4. The efficiency principle**

The efficiency principle may be interpreted in two ways, depending upon what a particular tax is designed or intended to achieve (i.e. whether it is designed for general revenue-raising purposes or for policy purposes). (Groenewegen 1979 pp. 76-77)

#### 3.4.1 Minimal effect on taxpayer choices

Typically, a tax will be judged as efficient if it has minimal or no effect on consumer behaviour. In reality, all general revenue-raising taxes distort such decision making to some extent. However a key consideration in taxation design should nonetheless be the minimisation of these distortions. In this respect, a 2008 report into the efficiency of State and Local Government taxes by Access Economics found that:

*More efficient taxes tend to be those that apply to markets with relatively less elastic supply and demand since a change in the level of tax will have a limited impact on the amount of the good or service being consumed and, thereby, the impact on the efficient allocation of economic resources will be relatively small.*

*This is especially true for land based taxes (including municipal rates) which, in effect, fall on the rental price of immovable land. Empirical studies of markets for land find very low elasticities of demand and, especially, supply. Consequently, these are attractive markets from the perspective of efficient taxation arrangements since quantities are not very responsive to changes in price (or taxes) and thus the taxes involve relatively small distortions. (Access Economics 2008, p. ii)*

Indeed, the report found Local Government rates on residential dwellings to be the most efficient form of taxation rendered by either State or Local Governments, but noted the potential variation across different land valuation bases (e.g. unimproved versus capital improved land).

#### 3.4.2 altering behaviour as desired

Some taxes are imposed at least partly for explicit purposes of altering consumer behaviour. For example:

- the Federal Government's carbon price is intended to discourage the use of carbon-based fossil fuels, and create incentives for changing to cleaner energy;
- high excise charges on cigarettes are partially intended to discourage smoking; and
- some Local Governments have imposed higher property rates on vacant land with the stated intention of encouraging the development of that land, or discouraging speculative long-term retention of the land in an undeveloped state.

The effectiveness of these taxation measures should be judged based on the extent to which they successfully correct for the relevant externality and align market outcomes with those which are socially efficient.

### **3.5. The simplicity principle**

The simplicity principle can be applied from the perspective of either a Government, or taxpayers, or both. It is relevant to consider the administrative ease of calculating and collecting the tax, and also the compliance costs for taxpayers. Taking account of the simplicity principle requires devoting some attention to the opportunities and incentives for taxpayers to evade or avoid a tax, and the cost of preventing or combating such efforts. (Groenewegen 1979, p. 77)

It is relatively simple for taxpayers to comply with and difficult to avoid the taxation of property by way of Council rates. Accurate ownership records exist and taxing authorities have the power to sell the property if necessary to recover outstanding taxes due. However, for Local Governments, one of the major factors affecting the administrative burden of rate calculation is the difficulty encountered in some jurisdictions in obtaining accurate and up-to-date property valuation data. This will be discussed further below.

### **3.6. The principle of policy consistency**

As the Henry Tax Review put it:

*Tax and transfer policy should be internally consistent. Rules in one part of the system should not contradict those in another part of the system.* (Commonwealth of Australia, 2009 p. 17)

This principle is important to retain public support for the taxation system. The extent to which a tax is readily understood and accepted, and its certainty of application, is relevant to the question of retaining public support for the tax, and hence to its sustainability in a political sense.<sup>10</sup> Taxes which are perceived to be arbitrary or subject to distinctions that are arcane or opaque to taxpayers will risk being perceived as internally inconsistent, and hence undermine confidence in the overall fairness or equity of the system.

## **4. Tools for rating: parameters set by statute**

### **4.1. Principles of taxation.**

We have already noted that the various Local Government Acts in each jurisdiction give little or no guidance as to the principles that should be applied when a rating policy is devised or when annual rates are set.

Nevertheless, the taxation tools that, under these statutes, are made available to (or restricted from use by Councils) can be interpreted as reflecting a preference for some principles over others, or at least a lack of legislative support for some principles.

### **4.2. General rates - ad valorem**

In all jurisdictions, Local Government is empowered to collect general rates by setting a “rate in the dollar” otherwise known as an ‘ad valorem’ rate. If this tool were to be used by a Council to the exclusion of all the other options discussed below, then relative assessed property values within that Council area would be reflected in exactly the same relativities in rates payable. That is to say, a property valued at \$400,000 would attract rates twice as high as a property valued at \$200,000.

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<sup>10</sup> As the Henry Review put it: “To be sustainable the tax system, together with the transfer system, must contribute to a fair and equitable society.” (Commonwealth of Australia, 2009, p.17)

This power allocated to all Local Governments is intended to reflect the principles of horizontal and vertical equity, as it reflects an assumption that the value of property owned is an indicator of capacity to pay.

There has been little research undertaken to test the veracity of this assumption. The research that does exist indicates that the correlation between housing value and income is relatively weak when considered at a single point of time. However, a stronger correlation is indicated by reference to a lifetime income cycle, at least when capital (improved) value is the measure. (South Australian Centre for Economic Studies 2004).

This general power available to Local Governments in all jurisdictions is, however, subject to (or at least open to) substantial modification, using the various options described below. The extent to which these other options are made available in legislation, and utilised by Councils will reflect principles other than the ability to pay.

### **4.3. General rates - fixed charges and minimum rates**

To the extent that they are applied, the use of either a fixed charge or a minimum rate (or both) tends to compress variability in rates payable by property owners compared to a pure ad valorem system.

If a minimum rate were to be set high enough, every property would be subject to the minimum and therefore paying exactly the same rate. If a fixed charge were to be relied upon to raise 100% of general rate revenue, then ratepayers would all be paying the same fixed charge, regardless of their land value. Unless the population and housing stock was perfectly homogenous, this would represent a total rejection of the vertical equity principle.

In an urban Council area, where all residents have similar access to services, it might be argued that such an outcome would properly reflect the benefit principle. This approach, though, would be in some tension with the capacity to pay principle.

In order to design a balanced rating structure, intended to reflect both (horizontal and vertical) equity and the benefit principle, some reasonable limit should be placed on the regressive nature of fixed charges and minimum rates. However, only three jurisdictions: (South Australia, Western Australia, and Victoria) have legislation that limits the revenue raised from such sources. (See below and also Table 1).

In South Australia, a fixed charge cannot exceed 50% of a Council's total general rates revenue, a minimum rate cannot be set above a level where it would apply to more than 35% of rateable properties, and no Council may utilise both tools.

In Western Australia, there is a maximum limit of properties subject to a minimum rate of 50%, and no fixed charge may be imposed.

In Victoria the fixed charge (known as a "municipal charge") cannot raise more than 20% of rate revenue, and the concept of a minimum rate is not recognised in legislation.

In New South Wales, a fixed charge cannot exceed 50% of the Council's total general rates revenue, but Councils are permitted to adopt both a fixed charge and a minimum rate, which (if that were done) would leave little room for ad valorem rates to operate.<sup>11</sup>

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<sup>11</sup> In New South Wales, a Council may apply both a "base amount" to recover no more than 50% of general rates, as well as a legislated minimum (\$442 in 2011-12) that can be applied to an ad valorem portion of the general rates. In a Council area where both of these rating tools were used, the proportion of general rates

In the Northern Territory, there is no limit on the proportion of revenue that may be raised through, nor the percentage of properties that may be subjected to, either a fixed charge or a minimum rate, or even both measures.

Tasmanian legislation prevents one property from being subject to both measures, and limits the proportion of revenue that may be derived from a fixed charge to 50%, but has no limits on the use of minimum rates, thus permitting Councils to adopt a substantially flat rating policy through the use of a high minimum rate.

In Queensland, there is no fixed charge, but (like Tasmania) there is no restriction on the percentage of properties that may be subject to a minimum rate.

While excessive use of a fixed charge may work against vertical equity so too may under-use or no use mean lack of consideration of the benefit principle. A minimum rate offers no advantages over a fixed charge in terms of satisfying the benefit principle. It also performs particularly poorly in the context of the capacity to pay principle as it effectively levies a higher 'rate' against the lowest valued properties (i.e. those with a value below the threshold at which the minimum rate no longer applies).

#### **4.4. General rates: Differential rates**

All jurisdictions permit Councils to vary rates according to either a category of land, a category of land location, or both. However in only two jurisdictions (Victoria and Western Australia) is any legislative restriction imposed on the extent to which rates may differ between one category and another.<sup>12</sup> No jurisdiction provides principled guidance on the use of these powers.

Some Councils have used these wide-ranging powers in an apparent attempt to reflect as much as possible the benefit principle, for example by declaring very high rates on a single industrial or commercial land zone area. The result in some cases has been differential rates that have varied from one location to another, in the same Council area, by factors of up to 148 to one. (Office for State/Local Government Relations, South Australia 2006 p. 15)

Such a lopsided use of differential rates may be viewed as an attempt to reflect the benefit principle, to the exclusion of both the ability to pay principle and the policy consistency principle.

In practice though, this attempt would appear to be misguided. Market forces are likely to factor into property prices the extent of availability and access to Local Government services. Any material differences in this regard will be reflected in property prices. Properties protected from flooding, adjacent to a well landscaped recreation reserve or near a good road network will be worth more relative to properties that are similar in other respects except that they don't enjoy these advantages. Arguments for use of differential rates based on differences in access to Local Government services are likely to prove difficult to sustain.

It is sometimes argued that a higher differential rate is justified for commercial and industrial ratepayers because businesses can claim a tax deduction for business expenses such as Council rates. There are a number of limitations in such arguments, for example;

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derived from an ad valorem rate in the dollar would be quite low; and so the overall rating structure would be close to a 'flat tax'.

<sup>12</sup> In Victoria, a Council cannot set its highest differential rate any more than four times the level of its lowest differential rate. Vic LG Act ss161(5) and 161A(3). In Western Australia, the limit for the highest differential is twice the rate of the lowest differential, although Ministerial approval may be sought for a higher differential rate. WA LG Act s6.33(3).

- i) It is contrary to the policy consistency principle for one sphere of government to set its tax policies to offset or counter-act those of other spheres.
- ii) Local Governments do not know the income tax circumstances of their ratepayers. Not all commercial and industrial ratepayers will be in a position where they will be required to pay income tax and hence benefit from a deduction for Council rates paid. In many Local Government areas there are also likely to be more 'businesses' (including private landlords) renting out residential properties (and incurring a lower 'rate') than there are commercial and industrial properties (that pay a higher 'rate').
- iii) The argument fails to take account of the significant tax advantages that residential owner-occupiers enjoy (for example tax-free imputed 'rental' income from occupation and exemption from land tax).

Local Governments may incur additional costs in servicing some properties or as a result of the use of particular properties. These additional costs may not necessarily translate to perceived additional benefits in the market place and hence may not be reflected in property values. For example, roadworks necessary to reduce or overcome the negative traffic impacts of an expanded shopping centre may enhance the centre's profitability and value but not the value of nearby houses. Likewise, higher costs incurred in providing waste collection services to remotely located residential properties may not be reflected in their value. To the extent that benefits provided to land, or costs incurred by Local Governments are not reflected in property values, then an argument for differential rate could be sustained on grounds of the benefit principle. However, in most instances, the argument for application of differential rates would be on stronger ground if it was based on differences in perceived capacity to pay by different classes of ratepayers.

Whether a class or locality of property is levied with a higher or lower differential rate is likely to reflect, to a considerable extent, the political influence of the property owners in that group. Therefore, it may be considered advisable for legislation in each jurisdiction to provide principled guidance on the reason for, and recommended limits to, the use of differential rates.

## **4.5. Rate caps, exemptions and rebates**

### 4.5.1 Rate caps

Some jurisdictions permit Councils to set a cap, or a maximum increase to apply to rates levied on an individual property from one year to the next (without constraining a Council's total rate income).<sup>13</sup> For example relative assessed property values can change between years and a Council might decide to raise 6% more rate income in total one year and apply a cap so that no individual property (including those that have experienced a large relative increase in value) will be levied with more than, say, a 10% increase. Such an arrangement allows the phasing in of the rating impact, on property owners, of a large relative increase in a property's assessed value. New South Wales, in contrast, gives the Minister the power to set an overall cap on each Council's general income for the year.<sup>14</sup>

### 4.5.2 Rate exemptions and/or compulsory rebates

All jurisdictions provide that certain land within the jurisdiction is exempt from rates; usually being defined as "non-rateable". Crown land is the main category of non-rateable land.<sup>15</sup> In most jurisdictions, the exemption from general rates is all-or-nothing. However, in South Australia, some

<sup>13</sup> See, for example, Tas LG Act, s88A; SA LG Act s153(3); Qld LG Regs r50;. There is no equivalent in the respective LG Acts of WA, Victoria, or NT.

<sup>14</sup> NSW LG Act s506

<sup>15</sup> WA LG Act s6.26; SA LG Act s147; Qld LG Act s94; NT LG Act s144; Vic LG Act s154; NSW LG Act s555; Tas LG Act s87

land-holders such as community service organisations and non-government schools<sup>16</sup> enjoy a compulsory rebate of 75% of rates. In New South Wales, an "eligible pensioner" may apply for a reduction of up to 50% in rates payable on the principal place of residence.<sup>17</sup>

#### 4.5.3 Discretionary rebates and waivers

All jurisdictions allow Councils to grant discretionary rebates for specified purposes or to waive or remit payment of some, or all rates payable, e.g. in cases of hardship.<sup>18</sup>

## 5. Valuation of land

As discussed above, the use of a fixed charge as a component of a general rate reduces the relative importance of a property's valuation in determining the amount of rates payable. When a minimum rate is applied to land, it renders that property's value irrelevant to the amount payable.

However, for most ratepayers, the effect of a fixed charge or a minimum rate is not their main concern with regard to rates. For most, the property valuation (together with the ad valorem rate percentage set by the Council) is a much more important component of the calculation of their rates. Ratepayers commonly overstate the importance of the valuation; often mistakenly believing that a higher land value *causes* higher Local Government rates.

While there is substantial similarity between jurisdictions in the tools that are available to set general rates, there is a remarkable divergence between jurisdictions in the types of valuation that Local Governments are permitted or obliged to use for rating purposes.

### 5.1. Types of valuation

There are three main types<sup>19</sup> of property valuation. Though they are known by various different names according to jurisdiction, this paper assigns them three generic names:

- capital improved value ("CIV")<sup>20</sup>
- unimproved site value ("USV")<sup>21</sup> and
- annual rental value ("ARV")<sup>22</sup>

See Table 2 for a comparison of valuation methods, frequency, and valuation service delivery, between jurisdictions.

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<sup>16</sup> SA LG Act ss161, 165

<sup>17</sup> NSW LG Act s575

<sup>18</sup> NSW LG Act s577; Tas LG Act s129; WA LG Act ss6.47, 6.49; Qld LG Regs Part 10; NT LG Act s164; SA LG Act ss166, 182; Vic LG Act ss169, 171, 171A.

<sup>19</sup> There are variations in the way these three types of valuation are calculated between jurisdictions. Definitions are typically found in a Valuation of Land Act in each jurisdiction. However, this paper does not explore these variations.

<sup>20</sup> This is the term used in Victoria. The same type of valuation is referred to in South Australia and Tasmania as "capital value"; and in the Northern Territory as "improved capital value."

<sup>21</sup> Known in New South Wales and Tasmania as "land value"; in Western Australia as "unimproved value"; in Victoria and South Australia as "site value" and in the Northern Territory as "unimproved capital value". In Queensland, there is a distinction recognised between "unimproved land value" and "site value" which turns upon improvements such as underground pipes and cables. However the distinction is not relevant for present purposes.

<sup>22</sup> Also known as 'annual value' (SA) 'net annual value' (Vic); or 'gross rental value' (WA).

USV is the most commonly relied-upon type of valuation, although rarely by choice of a Council. It is *required* in New South Wales, Queensland, Western Australia (outside greater Perth); and also effectively required in the Northern Territory.

CIV is by far the most common choice in Victoria and South Australia, while ARV is *preferred* by Councils in Tasmania and *required* in Western Australian urban areas.

## **5.2. The three "choice jurisdictions"**

In four jurisdictions (New South Wales, Queensland, Western Australia and Northern Territory) Councils are effectively not given a choice of valuation method. There is no explanation in any of the relevant Acts as to why each Council is denied a choice; or why the one option<sup>23</sup> has been selected as the most appropriate.

Likewise, in the jurisdictions where choice is both offered and effectively available (Victoria, South Australia and Tasmania) there is a lack of any guidance in the relevant statute as to why a Council should choose one type of valuation over another.<sup>24</sup>

It is notable that within each of these three "choice jurisdictions" Councils have overwhelmingly favoured a single method of valuation. These three choice jurisdictions have split two ways, with Councils in two states (Victoria and South Australia) favouring CIV; and in the other State (Tasmania) favouring ARV.

In the absence of legislative guidance or statutory referral to principles of taxation, it is assumed that one of the main driving forces for this consistency within each of the "choice jurisdictions" is a desire for consistency between Councils.

Costs associated with collecting, assessing and maintaining property valuation data is likely to also be a factor in determining the valuation choice bases available to Local Governments. Local Governments for the most part rely on property valuations assessed by a State or Commonwealth valuation agency (for example the jurisdiction's Valuer-General). If a jurisdiction doesn't use CIV for other taxing purposes it is likely to be hard to justify the costs of determining such assessments for Local Government rating purposes. (See also sections 5.3.4 and 5.6.)

Whatever the merits of each respective valuation type, the substantial lack of variation within each of the "choice jurisdictions" (and the lack of choice in the other four jurisdictions) can at least be said to reflect, in practice within each jurisdiction, the taxation principle of policy consistency. Notwithstanding this, there is, of course, a great deal of inconsistency in other aspects of rating policy across Australia as a whole, as noted above.

## **5.3. Valuation type and taxation principles**

### 5.3.1 capacity to pay

As noted above, CIV is regarded as an approximate indicator of income (broadly defined) and/or accumulated wealth (at least over the course of a lifetime). Therefore, as a tax base, the use of CIV, as the basis for Local Government rates, better allows policymakers to target equity, reflecting the ability to pay principle.

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<sup>23</sup> Unimproved land value except in metropolitan Perth, where the required valuation type is annual (rental) value.

<sup>24</sup> The SA LG Act, in s151(3), expresses a preference for CIV by preventing a Council from changing to USV or ARV unless it has used CIV for at least the preceding three years.

USV can also give some indication of capacity to pay, although not as clearly as CIV. Where properties in a locality are relatively homogeneous, there will be a correlation between CIV and USV and therefore the two values will reflect similar capacities to pay. Where properties in a locality are heterogeneous the correlation between USV and capacity to pay may be positive or negative. Often more expensive homes are built on more expensive sites but in many instances USV will be a poor indicator of capacity to pay (for example, homes on quarter-acre blocks alongside apartment buildings).

This may be illustrated by considering the hypothetical example of two dwellings, side by side in the same street; both recently purchased for the same price, reflecting identical capital values. The two property owners are assumed to have an identical capacity to pay, as indicated by their willingness to purchase property of the same capital value. However, one of the dwellings is a luxury two-storey townhouse on a tiny courtyard-sized block of land; the other is an average-sized three-bedroom brick house on a parcel of land twice as large. Using CIV, the two houses would attract the same rates. However, using USV, the owner of the townhouse would pay much less, as the dwelling is on a smaller, less valuable parcel of land.

Although USV is not preferred as a valuation method to reflect the capacity to pay principle, it may be preferred, on balance, for other reasons, as discussed below.

### 5.3.2 the benefit principle

The difference between USV and CIV for any given property may be described as the "built premium" being the value of buildings and any other fixtures erected on the land. The value that land owners enjoy in their respective "built premiums" cannot be due (in any significant degree) to the services provided to those buildings by Local Government. The value of buildings and any fixtures on land reflect predominantly the cost of their construction or replacement (written down to reflect current condition), not the benefits that Local Government may provide to the land.

On the other hand, USV strips away the built premium, leaving only the value of the underlying land, to which Local Government services are provided. Roads, footpaths, drainage, parks and so on are public goods, provided for the benefit of all land in an entire neighbourhood, thereby enhancing the value of mansions, hovels, and vacant land alike.

Therefore, the relative values between different land parcels reflect, at least in part, the Local Government services that are available at each site. That is, the value of these services is capitalised into the value of the land. Hence USV is generally a better reflection of the benefit principle than CIV.

Land within towns and urban areas where Local Government services tend to be concentrated is, of course, more valuable per square metre than land in rural locations. However, it is hard to sustain an argument that these higher land values are caused *to a significant degree* by the availability of services provided by Local Government.

Relative land values reflect many factors. All else being equal, land sited on a hill, with a commanding view, will be worth more than land in a valley. Even on the same street, land on the high side of the street will be worth more than land on the low side, for a similar reason. Other factors that tend to raise land values include proximity to public transport, shops, schools, hospitals, a lake, river, or seafront. Factors that tend to lower land values include proximity to noise, pollution, heavy industry, waste facilities and so on. Few of these factors are provided by, or mitigated to any substantial degree by Local Governments.

The provision of Local Government services, such as roads, footpaths, drainage, and parks unquestionably would contribute towards some fraction of land values. However it is likely to be overstating their significance among the range of relevant factors to argue that Local Government

rates should be calculated on the basis of USV, *for the purpose* of reflecting the benefit principle. For such an argument to hold the impact of Local Government services would need to be a dominant factor in determining USV. Either that or, if the absolute quantum of USV determined by other factors was relatively constant across a district then it might be considered that such that variation in Local Government services was the main driver of the minimal variations in USV between properties.

The relative CIV of different properties is likely to be a poor indicator of relative benefits received from Local Government. Relative USV will often also be a poor indicator, but not as poor as CIV. In the absence of any other metric that might be used to provide an indicator of benefits received, USV is the least-worst alternative when compared to CIV or ARV.

### 5.3.3 the efficiency principle

At a conceptual level, USV represents a more efficient valuation base than the alternatives. By introducing capital into the equation, CIV and ARV increase the scope for decision-making to be distorted and, therefore, for economic efficiency to be undermined (for example, the incentives to make capital improvements may, at the margin, be diminished). However, the choice of valuation type is unlikely to have a material impact on efficiency, given the magnitude of Local Government rates relative to the other drivers of investment and land use decisions.

### 5.3.4 simplicity principle

It is no simple matter to ascertain, with the required degree of accuracy, the values (or more importantly the relative values) of all properties within a jurisdiction. Whatever type of valuation is used, the cost of obtaining the valuation is a cost that is indirectly passed back to the ratepayer (except to the extent that this data is shared by other users).

In this context, the use of USV has a definite advantage. It is less expensive to obtain USVs than to obtain CIVs or ARV's, as these latter two types of valuation must accurately reflect the nature of buildings erected on land, and any changes to them. In contrast, changes to USV reflect market fluctuations but may be calculated for the most part without the necessity of taking into account the built environment.

Therefore, jurisdictions which rely upon CIV or ARV should consider whether the additional cost of obtaining such valuations, compared to USVs, is justifiable in the context of the simplicity principle. This question is especially relevant in South Australia, where the Valuer-General's office is tasked with valuing all properties annually, for both State taxation purposes and Local Government rating purposes.

### 5.3.5 principle of policy consistency

The principle of policy consistency is compromised when neighbouring Councils adopt (or are required by legislation to adopt) different types of valuation, without a defensible public policy rationale.

For example, in Western Australia, USV is used in rural areas and ARV (known in Western Australia as "gross rental value") is used in urban areas. The development of large tracts of land in outer metropolitan areas leads to about 20,000 properties each year moving from one type of land value to another. Hobby farms are particularly affected by this change in rating base. (Access Economics 2010, p. 23)

In Victoria and South Australia, where CIV is the predominant choice of Councils, there are nevertheless a handful of Local Governments in each State that adopt USVs instead, and this may lead to anomalous outcomes between neighbouring Council areas.

Over all of Australia, the mix of valuation types may be considered confusing and, moreover, difficult to defend based on the principles of optimal taxation. However, there seems little public awareness and negligible levels of dissatisfaction expressed with the variations across State boundaries.

#### 5.3.6 annual rental value and taxation principles

The discussion above has focussed on a comparison of unimproved site valuations, and capital improved valuations, against the various taxation principles.

The third type of valuation, annual rental value<sup>25</sup> has been omitted from most of the above discussion because in general terms, it is broadly equivalent to capital improved valuation, when used for Local Government's purposes of determining relativities between properties.<sup>26</sup>

For the purposes of this discussion, it is sufficient to observe that the rental value of land bears a strong relationship to the capital value of land (at least over the medium/longer-term), reflecting the improvements that have been made to the land.

### **5.4. Availability of valuation data**

There is a wide variation between jurisdictions in the availability of valuation data and the costs that are imposed on Local Government to obtain the data. See Table 2.

Whether a Council receives valuation data from the Valuer-General in its jurisdiction, or chooses to contract a private valuer, the cost of obtaining this data is indirectly borne by ratepayers.

It is beyond the scope of this paper to analyse the precise costs involved in the various jurisdictions. It is sufficient for present purposes to observe that, as a general rule of thumb:

- the frequency of obtaining re-valuations is the major factor affecting the cost; and
- it is more costly to obtain CIV or ARV than it is to obtain USV.

The cost of obtaining valuation data is highly relevant to the simplicity principle, and also to the necessity to balance competing principles to formulate a rating policy.

The costs of obtaining accurate, up-to-date valuations, must be weighed against the accuracy with which it may be desired in order to apply other principles (for example capacity to pay and benefit considerations).

This also holds true (albeit to a lesser degree) when valuation data is perceived to be relevant to the benefit principle. (See discussion above).

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<sup>25</sup> Known in Tasmania as and in Western Australia as 'gross rental value'.

<sup>26</sup> In fact assessed ARV is usually determined as a percentage (eg 4%) of assessed CIV.

## 6. Other revenue-raising options

General rates are the main component of Local Government's revenue-raising powers. However, in each jurisdiction, Local Governments have the power to raise one or more of:

- "separate rates" or "special rates" for a special purpose that benefits the land or area from which the rates are raised;
- "service rates" levied on an ad valorem basis for the provision of specified services; such as waste water, waste and recycling collection; and/or
- "service charges" for similar specified services to the land.

These are all *compulsory* (where imposed) imposts that the property owner cannot avoid. In addition, in most jurisdictions, Local Governments are permitted to impose other fees and charges for other *discretionary* services, such as:

- allowing access to Council property (e.g. rental of sporting club rooms);
- permits (e.g. to place cafe tables on a footpath),
- authorisations (e.g. for land development, etc.)

To the extent that these charges are levied in instances where, on balance, the characteristics of the good or service align with those of a 'private' good, they represent effective mechanisms for raising revenue while at the same time creating incentives to enhance allocative efficiency.

In most jurisdictions, there are statutory controls:

- limiting the nature of the services for which these revenue-raising options can be applied; and/or
- directly setting the fee that may be charged; or
- limiting the amount that may be recovered, to no more than the Council's costs.

Table 3 provides a comparison of the various other revenue raising options available between jurisdictions. It is beyond the scope of this paper to analyse these statutory powers and limitations imposed. However, the Productivity Commission, which examined this subject in 2008 (Productivity Commission 2008 pp.117-134) found that:

*In most jurisdictions, only a small number of fees and charges are statutorily set by State Governments. Most are set by councils and the extent to which they recover costs will largely reflect the preferences of their communities.*

and

*There is a case for periodic reviews of the restrictions and regulations imposed on Local Government by other spheres of government to assess both their rationales and their benefits and costs.*

## 7. Conclusion

The principles of taxation are rarely acknowledged in discussions about Council rates. Nevertheless, the structure of rating provisions in each jurisdiction's Local Government Act, and the rating decisions that are made annually in every Council reflect a weighting of one or more principles of taxation, over others.

This weighting is not made explicit in any statute, or any Council declaration of rates. Nevertheless, all rating choices do implicitly reflect principles.

The complex mix of tools that are available to Local Government and implemented by rate administrators, are largely opaque to ratepayers. A glance at Tables 1, 2 and 3 suggests that the plethora of rating tools and options in most jurisdictions is overly focussed on either the ability to pay principle or the benefit principle. There is an absence of direction (and often lack of capacity) for Local Governments to balance both. Some jurisdictions too seem to give little regard to the simplicity principle or the policy consistency principle.

This paper may be accused of attempting to over-simplify a complex issue. If so, that is an accusation that the authors would welcome; on the grounds that rating policies and the legislation under which they are made could benefit from a fresh, holistic examination of their fundamental purpose.

***Should the ability to pay principle be paramount?*** *If so, then CIV should be the preferred valuation method and valuations should be frequently updated. Consideration could also be given to application of differential rates where there is reason to believe this would enhance capacity to pay. Councils also need to consider other principles and in any event CIV is far from a perfect indicator of capacity to pay. For both of these reasons when using CIV a significant proportion of rate revenue should also be generated in most circumstances from a fixed charge and other specific user rates and charges where services provided so warrant.*

***Should the benefit principle be paramount?*** *If so, then a Council should utilise a full range of service charges, separate rates where appropriate, and recover costs wherever possible using fees and charges. USV is a better indicator of benefits received than CIV but nevertheless far from a reliable guide. A fixed charge should be applied to ameliorate the impact of using USV to the extent that it is not a reliable indicator of benefits received and capacity to pay. In some instances USV may be a reasonable indicator of both capacity to pay and benefits received and in these circumstances a fixed charge would offer no additional policy advantages.*

***Should the principle of simplicity be paramount?*** *If so, then USV should be the preferred valuation method, but the case would still exist for use also of a fixed charge and other specific user rates and charges.*

***Should the principle of policy consistency be paramount?*** *If so, then many of the options and discretions available to Councils should be removed, in favour of a legislated consistent approach.*

Of course, in virtually all circumstances, it will be appropriate to have reasonable regard to each of these principles in setting rating policy. This could be achieved using either CIV or USV, balanced with a fixed charge and other specific user rates and charges.

Whatever the weighting of differing policy objectives, it is hard to make a case for a minimum rate. Use of a minimum rate with CIV is clearly inconsistent. The use of CIV implies that capacity to pay is a key principle yet properties with the lowest value (and therefore generally owners with least

capacity to pay) are effectively charged a higher 'rate'. Nor does a minimum rate offer policy advantages over a fixed charge when rating with USV. In this situation its use will create greater inconsistency of outcome for ratepayers relative to both capacity to pay and benefit principles.

The current extent of use of differential rates and how they are applied varies widely between Councils. Councils should always be in a position to be able to defend their differential rating decisions relative to the principles of taxation. Reasons cited for use of differential rates often do not sit well in this regard.

Legislative policy-makers in State Parliament, and elected Members of Councils might begin the task of reviewing rating powers and policies by asking the public to what extent and in what manner the principles of taxation outlined above should be reflected in Local Government legislation, and in Council rating policies and decisions. Armed with this information, together with an enhanced understanding of the principles of optimal taxation in the Local Government context, the quality of Councils' policy decisions with respect to Local Government rating would undoubtedly be improved.

Like most institutions in a democracy, Local Government rating powers rely upon the existence of public acceptance, goodwill, and understanding, for their continuity and successful operation. There is the potential for lively debate, but ultimately a better informed base of ratepayers who, after expressing a view on these matters might perhaps be less likely to say: "Let me have the benefits, and let others pay the costs."

**Table 1: Tools for setting general rates**

	<b>fixed charge</b>	<b>minimum rate</b>	<b>differential rate</b>
<b>NSW</b>	A 'base amount' may differ according to land use category, but must not collect in excess of 50% of general rate revenue <sup>27</sup>	A minimum (set by the Regulations) may be imposed only in respect of an ad valorem rate, to apply above the 'base amount' (if any) <sup>28</sup>	<ul style="list-style-type: none"> <li>• Four major categories of land use and multiple sub-categories of land use;</li> <li>• No provision for categories of land location.<sup>29</sup></li> </ul>
<b>Vic</b>	The 'municipal charge' is limited to 20% of general rate revenue.	No provision	<ul style="list-style-type: none"> <li>• Multiple categories of land use permitted;<sup>30</sup></li> <li>• No categories of land location.</li> </ul>
<b>Q'ld</b>	No provision	A number of differential minimums may apply, according to land categories. There is no restriction on the % of properties that may be subject to the minimum <sup>31</sup>	<ul style="list-style-type: none"> <li>• Multiple land use categories permitted at Council's discretion.</li> <li>• It is unclear whether categories of location are permitted.<sup>32</sup></li> </ul>
<b>Tas</b>	A fixed charge must not exceed 50% of general rates <sup>33</sup>	Minimum rate cannot be used in addition to a fixed charge. <sup>34</sup> No restriction on how high the minimum can be.	<ul style="list-style-type: none"> <li>• Eight categories of land use;</li> <li>• No restriction on the categories of land location<sup>35</sup></li> </ul>
<b>SA</b>	A fixed charge must not exceed 50% of general rates <sup>36</sup>	Minimum rate may apply to no more than 35% of properties, and cannot be used in addition to a fixed charge. <sup>37</sup>	<ul style="list-style-type: none"> <li>• Nine categories of land use;</li> <li>• A choice of specified location categories; or</li> <li>• both land use &amp; location<sup>38</sup></li> </ul>
<b>WA</b>	No provision	Different minimums may apply in different areas of one Council <sup>39</sup> but may not apply to more than 50% of premises, unless the minimum is no more than \$200 <sup>40</sup>	Multiple categories of land use/purpose permitted at Council's discretion. <sup>41</sup> Regulations may broaden or narrow the categories (but no regulations have been made). <sup>42</sup>

<sup>27</sup> NSW LG Act ss499, 500

<sup>28</sup> NSW LG Act s548, and *Local Government (General) Regulation 2005 (NSW)* r126. This minimum amount is adjusted annually. In 2011, it was set at \$442.

<sup>29</sup> NSW LG Act s493 and s529

<sup>30</sup> Vic LG Act s161(2)(a)(ii)

<sup>31</sup> *Local Government (Finance, Plans and Reporting) Regulation 2010 (Queensland)* r11 (subsequently cited as Qld LG Regs)

<sup>32</sup> Qld LG Regs r15. The regulation cites as examples only land use categories. Categories based on location are not expressly prohibited, but do not seem to have been envisaged.

<sup>33</sup> Tas LG Act s91(2)(b)

<sup>34</sup> Tas LG Act s90(4)

<sup>35</sup> Tas LG Act s107

<sup>36</sup> SA LG Act s151(10)

<sup>37</sup> SA LG Act s158(2)

<sup>38</sup> SA LG Act s156 and the *Local Government (General) Regulations 1999 (SA)* r10

<sup>39</sup> WA LG Act s6.35

<sup>40</sup> *Local Government (Financial Management) Regulations 1996 (WA)* rr52, 53 - Subsequently cited as WA LG Regs;

<sup>41</sup> WA LG Act s6.33(1)

<sup>42</sup> WA LG Act s6.33 (2); See WA Regs.

	<b>fixed charge</b>	<b>minimum rate</b>	<b>differential rate</b>
<b>NT</b>	More than one fixed charge may be imposed "for different purposes". Each fixed charge may differ according to land use/ location categories. <sup>43</sup>	A minimum rate may be imposed in addition to a fixed charge, and may differ according to land use categories, or location categories. <sup>44</sup>	A "differential valuation-based charge" may differ according to land use categories, or location categories. <sup>45</sup>

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<sup>43</sup> NT LG Act s148

<sup>44</sup> NT LG Act s148 (3)

<sup>45</sup> NT LG Act s148 (3)

**TABLE 2 Comparison of valuation methods, frequency, and service delivery**

	<b>Valuation method</b>	<b>Valuation frequency</b>	<b>Valuation service delivery</b>
<b>NSW</b>	Only unimproved value (i.e. "land value") permitted	Every 3-4 years (legislation specifies at least every 4 years).  Land values for the purpose of the State Government's land tax, however, are determined annually.	Valuer-General contracts out provision of land valuation services to private contractors.
<b>Vic</b>	Councils may choose from: <ul style="list-style-type: none"> <li>• site value</li> <li>• capital improved value (CIV) or</li> <li>• net annual value (NAV) – i.e. rental value</li> </ul> 73 of 79 Councils use CIV; the remaining six use NAV	Every 2 years.	Councils may contract a valuer or (from 2012) request the Valuer-General to do so. The Valuer-General audits the valuations.
<b>Q'ld</b>	(a) for non-rural land—its site value; and (b) for rural land—its unimproved value. <sup>46</sup>	<ul style="list-style-type: none"> <li>• Every year for metro areas,</li> <li>• Every 2-3 years for provincial coastal areas;</li> <li>• Every 5 years for western regions of the State.</li> </ul>	The Valuer-General
<b>Tas</b>	Councils may choose from: <ul style="list-style-type: none"> <li>• site value</li> <li>• capital improved value (CIV) or</li> <li>• assessed annual value (AAV) – rental</li> </ul> However all 29 Councils choose AAV	Every 6 years (although legislation specifies every 7 years)	Contracted out by each Council
<b>SA</b>	Councils may choose from: <ul style="list-style-type: none"> <li>• site value</li> <li>• capital improved value or</li> <li>• annual value (i.e. 75% of the estimated gross annual rental)</li> </ul> 57 Councils choose capital value, 10 choose site value, and only 1 annual value	Annually	The Valuer-General
<b>WA</b>	<ul style="list-style-type: none"> <li>• Unimproved value required for rural and fringe urban areas</li> <li>• Annual value required for urban areas</li> </ul>	<ul style="list-style-type: none"> <li>• Every 3 years for Perth metropolitan area;</li> <li>• Every 3-5 years for country areas.</li> </ul>	Valuer-General
<b>NT</b>	Councils may (in theory) choose from: <ul style="list-style-type: none"> <li>• unimproved capital value (UCV),</li> <li>• annual value; or</li> <li>• improved capital value (ICV).</li> </ul> All Councils use UCV.	Every 3 years	Councils must obtain valuations from the Australian Valuation Office, which supplies only unimproved land value

<sup>46</sup> The distinction is that 'site value' includes invisible improvements.

**Table 3: Comparison of other revenue-raising options**

	'special' rate or 'separate area' rate	service rates (i.e. ad valorem)	service charge (i.e. based on usage)	Other fees and charges
<b>NSW</b>	Multiple "special rates" permitted for different works or services in one or more specified areas. <sup>47</sup>	No provision	Annual charges may be levied for: <ul style="list-style-type: none"> <li>• domestic waste;</li> <li>• stormwater management;</li> <li>• coast protection;</li> <li>• water supply;</li> <li>• sewerage; and</li> <li>• drainage.<sup>48</sup></li> </ul>	Power to charge a fee for supplying a service, product or commodity, giving information, providing a regulatory function, allowing admission to land etc. <sup>49</sup>
<b>Vic</b>	Subject to Ministerial Guidelines, a "special rate" may be levied on any group of persons or land area identifiable as benefiting from a Council initiative <sup>50</sup>	A "service rate" may be applied on "any criteria specified by the Council" for the provision of: <ul style="list-style-type: none"> <li>• water supply;</li> <li>• waste collection and disposal;</li> <li>• sewage services;</li> <li>• any other prescribed service.</li> </ul>	A "service charge" may be applied on "any criteria specified by the Council" for the provision of: <ul style="list-style-type: none"> <li>• water supply;</li> <li>• waste collection and disposal;</li> <li>• sewage services;</li> <li>• any other prescribed service.</li> </ul>	Power to make a 'local law' specifying fees and charges "in relation to any property, undertaking, goods, service or other act, matter or thing" <sup>51</sup>
<b>Q'ld</b>	Subject to an "overall plan" for a service or facility or activity, a "special rate or charge" may be levied on any identified land. A minimum charge may be applied.	A "utility charge" may be imposed "on any basis the Local Government considers appropriate" and may be levied "on the basis of the rateable value of the land" or the land use. <sup>52</sup>	A "utility charge" may be imposed "on any basis the Local Government considers appropriate" and may be levied on the basis of "factors peculiar to the supply of the service" to the land or structure. <sup>53</sup>	Councils may impose a tax in addition to a "cost-recovery fee" <sup>54</sup> for the issue or renewal of a licence, permit, or other specified functions.
<b>Tas</b>	No provision	A service rate may be imposed for <ul style="list-style-type: none"> <li>• nightsoil removal;</li> <li>• waste management;</li> <li>• stormwater removal;</li> <li>• fire protection;</li> <li>• any other prescribed service.<sup>55</sup></li> </ul> <p>The rate may be varied according to the same categories that the Council applies to differential rates.</p>	A service charge may be imposed "in addition to, or instead of, a service rate" <sup>56</sup> The charge may be varied according to the same factors that apply to differential rates, or by "the level of service provided."	"Fees, charges and rents" may be prescribed in Council by-laws in relation to a service, works, undertaking, property, matter or thing; <sup>57</sup>

<sup>47</sup> NSW LG Act s495

<sup>48</sup> NSW LG Act ss496, 496A, 496B and 501. Each charge is optional for the Council, except the domestic waste management charge, which must be levied on properties to which the service is provided. This means that NSW Councils cannot choose to fund waste management from general rates.

<sup>49</sup> NSW LG Act Part 10

<sup>50</sup> Vic LG Act s163

<sup>51</sup> Vic LG Act s113

<sup>52</sup> Qld LG Regs r33(2)(a) and (b)

<sup>53</sup> Qld LG Regs r33 (2) (c)

<sup>54</sup> Qld LG Act s97

<sup>55</sup> Tas LG Act ss93, 93A

	'special' rate or 'separate area' rate	service rates (i.e. ad valorem)	service charge (i.e. based on usage)	Other fees and charges
<b>SA</b>	A "separate rate" may be applied to part of a Council area and may be an ad valorem rate, a fixed charge, or based on some proportional measure or basis <sup>58</sup>	A service rate may be imposed for: <ul style="list-style-type: none"> <li>• treatment or provision of water;</li> <li>• the collection, treatment, disposal and/or recycling) of waste;</li> <li>• television retransmission</li> </ul> The rate may be varied by land use category or estimated waste water volume.	A service charge may be imposed for: <ul style="list-style-type: none"> <li>• treatment or provision of water;</li> <li>• the collection, treatment, disposal and/or recycling) of waste;</li> <li>• television retransmission</li> </ul> The charge may be varied by land use category, the nature of the service, or level of service usage.	Councils may set fees and charges for use of Council property, materials, licences etc. <sup>59</sup>
<b>WA</b>	A "specified area rate" may be imposed "within a portion" of the Council district to raise funds for "work, service or facility" for that area. <sup>60</sup>	No provision	A service charge may be imposed on owners or occupiers "to meet the cost of providing a prescribed service in relation to the land." i.e. <ul style="list-style-type: none"> <li>• TV &amp; radio rebroadcasting;</li> <li>• underground electricity;</li> <li>• property surveillance and security; and</li> <li>• water.<sup>61</sup></li> </ul>	A Local Government may impose and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed. <sup>62</sup>
<b>NT</b>	No provision	No provision	A charge may be imposed "if a Council carries out work, or provides services, for the benefit of land, or the occupiers of land, within its area" The charge need not be limited to the cost of providing the service. <sup>63</sup>	No provision

<sup>56</sup> Tas LG Act s94

<sup>57</sup> Tas LG Act s168

<sup>58</sup> SA LG Act s154

<sup>59</sup> SA LG Act s188

<sup>60</sup> WA LG Act s6.37

<sup>61</sup> WA LG Act s6.38 and WA LG Regs r54

<sup>62</sup> WA LG Act s6.16

<sup>63</sup> NT LG Act s157

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