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The principles and practice of local government in the Australian three-tiered system of government: With special reference to the roles of state and local government in New South Wales

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Abstract

This paper discusses the role of local government in the three-tiered system of government in Australia, with special reference to the roles of state and local government in New South Wales. Drawing on public finance principles, Section 2 finds that local government should be the primary provider of local public goods and services and have a substantial role in the provision of social welfare services. The following two sections are descriptive. Section 3 outlines the current nature and size of local government across Australia along with some international comparisons. Section 4 describes the legal basis and nature of local government in NSW. Section 5 introduces the major local council issues which are discussed in the following sections. These include the optimal structure of local councils, local council governance, financial and economic issues, land use planning, provision of local infrastructure, environmental services and policies, and the provision of social and community services. A constant theme is the roles of the three levels of government, with local councils subject to the regulations set by the relevant state government. Although much of the detailed analysis draws on NSW, many of the issues and findings apply nationally. The paper concludes that, notwithstanding that local government is a relatively small third tier of government in Australia, local government is an important provider of local public services of all kinds, including local infrastructure and welfare services and should be granted more autonomy.

"Local Governments comprise a vital domain of the organization of people's lives, ranging from providing fundamental services to property and to people through to their role as the third tier of Australia's federal democracy." Grant and Drew, 2017, Local Government in Australia.

Keywords: Council governance, amalgamations, performance measures, council finances, land use planning,

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1 Introduction

This paper describes and critically analyses the role of local government in Australia, with special reference to the roles of state and local government in New South Wales (NSW).

Local government is a generic term for the lowest tier of public administration within a nation. Typically, the term applies to a level of administration that is geographically localised. Generally, local governments act only within powers specifically delegated to them by law and/or directives of a higher level of government. In federal states, local government generally comprises a third or fourth tier of government, whereas in unitary states, local government usually occupies the second or third tier of government. The role of local autonomy is a key issue of public administration and governance.

Moving on, Section 2 discusses the roles of local government in a three-tier system of government, drawing on core public finance principles for the allocation of functions between different levels of government. Section 3 describes the current composition and roles of local government across Australia along with some international comparisons. Section 4 describes in more detail the functions carried out by local government in NSW. These functions have expanded significantly, especially in the provision of social services, over the last 40 years. But, as may be expected, the functions vary substantially between metropolitan and regional and rural areas. Section 5 then outlines some of the major issues in local government nationally and in NSW. A major theme of these issues, and of the paper, is the actual and desirable relationships between the three levels of government.

Turning to these issues, Section 6 discusses the highly contested issue of the most effective sizes and structures of local councils. Section 7 discusses council governance, including management (the roles of elected councillors and council staff) and performance measures. The following sections discuss financial and economic issues in local government, land use planning, the provision of infrastructure including transport and water supply, various environmental services and policies, and the provision of social and community services.

These topics include all the major issues debated in the June 2022 National General Assembly of the Australian Local Government Association (ALGA) and those declared by Local Government NSW (LGNSW) in its *Policy Platform* (2022, p.5). Of course, it is not possible to discuss every issue of concern in a 57-page monograph. But the aim is to cover the most important issues.

The concluding section summarises the main findings. As Grant and Drew (2017, p.193) observe, in the United States there have been no amalgamations of local councils and no fundamental changes to the local government system. By contrast, they observe that local government in Australia is widely regarded as having an "inferior and precarious status". A theme of this paper is that the NSW state government exerts strong controls over the local councils, treating them in large part as agencies of the state government rather than as an autonomous, democratically run, third tier of government. Not-withstanding, this paper concludes strongly that local government, in NSW and nationally, is a major provider of local public services, including infrastructure, and a major contributor to social capital and society.

2 The Roles of Local Government: Public Finance Principles

This section discusses the roles of local government within a three-tiered system of government as in Australia. As described in public finance texts, government has three main functions: overall (macro) management of the economy, the provision of goods and services that markets fail to supply efficiently or at all, and provision of social welfare via income distribution and delivery of social

services. These roles are known traditionally as the "stabilization", "allocation" and "distribution" functions of government (Musgrave, 1959).[2]

Clearly, central government along with central government agencies, such as the Reserve Bank, have responsibility for overall national economic management – essentially setting aggregate demand using fiscal and monetary policies, such as public expenditure targets, budget deficits, interest rates and so on. It would be inefficient to have two levels of government setting national fiscal and monetary policies. However, as discussed in Section 8, local councils may take a role in promoting local businesses and employment.

On the other hand, as discussed below, it is widely agreed that publicly supplied goods should be supplied by the level of government that can do so most efficiently – and this is often the level of government (local government) that is closest to users of the services.

The roles of the various levels of government in the provision of social welfare are more disputed, but we will see below that local government also has an important role here. We also highlight below the important relationship between local democracy and social capital in the community.

2.1 Allocation Role: Local Government Provision of Goods and Services

It is a widely accepted principle that provision of public goods by different levels of government should be determined by the 'principle of subsidiarity'**.** This *principle* states that public decisions should be made, and public services provided, by the smallest, and least centralized, competent authority.[3]

More formally, efficient provision of public goods and services requires that they (i) reflect variations in local conditions, (ii) satisfy household preferences and (iii) do so at least cost. Given variations in local conditions, it would be inefficient to provide the same basket of services in all areas. And, prima facie, one would expect that local government would understand preferences better and respond to individual needs with greater alacrity than more distant levels of government. That is certainly my experience from working extensively with all three levels of government. In the famous words of Montesquieu (1748), "In a small republic, the public good is more strongly felt, better known and closer to the citizen".

This general observation is supported in the economics literature by the "one-size does not fit all" *theorem of decentralization.* If preferences for public services vary and there are no economies of scale or major third-party effects, decentralized provision increases welfare by setting output to meet different types and different levels of demand (Musso, 1998). By contrast, uniform services to all provide too few services to those who want more or higher quality services and impose too much taxation on those who want fewer services.

This theorem is illustrated in Figure 1. This shows a local public good produced at constant marginal cost. The demand curves D_A and D_B show aggregate demand for the local public good in two communities, *A* and *B*. The efficient quantities would be Q_A and Q_B respectively. If a single government provided a uniform output (Q_U) to the two communities, area *A* would receive too much of the good and area *B* too little. Areas ABC and CEF respectively show the welfare gains from decentralised provision. Conversely, the losses from centralised uniform provision of services would be represented by the triangles ABC and CEF.

[2] "Stabilisation" refers to stabilising the business cycle of boom (high inflation) and bust (high unemployment).
[3] See Article 5.3 of the Treaty pf the European Union. See also http://dictionary.cambridge.org/dictionary/english/subsidiarity

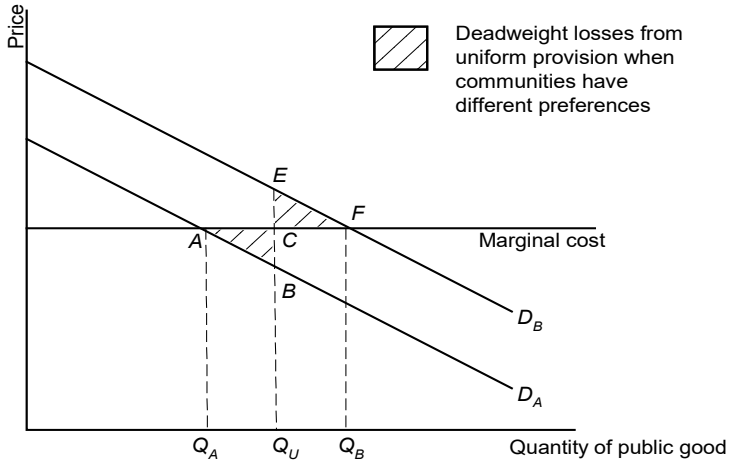

Figure 1 Deadweight losses due to uniform provision of a public good

There are two potential caveats: possible cost economies with government size and third-party effects.

Many services have scale economies at least up to some point, for example hospitals and police services, and should generally be provided by the first or second tier of government rather than by local government. It is also contended that central bureaucracies are more efficient because they can attract a more qualified workforce. They offer better careers, including greater diversity of tasks and more possibilities of promotion, and are better able to invest in research and development.

But local governments (councils) can achieve economies by sharing provision of facilities such as access to libraries or waste disposal services (see Dollery et al., 2012, for a comprehensive review). They may also contract provision of services competitively to private firms who can provide the necessary economies of scale. Thus, we strongly caution any thinking that larger agencies are always more cost-effective than smaller ones. They are often bureaucratically less efficient. These points are taken up in more detail in the discussion of the optimum size of local councils in Section 5 below, which finds little evidence that larger local councils are more cost efficient than smaller ones.

Turning to possible third-party effects, a major concern is “Nimbyism” (Not in My Back Yard): local councils may act exclusively and minimise development in their area to the detriment of the rest of the city (or state). This is principally a potential urban problem rather than a regional one but also arises in some popular coastal areas. The response here is that a planning body run by, and responsible to, the state or the city should determine appropriate, welfare maximizing, policies for the greater area, in collaboration with local government. This contentious issue is discussed in Section 9.

2.2 Distribution Role: Local Government Provision of Social Welfare

Central government has prime responsibility for provision of social welfare and distributional functions for two main reasons. First, only central government can ensure *horizontal equity* — this is the principle that like individuals should be treated in a like way across the country. Sub-central governments cannot achieve this because they have different fiscal capacities. Second, substantial sub-central attempts to redistribute income may be counterproductive. A local jurisdiction that taxes its affluent citizens heavily to redistribute extra income to its poorer citizens may end up with few affluent citizens and more poor citizens, as the rich exit and unskilled workers immigrate. This occurred in New York in the early 1970s when the world’s richest city nearly defaulted on its financial obligations as a result.

Notwithstanding the limited capacity of local government to redistribute income, many communities wish to support the more disadvantaged members of their community. This may be altruistic or reflect a view that this produces positive community benefits. Also, local communities are closer to individuals, often better at perceiving the needs of local individuals and more motivated to meet them. Here, volunteers play an important role. Volunteering is fundamentally a function of social capital and, in my experience, occurs more in local government than at higher levels of government. Thus, subject to financial constraints, local councils often have a significant role in supporting disadvantaged households in their communities.

2.3 Local Democracy and Social Capital

Effective local democracy means having some control over your local services and local environment. The Organisation for Economic Co-operation and Development (OECD, 2009. p.103) defined social capital as "the links, shared values and understandings in society that enable individuals and groups to trust each other and so work together". This paper contends that local democracy and social capital, a sense of community, are strongly linked.

In his best-selling book, *Bowling Alone*, Putnam (2000) showed that while Americans have grown more affluent, their sense of community has withered. Many cities and traditional suburbs have become anonymous places where people sleep and work and do little else. Putnam showed people were spending less time joining community groups and voluntary organisations and socialising with neighbours. In 2010, Andrew Leigh published *Disconnected*, a book describing the decline in community in Australia. Leigh found that, between the 1980s and the 2000s, Australians had fewer friends they could drop in on uninvited and fewer friends they could call on for a favour.

A major finding of the 2012 Nobel Prize winner in Economics, Elinor Ostrom (1990), was that small communities generate greater trust and social capital. And as Grant and Drew (2017, p.217) observe: "the concept of community is one that is intrinsically associated with local government".

2.4 Conclusions

Local government has a critical role to play in the provision of both local goods and services and social welfare. This view is strongly supported by Grant and Drew (2017, pp. 419-20). They conclude their discussion of the theorem of decentralization by saying: "We have now established both a moral and economic case for greater levels of government decentralization".

Local government is the natural and most efficient provider of many public goods and services. In a leading international public finance text, Rosen and Gayer (10E, 2014, p. 510) observe rather quietly that "Allowing local communities to make their own decisions very likely enhances efficiency in the provision of public goods". Indeed, it does!

As the level of government closest to local household needs, local councils also have a substantial role in the provision of local welfare services. Local government is also a bedrock of social capital and community, a critical ingredient in much individual and social welfare.

3 Local Government in Australia and Internationally

This section provides an overview of local government in Australia. In Australia, a Local Governing Authority (LGA) is generally referred to as the local council which has designated authority over a defined local area. Some urban areas are described as cities or municipalities. On the other hand, larger agricultural or rural areas are commonly described as shires or regional councils.

Sections 3.1 and 3.2 describe the history of local councils in Australia since their initiation in 1840, along with their current populations and geographic sizes. Sections 3.3 and 3.4 outline the major functions of local government in Australia and provide an overview of expenditures and revenues. Section 3.5 provides some international comparisons.

3.1 Local Councils over Time

Local government was a colonial innovation. Before 1788, traditional Aboriginal groups were unitary societies governed by councils of elders and a corporate decision-making process. After colonialization, the six colonial governments ruled initially from the major urban area. The first local governments were set up in the major city centres: in 1840 in South Australia, 1842 in NSW and Victoria, 1852 in Tasmania, and 1878 in Queensland and West Australia (Grant and Drew, 2017, p. 17). As shown in Table 1, by 1910, there were 1,067 local councils across Australia.

However, over the next 110 years, by 2021, the number of councils had nearly halved to 537 councils. Of these councils, around two-thirds are regional or rural councils. There is no separate local government in the Australian Capital Territory.

Table 1 Numbers of LGAs in Australia: 1910-2021

State / Territory	1910	1967	1982	1990	1995	2008	2012	2016	2021
NSW	324	224	175	176	177	152	152	152	128
Northern Territory	0	1	6	22	63	17	17	17	17
Queensland	164	131	134	134	125	73	73	77	77
South Australia	175	142	127	127	119	68	68	68	68
Tasmania	51	49	49	46	29	29	29	29	29
West Australia	147	144	138	138	144	142	139	139	139
Victoria	206	210	211	210	184	79	79	79	79
Total	1,067	901	840	853	841	560	557	561	537

Source: Grant and Drew (2017, Table 13, p.360) and author research for 2021.

Critically, local government in Australia is a creation of state and territory governments formalized by legislation which designates their functions, powers and responsibilities, and often also how they must carry out these functions. The founding 1901 Australian Constitution makes no reference to local government, principally because the state governments wished to retain these powers (Grant and Drew, 2017, pp. 83-5). Despite several attempts to recognise local government in the Constitution in the last 40 years, it remains unrecognized today (Grant and Drew, *ibid*., pp. 102-113).

Evidently, merging local councils into larger ones has been an ongoing national practice. Between 1910 and 2021 (September), the population of Australia increased nearly sixfold from 4.4 million to 25.7 million, while the state governments halved the number of local councils. The average local council size across Australia increased over elevenfold from 4,147 persons in 1910 to 48,556 persons in September 2021. (This figure excludes the ACT population from the total national figure quoted.) Amalgamation occurred in all states other than in Western Australia. Amalgamation was especially prominent between 1996 and 2008, when a third of the local councils across Australia were eliminated. Significant amalgamations occurred again in NSW in 2017, a story which we return to in Section 7.

As Grant and Drew (2017) report, nearly all these mergers were dictated by the relevant state government with little public consultation, and without the agreement of the local populations. Exceptions occurred in the earlier reform programs in Tasmania and South Australia which featured genuine community consultation. And, in 1999, the NSW government invited councils to participate in structural reform, resulting in eight councils amalgamating into four new councils (Armidale Dumaresq, Richmond Valley, Conargo Shire and Canada Bay). But most mergers were forced on local communities.

As described in Section 7, forced mergers were widely opposed in NSW. And, in 2015 the Western Australian government attempt to force amalgamation of several Perth councils was defeated when brought to a referendum under the Dadour provision in the WA Local Government Act (1995).

3.2 LGAs in 2021: Populations and Areas

Table 2 provides a state-based overview of LGA populations and areas in 2021. Although the national average was 48,556 persons per LGA, there are large variations across the states. Average populations range from 18,666 persons per local council in Tasmania to 84,165 persons in Victoria and over 60,000 persons in NSW and in Queensland (all states that have strongly adopted forced merger policies). A minor caveat on the Queensland average is needed as the Brisbane City Council (BCC) services a population of 1.25 million and is, by a long way, Australia's largest population LGA. Excluding BCC, the Queensland average falls to 52,121 persons per LGA, but this is still above the national average.

Table 2 Average population and land area per LGA (2021)

State / Territory	Total population[a]	No of LGAs	Population per LGA	Total area (sq.km)	Average area per LGA (sq.km)
NSW	8,188,660	128	63,974	801,000	6,257
Northern Territory	245,910	17	14,465	1,348,000	79,297
Queensland	5,211,240	77	67,808	1,729,000	22,454
South Australia	1,773,390	68	26,079	984,000	14,470
Tasmania	541,320	29	18,666	68,000	2,344
Victoria	6,649,070	79	84,165	227,000	2,873
West Australia	2,682,250	139	20,611	2,527,000	18,179
Total[b]	25,301,840	537	48,556	7,684,000	14,415

(a) Source: Australian Department of Infrastructure, Transport, Regional Development and Communications, 2022.
(b) Excludes ACT with its population of 431,610 and Other Territories with 4,700 persons.

However, these state-wide averages hide the extraordinary differences between the metropolitan and other areas. The seven capital cities in these states and the Northern Territory (NT) account for 67.0% of the population of these states and NT but for only 0.6% of the total land area across the continent!

As shown in Table 3, the 90 councils in the capital cities have an average population of 188,282 persons (falling to 176,000 persons excluding Brisbane City Council) with an average area of 533 sq. km. This represents a population density of 353 persons per sq.km in the seven cities. The average council population is especially high in Brisbane and Melbourne.

Table 3 Average population and land area per LGA in the seven capital cities (September 2021)

State / Territory	Total population[a]	No of LGAs	Population per LGA	Total area (sq.km)	Average area per LGA (sq.km)
NSW – Sydney	5,361,470	30	178,716	12,400	413
NT - Darwin	146,910	1	146,910	100	100
Qld. – Brisbane	2,582,010	5	516,402[b]	15,800	3,160
SA – Adelaide	1,378,410	19	72,548	4,300	226
Tasmania – Hobart	238,380	4	59,595	1,700	425
Victoria – Melbourne	5,096,300	15	339,753	9,900	660
WA – Perth	2,141,830	16	133,864	3,800	238
Total	16,945,380	90	188,282	48,000	533

(a) Source: Australian Department of Infrastructure, Transport, Regional Development and Communications, 2022.

(b) Excluding Brisbane City Council, the average falls to 333,000 persons per council.

Table 4 Average LGA population and land area outside capital cities (September 2021)

State / Territory	**Population outside capital city[a]**	**No of LGAs**	**Population per LGA**	**Total area (sq.km)**	**Average area per LGA (sq.km)**
NSW	2,827,190	98	28,849	789,000	8,047
Northern Territory	98,930	16	6,183	1,348,000	84,244
Queensland	2,639,230	72	36,656	1,713,000	23,794
South Australia	394,980	49	8,061	980,000	19,994
Tasmania	302,940	25	12,118	66,000	2,652
Victoria	1,552,770	64	24,262	217,000	3,392
West Australia	540,542	123	4,394	2,523,000	20,514
Total	9,334,772	447	20,883	7,636,000	17,083

(a) Source: Australian Department of Infrastructure, Transport, Regional Development and Communications, 2022.

On the other hand, as shown in Table 4, the 447 councils outside the seven capital cities have an average population of only 20,883 persons along with an average area of 17,080 sq. km. This represents a population density of 1.2 persons per sq.km. In this case, the average council population size is highest in Queensland (again) and in NSW. Excluding regional cities, the average council population density in rural and remote areas is substantially lower again.

The diversity in LGA areas and population densities represents very different lifestyles, resources and governing challenges. As the Commonwealth Department of Infrastructure, Transport, Regional Development and Communications (2022, p.2) points out, diversity extends beyond metropolitan–rural differences in size and population. "Other significant differences between councils include the: • attitudes and aspirations of local communities • fiscal position (including revenue-raising capacity),

resources and skills base • legislative frameworks, including voting rights and electoral systems for example • physical, economic, social and cultural environments and • range and scale of functions".

Of course, this diversity also occurs in NSW where there are 57 rural councils, 37 regional councils and 34 metropolitan councils (including in Newcastle and Wollongong), along with 13 Joint (Regional) Organisations and 9 County councils.[4] But it is not possible in a short paper do justice to all the different local conditions and issues that arise across the state.[5]

For completeness, we note that, in addition to the 537 LGAs nationally, there are 10 Declared Local Governing bodies, including 5 Indigenous local governments, the Outback Areas Community Development Trust in South Australia, the Local Government Association of Northern Territory, the Silverton and Tibooburra villages and Lord Howe Island in NSW. Although Declared Bodies are treated as local councils for the purposes of grant allocations and funded under the Commonwealth Financial Assistance Grant program, they are not formally local governments and have different legislative obligations.

3.3 Local Government Functions

As we have noted above, local government functions and powers are determined principally by state governments. But, as noted by Grant and Drew (2017), since 1979 local governments have had the authority, beyond ultra vires, to do anything that is not in conflict with federal or state laws.

Traditionally, local councils were responsible chiefly for the general provision of physical infrastructure such as roads, footpaths, bridges and sewerage, known colloquially as managing "roads, rates and rubbish". Following the passing of the *NSW Library Act* in 1939, which provided for councils and NSW Government to jointly fund library services, around 30 more councils offered library services in the 1940s.[6] Over the last 40 years, LGA services have gradually increased to include community facilities such local transport services, urban planning[7], and services for seniors, youth and childcare, to name just a few examples. This reflected in part social changes over the last 50 years, with large increases in elderly people living alone, divorce rates, domestic violence, women at work needing child assistance, and mental health problems. It also reflects political changes with local councils now taking responsibility for gaps in state services which they were reluctant to take on 30 or 40 years ago.[8]

Drawing on the ALGA website (*alga.com.au/facts-and-figures*) and other sources, including the NSW Auditor General reports on local government, to-day local council services include:

- Council administration (sometimes referred to as governance), including finance, corporate support, communication services, administration of public assets, and co-operation with other local councils.
- Transport services, including roads, bridges, footpaths, marinas, airports, and parking services.
- Planning and housing services including planning and development approvals, water and sewer services, street lighting, community amenities, housing accommodation, building services.

[4] NSW Auditor-General (2021), *Report on Local Government 2020*.

[5] And it should be acknowledged that the writer's 13 years' experience in local government were in Sydney.

[6] Broken Hill and the City of Sydney had provided public library services since 1906 and 1909 respectively.

[7] The council planning function already existed but was largely conducted within Engineering. It expanded in the 1970s and become firmly established with the *Environmental Planning and Assessment Act 1979*.

[8] When I was a councillor on my local Sydney council in the 1980s, the then long-serving and highly respected Mayor, Barry O'Keefe, who was also President of the NSW Local Government Association for several years, was adamant that social services were the responsibility of the State government, and not of local councils.

- Environmental services including managing public areas, drainage, waste management, street and beach maintenance, and noxious plant / insect controls.
- Recreation facilities, including parks, sports fields and stadiums, swimming pools, sport centres, halls, camping grounds and caravan parks.
- Provision of cultural facilities and services, such as libraries, art galleries and museums.
- Community services, including services for aged, families, youth, children; disabled; indigenous; migrants and other community groups.
- Health services such as water and food inspection, immunisation services, toilet facilities, noise control and meat inspection and animal control.
- Economic services, such as managing abattoirs, saleyards, industrial and real estate promotion, tourist promotion, camping areas, commercial nurseries and mineral resources.
- Public order and safety, including emergency services, beach controls and animal control services.

Typically, local councils provide over 100 different services, though these vary greatly in urban and rural areas. Councils are also responsible for drawing up regulations across all sectors (for example for building approvals, disposal of wastes, traffic parking and animals) and for compliance.

The 13 Joint Organisations formed by councils in regional NSW undertake regional strategic planning, some shared services, and collaboration with the State and Commonwealth Governments. The nine County Councils were formed for specific purposes such as to supply water, manage flood plains or to eradicate noxious weeds.

Most of these services fall under the category of local public goods and fit into the allocation function of governments described in Section 2. But many services are part of government's welfare (distribution) function.

3.4 Local Government Finance: Revenue and Expenditure and Revenue

Table 5 (next page) shows local government revenue and recurrent and capital expenditure in 2020-21 across Australia and in NSW. Proportionately, the key revenue and expenditure items are broadly similar nationally and in NSW.

These numbers are government financial statistics (GFS) prepared by the Australian Bureau of Statistics. Local government revenue includes capital grants. Current expenses include depreciation but not capital expenditure. On the other hand, capital expenditure then removes depreciation.

In 2020-21, nationally, local councils had recurrent expenses of $43.1bn, including $9.1bn of asset depreciation, and capital expenditure of $17.3bn. Total revenue, including capital and current grants was $52.8bn.

Under the GFS accounting system, to estimate the overall financial outcome, depreciation is taken off the books and an overall positive (net lending) result of $2.0bn is shown in Table 5. However, depreciation is a real cost, albeit difficult to measure. Including depreciation, in 2020-21, local government ran at a loss of $7.0bn in real terms.

In 2020-21, local councils raised 83% of their revenue from own sources, principally from taxation on land values (rates) and various user charges. However, to put this into perspective, local government rates make up just 3.4% of the total tax raised by all levels of government.

Table 5 Local Government Revenue and Expenditure 2020-21 ($m)

	Total ($m)	%	NSW ($m)	%
GFS Revenue				
Taxation (rates – land tax)	20,089	28	5,193	29
Sales of goods and services	13,491	26	5,219	29
Interest income	436	1	198	1
Other revenue[a]	9,678	18	4,148	23
Total own source revenue	*43,694*	*83*	*14,758*	*82*
Current grants	6,281	12	2,742	15
Capital grants	2,816	5	567	3
Total grants	*9,097*	*17*	*3,309*	*18*
Total GFS revenue	**52,791**	100	**18,067**	100
GFS Current Expenses				
Employee expenses[b]	15,351	36	4,864	37
Non-employee expenses	16,102	37	4,720	36
Depreciation	9,094	21	2,977	23
Other expenses[c]	2,561	6	476	4
Total GFS expenses	**43,108**	100	**13,008**	100
GFS Net operating balance	**9,863**		**5,059**	
Less Net Acquisition of Non-financial assets				
Gross fixed capital expenditure	17,333		6,140	
Other transactions in assets	-605		114	
Less depreciation	-9,094		-2,185	
Less changes in inventories	3		-8	
Total net acquisition	**7,637**		**3,590**	
GFS Net lending (+) / borrowing (-)	**+2,046**		**+1,469**	

(a) Other revenue includes investment income, income from public enterprise and fines.
(b) Includes superannuation.
(c) Includes interest expenses and other capital and current transfer expenses.

Source: ABS, 5512.0, *Government Finance Statistics*, 2020-21. Tables 331 and 339.

Grants and subsidies from the Australian and state/territory governments accounted for 17% of total local government revenue. The Australian Government provides untied Local Government Financial Assistance Grants for distribution to local government via state grants commissions. These Grants have two components: General Purpose Component and the Local Roads Component.

Councils also receive funding under various Australian Government programs, such as the Roads to Recovery program, Road Safety Black Spot program, and the Bridges Renewal Program. However, councils have very differing abilities to raise revenue. For some rural and remote councils with limited own-source revenue raising capacity, grants account for over 50% of their revenue.

Australian local governments are sometimes described as 'asset rich and income poor'. In 2020-21, the total value LGA assets was $548 bn. compared with estimated liabilities of $20 bn. (ABS, 5512.0) and an annuals income of a little over $40 bn. The assets included building and structures ($358 bn.), land ($132 bn.) and financial assets ($47 bn.). Fixed assets include the local road network (more than half the national total stock by value), bridges, regional airports that it manages and maintains, ports, stormwater and drainage systems, swimming pools, parks and community centres and waste management facilities.

Table 6 shows local government current expenditure by major sector as per ABS expenditure categories, nationally and in NSW, from highest to lowest expenditure group. These figures include depreciation but exclude capital expenditures.[9] In 2020-21, total local government current expenditure in Australia ($43.1 bn) was just under 6% of total government expenditure across all levels of government and around 2% of gross domestic product (GDP). In line broadly with its population ratio, local government in NSW made up just over 30% of total local government expenditure.

Table 6 Local Government Expenditure 2020-21 ($m)

Expenditure category	Total ($m)	%	NSW ($m)	%
Transport	10,299	24	2,298	18
General public services / administration	9,585	22	3,195	25
Recreational, culture and religion	6,848	16	1,897	15
Environmental protection / services	6,420	15	2,655	20
Housing and community amenities	4,155	10	1,176	9
Economic affairs	2,016	5	693	5
Social protection	1,859	4	426	3
Public order and safety	1,160	3	477	4
Health services	550	1	87	1
Education	266	1	101	1
Total	43,108		13,008	

Source: ABS, 5512.0, *Government Finance Statistics*, 2020-21. Tables 331 and 339.

The major expenditure categories are transport, general public services (administration), recreation and cultural services, and environmental services. These categories are defined in *Australian Government Finance Statistics 2015 (AGFS15) Concepts, Sources and Methods,* Appendix 1 – Part C.

[9] Government Financial Statistics (GFS) expenses are broadly defined as transactions that decrease net worth.

Thus, environment includes wastewater management. Housing and Community Amenities include water supply. Of course, expenditure allocations differ substantially between metropolitan and regional and rural councils. Notably, Councils/Local Water Utilities provide water supplies outside the areas served by Sydney and Hunter Water creating a significant difference between councils.

Reflecting the service nature of local government, at June 2021 local government nationally employed 194,000 people, which was nearly 10% of the total public sector employment. In rural areas, local government is often a major local employer.

3.5 Local Government Internationally

As we have noted, some countries are unitary states with two levels of government. Others are federations with usually three levels of government. Clearly, local government is usually smaller in three-tier government countries, and these provide the more relevant comparisons.

By international standards, Australian local councils have large populations. Drawing on Callanan et al. (2014), among 22 "Western" countries in Europe, North America and Australasia, local governments serve larger populations only in the UK, Ireland, Denmark and New Zealand — all two-tier governing systems. On the other hand, the average population per local authority was well below that in Australia: in the Netherlands (37,000 persons), Sweden (32,500), Canada (9,000), Germany (6,500), the United States (4,500) and France (only 1,500). Also, in terms of land area, Australian local governments are far larger than local governments in all these countries.

The OECD Report (2016) on sub-national governments (SNGs) provides a richer tapestry of SNGs in 101 countries around the world. Of these countries, 31 were 2-tier with one SNG level (municipal), 47 were 3-tier with two SNG levels (regional/federated state and municipal levels), and 23 had three SNG layers with an intermediate level between regional or federated state and municipal levels. In some countries, the SNG system is even more complex, with additional sub-categories within the same layer, such as in China, or in the UK where the second-tier counties contain both boroughs and parishes.

The OECD (*ibid*., p.18) reports that, in 2014, the average size of municipalities in the three-tiered government countries was 21,000 persons, compared with over 60,000 in two-tier SNG countries. The average municipal population was under 9,000 in the three-tier systems in North America and under 25,000 in Europe compared with nearly 100,000 in the Asia Pacific and over 100,00 in Africa. But the report notes that where municipalities are large, there is often a well-developed network of sub-municipal entities, such as villages, civil parishes, communities and wards, that support local governments in service delivery and other functions. In any case, the average municipal population in Australia is clearly large relative to comparable government countries.

As the OECD notes (*ibid*. p.15), in a 3-tier system of government, local government responsibilities are generally defined by state constitutions and/or laws, and they differ from one state to another. Laws can also define whether a subnational responsibility is an exclusive local function, a delegated task on behalf of the central government or a shared responsibility with another level of government. As a result, "the breakdown of competences between central/federal government and SNGs as well as across SNG levels is particularly complex in many countries, leading sometimes to competing and overlapping competences and a lack of visibility and accountability concerning public policies".

The OECD (*ibid*., p.16) also notes that municipal authorities run a wide range of community services including: • Education (nursery schools, pre-elementary and primary education) • Urban planning & management • Local utility networks (water, sewerage, waste, hygiene, etc.) • Local roads and city public transport • Social affairs (support for families and children, elderly, disabled, poverty, social

benefits, etc.) • Primary and preventive healthcare • Recreation (sport) and culture • Public order and safety (municipal police, fire brigades) • Local economic development, tourism, trade fairs • Environment (green areas) • Social housing • Administrative and permit services.

As we have seen, Australian local councils provide many of these services, but not generally education services, policing or fire services, or major health services.

In almost any society, there are enduring issues regarding the efficiency of services, including potential scale economies, and hence the preferred size of municipal areas, and the role of inter-municipal and sub-government co-operation. In response, some countries, including Australia, have focused on amalgamations whereas others have tended to create new municipalities, reflecting more decentralisation, proximity and accountability towards citizens.

But, as Grant and Drew (2017, pp. 183-184) observe, in Australia, local governments are everywhere the creation of State government legislation and "local governments overwhelmingly serve at the pleasure of the state legislatures". We turn to this issue in the NSW context in the next section.

4 Local government in NSW

This section describes the over-arching NSW state legislation for local councils, the controls of local councils, and key issues for further discussion.

4.1 NSW Local Government Act 1993

In NSW, local government is regulated by the *NSW Local Government Act 1993 (*the *Act),* which replaced the long-lived *Local Government Act* 1919*.* The *Act* is a lengthy and detailed document running to 873 pages. It describes mandated services, as well as those that may be provided, and the means to achieve them.[10]

As laid out in the *Act*, council functions in NSW are extraordinarily wide-ranging. As outlined in Chapter 5 of the *Act*, local government services include community health and recreation, education and information services, environmental protection, waste removal and disposal, management of land and property, industry and tourism development and assistance. Chapters 6 and 7 lay down further functions, including development approvals and building certificates, regulating signage and regulating uses of public and community land. Chapter 8 describes various ancillary functions required to carry out these service and regulatory functions. Further chapters describe the administrative, revenue and other functions relating to enforcement of the *Act*.

Local governments in NSW also have numerous further functions under 17 other NSW Government *Acts (*See Chapter 5, Section 22 of the *Act*). These functions include, *inter alia*, urban planning (as mentioned, under the EP&A Act), library services, managing local traffic (subject to agreement with Police and with Roads and Maritime Services), animal management, signage, inspections of food premises, and regulating backyard swimming pools.

Further, under the 1993 *Act* (Chapter 6, section 24), councils have open-ended civic duties. "A council may provide goods, services and facilities, and carry out activities, appropriate to the current and future needs within its local community and of the wider public, subject to this Act, the regulations and any other law". As Grant and Drew (2017, Chapter 5) observe, legislation in most Australian states empowers local government to do whatever is necessary for the wellbeing of the local population, as long as it is not contrary to state/territory law.

[10] The 1993 *Act* is revised regularly. The references in this paper are taken from the *Act* as at 17 May 2022.

4.2 Mandatory Council Operations

The *Act* (Chapter 13) also prescribes several mandatory council operations and related reports to the NSW Government under the *Integrated Planning and Reporting Guidelines.* They include the following actions and reporting requirements to the Office of Local Government (OLG).

A Community Strategic Plan (CSP) lays the foundation. Each council must have a CSP that identifies the main priorities and aspirations for the future of the local government area covering at least 10 years. This is intended to be integrated with other State and regional plans. When developing the *CSP*, each council must implement a "community engagement strategy".

A 10-year Resourcing Strategy must identify and provide the resources required to implement the CSP.

A 4-year *Delivery Program* details the principal activities to be undertaken to implement the strategies established by the CSP.

An Operational Plan before the start of each financial year must detail the activities during the year as part of the delivery program, including council's revenue policy for the year.

Auditing includes a detailed annual audit, with the NSW Auditor-General (AG) the auditor for a council.

The *Act* (Section 406) also authorizes the OLG to set requirements and matters that must be included in the preparation, development or review of plans, strategies, programs and reports.

Further reports to other state agencies include a four-yearly state of the environment report, an annual planning report to the Department of Planning and Environment, and reports on use of library services for NSW Arts and Culture and on road repairs for the NSW Roads and Maritime Services.

Two other mandates should be noted: the *Model Codes* for council meetings and the code of conduct for councillors.

Under the *Model Code of Meeting Practice (*section 360 of the *Local Government Act 1993*), councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Act. The *Act* (Chapter 12) requires that all council meetings (excepting major commercial-in-confidence matters) are open to the public. This is most desirable, albeit in marked contrast to much secretive state government decision-making processes. Councils must give notice to the public of the times and places of its meetings, including committee meetings of all councillors. Copies of business papers for the meetings must be available for the public at council offices and at each meeting. Councils are also required to webcast meetings of the council and committees of which all members are councillors.

The *Model Code of Meeting Practice* model also sets out procedures for council meetings, in effect to operate like parliamentary debates rather than as decision-making cabinet meetings. Key features of the *Code* are that, for any agenda item, a councillor must move a motion (or an amendment) for debate, and councillors can make only one speech on a motion or on an amendment other than the mover who has right of reply. This is a sterile way to discuss often complex issues and to develop and reach decisions. In my experience, under this formal process, councillors make speeches at other councillors; they do not talk to each other. This makes obtaining sensible modifications and compromises difficult. Of course, council can resolve to move into a full committee of council where discussion can be informal and constructive. But this tends to produce repetition: issues are discussed first in full committee and then councillors repeat their views in speeches in the formal Council meeting that follows. Doubtless many councils work around these regulations. Preferably the *Code of*

Meeting Practice would be revised to be more in line with corporate board meetings but would still be public meetings.

Turning to councillor conduct, councils are required to adopt a *Code of Conduct* manual that incorporates the 24 provisions of the *Model Code of Conduct* prepared by the state government. A council *Code of Conduct* may also contain supplementary provisions and run to over 50 pages. Breaches of the Code are referred for consideration and action to the General Manager, not to the Mayor. To provide some context, the NSW Government also has a detailed *Code of Ethics and Conduct for NSW Government Sector Employees* (the *Government Sector Employment Act, GSE*). This *Code* mandates requirements and best practice conduct for all state government employees and agencies and specifies actions to be taken if there are breaches of the *Code*. Given this, the *Model Code of Conduct* for local councils is not exceptional. However, it is indicative of the subservient nature of local councils and councillors. And, in my experience, accusations of breaches of the Code of Conduct are sometimes made for political, even malicious, purposes.

Many further micro-management controls over local councils are discussed in the following sections.

5 Critical Local Government Issues

The multiplicity and diversity of council functions constitutes major management and financial challenges, especially for more revenue-constrained councils.

An enduring and over-riding issue is the roles of the state and local government in local policies and the provision of local services. As Grant and Drew (2017) point out, the relationships between state and local governments are the most pervasive intergovernmental links in Australia. But the relationships between state and local governments are often fraught with conflict. This is certainly the case in NSW where the 1993 *Act* set up established numerous top-down duties and obligations for local councils to meet.

This raises two underlying issues. A technical issue: which level of government is better equipped to deal with specific issues? And a democratic issue: should local communities have rights to decide for themselves?

Here we foreshadow the major issues taken up in this paper, many of which involve state / local government relations.

Section 6 discusses the core structural issues of local government. Critically, what is the optimal, or less ambitiously, the preferred (population) size for local councils? We also discuss related issues of local area wards, the number of councillors, and the election process for Mayor.

Section 7 discusses local council governance including council management, the roles of councillors and council staff, and performance measures.

Section 8 turns to financial and economic matters. Financial issues include inter-government financial support, local council rates, and measures of financial performance. The discussion of economic development focuses on the role of local councils in the local economy.

Section 9 discusses land use planning and regulation. This is a classic area of state versus local council interests and several such issues are discussed.

Section 10 discusses the provision and management local infrastructure. This includes a wide array of assets. As we have seen, transport constitutes around a fifth of local council operating expenditure in Australia. Transport management includes regulating vehicle use of streets, speed limits, and parking.

Other key local infrastructure includes private property services, such as drainage, water and sewerage services, provision of public buildings, and recreational facilities.

Section 11 discusses environmental services and policies. This includes a variety of services, including waste management, fire and flood mitigation services, urban amenity, management of bushland and parks, local public health, bio security, energy efficiency and climate change.

Section 12 discusses delivery of social and community services. Many councils provide a wide range of social services, including home support (meals and reading material) for housebound residents, provision of disability access, social activities for seniors, community transport services and many youth and child-care services. These are critical local services but generally a less contentious area between the state and local government.[11]

It may be noted these issues include five local government priority areas set out in the Australian Local Government Association *Strategic Plan* (ALGA, 2022a) namely: Financial Sustainability, Roads and Infrastructure Funding, Waste Reduction and Recycling, Stronger Community Resilience, and Addressing the Risks of Climate Change.

They also reflect the dominant issues raised by local councils in the ALGA National Conference in June 2022. The Conference agenda included 20 council motions directly on Finance and numerous other motions concerned with finance in one way or another, 24 motions on transport and another 10 on other infrastructure, 23 motions on energy, 19 on climate change, 14 on the circular economy and waste, 13 on natural disasters, 19 on affordable and social housing, and 11 on health and ageing services. As well as financial needs, a theme of many of these motions was a call for constructive inter-government discussion and cooperation on the problems to be addressed.

The issues discussed below also address the seven major principles set out in the NSW Local Government Association *Policy Platform (LGNSW, 2022,* p.5).

Economic issues: "Local government must have control of its revenue raising and investment decisions and be fairly funded by the Commonwealth and State/NSW Governments to meet its infrastructure and service responsibilities."

Infrastructure: "Local government is best placed to plan for, deliver and manage essential local infrastructure."

Planning: "Local government is best placed to lead and influence local and regional planning processes according to the needs and expectations of local communities."

Environment: "Local government actions reflect Ecologically Sustainable Development. ESD requires the effective integration of economic, environmental and social considerations in decision making processes."

Social and Community: "Local government is committed to the principles of: • Equity – fair distribution of resources • Rights – equality for all people • Access – to services essential to quality of life • Participation – of all people in their community."

[11] There is inevitably overlap between these various subjects. Financial needs arise with many of the issues discussed. There is an overlap between economic development and infrastructure that is noted in the paper. In the Government Financial Statistics (GFS), water supply is included under housing and community amenities. In this paper, water supply is addressed (briefly) under infrastructure. On the other hand, in the GFS and in this paper, wastewater management comes under environment.

Governance: a commitment to the principles of good governance.

Accountability: Local government is responsible and accountable to the citizens and the communities it represents, through consultative processes, efficient delivery of services and effective customer service.

On the other hand, two important omissions in this paper should be noted.

One, ALGA and LGNSW have argued for many years that local government should be recognised in the National Constitution. This would enable it to have an equal footing with other levels of government, be part of a National Cabinet, and have access to a fair share of tax revenue (ALGA, 2022b, *Initial Submission to Productivity Inquiry*). Several motions at the 2022 National Conference called for Constitutional recognition, including an amendment to S.96 of the Constitution, that would, *inter alia*, allow Commonwealth funding direct to local government instead of via third parties (the states).

The second issue relates to indigenous community issues and "Closing the Gap". Several motions at the ALGA 2022 General Conference referred to the lack of services in indigenous communities and called for more recognition of the unique place of Aboriginal people and the right of Aboriginal people to be involved in all decisions affecting Aboriginal communities.

This paper is supportive of both causes. But these are out of scope of this paper as we have no special knowledge of these issues to add to the existing debate.

6 The Structure of Local Councils

In this review of the structure of local councils, Section 6.1 discusses local council size. Section 6.2 discusses three further issues relating to council structure: the role of wards, the number of councillors, and the election of mayors.

6.1 Local Council Size

In this review, I discuss four major criteria relating to optimum local council size.

1. Possessing adequate strategic capacity
2. Economic efficiency, sometimes described as financial capacity
3. Provision of preferred local services
4. Local democracy and social capital.

The concept of strategic capacity has had special prominence in the last 10 years in NSW. The other three criteria are classic criteria in public economics literature.

Strategic Capacity: As proposed by the Independent Local Government Review Panel (ILGRP 2013, p. 15), strategic capacity ensures that "local government has the right structures, governance models, skills and resources to discharge its responsibilities and realise its potential".

There are essentially two major rationales for strategic capacity. One is the capacity to work cooperatively with the state government on metropolitan and regional planning and provision of transport and housing infrastructure. A major motivator of the NSW government's 2014-17 merger policy was the desire to address problems of high house prices by facilitating housing development. And some state government agencies, notably Transport, find that dealing with large numbers of councils is time consuming and resource intensive. Justifying the recommendations of the ILGRP that local councils should be amalgamated into units of at least 200,000 people, the Chair, Graham Sansom, (2015, p.65) stated that "The ILGRP's concerns were with the effectiveness of local government as an

arm of metropolitan governance". In the reported words of the then NSW Premier, "It is impossible to run the State with so many local councils".[12]

The second rationale for larger local councils (as cited by ILGRP, *ibid*., p 32) is stronger performance including: • More robust revenue base • Scope to undertake new functions and major projects • Ability to employ more skilled staff • Knowledge, creativity and innovation • Advanced skills in strategic planning and policy development • Effective regional collaboration • Resources to cope with complex and unexpected change • High quality political and managerial leadership. Drawing on these abstract arguments, the NSW Government instructed the NSW Independent Planning and Regulatory Tribunal (IPART, 2014) to view councils with fewer than 200,000 persons as lacking critical strategic capacity. Rather surprisingly, in its review of council capabilities, IPART (2015) simply adopted this criterion without question or providing any justification for it.

Most of these issues are discussed at various points below. The next sub-section examines (and dismisses) the claimed economies of scale. Later sections in the paper discuss state planning and housing, infrastructure, and environmental issues where both state and local government have interests.

But critically, most of the claims for strategic capacity are weakly defined and have not been substantiated. Thus, Grant and Drew (2017, p. 358) concluded: "Strategic capacity is a new approach which deviates from empirically testable claims; instead, it uses qualitative and somewhat dubious arguments to progress the 'bigger is better dictum' so cherished by forced amalgamation advocates."

Scale economies and cost savings The key claim here is that larger councils produce cost savings in various ways, by economies of scale or by drawing on some of the claims made above. This is typically assumed to occur with administration overheads and backroom operations, such as rate collections and IT services.

On the other hand, potential technical disadvantages of small scale can be responded to, at least to some extent, by shared council service arrangements and competitive out-sourcing of service provision. Examples include shared council services such as waste collection, libraries and back-office IT services. And, as noted above, 13 Joint Organisations in regional NSW undertake strategic planning and share services with the State and Commonwealth governments. And nine county councils combine for specific purposes such as water supply, flood plain management and eradication of noxious weeds.

Importantly, also, there may be significant costs (diseconomies) associated with large bureaucracies with unclear metrics, coordination problems, duplication of effort and reduced motivation and transparency. There is large literature on the costs of larger bureaucracies (Parkinson, 1958; Niskanen, 1994). In larger organisations, they argue, internal contracts are less precisely defined and costs are often less clear. Also, behavioural economics indicates that the key to productivity is "Intrinsic Motivation". As Frey (2015, p.172) wrote: "many people intrinsically interested in the work they do have been demotivated by bureaucratic interferences".[13]

[12] Then Premier, Gladys Brejekelian, reportedly made this remark in a local Liberal Party meeting in Willoughby.

[13] I asked one of our managers in the small Mosman Council, who had worked previously in a very large local council in Sydney, how he compared working in the two councils. He replied: "In x, 20 per cent of my time was productive and 80% was spent in dealing with the rest of council; in Mosman 80% of my time is productive".

However, the key message that emerges from this discussion of possible benefits and costs of council size is that we must look at the *evidence* on costs and council size rather than rely on high level, generic, assertions about possible economies or diseconomies of scale.

There is little evidence of economies of scale in local councils. The ILGRP (*ibid*.) provided **no** evidence for its claims. IPART (2014) attempted to rectify this omission by citing a significant inverse correlation between population size and expenditure per capita. IPART (*ibid.* p.39) reported that "around 30% of the variation in opex per head amongst the councils of Greater Sydney is inversely associated with their population and that opex per head is lower the larger the population of the LGA". However, this finding **failed fatally** to account for the substantial inverse correlation (of –0.49) between local council population size and income per capita. Abelson and Joyeux (2015) showed that local council expenditure per capita is largely explained by average income per capita and a dummy variable for major business centres. After these factors are allowed for, there was no evidence for economies of scale in larger local councils in Sydney.

Drawing on the NSW TCorp (2013) financial report on councils and 2011 Census income data, financial weakness was clearly a function of income, not size. The average taxable income of the 30 council areas in metropolitan Sydney deemed by NSW TCorp to have a moderate or strong financial outlook was $61,237. On the other hand, the average taxable income of the seven council areas deemed to have a financially weak outlook was $42,366. No area with an average taxable income of over $48,000 (in 2012 $s) had a projected weak financial outlook.

In putting out its council merger proposals, the NSW Government cited KPMG "independent" advice on the financial impacts. KPMG (2016) reported, inter alia, that they assumed 3% saving on 80% of expenditure on materials and contracts, 7.4% overall staffing efficiencies in metropolitan areas but none in rural areas, and various savings in information, communications and technology investments. These savings were partly offset by some assumed merger transition costs. Typically, the KPMG projections produced net savings of about 2.5% of expenditures over some 30 years.

Apart from minimalist nature of the forecast outcome, there were several problems with these estimates. First, as revealed in KPMG (2015), these assumptions were based largely on *forecasts* of savings in reports on earlier amalgamation proposals in Queensland and Auckland.[14] Second, KPMG assumed that if the savings were technically achievable by a merged entity, they would occur. This assumes away bureaucratic risk. Third, the analysis did not account for some key costs such as a major new head office or the integration of different workforce systems, for example where one council provides most services in house and another one outsources significant services. Nor did it account for the inconvenience and travel time costs that mergers would impose on residents.

In contrast to the lack of evidence on scale economies in local councils, Dollery et al. (2012) provided extensive evidence in Australia and internationally that forced amalgamations had not produced any cost savings. They concluded that "anyone who still believes that compulsory council amalgamation leads to financial sustainability in local government, lower costs or scale economies, has not acquainted themselves with the vast empirical literature on amalgamation". In a further review, Dollery et al. (2013) cited 15 international studies from the United States, Canada and Europe all of which throw doubt on claimed economies of consolidated local councils. They also examined eight Australian inquiries into the financial sustainability of local councils over the past decade and found (p.215) that "with one exception, these inquiries are sceptical of the ability of forced amalgamation to improve local authority financial viability".

[14] The KPMG (2015) report became available only in 2016 in legal proceedings against the proposed mergers.

Most relevantly, Drew *et al*. (2021) conducted a rigorous ex-post analysis (using a difference in difference methodology) of expenditures by the 43 councils amalgamated in NSW in May 2016. They found (p.11): "Our results 4 years after the event show increases to amalgamated local government unit costs in the order of 11%. This result is concerning because the amalgamation proposals predicted that costs would be fully recovered, and savings realized, after only 3 years (KPMG in NSW Government, 2015). Moreover, our findings are consistent with actual events in the sector, such as the financial collapse of the Central Coast Council and the large tax increases approved at the Cootamundra–Gundagai Council and other amalgamated local governments." And on p.13 they write: "In sum, our empirical analyses examining 4 full years subsequent to the forced amalgamations clearly indicate that the public policy interventions have – at least to date – made local governments less 'fit for the future'. Given the significant and persistent increases to unit costs, it is reasonable to expect that matters will deteriorate even further in future years unless remedial interventions occur."

Provision of desired local services: apart from financial capacity discussed above, the delivery of desired local services depends on three main factors: (i) understanding local needs (ii) the motivation to meet local needs and (iii) the ability to deliver services. Clearly (i) and (ii) are most likely to be achieved in smaller communities with more personal interactions of various kinds between local residents, elected representatives and council officers. The capacity to deliver services (iii) is a function of clearly defined tasks and delegations for council staff. It is also a function of volunteer services. In many areas, volunteers play a key role in supplementing service delivery. These services are generally greater in small communities where potential volunteers feel more connected with their 'local' community and therefore more motivated to contribute.[15]

In small local government areas, citizens are represented by councillors, all or most of whom have extensive local knowledge, emotional connection and availability. Substantially reducing representation per head of population significantly weakens accountability and hence service levels. This was a major concern expressed in resident submissions to the NSW Government's merger proposals.[16]

As it happens, 40 years ago I ran a survey of service standards across Sydney local councils, as measured by the quantity of then-standard means of communications (including face-to-face meetings, letters and telephone calls) between local residents and elected councillors. Using these metrics, Abelson (1981) showed that residents in small local government areas in Sydney received much higher levels of service from their elected councillors than did residents in larger areas.

More recently, a national survey by the Australian Centre in Excellence in Local Government (Ryan et al., 2015) found that 48% of respondents expected that their interests would be worse, or much worse, represented by councillors in an amalgamated council and only 7% expected an improvement in representation, with the balance having no view either way. Regarding actual council services, 36% expected that local services would be worse or much worse and only 7% expected an improvement in service, again with the balance having no view either way.

[15] I do not have a formal reference for this. However, in 2013, the then general manager of my council provided me with the numbers of volunteers in councils in the Northern Sydney region which supported this view.

[16] One of the three members of the ILGRP panel was the CEO of the Brisbane City Council (BCC, with over a million residents). By chance, I met a senior officer of the BCC after he left the position and I asked him, did your CEO ever talk to the voters. "Good heavens no" he replied: "He / she did not even talk to the senior officers".

Effective Local Democracy and Social Capital: Effective local democracy means having some control over your local services and local environment. As defined by the OECD (2009, p.103), social capital is "the links, shared values and understandings in society that enable individuals and groups to trust each other and so work together".

As discussed in Section 2, most people want some empowerment over their own lives, their local services, and their local environment. A larger council does not reduce the amount of government that people experience. Instead by disempowering citizens, it increases the sense of being governed. In *The Art of Belonging*, leading Australian social analyst, Hugh Mackay (2014, p.1), wrote: "We rely on communities to support and sustain us and, if those communities are to survive and prosper we must engage with them and nurture them". Ryan et al. (2015) found that Australians overwhelmingly (93%) want to be involved with government in making decisions about what services are delivered in their local area.

If a well-informed community expresses a preference for a smaller local governance model, this would generally indicate that they believe they were getting better value for money from that model. Grant and Drew (2017, p. 376) concur: "The final and critical strategy … of boundary reform is for the state government to facilitate an informed referendum of affected residents". This did not occur in the NSW Government attempt to merge councils between 2014 and 2017.

In conclusion, experience and research indicates that most local communities oppose (often strongly) being merged into larger councils and feel that they are better served in smaller governing bodies. Neither strategic capacity nor financial savings provide substantive support for larger local councils.

In this same vein, the NSWLGA *Policy Platform* (2022, Item 16.1) advocates for the NSW Government "to legislate to prevent the forced amalgamation of councils or significant boundary alteration without the support of a plebiscite."

6.2 Council Structure

We now turn briefly to three further issues: the role of wards in local council areas, the number of councillors, and the election of mayors by councillors or by popular election. As far as I am aware, there has been little published research on these matters. I therefore draw on my own (unusual) experience to make a few observations. As it happens, I have worked as a councillor in councils both with and without wards, in councils with 12, and with 7, councillors, and I have been elected mayor by the councillors (in the mid-1980s) and by public vote (in 2012).[17]

At this time of writing, councils in NSW are commonly single areas without wards. Of the 128 councils, 78 are single areas and 50 councils have wards (https://www.talleyroom.com.au).

Consistent with the arguments put above for smaller council size, my strong experience is that ward representation significantly increases connections between the council (notably the councillors) and the public and motivates councillors to be more involved in council work. In the words of the *NSW Local Government Act* (Section 232) a key role of a councillor is to "facilitate communication between the community and the council". Another advantage of wards is that smaller areas significantly reduce the election cost of running for council. This enables more people to run for council, reduces the need to run for election as part of a party or group, and helps to provide a well-balanced council.

[17] Following a public referendum at the 2008 council elections, Mosman Council introduced popular election of Mayor in 2012. And following a council resolution in 2010, Mosman Council abolished wards starting in the 2012 election with Ministerial approval - against majority public opinion and without a referendum.

A potential counter argument is that wards create more council spending. Drew and Dollery (2016) found evidence in Victoria for an increase in unit cost of approximately 3.4% for every additional ward, holding other factors constant. This is consistent with the greater involvement of councillors representing wards and I am aware from my experience that ward representation did create some spending pressures. However, this is not necessarily a poor outcome, and, in my experience, spending pressures were largely kept in check by transparent (sometimes heated!) councillor debates on expenditures.

Regarding the number of councillors, I am not aware of any research on the effects of more, or less, councillors. As discussed in the next section, the NSW *Act* 1993 substantially reduced the powers and duties of councillors in NSW, implying, in the state's view, that fewer councillors are needed. There is a delicate trade-off here. More councillors may create undue bureaucracy and inefficient meetings.[18] On the other hand, too few councillors weaken communications between local citizens and council.

Turning to the election of mayors, in most councils (93) in NSW, the councillors elect mayors bi-annually (as per s.230 in the *1993 Local Government Act*). Only 35 councils have adopted popular election of mayor (following local referendums). In 2021, three councils in NSW (Dungog, Shellharbour and Wollondilly) switched to popular election after a referendum at the 2017 election. On the other hand, after a 2017 referendum, North Sydney moved away from a direct mayoral election in 2021. Nearly all the popular election councils in NSW are in Sydney or in a coastal council.[19]

The issues seem evenly balanced. Residents often vote in a referendum for a popularly elected mayor, preferring to have a voice in this important position. On the other hand, if a popularly elected mayor does not have the general support of the majority of councillors, the council can become dysfunctional as arguably occurred in North Sydney between 2012 and 2017 that led to the referendum in 2017. There does not seem to be an obvious best case here.[20]

7 Local Council Governance: Management and Performance

Turning to governance, how should local councils be managed? What are the roles of councillors and staff (and the state government) in managing local councils? And how should performance be measured? Section 7.1 discusses council management. Section 7.2 discusses performance.

7.1 Local Council Management: Roles of Councillors, General Manager and Council Staff

The *NSW Local Government Act 1993* lays out the formal responsibilities of councillors and staff as they are to-day. According to a major author of the *Act*, the *Act* was designed both to reflect the Principles of New Public Management (NPM) and to set up local councils broadly along the lines of private corporate businesses.[21] Under NPM principles, elected councillors determine council strategy, policies and appropriate resourcing and move away from day-to-day management. Council officers are responsible for carrying out these policies and for provision of all services. Grant and Drew (2017, p.296) describe this separation of powers as a political / administration divide. But, as they discuss

[18] I am aware that some General Managers regard councillors as a nuisance who create unnecessary extra work and believe that they can run council more efficiently if they deal with (manage) fewer councillors.

[19] Mapping the NSW mayoral elections | The Tally Room.

[20] Aware that, to be effective, a mayor needs councillor support, I voted against popular election of mayor in my local (Mosman Council) referendum in 2008 that supported popular election and led to my election as Mayor in 2012.

[21] As advised by John Mant, a lawyer, who was heavily involved in drafting the 1993 *Act* and who later served as a councillor on the Sydney City Council.

(Chapter 8), the actual local government system is more of a hybrid and there are several grey areas on the precise roles of councillors and staff.

Clause 25 of the *Act* sets out the role of the mayor. The responsibilities include acting as the principal member and spokesperson of the governing body; promoting effective implementation of the strategic plans, programs and policies of the council; providing strategic direction to the general manager in relation to implementing the strategic plans and policies of the council; and in conjunction with the general manager, ensuring adequate means of engagement between the council and the local community. As Grant and Drew note, these roles would seem to go some way beyond those of a Chair of a corporate entity and to imply some operational role for the mayor. But critically the 1993 *Act* stripped the mayor of his/her traditional CEO role, separating political leadership from the administration of local councils.[22]

Under the current legislation in NSW the role of the Mayor is limited to 'exercising, in cases of necessity, the policy-making functions of the governing body of the council; to exercise such other functions as the council determines; to preside at meeting of the council and to carry out the civic and ceremonial functions of the mayoral office' (Section 226, *Local Government Act 1993,* NSW).

The role of a councillor, under Section 232 of the *Act,* is more limited. It includes being an active member of the governing body; making well-informed decisions as a member of the governing body; participating in development of the integrated planning and reporting framework; representing the collective interests of residents and the local community and facilitating communication between the local community and the governing body. But, critically, under changes to the *Act* in 2016, it critically now includes: "A councillor is *accountable* to the local community for the performance of the council" (italics added).

Turning to the role of the General Manager (GM), under Section 335, the GM must conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council. The GM has the responsibility and power to direct, select and dismiss staff, except for appointment and dismissal of a few senior staff when the GM must consult council. Critically, neither the mayor nor other councillors may direct staff in their duties.

In practice, there are many grey areas. For example, while councillors cannot instruct staff or even try unduly to influence their decisions, they can inform senior staff of issues of concern. Another grey area is communications. While the mayor is the principal spokesperson of the council, the general manager controls the council website and may control the release of formal council notices.

A fundamental issue is responsibility for service quality – including timeliness, courtesy and all the many other aspects of service quality. In my local council experience, this was a major issue in the 2012 election when I set up a new political party (*Serving Mosman*) and successfully made service quality a major electoral issue.[23] However, in post-election induction seminars for councillors, the then GM told councillors that, under the 1993 *Act*, council officers were responsible for providing services and they were not to be instructed on service delivery by councillors (or the mayor).

Clearly there are grey areas here too. Two related operational examples may be mentioned: councillor oversight of council operations and the role of expert community committees. Councillors clearly have responsibility for resourcing decisions. But can they set up an active Expenditure Review Committee

[22] Before the 1993 *Act,* the Mayor was the Chief Executive of the local council and the senior council officer had the title of *Town Clerk,* not *General Manager* as today.
[23] The Mission Statement of Serving Mosman is *Consultation, Service, Courtesy, Accountability*.

(ERC) to oversee and regularly review the details of council expenditures in each operational section? Arguably this is part of councillor responsibility to the public. An alternative view is that these are ongoing operational issues to be managed by the GM. Where there are efficiency issues, councillors should deal with them at annual budget time but not in an ongoing process.

Similar issues arise with the possible inclusion of external experts on advisory council committees. My council was keen to include external experts on urban design to advise on major development applications. Council staff did not share councillor views on the need for, or benefits from, such external advice.

In conclusion, the NSW 1993 *Act* fundamentally changed the governance within councils in NSW, formally stripping most administrative roles from the mayor and councillors.

In practice, in my experience and from observation, much council management is a function of personalities. Some Mayors like to rely on GMs. And some GMs are more controlling personalities than others. While the authors of the NSW *Local Government Act 1993* intended to create a 'political-administrative divide', the council-manager form of local government is often a collegial relationship between the elected and appointed executives.

But it may also be observed that, in practice, the NSW state government often has a tacit role over local councils via its power of patronage. This arises when senior local council officers view state government employment as well-remunerated alternative employment positions and seek to please, or at least not contest, the state government.

Finally, this review has focused on NSW practice and may reflect to some extent the writer's metropolitan experience. Sansom (2012) provides an overview of the varied responsibilities and authority of mayors across Australia as of 2012. His conclusion was that apart from Queensland, which had recently introduced state legislation to enhance the role of mayors, state attitudes to the role of mayors "could fairly be described as ambivalent". On the other hand, an informed reviewer of this paper noted that "mayors are better recognized and play a major role in rural and regional areas. This is in stark contrast to metropolitan areas and is particularly noticeable in times of crisis."

More recently, Tan *et al*. (2016) report on extensive research in Victoria, examining changes for the roles of councillors and councillors' understandings of their new roles. As in NSW, councillors have been legislatively directed to move away from involvement in the day-to-day running of their councils and been prescribed a more strategic function, identifying long-term goals and setting direction. However, the interviews and focus groups undertaken in the authors' research indicated that the reforms have not engendered the intended effect as to how councillors understand their roles. The authors found that most councillors continued to seek involvement in the day-to-day management of councils. And they argue that this reflects common public views concerning the role of the councillor and the idea of representation and how both play out at the local level.

7.2 Local Council Performance

Performance is a fundamental issue in any public agency and, ideally, we would like to have recognised performance benchmarks for local councils. However, most local councils produce a great number and variety of services and measuring their performance is a complex matter. Here we look at some general and specific issues of performance, note the many ways in which the NSW Government tries to determine performance, and draw some conclusions. A major conclusion of our discussion, here and elsewhere, is that community views are a critical measure of performance.

In general terms, performance reflects productivity, which is the relationship between output and inputs (capital, labour, land and technology).

$$O = f(K, L, T) \qquad (7.1)$$

where *O* is output, *K* is capital, *L* is labour and *T* is technology. Land (or natural resources) are excluded as these are a broadly constant resource. Output is generally expressed in terms of revenue paid for goods or services measured in constant prices. Changes in (real) revenue reflect changes in the value of goods and services provided.

However, there is no ready equivalent measure of the value of (mainly un-marketed) public goods and services. In national accounts, national or state output (GDP or GSP) are expressed in dollars spent. But it would be a brave assumption to suppose that the value of public output rises closely in line with government expenditure. Similarly, with local councils, total council expenditure represents the cost of resources employed not the value of services produced. High-expenditure councils may be efficiently providing high quality, community desired, services or they may be inefficient and / or providing services that the community does not want. So, where to from here?

Given the large number (often over 100) and variety of local council services, no single variable represents output, and no simple metric shows the overall productivity of local councils. Some services may be produced efficiently and others not. Also, councils often provide different, non-comparable, services

Let us consider some core council services and associated issues.[24]

Governance: **financial performance**. As discussed in the next section, financial benchmarks indicate principally the financial security of a council. These are essentially prudential benchmarks; they do not measure efficiency.

Governance: **customer service** quality is difficult to represent in simple benchmarks. A simple benchmark, such as the percentage of customer issues responded to in (say) 5 working days, can provide a useful performance benchmark. However, this does not distinguish between difficult and simple issues or between helpful responses and formal empty responses.

Behavioural issues range from minor code of conduct matters through to criminal corruption. There should be reporting and accountability for any serious issues. However, there are several degrees of poor conduct and again simple benchmarks could be misleading.

Transport: infrastructure maintenance and traffic management. Most councils report on the conditions, depreciation and management of road and other transport assets. However, councils adopt different standards and depreciation rates. And there are no ready traffic management metrics.

Environment: management of public land. The quality of an environment depends on both its natural quality and management. Views on the quality of local urban and recreational land are subjective. The quality may be assessed though community surveys but not readily by independent auditors.

Recreation and culture: **libraries, sporting facilities etc**. A common metric for local libraries is the number of books lent out per resident or per library employee. This makes no allowance for numerous other library services, meetings etc. for children, seniors, visitors with a reading disability, digital

[24] These issues are not comprehensive. For example, they do not include such important issues as gender balance and diversity.

information and so on. Usage figures may also be supplied for sporting ovals but use per oval will be higher when oval space is relatively scarce.

Community services: Services for seniors may include meals served in community restaurants or "meals on wheels" at homes, community bus transport to medical or other important services; recreational trips for seniors, and so on. Utilisation rates are a partial performance measure, which implicitly reflect quality of service. Other community services include services for families and young children and general community events. It is possible to report child utilisation data in long-day care or after-school care. But without a context, such as the availability of school or private care, it would be hard to draw conclusions on the adequacy of childcare in the community.

Planning and housing: d**evelopment approvals (DAs**). The development approval process is designed to achieve both public values and private development. The NSW government has placed great weight on lowering average DA times to 40 days. But the size and complexity of DAs vary greatly. DA time may be cut by increasing resources applied (the cost per DA), or by significantly compromising the quality of the DA process, including minimizing public consultation. Average DA time is a poor metric of the quality of the DA process.

Notwithstanding these issues, as we saw in Section 4.2, the NSW Office of Local Government (OLG) and other state agencies require local councils to report extensively on their performance(s). These reports include the Community Strategic Plan (for 10 years minimum) which sets objectives at the start of a council's 4-year term, a Delivery Plan covering 4 years and an Operational Plan (1 year).[25] Councils must also provide an extraordinary detailed annual report covering well over 100 items[26] to be provided to the OLG by 31 October each year, a four-yearly state of the environment report, an annual financial audit, an annual planning report to the Department of Planning and Environment, and several other reports, including library statistics to the State Library of NSW (to the Public Library Services team), road repairs for the NSW Roads and Maritime Services, and an End of Term report (usually every 4 years) to the OLG to evaluate progress in achieving those objectives during the term of the council. However, there are no mandated KPIs or targets in these reports.

So, where do we go from here? Performance benchmarks should be based on clear objectives and be useful (based on specific concepts of outputs), but not unduly costly or burdensome. The Victorian approach (Victorian DELWP, 2018) meets some of these objectives. Under the *Reporting Framework*, councils are required to report on 12 performance measures. On the "Know Your Council" website, the user can identify these performance indicators and compare the metrics of their council with five other councils in a similar category: metropolitan, interface, regional city, large shire and small shire. These performance measures are low cost to produce, may be of interest and should be available to the public. However, they do not provide overall evidence for performance or productivity or lack of it. The metrics are too simple to achieve such an outcome.

[25] https://www.olg.nsw.gov.au/councils/integrated-planning-and-reporting/framework/community-strategic-plan/

[26] Examples of the requirements include details on: activities funded by special rate variation, expenses incurred by councillors, contracts greater than $150,000, costs of legal proceedings, all external bodies exercising delegated functions, remuneration packages of all senior staff members, a detailed record on animal management, information on implementation of council's Disability Inclusion Plan, a report on (several) measures on state of the environment in the council area, information on public interest disclosure activity. Many of these are important governance issues, but many describe probity rather than performance.

In recent years, the NSW Office of Local Government (OLG) has also developed a website (Data - Your Council NSW) to enable local residents compare a large number of performance indicators in their council and others. Examples include council staff per local population and average days to determine local development applications. Like its Victorian counterpart, this does provide some partial performance indicators, but not an overall summary performance measure.

Conclusions: Measuring performance in local councils is complex. Councils provide numerous, different, non-comparable, services. There are few ready measures of quality of services, for example for the quality of local social support services, local parks and gardens, local roads, library services, or indeed the quality of development approvals. Simplistic key performance indicators are likely to be misleading. End of term reports often contain few hard metrics or comparable inter-council metrics.

In their omnibus review of local government in Australia, Grant and Drew (2017, pp. 285-9) strongly stress the need for, and importance of, performance measures but gave no specific proposals, concluding that "local government finance and economics scholars need to start thinking about performance monitoring".

This review has two main conclusions. One is that, following recent developments in Victoria and NSW, it is both possible and useful to collate and present informative comparative data on broadly similar councils. Of course, these data must be treated carefully. Simply providing data for example on library services does not indicate whether one set of services is more appropriate than another. Community preferences matter and may vary.

Thus, our second conclusion, drawing on both general principles and personal experience, is that regular community surveys provide much the most valuable guide to both overall performance and more specific service performance. Indeed, there is a case for mandating such surveys. But if this were done, the requirement should be carefully constructed so as not to add an unduly burdensome exercise to already extensive mandated reports.

8 Financial and Economic Matters

Tables 5 and 6 above provided summary information about local council revenue and expenditure in 2020-21. And, as we noted in Section 5, motions for more Commonwealth financial support dominated the Local Government 2022 National General Assembly.

Here we discuss financial issues including inter-government support and cost shifting, the role of rates (land tax) and rate pegging, and financial management including measures of financial viability, primarily in NSW. The final part briefly discusses local government and the local economy.

8.1 Inter-Government Financial Support and Cost Shifting

As seen in Table 5, in 2020-21, local councils received $9.1 bn in various capital and current grants. The largest component is the Commonwealth Financial Assistance Grant program which provided $2.8 bn in 2020-21. This program consists of two components:

- A general purpose component, which is distributed between the states and territories according to their populations (i.e. on an equal per capita basis), and
- An identified local road component, usually a little under a third, which is distributed between the states and territories according to fixed historical shares.

Within each state, Grants Commissions determine the distribution of the funding to local governing bodies in accordance with the National Principles for allocating grants as laid down in the Local Government (Financial Assistance) Act 1995. When allocating the general purpose component, the

Grants Commissions are required to assess the amount that each local government would need to be able to provide a standard range and quality of services (the principle of Horizontal Equalisation) and take into account each local governing body's assessed need for assistance.[27] The allocation of the local road component is based on the Grants Commissions' assessment of the local councils' road expenditure needs. Both components are untied, allowing councils to spend the grants according to local priorities.

As ALGA (2022c) noted in its *Pre-Budget Submission (2022-23),* the value of Financial Assistance Grants to local government has declined over the past three decades from around 1% of Commonwealth taxation revenue to around 0.55%. For some years, ALGA has been advocating for an increase in Financial Assistance Grants to 1% of Commonwealth taxation revenue to enable councils to better support local communities. And the Roads Grant covers a very low percentage of the road asset values, arguably insufficient to provide adequate maintenance and repairs. However, the 2022-23 federal budget may have marked a turning point with a $250m extension of the Local Roads and Community Infrastructure Program, a new $200m Disaster Ready Fund, and an extra $100m in Financial Assistance Grants (FAGs) for councils raising the total to $2.92bn (although the increase in FAGs is not an increase in real terms).

When different levels of government have inadequate taxation revenue to pay for their expenditure responsibilities, there is said to be 'vertical fiscal imbalance' (VFI). Arguably, VFI exists in Australia in states where local council taxes are controlled and where rural and remote areas require a higher level of grant funding to ensure adequate infrastructure and basic service provision.

Cost shifting

Cost shifting occurs when a higher level of governments transfers program or service responsibilities to local government with insufficient funds for these extra services or imposes taxes on local residents without providing a service.

LGNSW (2018) describes cost shifting as one of the most significant problems faced by councils in NSW. Drawing on a survey of councils, the report estimated that cost shifting onto NSW councils in the 2015/16 financial year amounted to $820 million. This was driven almost entirely by NSW state government policies. The federal government was responsible for just 2% of the estimated cost shifting burden borne by councils.

The largest contributor to cost shifting is reportedly the waste levy, particularly for metropolitan and regional councils. Most rural councils are exempt, except in the north coast of NSW. In 2015/16, councils lost $305 million because the NSW Government did not fully reinvest the waste levy (paid by councils) back into local government environmental programs. Other cost shifting claims for 2015-16 included $127 million in mandatory contributions to fund the NSW state government's emergency service agencies (the top contributor to the cost shifting burden on rural councils and the second highest for regional councils), $61 million through the NSW Government's failure to fully reimburse councils for mandatory pensioner rate rebates (unlike all other state/territory governments in Australia) and significant costs for activities required to meet regulatory burdens associated with companion animals, noxious weeds, flood controls and other activities.

[27] Under the *Local Government (Financial Assistance) Act 1995*, state grants commissions are required to consider six distribution principles: horizontal equalisation, effort (policy) neutrality (council polices do not affect grants), a basic minimum grant, other grant supports, recognition of Aboriginal and Torres Strait Islanders, and for four years following amalgamation the grant should reflect the needs of each previously non-merged council.

Also, the NSW Government makes the lowest per capita contribution to public libraries of any state/territory government in Australia at just $3.76 per capita in 2015-16. LGNSW (*ibid.*) estimated a $130 million shortfall in funding required to operate the state's 450 public libraries.[28]

Clearly, these are judgment calls on state v local council responsibilities and, accordingly, the estimates need to be treated with caution.

8.2 Local Rates and Rate Pegging in NSW

Local council rates in NSW are taxes levied on land values.[29] Although these are often described as unimproved land values, they include improvements to the land but not buildings on the land. Rates are levied on residential and commercial land. Lower rates are generally applied to farmland.

Three general points should be made about these local council rates. First, taxes on land values are widely viewed as an efficient tax as land is a fixed resource. Of course, where land values include improvements to land, they are taxes on improvements as well as on raw land. However, in a national study of taxes, KPMG Econtech (2010) estimated that Australian municipal rates have a negligible economic cost (a marginal deadweight loss of 2 per cent), which made rates the most efficient taxes in Australia after the petroleum resource rent tax.

Secondly, rates are a robust tax. As noted by the Productivity Commission (2008), a council's financial viability depends essentially on local household incomes, not on the land values. Where household incomes are adequate, in principle income can be raised regardless of relatively low land values.

Thirdly, taxes on land are widely regarded as fair. Traditionally, councils provided services largely to property and household income is loosely correlated with the value of land ownership. However, in NSW, councils can set a minimum rate payment per property by apportioning up to half the total rate revenues equally across all dwellings. This aligns council services to people as well as to property.

However, in NSW there are widespread exemptions from rate payments. These include all public properties and properties owned by private educational institutions, religious organizations, hospitals, and charitable groups including community housing provides, as well as some major land uses such as golf courses. Given that many of these bodies receive significant council services and are well able to contribute to local councils, some of these exemptions may be viewed as inequitable and should be reformed (and should at least be reviewed).[30]

[28] in 2019 the NSW Government increased library funding by additional $60m over four years. In 2022 this was confirmed as recurrent funding into the future. But a significant shortfall appears to remain.

[29] Local council rates in other states and territories may be different. For example, for their rate base, in Victoria local councils can choose between site value (unimproved land value), capital improved value (CIV) which is the expected sale value of the land plus any capital improvements on it, or the Net Annual Value which is the greater of the estimated rent value of the improved land less some expenses or 5% of the CIV. The majority of councils in Victoria adopt the CIV base for determining local rates.

[30] The LGNSW *Policy Platform* calls for the "removal of inequitable rate exemptions".

Turning to **rate controls**, since 1977, the NSW state government has controlled council rate revenues by setting annual caps on rate increases. The aim is to protect ratepayers. Since 2011-12, the Independent Pricing and Regulatory Tribunal (IPART) has set the rate caps.[31],[32]

Each year, IPART sets the maximum rate increase based on estimated recent changes in the local government cost index (LGCI) less an assumed, or desired, increase in productivity. The rate peg was set at 2.3% for 2018-19, 2.7% for 2019-20, 2.6% for 2020-21, 2.0% for 2021-22, and (in a shock determination) at only 0.7% for 2022-23, which was later partially corrected by a one-off introduction of an Additional Special Variation allowing councils to increase rates by 2.5%.[33]

The cap traditionally makes little, or no, allowance for extra services as demand rises with local population, needs, incomes or preferences. However, from 2022-23, IPART will allow variations for population growth for each council. Councils can also request IPART (via an onerous process) to allow a special rate variation if they can demonstrate community awareness of their plans, a need for higher increases, a reasonable impact on ratepayers, a sustainable financing strategy and well-documented council productivity improvements.

It appears that, reflecting rate pegging, local council rates are much lower in NSW than in other states. The Sydney Morning Herald (SMH, 9 October 2022) reported the President of the NSWLGA (Darriea Turley) stating that, in 2019, the average council rate in NSW was $591 per household in NSW compared with $835 in all other states.

Is rate capping desirable? In principle, regulating monopoly pricing is an accepted economic practice. The Productivity Commission (2017) observed that "rate capping can protect ratepayers from excessive rate rises by Local Government. Given Local Governments are a creation of the States, they have an interest in containing overall tax burdens and ensuring that Local Governments determine rates responsibly." Rate capping may also provide an incentive to raise local productivity.

But there are multiple negatives. The Henry Tax Review (Henry et al., 2010) found that rate capping limits the accountability of local government to their ratepayers. Grant and Drew (2017, p. 281) note that rate pegging may motivate councils to look for other revenue sources (increasing local fees and charges) that may be less preferred. In a major review of rate capping, Dollery (2022) found that rate capping has contributed to large local infrastructure renewal backlogs in many NSW councils (estimated to be $3.5 billion in 2017-18); that rate increases often failed to meet real local government cost movements; that they failed to distinguish sufficiently between urban and rural needs, and that they failed to help councils meet growing community demands. In the words of the President of the

[31] Victoria adopted rate controls for three years in the 1990s's and reintroduced them in 2016-17. Other states do not control rates. Further information on rate pegging in Victoria may be found in *Local Government Rate Capping Mechanism Review Final Report*
https://www.localgovernment.vic.gov.au/__data/assets/pdf_file/0020/192035/Local-Government-Rate-Capping-Mechanism-Review-Final-Report.pdf

[32] The Victorian Government response to the recommendations in this Review can be found in:
Victorian Government Response to the Final Report: Local Government Rate Capping Mechanism Review
https://www.localgovernment.vic.gov.au/__data/assets/pdf_file/0021/192036/GovernmentResponsetotheLocalGovernmentRateCappingMechanismReview-updated1.pdf

[33] IPART is currently conducting a public review of rate controls.
https://www.ipart.nsw.gov.au/Home/Industries/Local-Government/Review-of-rate-peg-methodology

LGNSW (SMH, 9 October 2022), rate pegging "has deprived communities of vital infrastructure while undermining the financial sustainability of councils".[34]

The view of this paper is that, while recent changes allowing for population growth are helpful, more local autonomy over rate decisions is desirable, with perhaps some oversight by a regulatory body. For example, IPART could produce recommended and maximum rates along with special rate variations on application. Councils would be required to consult annually with the public and to publish recent rate increases along with IPART's rate recommendations. Ideally an informed local public would be the major determinant and judge of rate increases, along with some backstops.

8.3 Financial Management

This section discusses three key issues in financial management: overall fiscal viability, efficient asset management, and the role of the local council in the auditing process. There are of course many other important financial issues, including the use of various revenue sources, efficient out-sourcing of service delivery and inter-council co-operation. Discussion of these is out-of-scope of this paper.

The NSW government has developed six financial benchmarks of financial health for councils to be assessed by the NSW Auditor-General (see Table 7, next page). These benchmarks primarily indicate financial efficiency or security and are generally recognised as sensible and useful benchmarks. However, they are, at best, indicative of financial security in that there is little difference between outcomes that are marginally higher or lower than the benchmark.

The NSW Auditor-General (2018) noted that most councils met the liquidity and working capital measures. And while 33 councils ran an operating deficit and 46 (non-metropolitan) councils raised less than the state government target of 60% own revenue, the report did not find any chronic financial problems. Of course, this reflected significant financial support for rural councils.

More importantly, these financial ratios have limited value as predictors of medium-term financial viability. The Productivity Commission (2008) rightly stated that "the fiscal capacity of a council is best measured as the aggregate after-tax income of the community". Medium-term financial viability depends on local household and business incomes (and property values) as well as efficient accounting rather than on annual accounting ratios. Also, the reported ratios reflect state government rate pegging operating for over 40 years in NSW.

Thus, the reported financial ratios represent the start of a conversation, but certainly not the end of it. For example, the various estimates of depreciation also affect council's operating budget results as depreciation is an operating expense in accrual budgeting (as distinct from cash budgeting). Australian governments adopted accrual budgeting in July 1999. But there remains much confusion between cash and accrual budgeting.

There have been no local council insolvencies in NSW, even in the global financial crisis of 2007 to 2009. Of course, this partly reflect central government supports. Also, this solvency may have been achieved by substantial underspending on asset maintenance which is not addressed by the financial indicators in Table 7.

[34] The NSW Local Government Association, *Policy Platform* (April 2022, p.5) argues strongly for a review of tax exemptions.

Table 7 Financial ratios and benchmarks

Ratio title	Ratio measure	Performance benchmark	Purpose
Audited Performance Indicators			
1. Operating performance	Operating revenue / operating expenditure	Ratio > 0.0	Operating efficiency
2. Own source revenue	Own revenue exc. grants/ total revenue inc. grants	Own source revenue > 60% of total revenue	Fiscal independence
3. Unrestricted current ratio	Unrestricted current assets / unrestricted current liabilities	Ratio > 1.5	Adequacy of working capital
4. Debt service cover ratio	Operating result exc. interest and depreciation / principal repayments and interest	Ratio > 2.0	Ability to service debt
5. Outstanding charges / debts	Rates & charges outstanding/ rates and charges collectible	Ratio < 5.0 for city and <10 for rural councils	Efficiency and impact on liquidity
6. Cash expense cover ratio	Months Council can pay immediate expenses without new cash inflow	Benchmark > 3.0 months	Financial security

Source: Office of Local Government, NSW, *Local Government Code of Accounting Practice and Financial Reporting.*

Turning to asset management, as seen above, many councils have long-term financial problems of infrastructure backlogs. Table 8 shows four asset benchmarks reported in the NSW Auditor General's *Annual Report*, based on council information. However, these performance benchmarks (and ratios) are largely subjective and not auditable. Councils often adopt quite different depreciation rates for assets such as roads and stormwater. And concepts of adequate asset standards, required asset maintenance and the estimated cost to achieve an agreed service level are all subjective.

Table 8 Asset benchmarks: un-audited performance indicators

Ratio	Ratio measure	Performance benchmark
Buildings and infrastructure renewals ratio	Asset renewals / depreciation amortisation & impairment	Ratio > 1.0
Infrastructure backlog ratio	Cost to meet adequate asset standards / value of infrastructure	Ratio > 2.0
Asset maintenance	Actual asset maintenance / required asset maintenance	Ratio > 1.0
Expenditure to bring assets to agreed service level	Estimated cost for agreed service level / gross replacement cost	No prescribed benchmark

Source: NSW Auditor General, *Annual Report, 2018.*

The key financial viability issue is the ability of councils to balance their operating budget in the medium and longer term (5 and 10 years). In accrual budgets, this depends in part on the treatment of depreciation in the short run. And, in the long run, financial plans should allow for capital renewal.

Thirdly, a brief comment on the audit work in local councils. As the NSW Auditor General (2022) observed, audit, risk and improvement committees (ARICs) are an important contributor to good governance. "They help councils to understand strategic risks and how they can mitigate them. An effective committee helps councils to build community confidence, meet legislative and other requirements, and meet standards of probity, accountability and transparency."

But, in another takeover by the NSW state government, as from March 2021, all appointments of chairs and members of council ARICs must be made from a prequalified list prepared by the state government. After decades of council appointed audit committees, Councils are now constrained in appointments of the chair and other members of the council audit committee and councillors are not allowed to be members of the audit committee.

However, audit committees engage mostly with the relationship between actual expenditures and budgets and with the probity of financial procedures rather than with ensuring most efficient, least cost, services. Primary responsibility for reviewing expenditure efficiency remains with council, although as we saw in Section 7.1, there is sometimes a grey area on the relative responsibilities of councillors and council staff.

8.4 Economic Services

This section briefly introduces the nature of economic services and the role of local councils in the local economy. A full discussion of the contributions of local councils to the national or local economies is out of scope of this paper.

Economic services fall broadly into two main categories: direct and indirect services.

- Direct economic services include managing abattoirs, saleyards, industrial and real estate promotion, tourist promotion, camping areas, commercial nurseries, mineral resources and airports, along with direct financial support.
- Indirect economic services include the various forms of local land use planning, the development of special activation precincts, the delivery of infrastructure (especially transport) and social support services. Importantly, these services should be based on ongoing consultation with local business representatives.

Starting with direct services, ALGA (2022b, *Initial submission to Productivity Inquiry, p.2*) states, "Local Government also takes a lead role in local and regional economic development – filling in the gaps left by other governments in local investment attraction, business mentoring, training, networking, and incubation".

Turning to a specific example (airports and related regional precincts), local governments across Australia own and operate more than 200 regional airports and aerodromes. Regional Capitals Australia (2020, p.2) reported that "Regional airports have an important financial impact on regional economies and communities. They generate significant direct employment and economic activity, as well as indirectly through associated business, service and industry activity. A 2019 Deloitte Access Economics report estimates that regional airports directly employed 1625 FTEs in 2016–17, who earned $229 million and contributed $477 million in value-add directly from their operations. Regional precinct level activities, including businesses located in airport precincts, such as office parks, retail, logistics operations and airlines were estimated to contribute a further $2.2 billion. Regional airports

enable the generation of wealth through tourism and trade. They create gateways to tourism attractions, enhance Australia's vegetable and animal production through aerial agriculture services like crop dusting and mustering and facilitate these products' quick delivery from the regions to national and international markets."

Moving to indirect services, ALGA (2022b, p.2) notes that "The local government sector collectively employs nearly 200,000 people and owns, manages, and maintains roads, cycleways, footpaths, parks, pools, and other community assets conservatively valued at $523 billion with an annual operation spend of more than $38 billion. Collectively, local governments are responsible for one-third of all Australia's public infrastructure assets. Local roads make up approximately 39% of total local government infrastructure assets and make up 77% of the national roads network by length."

And the ALGA website also notes under *Roads and Infrastructure Funding* that: "Local government infrastructure assets include local roads, stormwater drainage and community assets such as sporting, arts and cultural facilities, parks and gardens, and public libraries. These public assets contribute to national productivity and are critical for ensuring our cities and regions are great places to live, work and play." Note here that infrastructure assets are critical to businesses as well as to households.

Turning to NSW, the LGNSW *Policy Platform April 2022* (p.5) makes similar points: "Local government promotes local and regional economic development and employment growth". And (p.8.), "Councils have an active role in encouraging investment, place management and activation, and supporting businesses of all sizes. Whether the local economy is based on agriculture, mining, finance, manufacturing, tourism, hospitality, retail, education, forestry, fishing or other offerings, councils play a major role in creating the conditions for appealing and sustainable communities and local economies."

Two final comments. First, provision of direct economic services is mainly a regional and rural local council issue. Metropolitan councils are often as concerned with managing economic development as with promoting it, for example with managing traffic congestion, short-term housing rentals and night-time entertainment activities.

Second, the following sections in this paper discuss the provision of most of the "indirect" economic services that are noted above: namely land use planning, provision and management of the various forms of infrastructure, and other local social services.

9 Land Use Planning

Land use planning involves regulating land use for public and privately owned land across a council area and determining how these regulations are applied. This involves balancing private household (landowner) interests with the community's desire for environmental amenity in all its many forms, but also in many areas with the need for more housing.

Land use planning is a major concern of local communities. Local planning was traditionally a major role of local councils. But as LGNSW (*Policy Platform*, 2022, p.13) observes, "Decisions of successive state governments have gradually diminished councils' and communities' authority to determine what and how development occurs in their local areas".

This section outlines how land use planning is done in NSW and some of the significant issues that arise.

9.1 Land Use Planning in NSW

In NSW, land use planning is based on a Local Environmental Plan (LEP). A LEP is a statutory document that provides land use zoning and manages the way land is used within a local government area**.** Through land use zoning, LEPs determine private land development rights for housing and commercial uses, and reserve land for open space, schools, transport or other public purposes, including environmental protection.

Importantly, all LEPs that prescribe development guidelines are also required to include Clause 4.6. This Clause enables developments that do not meet the prescribed development standards to be approved if the development is deemed to be consistent with the LEP's objectives. Many development applications (DAs) are lodged citing the Clause 4.6 loophole.

Councils develop LEPs following public consultation. But critically, the NSW government sets the design rules for zoning and must sign off on each council LEP before it has legal status.

Councils may also adopt Development Control Plans (DCPs) to support the LEP. DCPs provide planning and building design guidelines for new development or alterations to an existing development. Council staff use these guidelines to determine the merits of proposals. But DCPs do not carry formal legislative backing or weight.

Two further points should be made regarding development "rights". First, under NSW *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, landowners can make minor developments, if classified as Exempt or Complying Developments, without council approval. Exempt development is work of a minor nature that may be carried out without any formal authorization subject to compliance with specific requirements, including those in the LEP and the Building Code of Australia. Complying development generally applies to larger building works with more external impact. Providing the impacts on neighbourhood amenity are deemed to meet Complying Development criteria, development approval can be issued by a private Accredited Certifier. Council approval is not required. Immediate neighbours must be informed but they have no rights or powers even though they may lose privacy, light, views (and property value).

Second, under the *State Environmental Planning Policy (State and Regional Development) 2011*, the NSW government has declared a wide range of developments to be "state significant" developments. These developments are determined by the Independent Planning Commission (IPC) with no third-party merit appeal rights in respect of decisions made. Also, the state government has the overriding power to determine sub-regional housing targets and major transport infrastructure projects.

9.2 The Development Approval Process

Traditionally, local councils determined most DAs. This could involve various officer or councillor responsibilities. Councils could also appoint Independent Local Planning Panels (ILPPs) to determine difficult issues. Many did. And This remains the practice in some regional and rural councils.

But critically, in 2017, in a major reform move, the NSW Government made "Local Planning Panels" (LPPs) mandatory for all Greater Sydney councils, Wollongong City Council and Central Coast Council. The Panel consists of four members including three that councils can chose from a state register of eligible persons and one community member. Councillors are not eligible to sit on a LPP. And the state government decides what DAs will be determined by LPPs. These include a wide range of DAs including, *inter alia*, proposed developments with a capital investment value over $5 million; DAs for which 10 or more households have submitted objections; DAs deemed of strategic importance; DAs that seek to depart from a development standard in the council's area (usually the

LEP) by more than 10 per cent; unresolved objections from three or more properties; conflicts with scenic landmarks; an objection from a property owner that shares a side boundary; non-compliance with setback requirements of the DCP; any DA involving public land; and such DAs as a senior council officer considers should be brought before the Panel.

Whatever the decision-making process, when a DA is rejected by council, or by an ILPP or a LPP, the applicant can appeal to the Land and Environment Court (LEC) for a review. The state government appoints the officers in the LEC. And the LEC decision is final.

Further, the state government has established nine Regional Planning Panels (RPPs), including five in Sydney and four in the regions, to determine large or economically significant projects, that is developments costing over $20m and projects, that are deemed economically significant, such as eco-tourism, extractive industries and marinas. The panel consists of three persons appointed by the Minister and two by local councils. There is no appeal process even if a RPP makes a decision that is inconsistent with the relevant LEP.

Finally, all developments, in progress and on completion, require certification. A Principal Certifying Authority (PCA) is required to inspect the building work during the construction to ensure appropriate compliance with the relevant standards. The PCA is also expected to ensure that the building accords with the development consent and is fit to occupy. Traditionally, councils undertook certification or contracted the work. In 1998, the NSW government allowed developers to employ a private certifier, and they almost always do so.[35] As discussed below, this is a highly conflicted situation.

9.3 Land Use Planning Issues

Land use planning is a prime example of the need for cooperation between state and local government and the drift towards top-down state government controls and reduced roles for local councils in NSW.

Of course, the state government should have a major role in setting the planning rules (the LEPs). The state government is responsible for promoting jobs and productivity and for setting up major infrastructure across the state. It also has responsibility for the welfare of all households in the state, including in areas where decisions by one council can affect households in other councils. In terms of economic principles, where decisions have third party effects (externalities). On the other hand, the amenity and welfare of households are intimately connected to the local community environment and looking after these needs is a major part of the work of local councils who are directly aware of local needs. Thus, there needs to be ongoing collaboration and communications between the two levels of government.

Central to this debate is the availability of housing and the role of housing supply in lowering house prices and rents especially in the metropolitan areas, but also currently in several regions. Thus the (Sydney) Greater Cities Commission (previously the Greater Sydney Commission) issues mandatory housing targets for all councils. Housing is a huge topic, but a few informed observations are in order.

As Saunders and Tulip (2019) showed in their excellent modelling of house prices across Australia, house prices are driven largely by interest rates. They estimate (p.22) that a sustained percentage point drop in interest rates would, in the long run, boost housing prices by 17 per cent. On the other hand, they conclude (p.28) that "As a rule of thumb, every 1 per cent increase in the number of dwellings …lowers the cost of housing by 2½ per cent." This may seem a lot. But wait a minute. There are currently some 2.0 million private dwellings in Sydney. Suppose that annual completions in Sydney

[35] In 1998, South Australia, Tasmania and the Northern Territory were allowing private certifiers.

were to rise by a third from around 30,000 to 40,000 dwellings a year for two years. The additional 20,000 dwellings would increase the total housing stock in Sydney by 1.0 per cent. This would reduce house prices by 2.5 per cent over the two years. The reality is that house prices are a national issue related primarily to asset pricing (interest rates). For the last 50 years, median Sydney house prices have consistently been between 35% and 40% higher than average median house price in the other capital cities (Abelson, 2018) and this amenity / income related premium is not going to change. Further, the RBA (2021, Graph 18, p.14) has shown that in 25 of the last 30 years (including all of the last 9 years), national dwellings have grown faster than the population. Yes, it is important that housing supply at least keeps up with population growth. But there needs to be an informed discussion about housing policies, not one dominated by developer lobby groups.

However, an important feature of this discussion would be recognition that there has been scarcely any new public housing in NSW (or nationally) for 20 years. Several motions at the ALGA 2022 National General Assembly meeting cited shortage of public (and low rent) housing as a major issue which should involve inter-government discussions about appropriate responses with local councils, especially those with high numbers of homeless or unemployed persons.

Another important issue regarding planning is how the NSW Government changes the underlying zoning rules. For example, in 2018, the NSW Government ruled that small supermarkets with up to 1000 m^2 of gross floor space would be allowed in B1 neighbourhood shopping areas, apparently bowing to pressure from major retail corporates for access to local neighborhood areas where they were previously excluded. While the change was subject to public consultation, it was a policy that many local councils opposed.

As noted above, exempt and complying developments are an important feature of the planning process in NSW. Under State Environmental Planning Policy, *Exempt and Complying Planning Codes: 2008*, the state government regularly increases the scope of exempt and complying developments without consulting local councils. Thus, complying developments have recently been been extended in some areas to medium density housing, terraces, dual occupancy, and manor houses with several dwellings.

Clearly, the state government has major legitimate reasons for setting up the appropriate planning platform to facilitate state policies on numerous fronts. But once the general planning guidelines and related LEPs and DCPs have been set up, it is not clear why the state should remain so intensely involved in their execution with LPPs.

Let me say up front that I agree fully with the need for professional involvement in council decision making on DAs. When I was a councillor on a local Sydney council for 8 years in the 1980s, I was part of the full council that determined contended DAs. I was not educated in professional drawings and very poorly equipped to vote on DAs. Fortunately, throughout that time the councillors included at least one professional architect or planner whom I respected, and I simply followed their advices. But that is not a good system. Few councillors have the necessary technical skills for determining DAs and some may be conflicted but not acknowledge this. Thus, I strongly support ILPPs.

But the state-imposed regulations around LPPs appear overly strong. While the state government may regulate the required professional attributes for Panel members, setting up a list of eligible persons seems a step to far. And the range of decisions taken out of council control seems too large. Councils should be allowed more autonomy over the thresholds and processes for public determination of matters referred to the Panel. Of special concern, in my view, is the delegation of all decisions on the use of public land, including council owned land, to the LPP. In my local area, where we initially had

an ILPP, all DAs that involved public land were determined, appropriately in my view, by the elected community representatives (councillors).

Another issue is the state government's obsession that all DAs should be dealt with within 40 days. This is quite unreasonable for complex DAs, especially those involving significant neighbour, street or community interests. Developers claim that the extra time in the DA process is costly and discourages development. But the DA process time taken is a small fraction of the 3-4 years that are typically required to plan, design and construct any significant development. Allowing a few extra weeks to carefully determine a development that will stand for 50 years is eminently sensible. Developers want quick decisions as they are less thorough. They are also quick to make use of the deemed refusal (when council decisions are not made in 40 days) to take their DA straight to the Land and Environment Court.

The process of the LEC is also questionable, notably the power and discretion of the single commissioner presiding over each case. In a recent case, in 2021, a single commissioner overruled over 500 articulate protest submissions and the unanimous decision of the four-person LPP that a major supermarket in the centre of an already highly traffic congested shopping centre (in Mosman) was against the public interest and several other key points in the local LEP and should not be allowed. Replying to a letter I wrote to the Chief Justice of the LEC about this decision, the Chief Justice responded that "There is no judicial misconduct in making a wrong evidentiary ruling … A Commissioner may or may not make wrong evidentiary rulings or wrong finding of fact, but regardless the commissioner does not engage in misconduct in doing so." There was no remedy.

Turning to construction process and completion. There have been numerous cases of chronic construction quality in Sydney in recent years. On Christmas Eve 2018, residents of 51 units the recently constructed Opal Tower in Sydney Olympic were forced to evacuate the new building after cracks appeared, sparking concerns it could collapse. Then, in June 2019, residents of 132 units had to abandon the recently completed Mascot Towers in South Sydney due to structural faults and fissures in the brickwork, described as "leaning and unstable". NSW Fair Trading receives about 11,000 complaints each year about the quality of construction, including defective and incomplete work. (Razaghi article, SMH 26 July 2022, "Plumbing new depths at a site for sore eyes"). Evidently there has been a major failing in construction oversight. The issue of building defects is of great concern to local government as the trend towards multistorey apartments continues.

Traditionally in NSW, councils chose the certifiers for building developments. About 20 years ago, building approvals were taken out of local council control. The owner of the development now choses the certifier. The Principal Certifying Authority must be appointed by the 'person having the benefit of the development consent' – this means the owner and not the builder. However, private certification is highly conflicted situation as certifiers are paid by the property owners and sometimes have a substantial business relationship with them.

9.4 Conclusions

Clearly state governments have a major role in determining land use planning and infrastructure and hence in local land use, housing and environmental plans. On the other hand, local government is best placed to lead and influence local planning processes according to the needs and expectations of local communities. Where feasible, co-operation is preferred to top-down regulation.

However, there are many issues with the process of land use planning as presently practiced in NSW. And as pointed out by the LGNSW *Policy Platform* (2022, p.13), restoring community-led planning powers to local government is a longstanding advocacy priority for LGNSW.[36]

In NSW, there has been a steady erosion of local council controls and councillor representation in the land use planning and decision process. A perceived developer bias undervalues the environment, with pressure to determine DAs for buildings with 50 years of life in 40 days, with Clause 4.6 exemptions in LEPs, and with many developments specified as exempt and complying development. Private certifiers employed by the property owner have wide discretionary powers to determine whether construction meets appropriate building standards and whether a development complies with the development approval. Councils representing local communities have been displaced by state-controlled Local Planning Panels and can no longer determine development proposals involving use of local public land. And the state government has set up various other agencies including Regional Planning Panels, the IPC and the LEC to determine local development. (See, for example, the discussion of the legislatively inscribed role for the Greater Sydney Commission, now the Greater Cities Commission, in Grant and Drew 2017, pp.399-403).

In line with these issues, significant reforms should be considered. The scope of exempt and complying developments should be limited to low risk or low impact developments, with clearly defined parameters. More restrictions should be placed around Clause 4.6 in LEPs. Council should be allowed to establish their own planning panels to determine more local DAs including those involving use of public land. Action is needed to address deficiencies with building and certifier regulation and to ensure that the public interest is properly observed. Private certification should be limited to minor developments. And there should be avenues for appeals against poor decisions of LPPs and the LEC.

10 Local Infrastructure

This section provides an overview of local council infrastructure services nationally, followed by a discussion of investment and management of the two largest infrastructure services (transport and water in their various forms), and brief comments on two other issues: digital needs and the controversial developer charges in NSW, along with brief conclusions.

10.1 Infrastructure Overview

As shown in Section 3 above, in 2020-21, the total value LGA assets was $548 bn. compared with estimated liabilities of $20 bn. (ABS, 5512.0) and a total annual income of a little over $40 bn. The assets included building and structures ($358 bn.), land ($132 bn.) and financial assets ($47 bn.).

Collectively, local governments are responsible for one-third of all Australia's public infrastructure assets. These assets are being consumed at an estimated rate of 1.6% or $7.7 billion per year, equivalent to $304 per person across Australia each year.

Local government infrastructure assets include roads, bridges, buildings, stormwater drainage, water and wastewater, airports, and community assets such as sporting, arts and cultural facilities, parks and gardens, and public libraries. As reported by ALGA (2021), nationally

[36] The NSWLGA Policy Platform (2022) makes 13 cogent recommendations on land use planning. These include all the points made in this discussion of land use planning.

• **Roads** represent 39% or $204bn of the total infrastructure asset replacement cost. $17.8bn are in poor condition, $16.0bn have poor function and $14.3bn have poor capacity.

• **Bridges** represent 4% or $26bn of the total infrastructure replacement cost. $1.6bn are in poor condition, $1.8bn have poor function and $1.9bn have poor capacity.

• **Buildings** represent 16% or $91bn of the total infrastructure replacement cost. $9.2bn are in poor condition, $8.5bn have poor function and $9.6bn have poor capacity.

• **Park & Recreation assets** represent 3% or $16bn of the total infrastructure replacement cost. $1.3bn are in poor condition, $1.1bn have poor function and $1.4bn have poor capacity.

• **Stormwater assets** represent 19% or $94bn of the total infrastructure replacement cost. $5.3bn are in poor condition, $11.0bn have poor function and $12.1bn have poor capacity.

• **Water & Wastewater assets** represent 18% or $99bn of the total infrastructure replacement cost. $15.5bn are in poor condition, $7.8bn have poor function and $8.3bn have poor capacity.

• **Airport & Aerodromes** assets represent less than 1% or $3bn of the total infrastructure replacement cost. $414M are in poor condition, $133M have poor function and $142M have poor capacity.

Likewise, as noted by LGNSW, *Policy Platform April 2022,* many local roads, and council buildings and facilities are ageing, and many councils cannot fund the required maintenance and renewal costs to extend their useful life. Councils in the rural remote areas are especially likely to hold an 'older' stock of infrastructure assets and be income deprived.

10.2 Transport

Transport infrastructure delivery and management is a large topic with numerous overlaps between national, state and local government assets and interests. This section summarises local government road assets and costs nationally, discusses responsibilities for regulation of roads in NSW, and comments briefly on some issues in managing road traffic in NSW.

Across Australia, local governments own and manage about 678,000km of sealed and unsealed roads, equivalent to about 77 percent of the national road network by length (ALGA, 2022c). Importantly, these roads carry a significant amount of Australia's domestic freight. But, as seen above, many roads are in poor condition and close to the end of their useful life. The replacement cost for the sealed and unsealed roads in poor condition, estimated by ALGA at around $17.8 bn., is well beyond the financial capacity of local government, so substantial funding from other tiers of government is needed. The Commonwealth Roads to Recovery Program supports councils to upgrade their local roads, but significantly more support would be needed to address the current backlog. [37]

Local governments also work with federal and state/territory governments to manage the local links to existing and future national, state/ territory and regional transport networks such as national highways, railways, major freight corridors, intermodal terminals, airports and ports. Some of the larger councils also provide and manage public transport infrastructure and services. The Brisbane City Council operates one of the largest bus fleets in Australia, as well as City Cats and the City Ferry network. And the City of Gold Coast funded a new 13-kilometre light rail project comprising 16 stops from Broadbeach to Gold Coast University Hospital, in conjunction with state and federal

[37] Numerous motions at the ALGA 2022 National Assembly sought more Commonwealth funding for maintaining road infrastructure.

governments. Many local governments support car sharing services and are increasingly providing electric vehicle charging stations.

Turning to the regulation of roads in NSW, there are two separate issues: who makes the regulations and who manages them. Usually, the authority that makes the rules also manages them.

Under the NSW *Roads Act 1993 No 33***,** Transport for NSW (TfNSW) is responsible for regulating, and controlling, traffic on all roads in NSW.[38] Regulating includes decisions on road use. Controlling includes installation of traffic control devices, such as regulatory signs, or traffic control facilities, such as median strips. However, under the *Roads Act,* local councils are responsible for exercising various delegated functions. They also provide advice on the management of this road network by providing traffic input and advice when necessary.

These delegations fall into two categories. For delegations under Division 1 of Part 8 (Section 115) of the *Roads Act, 1993*, local councils have full authority. For other delegations, the council must seek the advice of its Local Traffic Committee (LTC). The LTC is a committee of Council and consists of the mayor (or his or her representative), the local State Member of Parliament (or his or her representative), a representative of the Police, and a representative of Roads and Maritime Services. Where the LTC advice is unanimous, and Council intends to follow that advice, Council may authorise implementation of the facility or device without further notifying the TfNSW or the NSW Police. If the Council wishes to exercise a delegated function when the LTC advice is not unanimous, or the Council wishes to act contrary to unanimous LTC advice, Council must notify in writing both the NSW Police and the RTA representatives on the LTC.

If a council wishes to introduce any significant change to the local transport network or management, such as prohibiting the passage of pedestrian, vehicle or motor vehicle traffic on a road or road related area, prohibiting right or left-hand turn, changing a two-way street into a one-way street, or reversing the direction of a one-way street; it must submit a Transport Management Plan to TfNSW for approval.

Turning to parking issues, these are determined by the road owner. Thus, parking regulations on major streets are determined by the state government. Local councils determine parking regulations locally owned streets. And of course, local councils provide local public car parks.

Local government is also responsible for the provision of local cycling paths and pedestrian networks that support connectivity and active living options for local communities. This is an increasingly complex area where more bicycles and scooters are becoming electrified and more hazardous to pedestrians.

Finally, a word and an anecdote on traffic management. Naturally management aligns largely with regulatory power. Thus, state police manage state rules and council rangers manage council rules. As it happens, in 2014 our local council (Mosman) was concerned with the lack of police regulation of some “no traffic” turns into residential streets with a resulting heavy flow of commuting through traffic onto residential streets. Accordingly, our council proposed to the annual LGNSW meeting that local council rangers should have the power to enforce minor traffic regulations, such as “no turn” signs. This was strongly opposed by NSW Police and did not get LGNSW support.[39]

[38] RTA, 2019, *A Guide to the Delegation to Councils for the Regulation of Traffic.*

[39] The motion was not helped by the suggestion, during council discussion, by the then General Manager that, to take on this role, the council rangers would need to carry guns.

10.3 Water and Sewerage Services

As noted above, stormwater, water and wastewater (sewerage) assets make up around 37% of all local council assets in NSW. This represents a mixture of responsibilities. All local councils are responsible for local stormwater services (drainage), generally constructed in association with roads. On the other hand, the Sydney and Hunter Water Corporations are responsible for water and wastewater services in the Sydney and Hunter regions. Outside these regions, local councils are responsible for providing water and sewerage services to more than 1.8 million people in NSW. These services are provided by 89 council-owned and operated local water utilities (LWUs), including 13 joint organisations that provide water related services. [40]

As outlined by the NSW Department of Planning and Environment[41] the sector objectives are to ensure: safe and secure drinking water supply and effective sewerage services to protect public health and the environment; to support economic development and livability; to provide services that meet customer and community needs, expectations, and preferences; and to provide financially sustainable water utilities with efficient and affordable pricing for services. The report also notes that, as the sphere of government closest to the community, councils also have a critical leadership role in planning, preparing, responding to, and recovering from drought (an issue taken up in Section 11 below).

These local water-based utilities are subject to complex government overview, under the *Local Government Act 1993* and the *Water Management Act 2000*, as well as under several other Acts: *Public Health Act 2010, Protection of the Environment Operations Act 1997, Environmental Planning and Assessment Act 1979, Dams Safety Act 2015, Work Health and Safety Act 2011 and* the *Water Act 2007* (Commonwealth). Significant infrastructure works require approval from the NSW DPE.

The DPE is also the principal ongoing overseeing agency for water supply. Under its' *Best Practice Management of Water Supply and Sewerage Guidelines 2007*, local water utilities are required to:

- Operate at best practice level including implementing long term strategic business planning and full cost recovery and meeting high drinking water quality standards under the Australian Drinking Water Guidelines.
- Have instigated institutional reform including the development and implementation of regional alliances to share resources, undertake regional water resource planning, and deliver regional water supply infrastructure.
- Make significant progress in implementing drinking water quality risk management frameworks in accordance with the Australian Drinking Water Guidelines.
- Manage the water cycle in an integrated way and deliver water sensitive urban design by coordinating their water supply, sewerage, stormwater management and land use planning functions.

The NSW Government's *Safe and Secure Water Program* (SSWP) provides capital funding to local water utilities for water supply and sewerage infrastructure projects. The program has been in operation since 1994 (and was originally called *The Country Towns Water Supply and Sewerage*

[40] It should be noted that under a recent initiative, the NSW government is working with local water utilities councils and wider water sector on a *Town Risk Water Reduction Program* to manage local water supplies more efficiently. https://www.dpie.nsw.gov.au/water/plans-and-programs/town-water-risk-reduction-program.
[41] https://www.dpie.nsw.gov.au/our-work/water-old.

Program). The DPE manages the $1 billion SSWP and gives co-funding to help regional and rural towns remove risks to water quality, water security, and the environment.

So, what are the main issues? Drawing on the Productivity Commission (2017b, *Inquiry into National Water Reform)*, these are how to achieve efficient polices and economies, especially in low density (rural) areas. Regarding efficiencies, the Productivity Commission advocated decentralised approaches to providing water and wastewater services including onsite wastewater treatment and reuse, stormwater harvesting, and managing stormwater locally through water sensitive urban design measures, such as rehabilitating wetlands. The Report recommended that governments should consider these approaches, known collectively as integrated water cycle management (IWCM), alongside conventional centralised approaches, by developing IWCM plans for major growth corridors and significant infill developments, accompanied by evaluation of costs and benefits.

The Productivity Commission (*ibid.)* also noted that one way to overcome some of the challenges faced by small regional providers is to amalgamate them into larger entities to achieve economies of scale. However, it also found that "collaboration — which can range from knowledge sharing to joint planning and shared services — is an alternative, and a more flexible, approach to achieving economies of scale. It also avoids some of the problems with amalgamating local government owned water providers, such as loss of synergies with other services provided by local governments." And it noted that removal of water and sewerage functions from councils would reduce the capacity to implement IWCM. This is a significant responsibility, ensuring water supply security through infrastructure provision, demand management and integrated water cycle management.

So, where to from here? As cited in the LGNSW *Policy Platform 2022*, all options should be on the table for alternative supplies such as recycled water, stormwater harvesting or desalination with policy bans on options to be avoided. The best value solutions should be prioritised on a triple bottom line basis (profit, people and the planet), after robust community engagement.

The LGNSW supports voluntary regional alliances of local water utilities (LWUs) but also strongly advocates for local government ownership and control of LWUs and has resisted proposals by successive NSW Governments to consolidate, corporatise and privatise LWUs. This paper also supports public provision of water services over effective private monopolies.

However, as many have observed, if all NSW (and Australian) communities are to have equitable access to town water of suitable quality, delivering these services on a full cost recovery basis is not feasible (or equitable) for some communities. In these instances, a transparent operating subsidy arrangement, or Community Service Obligation, is required (as recommended by the Productivity Commission (*ibid*.), along with some capital support for investment in new water assets. Preferably this support would be based on explicit project guidelines rather than on political choices.

10.4 Some Other Infrastructure Issues

There are, of course, many other infrastructure issues. Here we briefly mention a topical national issue, namely digital connectivity, and then discuss the contentious issue of developer contributions for infrastructure as applied in NSW (known formerly as s94 and s94A contributions and now as s7.11 and s7.12 contributions).

As ALGA (2022c, *Pre-Budget Submission*) notes, "Many communities across regional, rural and remote Australia are missing out on fast, affordable and reliable digital connections, or pay a higher cost compared to their metropolitan counterparts." And several motions at the 2022 ALGA Conference called for improved tele-communications to establish an improved mobile digital network cross the

country along with financial support to establish this. Clearly, in modern society, telecommunications play a key role supporting the productivity and wellbeing of regional, rural and remote communities (as well as of urban ones). This is undoubtedly a major issue going forward, though again one in which the costs and benefits need to be assessed.

Turning to development levies in NSW, the NSW *Environmental Planning and Assessment Act 1979* allows councils to levy developer contributions towards the cost of providing a restricted range of local infrastructure related to housing development. Local contributions plans set out the relevant local infrastructure requirements. Councils in greenfield areas may charge $30,000, and councils in inner city areas may charge $20,000, per lot or dwelling. The Independent Pricing and Regulatory Tribunal assesses contributions plans that propose contributions above these amounts and sets developer contributions in "greenfield transition areas" where there is no developer cap.

In principle, these levies are a user pay scheme. Developers contribute to the reasonable cost and provision of local public facilities needed to support new housing development. The infrastructure payments reflect the benefits. Of course, this requires that the developer levies are set realistically.

Notwithstanding the controls on the developer levies, there is constant developer pressure to reduce the levies, or abolish them altogether, on the grounds that they discourage housing development and raise house prices either indirectly through reduced supply or directly with the levies passed on to house buyers. On the other hand, local councils argue that development contributions are critical for funding local infrastructure and that, under the caps and constraints on their applications, they are becoming increasingly inadequate.

The critical issue here is whether developer charges reduce housing supply. Without any significant reduction in housing supply, house prices don't change. With or without developer levies, developers will charge the market price for housing as set by demand and supply. Developers cannot simply raise the price of housing because the cost of some input (developer contributions) has changed. In the long run, most developer charges are passed back in terms of lower prices for housing land. Given the premium that housing land usually has over other land uses, this does not significantly reduce the supply of land for housing.

Thus, providing developer charges broadly reflect relevant needed infrastructure costs, they are efficient, fair and have minimal (if any) impact on house prices. And they encourage efficient land development. They will not inhibit development where developers can absorb the costs or pass them back to the landowner.

Of course, these conclusions assume that developer charges reflect reasonably accurately the costs of urban public infrastructure in different locations and that the funds collected are used for these purposes. Development charges that do not accurately reflect such costs may not be efficient or fair.

Special problems arise when development incurs lumpy infrastructure. Also, it can be hard to identify marginal incremental costs when development occurs in established areas. Councils may simplify administration of developer contributions by estimating an average cost for new development instead of marginal area, or project, specific costs. Accordingly, work is often required to ensure that developer charges are appropriate and efficient. However, these are practical problems to be resolved rather than reasons for not adopting an efficient and equitable pricing system.

10.5 Concluding Observations

Local councils owned infrastructure assets were valued at $548bn in 2020-21, covering numerous types of assets (roads, bridges, buildings, parks, recreation assets, stormwater assets, water and

wastewater assets, and airports and aerodromes) This creates major financial and management challenges.

In the words of the Australian Local Government Association (2019), "The management of infrastructure remains a fundamental challenge for local government. Of the three levels of government, local government has the largest relative task in terms of asset management and the smallest relative revenue base collecting just over 3% of Australia's total taxation revenue."[42]

In terms of management challenges, intergovernmental cooperation is often essential as we saw in both planning and managing transport infrastructure across local areas and in managing the development of local infrastructure to meet the needs of additional local population.

11 Environmental Services and Policies

The local environment directly affects the quality of life in a local council area. The LGNSW *Policy Platform* (April 2022) has a very strong commitment to Ecologically Sustainable Development, to the principles of the circular economy and to minimization of the consumption of finite natural resources.

Environmental issues arise predominantly because of the effects of human activity on the biophysical environment. These issues take many forms including pollution of water and air quality, land waste, loss of vegetation and biodiversity, degradation of the natural environment, climate change and natural disasters. These responsibilities arise in all local councils, but especially in regional and rural areas where sustainable environmental resources are critical to productivity. Given the cause is human activity, the response needs to be changes in human activity.

In NSW, the *Protection of the Environment (Operations) Act 1997* enables councils to regulate activities to avoid and minimise negative environmental impacts. Council *Annual Reports* are required to include information on the state of the environment relating to the objectives for the environment established by the *Community Strategic Plan (CSP)*. Some councils choose to do more comprehensive environmental reporting than the basic requirement to report on the environmental objectives of the *CSP.* Most councils have developed plans and actions for stormwater management, managing waste and recycling, management of bushland, and more generally for environmental sustainability.

Clearly, this represents a wide range of environmental responsibilities. In this section we briefly describe some key elements in the role of local councils in the circular economy (waste management), climate change policies, biodiversity and biosecurity and natural disaster management.

Waste management and recycling

ALGA[43] reports that Australia's 537 local councils manage around 26% of Australian waste, either directly or through contractual arrangements. Local governments collect annually around 9.7 million tonnes of waste from kerbside bin services, sort it at material recovery facilities, and dispatch what can be recycled to reprocessing facilities in Australia and overseas. Where waste cannot be recovered, it is landfilled. Local councils in most jurisdictions incur the operational costs of maintaining landfill sites and must pay a significant levy per tonne for landfilled waste to the respective state government.

[42] ALGA, *Submission to Infrastructure Australia*: Response to Infrastructure Australia's 'Infrastructure Audit 2019'.

[43] *Local government ready to help turn our waste crisis into a billion-dollar economic opportunity* - Australian Local Government Association (alga.com.au)

Collecting, treating, and disposing of Australian domestic waste costs local government an estimated $3.5 billion annually. Local government also dedicates resources to administering community waste-education programs, collecting public litter, addressing illegal rubbish dumping, and ensuring compliance with waste bylaws.

In NSW, in many council areas household rubbish collection has moved from a single bin to up to four different bins (paper and carboard, vegetation / green waste, glass and containers, and general waste) collected on rotating schedules in addition to bins dotted throughout the townscape. NSW households generate annually 3.66 million tonnes of domestic waste, sending 1.94 million tonnes of residual waste to landfill, with the remaining 1.72 million tonnes being recycled.[44]

Climate change policies

As ALGA[45] states, "local government understands that effective mitigation of greenhouse gas emissions and adaptation to the impacts of climate change will transform the Australian economy, environment and society as a whole. Local government in Australia is committed to playing its role in meeting these challenges and opportunities."

Likewise, the LGNSW *Policy Platform* (2022) states that "Local government has a significant role in reducing greenhouse gas emissions and adapting to the impacts of climate change. Councils are responsible for $160 billion worth of assets. Reducing emissions can lower operating costs associated with these assets. The effects of climate change also have the potential to damage council assets, cause serious disruptions to the delivery of council services, generate unbudgeted financial impacts and affect the wellbeing of the community. particularly those vulnerable to weather extremes."

There are of course numerous possible council policy responses. Here we cite a selection of local council policies in NSW to illustrate councils' awareness of the need for actions and examples of their responses.

- Albury City Council, Safeguarding communication infrastructure against extreme heat.
- Blacktown City Council, Building regional capacity in Water Sensitive Urban Design.
- Cobar Shire Council, Planning for a climate resilient airport.
- Dubbo Regional Council, Dubbo CBD Heat Island Amelioration.
- Lake Macquarie City Council, Assessing the vulnerability of local houses to climate change impacts.
- Lake Macquarie City Council, Citizen Science and Foreshore Inundation – Tidal Valves.
- Northern Beaches Council, Guiding asset resilience in a changing climate.
- Oberon Council, Renewable Energy Action Plan.
- Parkes Shire Council, Rehabilitating PAC Park Waterway.
- Penrith City Council, Adapting bus shelters to climate change.
- Penrith and Leichhardt Councils, Adapting to urban heat events: by mapping vulnerability hot spots.
- Queanbeyan Palerang Regional Council, Gross Pollutant Trap Effectiveness.

[44] Local council waste and resource recovery data reports (nsw.gov.au)
[45] Natural and Built Environment - Australian Local Government Association (alga.com.au)

- Shoalhaven City Council, Adapting the Nowra CBD for cooling and amenity.
- Tweed Shire Council, Adapting to the increasing risk of mosquito-borne disease.[46]

As the level of government closest to the impacts of climate change and with some capacity to respond to climate change, local councils have a key role in developing and implementing climate change policies.

But, as ALGA (2022c) noted in its *Pre-Budget Submission 2022-23*, "Addressing the causes and impacts of climate change requires a collaborative effort across all three tiers of government, business and our communities. The importance of this collaboration was identified in the Federal Government's recently released National Climate Resilience and Adaptation Strategy 2021-2025." And, in the ALGA 2022 National General Assembly, numerous motions called for the three levels of government to work together to develop and implement climate change responses.

Biodiversity and Biosecurity

Biodiversity refers to the variety of plant and animal life in any environment or habitat. A high level of biodiversity is usually considered to be desirable and important. Threats to terrestrial species are primarily from habitat loss or modification due to human works or consumption. Biosecurity means protecting the environment principally for humans from harmful pests, diseases and weeds. Thus, controls over local land uses are an important defence of both biodiversity and biosecurity.

Councils are a key agency on local biodiversity management. Thus, the LGNSW *Policy Platform* (2022, p.19) states that "Local Government supports the conservation of biological diversity. Councils are a key influence on local biodiversity management and have an essential role to play. This includes through planning and approval processes, community education and engagement activities, and as public land managers."

Turning to biosecurity, LGNSW (*ibid*., p, 20) states that "Local government has a significant role in biosecurity including: • as a local control authority (LCA) in regulating weeds under the *Biosecurity Act 2015*, • as a land manager, to understand and implement its biosecurity responsibilities (e.g., weeds, pests), and • in discharging regulatory responsibilities under the Companion Animals Act 1998, for domesticated cats and dogs."

LGNSW supports both general policy positions with more detailed policy suggestions for local councils.

Natural disaster management

Australia has always been subject to natural disasters, especially bushfires and floods. But as ALGA (2022c) observed, Australia has been especially profoundly impacted by natural disasters in the past few years. Natural disasters have claimed many lives and impacted literally hundreds of thousands of people. And the impacts of climate change will result in more frequent and more severe disasters in the future.

As ALGA (2022b) observed, "mitigation measures reduce the costs of response and recovery and are a sound investment in strengthening community resilience. Ensuring infrastructure can withstand future climate-change realities is vital for creating prepared and resilient communities. This makes local government an essential partner in adapting to climate change impacts. Early planning and

[46] For further details see: https://www.olg.nsw.gov.au/strengthening-local-government/local-government-reform/independent-review-of-local-government; and strengthening-local-government/local-government-reform/local-government-acts-taskforce/publications-resources.

preparation to minimise the impacts of climate change in local communities will reduce long-term economic, social, and environmental costs."

Numerous motions at the ALGA 2022 *National Assemble Congress* highlighted the need to identify local risks and for the front tier of government to be actively involved. Running through the motions was the role of governance and the need for more consistent government processes.

As LGNSW (2022, p.12) observes, multiple issues require addressing including allocation of responsibilities for emergency management, adequacy and timeliness of funding, the absence of funding for betterment or mitigation works and the funding of council day labour. Communities need support to take preventative mitigation measures to limit the severity of disasters, as well as appropriate and adequate support to recover from these events.

Less than five percent of disaster funding in Australia goes towards mitigation and community resilience measures. This figure needs to rise to ensure that communities – particularly those where exposure to fires and floods is greatest – are better prepared for climate change. Protecting communities from the impacts of bushfires, floods, and sea-level rise – and helping them adapt to climate change – are priorities for local government, but we could do more with additional mitigation funding from the Commonwealth.

Thus, local councils have a key role in all aspects of disaster and emergency management at the local and regional level. In addition to statutory or regulatory responsibilities and despite limited means, councils also play a major role in providing support to their communities through volunteers and charities.

Conclusions

LGAs have a pivotal role in managing the local environment. Councils manage the "circular economy" – waste relief, manage local biodiversity and biosecurity, and many councils have local climate change policies. They are also at the forefront for managing natural disaster relief.

ALGA is "committed to working with other levels of government and the community to achieve positive environmental outcomes that assist in the control of pest species, outbreaks of disease and the protection of local industries, including agriculture and tourism. Local government is responsible for the management of local municipal waste services… ALGA recognises the need to address climate change."[47]

And as the LGNSW remarks, "Local councils have a pivotal role in environmental management … Increasingly, councils are pursuing initiatives to reduce their environmental footprint such as stormwater improvements, waste education, and biodiversity protection initiatives".[48]

12 Social and Community Services

Traditionally local council involvement in social and community services included provision of recreational sporting facilities, library services, child playgrounds, inspection of health standards in commercial food outlets, and some limited services to senior citizens and others in the community in need of special assistance.

[47] *Natural and Built Environment* - Australian Local Government Association (alga.com.au)

[48] https://www.lgnsw.org.au/policy/environment

As reported by ALGA[49], "The roles of local government areas in social services across Australia have recently expanded both due to council decisions and as higher levels of government have devolved activities to the third tier. To-day many councils provide a wide range of social services, including for example, home support (meals and books) for housebound residents, recreational social activities for seniors, community transport services and many child-care services. More resources are allocated to library facilities and cultural centres such as art galleries. Other examples include the provision of community health services, as well as community safety and accessible transport. In some parts of Australia local government is the biggest provider of early education and care services and plays a major role supporting increased productivity in these communities." As noted above, these changes are sometimes described as a shift from 'services to property' towards 'services to people'.

In this section, we briefly highlight below three examples of social and community services, namely libraries, art and culture, health and safety, and housing, drawing on eloquent and succient statements, part descriptive and part advocacy, in ALGA and LGNSW reports.

As described by the LGNSW *Policy Platform* (April 2022), regarding social and community services, "Local government is committed to the principles of: • Equity – fair distribution of resources • Rights – equality for all people • Access – to services essential to quality of life • Participation – of all people in their community • Recognition of the unique place of Aboriginal people in NSW … •Health and safety – for all in the community."

It is hard to criticize these ambitions. The main issues in providing social and community services are how to meet community preferences, how to meet special needs, and how to find the resources to finance them. Given that, as discussed in Section 2, provision of social welfare is joint role of all three levels of government, fair funding is a major issue.

Libraries, Arts and Culture. Drawing on ALGA *Pre-Budget Submission 2022-23*, "Arts, culture, and the creative industries are important economic drivers of tourism, regional economies, the night-time economy, and social cohesion… Local government plays an important role in the creative and visitor economies. However, the closure of state borders and ongoing local lockdowns has had a significant impact on the arts sector… Councils have a strong track record of working collaboratively at the local level and can provide targeted delivery of strategic cultural and creative programs by expert personnel. Councils need continuing support from other levels of government to ensure the sustainability of their arts and culture focus, yet have been largely ineligible for other federal arts recovery funding."

Drawing on the LGNSW *Policy Platform* April 2022, "Local government provides art galleries, museums, libraries and cultural services which are vital in enabling communities to participate in artistic and cultural expression. Councils provide almost 400 free public library services in NSW, including central, branch and mobile libraries in NSW. The right to equitable access to basic information is a cornerstone of democratic society… Support the critical role of public libraries in communities by: • Reversing the significant decrease in the State Government expenditure as a proportion of total expenditure on public libraries that has occurred since the 1980s."

Health and safety. Drawing on ALGA *Pre-Budget Submission 2022-23, "*Two in three Australian adults are overweight or obese, and around one in five Australians have experienced a mental disorder in the past 12 months. Why does it matter? Councils can play an important preventative role in community health, extending the length and quality of life enjoyed by Australians and minimising the cost to our nation's health system. There is compelling research and evidence supporting the links

[49] ALGA Circular October 2022.

between people's overall physical and mental health and the environments in which they live. Preventative health is an important focus for councils across the country and has the potential to have a significant impact on community health outcomes as well as alleviating obesity-related health costs.

As a sector, our focus on addressing Australia's obesity and mental health crisis is not from a medical perspective, but rather from a community-based health approach. Our proposal is for a new financial support package of $100 million over four years to be distributed through a local government place-based preventative health fund. This fund would leverage our capacity to improve health outcomes in our communities, through healthier eating education initiatives, increased physical activity opportunities for children, and programs delivered with sport and recreation facilities and community groups."

As stated on the LGNSW *Policy Platform* (2022), "All councils in NSW play an essential part in improving and safeguarding the health and safety of their communities. Local government also has statutory responsibilities for public health protection under the *Public Health Act 2010* and *Food Act 2003*, regulating food businesses as well as premises that may pose environmental health risks through legionella, skin penetration or exposure to hazardous materials including asbestos. Councils also provide communities with access to additional services to contribute to community health, including immunisation clinics, sporting and recreation facilities and open space, mental health and physical activity programs, clean drinking water and no-smoking zones. Councils further have a role in considering how the built environment can be planned to promote health and safety. Council involvement in community safety and crime prevention initiatives is often in partnership with police and other government and non-government organisations, engaging with communities to understand and develop strategies to address local crime issues."

Another important whole of government service is the *NSW Disability Inclusion Plan 2021-25* launched by the state government in November 2021 which aims to strengthen the state's accessibility framework and improve outcomes for people with disability. All local councils are to have disability inclusion plans to put the principles of the Disability Inclusion Plan into practice.

Housing. As ALGA (2022c) reports "The shortage and rising costs of rental properties and affordable home ownership are having significant social and economic impacts in cities and towns across Australia, including rural and regional communities. This is due to a range of factors including changes to recent migration patterns, cheap finance and labour and material shortages in the construction sector. The impacts on local governments and communities includes housing stress for individuals and families, difficulty in attracting and housing key workers and an increase in homelessness.

Whilst the provision of affordable housing is not a local government responsibility, councils often facilitate affordable housing within their communities, operating within state/territory planning, financial and other legislation requirements. For councils looking to drive a locally led economic recovery and create new jobs in their communities, an appropriate supply and mix of housing to suit diverse community needs is crucial. The housing challenge is different in every community, and the council response is dependent on its financial resources and priorities. Local government also supports a national housing summit as a precursor to the development of a national housing strategy, which includes local government in the national dialogue." [50]

The LGNSW (2022) also calls for much more collaboration between the state government and local councils to increase housing affordability, especially for low-income households. "While the NSW

[50] ALGA-Pre-Budget-Submission-2022-23.

Government is ultimately responsible for housing and homelessness, councils are closely involved through maintaining public space, managing community concerns and complaints, conducting outreach programs, and safety measures such as clean-ups and syringe disposal."

In a major initiative, in the 2022-23 budget, the Federal government announced an Accord with state and local governments to deliver one million new homes over the next five years including an increase in subsidised housing. Actually, the increase in total housing may be minor as 175,000 new homes per annum (nearly 900,000 homes in five years) is the current norm. But the formal engagement to partner with local councils to facilitate the new target would be a change from the current top-down state to local council culture in NSW.

In conclusion, to-day local councils are providers of numerous social and community services. Councils fill the gaps in the provision of essential human services when there are no other providers, particularly in rural and remote areas, and advocate for equitable access to infrastructure and services. And people working in local councils have day-to-day experience of the conditions in which the local community lives and are generally much more motivated to help their local communities than are government officers working 100, or even 1000, kms away.[51]

13 Conclusions

The theme of this paper is the strong role of local government in the provision of local public services, with special reference to NSW. This paper discusses most of the related key issues, but with two notable exceptions: constitutional recognition of local government and indigenous issues notably in "Closing the Gap".

Drawing on public finance principles and the principle of "Subsidiarity", local government should be the primary provider of local public goods and services and have a substantial role in the provision of social welfare services.

But, in Australia, local councils are everywhere the creation of state government legislation and serve at the dictation of the state legislatures (in effect as agencies of the state government). This is notably the case in NSW where the state government substantially regulates what councils must do, and cannot do, and how they should carry out their legislated functions.

In 2021, there were 537 local councils in Australia, down from 1,067 councils in 1911. The average population was 48,556 persons per local council. This was well over twice the average populations of local councils in comparable three-tier government systems in Europe and the United States. But there are also wide differences in Australia with an average of 188,000 persons in councils in the seven major cities compared with 21,000 in all other councils, which also must manage a massive average 17,080 sq. km of land per council. This diversity creates very different challenges for local councils.

Most local councils in Australia to-day provide over 100 different services including local governance, various economic services, land use planning, management of local infrastructure including transport and water supply, management of parks and other open spaces, various environmental services, health services, and many social and community services such as libraries, recreation facilities, and services for seniors, families, youth, children, the disabled, indigenous persons, and other community groups.

[51] This is a personal observation from many years or experience working with local and state governments and some experience with the Commonwealth government.

However, local councils are often characterised as asset rich and income poor. In 2020-21, local council assets across Australia were valued at $548 bn. Total revenue, including grants, was less than 10% of this at $52.8bn. Total expenses were $60.4bn made up of recurrent expenses of $43.1bn (including $9.1bn of asset depreciation) and capital expenditure of $17.3bn. Excluding depreciation, councils had an overall net positive result of $2.0bn. Including depreciation, local government ran at a loss of $7.0bn.

In 2020-21, local councils raised 83% of their revenue from own sources, principally tax on land values (rates) and user charges. Grants from higher-level governments accounted for 17% of total revenue. But many rural and remote councils rely considerably more heavily on grants.

In NSW, local councils are regulated by the *NSW Local Government Act 1993*. The *Act* (873 pages long) dictates what councils can and cannot do, mandates several reports that councils must provide regularly to the state government, prescribes (limits) the roles of councillors, and even prescribes how local council meetings must be run (like a parliamentary meeting). Local councils in NSW also have numerous further legislated responsibilities under 17 other NSW Government *Acts.*

Turning to council structure, state governments have significantly reduced the number of local councils over time, but most local communities oppose mergers (often strongly) into larger councils. And the case for merging councils in terms of strategic capacity or financial savings is generally weak. In the view of the paper, changes to council boundaries should be subject to local plebiscite. The paper also supports the case for council wards, which generally improve local community representation.

Regarding council management, the *NSW LG Act 1993* was designed to reflect the Principles of New Public Management and to set up local councils broadly along the lines of private corporate businesses. Under these principles, elected councillors determine council strategy, policies and resourcing. Council officers are responsible for carrying out these policies and for provision of all services. While the public often holds councillors responsible for poor services, formally they are not allowed to instruct council staff as to how to provide services. In practice, there are many grey areas.

Turning to measuring council performance, given the large number and variety of local services, the overall performance of local councils cannot be sensibly measured by any single peformance measure. Following recent developments in Victoria and NSW, it is possible and useful to collate and publicly present comparative data on various services in broadly similar councils. But community preferences matter and may vary. Thus, regular detailed community surveys provide much the most valuable guide to both overall performance and more specific service performance.

Regarding finance, taxes on land values (rates) are an efficient tax as land is a fixed resource. And where household incomes in a council area are average or above, the combination of rates and service charges generally provides adequate revenue to fund most services.

However, there are various difficulties. Importantly, land tax is not adequate for councils with low household incomes and / or large areas to manage, often including national infrastructure. These councils often need more financial support. But the value of Commonwealth Financial Assistance Grants to local government has declined from around 1% of Commonwealth taxation revenue three decades ago to around 0.55% today.

Other financial issues in NSW include rate pegging since 1977 (and in Victoria since 2017), numerous rate exemptions, cost shifting, and state controls over council audit committees. All have major drawbacks. This paper recommends full reviews of these issues.

Council economic services fall broadly into two categories: direct and indirect. Direct economic services include managing abattoirs, saleyards, tourist promotion, camping areas, commercial nurseries and airports, along with support for local businesses and real estate. Indirect services include local land use planning, development of special activation precincts, and delivery of infrastructure and social support services.

In NSW, land use planning is a prime case of the movement towards state government controls along with erosion of local council controls. Examples include pressure to determine development applications in 40 days, exempt and complying developments, the extensive role of private certifiers, the introduction of state-controlled Local Planning Panels in city councils and the associated loss of council control over use of local public land. The state government has also set up other agencies including Regional Planning Panels, the Independent Planning Commission and the Land and Environment Court, to take over local decision making. As pointed out by the LGNSW *Policy Platform* (2022, p.13), restoring community-led planning powers to local government is a longstanding advocacy priority for LGNSW.

Turning to infrastructure, local council assets (valued at $548bn in 2020-21) include numerous types of assets: roads, bridges, buildings, parks, recreation assets, stormwater assets, water and wastewater assets, and airports and aerodromes. This creates major financial and management challenges. In the words of the Australian Local Government Association (2019), "Of the three levels of government, local government has the largest relative task in terms of asset management and the smallest relative revenue base collecting just over 3% of Australia's total taxation revenue." In terms of management, intergovernmental cooperation is often essential for both planning and managing transport infrastructure across local areas and in managing the development of local infrastructure generally to meet the needs of additional local population.

Regarding environmental management, councils are at the forefront in managing natural disaster relief and damage repair. Councils are also increasingly pursuing initiatives to reduce the local environmental footprints such as waste management, stormwater improvements, and biodiversity and biosecurity protection initiatives. And many councils have developed detailed initiatives to respond to climate change.

Nationwide, ALGA is "committed to working with other levels of government and the community to achieve positive environmental outcomes that assist in the control of pest species, outbreaks of disease and the protection of local industries, including agriculture and tourism. Local government is responsible for the management of local municipal waste services… ALGA recognises the need to address climate change."[52]

Further, nationally, local councils today provide a wide range of social services. Major resources are allocated to community recreational facilities, library facilities and cultural centres such as art galleries. Social support services include home support (meals and books) for housebound residents, recreational social activities for seniors, community transport services, and many child-care services. Other examples of social services include provision of community health services, as well as community safety and accessible transport. In some parts of Australia, local government is a major supporter of early education and care services.

Thus, while legally local government in Australia is an agency of a higher-tier level of government (the state government), in practice local government is much more than this. Local councils are a reference point in forming a sense of identity and direction for local communities, a provider of large numbers

[52] *Natural and Built Environment* - Australian Local Government Association (alga.com.au)

of local public goods and social and community services, and they have a major role in protecting the natural environment. As the level of government closest to people, local government serves to strengthen the relationship between the individual citizen and government as a whole. These roles would be enhanced if local councils were treated with more respect, were in some cases given more financial support, and if there were more genuine collaboration between the three levels of government.[53]

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[53] After completing this paper, I came across Agrawal *et al*. (2022), a just published, highly professional, review of the roles of local councils in the United States in the *Journal of Economic Literature*. The core message in this paper is all about competition between local councils including fiscal competition, bidding for firms, yardstick competition, expenditure spillovers, and Tiebout sorting. This is quite different to Australia where local councils often collaborate in provision of services and the prime competitor is the state government.

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