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## Local Government in the Australian Federation

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*Abstract:* From the historically minimalist role of councils in Australia, local government has evolved into a level of government characterised by diversity and the wide range of services provided in response to community needs. As part of this evolutionary process, local government public policy, including local government reform programs throughout Australia, have developed within a context of complex interplays between state and federal governments. These inter-governmental relationships are multi-faceted and have historical, legislative, functional, financial and political dimensions. By examining these dimensions it can be demonstrated that contemporary local government in Australia experiences a degree of powerlessness within the federal system due to a lack of constitutional recognition at the federal level, the legislative status of councils based on laws enacted by each state, a lack of financial capacity to meet community expectations due to cost shifting, limited funding options, and a lack of financial autonomy. Local government also faces many challenges in maximising its political influence and participation in policy discussions at the state and national levels. This powerlessness makes local government vulnerable to ad hoc reform such as amalgamations and it can be argued that these reform processes have the potential to adversely impact on the community's experience of democratic principles such as responsiveness, representativeness, access and accountability at the local level.

*Keywords:* Local government, Australian federation, public policy

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## **Introduction**

A critical evaluation of public policy in relation to local government reform should begin with an understanding of each level of government in the Australian federation. Of particular interest to this paper is local government's relationship with its state and federal counterparts. It is the nature of these relationships that form the context from which local government reform policy has been formulated and implemented throughout the country. The various dimensions of these relationships are worthy of consideration from historical, legislative, functional, financial and political perspectives. Examining these relationships demonstrates the relative powerlessness of local government in the Australian federation, which explains in part why local governments have been the subject of, or involuntary participants in, the reforms agendas of the state and federal governments. This paper considers the complex interplay between federal, state and local governments in Australia, the ongoing evolution of local government and the key factors affecting local government sustainability in Australia. Given this contextual information, local government structural reform is then briefly considered and it will be suggested that these imposed reform programs can sometimes be considered contrary to the democratic principles which form the basis of government in Australia.

This paper consists of six main parts. Section 2 defines a federal system of government and discusses the economic benefits of this system, briefly describes the history of the Australian federation, identifies in general terms the strengths and weaknesses of this system, discusses inter-governmental relations, fiscal federalism and constitutional change in Australia, and considers how all of these factors affect local government. Section 3 explores the role and responsibilities of local government in Australia from both an historical and contemporary perspective, including the history of local government in each state, constitutional recognition and the diversity of local government. Section 4 explores the legislative and financial nature of the relationship between local, state and federal governments, including the legislative base for local government in each of the Australian states, and fiscal stress caused by cost shifting, community expectations, limited revenue

raising opportunities and the 'infrastructure crisis'. Section 5 considers how these constraints contribute to the 'powerlessness' of local government in Australia in relation to state governments. This paper ends with some brief concluding remarks in Section 6.

## **The Australian Federal System of Government**

### ***Introduction to the Federal System of Government***

The concept of federalism was first articulated as a model for modern government by the founders of the United States of America through the *Federalist Papers*. Federalism was seen as a way of establishing a 'compound republic' that 'added the national advantages of largeness to the local advantages of smallness while at the same time ensuring the democratic character of both' (Galligan 1995, 39). Various definitions of federalism have since been developed.

Hughes (1998, 260-261) provides a number of definitions for federalism. Wheare (1963, 10) contends that federalism is 'the method of dividing powers so that the general and regional government are each, within a sphere, co-ordinate and independent of the other'. Riker (1975, 101) observed that federalism is 'a political organisation in which the activities of government are divided between regional governments and a central government in such a way that each kind of government has some activities on which it makes final decisions'.

Sawer (1976, 1) propounded a definition of federalism that is made up of six main components:

1. A federal system consists of a national state with institutions that exercise sovereignty centrally over a country.
2. The country is made up of a number of states. These are geographical areas that have their own government.
3. Government responsibilities are shared between the national and state governments 'in such a way that each government has a direct impact on the citizens in its own area'.

4. The powers of the national and state governments are defined through a written constitution that 'has a fair degree of rigidity, meaning it is not easy to amend'.
5. The constitution sets out rules that are applied when disagreement exists between national and state governments in relation to which level of government has the authority over a particular issue. The constitution is considered the final authority on such matters.
6. The application of the constitution to resolve disputes is the responsibility of a judicial body separate from both levels of government.

There are two main categories of federalism. Co-ordinate federalism refers to a situation whereby the national and state governments operate independently of each other and have equal legal status. This type of federalism is not easily achieved in practice since roles and responsibilities of each tier of government overlap and inevitably some dependencies exist. By contrast, co-operative federalism focuses on the national and state governments working in partnership in fulfilling their responsibilities. This model of federalism focuses on negotiation, political bargaining and on occasions conflict between the two tiers of government (Hughes 1998). There is a third category of federalism known as competitive federalism. Under this model, 'state and local officials determine their own policies in part based on competition with surrounding communities' (Volden 2002, 352). This competition may have both positive and negative consequences. For example, it has been suggested that in the USA, whilst competitive federalism encourages a 'more efficient representation of community interests, lest the community lose residents, businesses, and part of its tax base to competitors, [this same] competition may lead to an undersupply of welfare benefits ... with states cutting their benefits ... to avoid becoming welfare magnets' (Volden 2002, 353).

### ***Economic Benefits of the Federal System of Government***

Inman and Rubinfeld (1997) contend that the federal system of government provides an effective means to allocate national resources efficiently. This

argument is based on the 'correspondence principle' which is that 'the jurisdiction that determines the level of provision of the public good includes precisely the set of individuals who consume the good' (Oates 1972, 34). This means that a public good should be provided by the level of government whose constituents are those people who will use the public good, and this level of government will be in the best position to be more responsive to demand (Dollery and Wallis 2001, 17-18). When this principle is applied in conjunction with the fact that people benefiting from the delivery of public goods vary in number and location depending on the public good concerned, the economic rationale for the federal system becomes evident. Where there is a significant 'spillover' of cost in delivering a public good to people who do not receive any benefit or vice versa, then it can be argued that a federal government has a role to play in providing that public good on efficiency grounds. Public goods such as national defense or basic research would meet this criteria, whilst goods such as 'education, police and fire protection, sanitation, recreation, and even public health can be produced efficiently by relatively small communities' (Inman and Rubinfeld 1997, 3). This conceptual argument for federalism does not easily transpose into practice. For example, difference perceptions can exist in relation to the nature of a public good. Musgrave (1997, 65) contends that 'it may seem that education and elementary education in particular are eminently local functions. However, although education is conducted locally, its quality is also of national concern'.

Another fundamental argument for the economic efficiency benefits of a federal system of government is built on Tiebout's (1956) assumption that public goods are best delivered at the local level and that competition is established between small governments as people 'shop' for the governments that offer 'their preferred package of services, taxes, and regulations' (Inman and Rubinfeld 1997, 44). Where 'spillovers' occur this competition between small governments may promote inefficiencies as the full costs and benefits of providing a public good is not defined or reflected in the price of this public good. In this instance a federal government should be allocated the task of providing public goods associated with these 'spillovers'. There are practical

problems associated with this approach; historically state governments in federal countries such as the America and Australia did not ‘follow the blueprints of spatial efficiency and the number of states is not easily adjustable to meet that standard’ (Musgrave 1997, 65).

Qian and Weingast (1997, 83) expand on the economic benefits of federalism by arguing that federalism provides an answer to the question: ‘How do governments commit to prodding efficient public goods and preserving market incentives?’ through aligning ‘incentives of political officials and citizen welfare’. The basic premise of their argument is that economic benefits for a society as a whole, and therefore citizen welfare, is maximized when resources are used efficiently, and efficiency is best achieved through a competitive, unregulated market. Therefore a government should not inhibit market activities and should only act in response to instances of market failing to provide ‘goods and services either at all or in an economically optimal manner’ (Dollery and Wallis 2001, 22). Qian and Weingast (1997, 83) identify two factors: the ‘state predation’ and ‘soft budget constraint’ problem as being potential inhibitors. State predation occurs when ‘the government is tempted to take away too much income and wealth generated by future success, individuals have no incentives to take risks and make effort today’. Soft budget constraint refers to a situation whereby if a government is ‘tempted to bail out failed projects or continue costly, inefficient public programs, individuals have no incentives to avoid mistakes’ (Qian and Weingast 1997, 83).

In order to demonstrate how federalism can limit the occurrence of these inhibitors through providing incentives for government decision making that aligns with this definition of citizen welfare, the concepts of ‘allocation of information and authority’ and ‘competition’ within a federal system are applied. The decentralisation of government inherent in the federal system means that the federal government has less information and limited authority. Qian and Weingast (1997, 84) contend that this ‘increases the credibility of [the federal government’s] commitment’ to ‘preserve markets’. This devolution

of power and responsibility to state governments generates an incentive for state governments to protect this autonomy and this has a limiting effect on the activities of the federal government including taxation. Qian and Weingast (1997, 84-85) describe how the American federal system limits the occurrence of soft budget constraints by constraining the borrowing capacity of the states through various means, such as the issuing of bonds 'for capital improvement, not general consumption', which prevents states from 'endlessly bailing out ailing enterprises and from expenditure levels beyond their means'. However, the federal government has direct access to the central bank thereby increasing the risk of softer budget constraint at the national level.

In relation to the concept of competition, Qian and Weingast (1997, 85) build on Tiebout's (1956) views on competition between small governments to suggest that 'jurisdictional competition serves as a disciplinary device to punish inappropriate market intervention by lower government officials'. For example, business and investment will be attracted to government jurisdictions that have low taxation and this competition for 'mobile resources' between jurisdictions provide another incentive for government decision makers to not inhibit market activities in this way.

### ***History of Australian Federalism***

The Australian co-operative federation is based on the federal models of the USA, Switzerland and Canada and is one of 'the oldest continuing federal systems in the world' (Dollery 2002, 26). From the American federal system, the following characteristics were adopted:

- Australia's two levels of government each directly accountable to the people;
- The division powers by articulating the responsibilities of the national government and leaving the residual responsibilities to the states;
- A strong Senate as part of a two house legislature, including the House of Representatives; and
- The High Court to interpret and preside over disputes relating to the Constitution.

The referendum process was drawn from the Swiss model and the approach from combining federalism and responsible government was modeled from Canada (Galligan 2007, 202). Historically, British settlers determined that federalism should be a key feature of any system of government in Australia, primarily because the politicians of the various self-governing colonies in Australia recognised the need for a national government, and they wanted to preserve and protect the power and autonomy they enjoyed as separate colonies. Federalism provided for such an arrangement and a Constitution was developed outlining the division of powers between the newly formed federal government and state governments in Australia.

The transition from self-governing colonies into a federal nation occurred on January 1, 1901 through the Imperial *Commonwealth of Australia Constitution Act*. Prior to this colonial leaders attended various federal conventions to progress the development of the Australian federation and to develop a draft Constitution. Ultimately a Constitution was agreed to by the colonies of New South Wales, Victoria, South Australia, Queensland, Tasmania and Western Australia through referendum (Parliament of Victoria 1998).

### ***Strengths and Weaknesses of the Australian Federal System***

In general terms as a system of government, a number of strengths and weaknesses can be identified in relation to the Australian federation. Firstly, Maddox (2000) argues that a federal system enables government to remain 'close to the people' since each state operates the government from a state capital city rather than all government being located in Canberra. Similarly, it prevents the national government from being able to exercise power over all of Australia on all matters thereby reinforcing the notions of decentralised democracy and limited government.

Furthermore, federalism provides a vehicle for regional development since funding from the national government is passed on to the states for use in regional areas and protects the diversity that exists between the states. Federalism and its associated multiple political and legal institutions also



provide more opportunities for people to become involved in the political system. It is suggested that these opportunities for involvement in the political process promotes innovation as new ideas and concepts can be introduced to the system at different levels and in different states. For example, a state may develop and implement best practice in a particular policy area which can then be applied in other states.

The main weakness of the federal system in Australia is duplication of political institutions and activities. Former Prime Minister Hawke (in Maddox (2000, 154) noted that 'what is unique about us that we need our fourteen Houses of Parliament and eight governments'. Mathews (1983) highlighted the duplication that comes from a lack of policy co-ordination between the national and state governments on a range of issues including transport, indigenous issues and the environment. From this duplication derive inefficiency in public sector bureaucracies. It is also suggested that a further weakness of the Australian federal system is competition between the states that can lead to decision making that is not in the best interests of tax payers. Maddox (2000, 154-155) provides an example of this problem whereby a state in its attempt to attract a mining company to promote economic development within the region through offering 'cheap electric power, concessional tax rates and infrastructure assistance' may not place the proper emphasis on critical environmental considerations.

Maddox (2000, 156) also stresses the fact that 'policy vacuums' exist in relation to issues where the federal system has allowed 'indecision, inaction and buck-passing' between the national and state governments. This issue has both political and structural components. In Australian politics, at any given point in time there will be a range of issues in which the national and state governments for various political reasons or ideology will not be prepared to act, or in some cases disagreement exists on the best response. This situation is able to exist in Australia because the concept of 'divided responsibility' forms part of any federal structure. Parker (1980, 17) observed that 'the mere division of powers between federal and state parliaments ...

diffuse responsibility between sets of ministers at different levels ... and frustrates attempts in any one parliament to hold its ministers accountable’.

### ***Inter-Governmental Relations***

Since many of the abovementioned weaknesses associated with the Australian federation relate to the relationship between the national and state governments, it is important to discuss this aspect of federation in more detail. Summers *et al.* (2002, 89) maintains that the division of power between the federal and state levels of governments in Australian ‘is constantly changing’. These changes can be clearly seen when the role of the High Court role in federal-state relations, fiscal federalism and the interpretations of federalism by federal governments are examined.

#### High Court of Australia

The High Court was established through Section 71 of the Constitution. A component of the High Court’s role is ‘to interpret and apply the law of Australia; to decide cases of special significance including challenges to the constitutional validity of laws’ (High Court of Australia quoted in Singleton et al 2003, 45). This role of the High Court is known as ‘judicial review’. According to Hall (2000, 143-144), the nature of the High Court’s rulings in cases of judicial review can be categorised into four distinct periods as outlined below. From 1903-1920, the Court attempted to preserve division of powers between the federal and state governments as per the Constitution reflecting the ‘intentions of the drafters of the Constitution’. Between 1920 and 1942, the High Court adopted an approach to interpreting the Constitution known as ‘legalism ... that the Constitution should be read according to its plain meaning’. This led to an increase in the powers of the federal government. From 1942-1983, the *status quo* in the division of power was maintained and from 1983 the High Court ‘self-consciously reconstructed its role’. These most recent changes are known as ‘the new politics of the High Court ... judicial activism or judicial adventurism’. This ‘new politics’ has been defined by Gelber (2004, 333) as ‘a combination of expanded institutional powers and innovative jurisprudence’ reflecting the reality that the High Court is both a

political and legal institution. Despite these periods, in general terms Galligan (1995, 170) states that 'according to most commentators, the dominant pattern in the High Court's interpretation of Australian federalism has been the ever increasing centralisation of power at the national level of government'.

### Fiscal federalism

In addition to the strengthening of the federal government through judicial review, the changing financial relationship between the federal and state governments over time has caused increased dependency by the states on the federal government for funds. This dependency also exists in relation to local government and has similar implications for both state and local governments.

Financial dependency can be understood using the concepts of horizontal and vertical fiscal imbalance. Historically, horizontal fiscal imbalance has been a cause of fiscal stress for state and local government in Australia. This concept relates to the different capacity of state and local governments to raise revenue and the differences in costs to deliver services. Dollery (2002, 27) noted that this issue 'was initially addressed by special grants to financially distressed state and local governments and from 1933 onwards through equalisation procedures administered by the Commonwealth Grants Commission' in relation to financial support provided by the federal government. Through the equalisation of grants paid to state and local governments not only has the issue of horizontal fiscal imbalance been successfully addressed, but payments made are also free of party politics and without bias.

The more contemporary issue of vertical fiscal imbalance relates to the fact that 'the federal government raises more revenue than it needs to meet its expenditure obligations, while the reverse is true for lower levels of government, both state and local' (Dollery *et al.* 2006, 36-39). They go on to observe that 'the financial dominance of the Commonwealth government and

the lack of vertical balance between tiers of government is undoubtedly the most heavily criticised aspect of the Australian federal system’.

Worthington and Dollery (2000, 26) quantify vertical fiscal imbalance by identifying that ‘in terms of overall public sector revenue-raising capacity in Australia, the Commonwealth raises approximately 75 percent, the states around 21 percent, and local government about 4 percent. Accordingly, in the Australian federal system, own-source revenues as a percentage of own-purpose outlays (an indicator of vertical fiscal imbalance) are 142 percent for the Commonwealth, 50 percent for the states, and 80 percent for local government.’

Vertical fiscal imbalance in Australia has resulted in state and local governments having limited capacity to raise their own revenue and this can be dealt with using the following strategies: ‘Expenditure responsibilities can be transferred between the different tiers of government, taxation powers can be re-allocated, inter-governmental grants can be introduced to redistribute funds, and institutionalised revenue-sharing arrangements can be developed’ (Dollery 2002, 27). However, some of these solutions, such as inter-governmental grants are not considered to be economically efficient or effective. For example, Doller *et al.* (2000, 18-19) argue that because grants ‘have zero opportunity cost from the perspective of the states and local government, there is little incentive to expend these funds judiciously’... [and] the Commonwealth government does not have sufficient incentives to limit its own expenditure’. Furthermore, the limits placed on state and local governments in terms of revenue raising options means that these levels of government must rely on ‘economically inefficient and distortionary taxes’ such as costly property based taxes and charges to augment grant funds from the federal government (Dollery *et al.* 2000, 18).

It is interesting to note that labelling vertical fiscal imbalance as a criticism of the federal system may be ill-considered. Dollery (2002, 29) notes the fact that there are many examples of both democratic federal and unitary systems of

government that have decentralised fiscal responsibilities. Therefore it can be argued that vertical fiscal imbalance should be seen as an issue ‘generic to all forms of democratic government that embody a division of powers’.

The nature of vertical fiscal imbalance in Australia and the associated government responses has evolved over time. Dollery (2002) provides a historical account of this evolution as summarised in Table 1 below.

**Table 1: Evolution of Vertical Fiscal Imbalance in Australia**

<b>Time Period</b>	<b>Description</b>
1901-1909	The origins of vertical fiscal imbalance can be found in the new Australian Constitution when the states give up their key income source in custom duties. However the federal government was required to return three-quarters of these funds to the states and any ‘surplus’ revenue.
1910-1918/19	Payment of ‘surplus’ funds to the states ceases and federal per capita payments to the states commenced. The federal government introduced an income tax (the states also charged an income tax).
1919/20-1932/33	Special federal grants to states commenced and issues began to emerge with both state and federal government charging income tax. Per capita payments ceased and an annual payment to the states was introduced. During this period the Australian Loan Council was established to coordinate state and federal borrowing. The states experienced difficulty raising adequate funds to provide public goods and services whilst the federal government was looking to new ways to spend excess funds.
1933/34-1941/42	The Commonwealth Grants Commission was established to oversee the payment of funds to the states and to begin establishing the equalisation concept.
1942/43-1946/47	In 1942 federal payments to the states became more significant mostly due to the introduction of a single federal income tax system which has survived several High Court challenges and continues to exist to this day.
1947/48-1958/59	Vertical fiscal imbalance significantly increases due to the single federal income tax system the federal government’s dominant role in the Australian Loan Council. In 1948/49 the federal government was responsible for 88% of all taxes compared with 8% (state) and 4% (local government).
1959/60-1971/72	Three types of federal grants were being used to address vertical fiscal imbalance during this time: Financial assistance grants, special grants and specific purpose grants. There was an increase in the use of specific purpose grants from 23.7%

Time Period	Description
	in 1960/61 to 31.4% in 1971/72 demonstrating an increased emphasis on providing funds to the states to be used in supporting particular policy initiatives of the federal government thereby reducing the autonomy of the states.
1972/3-1975/6 (Whitlam government)	The proportion of specific purpose grants continued to increase during a time of reform in the Australian federation. The trend existed within a broader trend of increased public sector expenditure.
1976/7-1982/3 (Fraser government)	During this time federal funding to the states was decreased as was state reliance on specific purpose grants and fixed income tax revenue sharing arrangements were developed. The net effect was that state governments were in a worse position financially than under the Whitlam government.
1983/4-1995/6 (Hawke and Keating governments)	Federal funding to the states continued to decrease from 9.5% of national product in 1982/3 to 6.7% in 1994/95. Specific purpose payments were progressively replaced with general revenue funds which provided greater autonomy to the states. Tax sharing arrangements were abolished
1996/7-2000 (Howard government)	In 1996 there was an increase in the financial assistance grants however the key reform during this time was the implementation of the Goods and Services Tax (GST). The states receive funds from the GST and in return were required to reform state based tax systems through reducing the number of taxes charged.

Source: Dollery 2002, 33-37

Dollery *et al.* (2000, 18) note two interesting trends in relation to the two main types of federal grants in Australia aimed at overcoming vertical fiscal imbalance: General Purpose Payments (GPPs) and Specific Purpose Payments (SPPs). GPPs are provided to state and local governments and can be used for any purpose. SPPs are funds provided for a specific purpose as specified by the federal government. Dollery *et al.* (2000) demonstrate that over the timeframe of 1969/70 to 1994/95 SPPs have risen relative to GPPs and that 'state and local governments have experienced a relative decline in Commonwealth government grant income and have raised increasing proportions of their income from own source income'. This has two main implications for state and local governments: Reduced autonomy in spending federal grant funds and the increased reliance on inefficient taxes. It is interesting to note that SPPs are allocated in accordance with the policy and procedures of the Commonwealth Grants Commission which means that they

are 'much more amenable to party political calculation, and thus can be employed to maximise electorate support' (Dollery and Worthington 1996, 81).

In theoretical terms, it is tempting to explain this increased emphasis on SPPs using public choice theory and notion that federal governments provide this conditional funding based on political self interest. However, Dollery and Worthington (1996, 84) point out that this explanation may be too simplistic as it can be argued that 'the increment in political support is directed to recipient government politicians, rather than those of the donor government'. It appears that the value of these types of grants to the federal government is more indirect in nature in that conditional grants such as SPPs engender the support of state and local politicians rather than from the community directly. It is through this more indirect means that public choice theory can be used to understand how the federal government is able to generate political support and maximise the likelihood of re-election through these grants.

#### Fiscal Federalism and Local Government

In relation to local government, Worthington and Dollery (2000, 29) note that 'Commonwealth assistance to local government did not effectively commence until 1974-75 when untied grants were distributed on the basis of recommendations made by the Commonwealth Grants Commission'. The nature of these grants have evolved over time since their commencement in 1974 from an application based program (1974-75), to a tax sharing arrangement (1976-84), and then a capped funding program maintained in real terms by annual increases of two percent more than inflation each year (1985-88) (Johnson 2003, 53).

Since the first Local Government (Financial Assistance) Act was passed in 1986 these federal inter-governmental grants provided to local government have been referred to as Financial Assistance Grants (FAGs). There are two components to local government FAGs: 'General purpose grants' which councils are able to expend 'in accordance with local priorities' and 'an identified local road grants' for the maintenance of local roads which are also

untied as 'councils are not specially required to spend them on local roads (DOTARS 2007, 28). The grants are paid to local government through the states from the Commonwealth Grants Commission to Local Government Grants Commissions in each state under the current Local Government (Financial Assistance) Act 1995. Since 1988 FAGs have largely been 'maintained in real per capita terms ... rising annually in line with an escalation factor taking into account changes in population as well as inflation, as determined annually by the Commonwealth Treasury' (Access Economics 2001, 3). Table 2 shows the amount of funding provided to the states in FAGs in 2006-07.

**Table 2: Financial Assistance Grants for Local Government 2006-07**

<b>State</b>	<b>General Purpose</b>	<b>Local Roads</b>
New South Wales	\$388,259,836	\$150,339,876
Victoria	\$288,256,520	\$106,829,688
Queensland	\$229,063,685	\$97,087,687
Western Australia	\$115,706,255	\$79,230,272
South Australia	\$88,295,715	\$28,477,424
Tasmania	\$27,839,457	\$27,459,804
Northern Territory	\$11,688,911	\$12,138,242
Australian Capital Territory	\$18,670,216	\$16,615,621
<b>Total</b>	<b>\$1,167,780,595</b>	<b>\$518,178,615</b>

*Source:* DOTARS 2007, 33.

Once these grants are paid to the Local Government Grant Commissions, the states are required to distribute them to local councils according to the principles outlined in Table 3



**Table 3: Concepts and Principles for Distribution of FAGs to Councils**

Concept/Principle	Description
Full Horizontal Equalisation	‘General purpose grants will be allocated to local governing bodies, as far as practicable, on a full horizontal equalisation basis as defined by the Act. This is a basis that ensures each local governing body in the State or Territory is able to function, by reasonable effort, at a standard not lower than the average standard of other local governing bodies in the State or Territory. It takes into account differences in the expenditure required by those local governing bodies in the performance of their functions and in the capacity of those local governing bodies to raise revenue. Based on section 6(3) of the Local Government (Financial Assistance) Act 1995.’
Effort Neutrality	‘An effort or policy neutral approach will be used in assessing the expenditure requirements and revenue-raising capacity of each local governing body. This means as far as practicable, that policies of individual local governing bodies in terms of expenditure and revenue effort with not affect grant determination.’
Minimum Grant	‘The minimum general purpose grant allocation for a local governing body in a year will be not less than the amount to which the local governing body would be entitled if 30 per cent of the total amount of general purpose grants to which the State and Territory is entitled under section 9 of the Act in respect of the year were allocated among local governing bodies in the State or Territory on a per capita basis. Based on section 6(2) of the Local Government (Financial Assistance) Act 1995.’
Other Grant Support	‘Other relevant grant support provided to local governing bodies to meet any of the expenditure needs assessed should be taken into account using an inclusion approach.’
Aboriginal Peoples and Torres Strait Islanders	‘Financial assistance shall be allocated to councils in a way, which recognises the needs of Aboriginal people and Torres Strait Islanders within their boundaries.’
Amalgamation	‘Where two or more local governing bodies are amalgamated into a single body, the general purpose grant provided to the new body for each of the four years following the amalgamation should be the total of the amounts that would have been



Concept/Principle	Description
	provided to the former bodies in each of those years if they had remained separate entities.'
Identified road component	'The identified road component of the financial assistance grants should be allocated to local governing bodies as far as practicable on the basis of the relative needs of each local governing body for roads expenditure and to preserve its road assets. In assessing road needs, relevant considerations include length, type and usage of roads in each local governing area. Based on section 12 of the Local Government (Financial Assistance) Act 1995.'

Source: DOTARS 2007, 93-94.

Despite these principles, Johnson (2003, 57) identifies some deficiencies with FAGs as a funding arrangement between federal, state and local governments. A major deficiency is that FAGs do not provide local government access to revenue from a 'growth tax', like the arrangements put in place for state governments through the introduction of the GST. The federal government now 'provide the states with the entire proceeds of this new tax' and has ensured that the states 'would be no worse off' when compared to previous funding arrangements. Johnson stressed how critical this issue is for local government since a 'growth tax' 'is considered fundamental to the sustainability of governments'.

A recent trend in inter-governmental grants is for the federal government to fund local government directly as opposed to channeling funds through the states. An example of this trend is the *Roads to Recovery* program which came into being through the *Roads to Recovery Act 2000* and in 2004 this program was superseded by the AusLink National Land Transport Plan which included *Roads to Recovery*. This inter-governmental grant was created in response to historical neglect in allocating adequate funds to the expansion and maintenance of local road networks. This neglect has been caused by a number of reasons including the increasing demand for Council's to allocate funds in the delivery of human services programs and in the 'expansion of councils' asset base due to 'local government's expansion into new fields'

generally (Lopez *et al.* 2007a, 5). A further reason is that the local road network was originally funded by the state and federal governments and over time responsibility for this infrastructure has been devolved to local government. These assets are now over a century old and have not been maintained or renewed over this time. According to the 'Allen Report', commissioned by the NSW Local Government and Shires Association, this is because 'current revenue mechanisms available to local government were not designed to meet the financial burden of "second generation" infrastructure renewal' (Local Government Inquiry 2006a, 115).

The magnitude of this local roads 'infrastructure crisis' for local government should not be underestimated as 80 per cent of Australian public roads (or 649,000km) are classified as 'local' and administered by local government (DOTARS 2007, 64). Historically the *Roads to Recovery* program has provided substantial funding direct to local state government in response to this issue. For example, the federal government committed \$1.35 billion from 2004-05 to 2008-09 to this program and in 2007 *Roads to Recovery* was extended until June 2014 (Lopez *et al.* 2007a, 13). Allocations of funding to councils under this program are determined from recommendations from the Local Government Grants Commissions in each state and are consistent with the local roads component of FAGs (ANAO 2005, 16). It is interesting to note that whilst *Roads to Recovery* 'has alleviated the financial crisis in Australian local government and thereby contributed to an amelioration of the deterioration of local infrastructure, it appears that scarce funds have been used in a sub-optimal manner and have not maximised their potentially benevolent impact' (Lopez *et al.* 2007b, 26). It therefore appears that further refinement of the policy and administration of this unique type of inter-government grant may be required.

### Interpretations of Federalism

Various national governments of Australia have developed a range of policies aimed at changing or reforming inter-governmental relations under federation. These policy initiatives have involved numerous attempts to work in partnership with state governments on various issues reflecting to co-operative nature of the Australian federal system. The term 'New Federalism' provides an excellent example of this policy making activity since it refers to the attempts of the Whitlam, Fraser and Hawke governments to redefine the relationship between the federal and state governments of Australia.

Prime Minister Whitlam's new federalism has been described as 'a bold but heavy-handed attempt to manipulate federalism through extensive use of tied grants and direct payments to regional and local authorities for the purposes of achieving Commonwealth goals in social policy and urban development' (Galligan 1995, 203). These grants expanded the interest of the federal government to include policy areas such as health, education, urban and regional development which were historically the responsibility of the states.

New federalism under Prime Minister Fraser aimed to reverse the centralist agenda of the previous Whitlam government and involved an attempt to improve the financial autonomy of the states. There were two components to the Fraser government's new federalism. Part One was providing the states with funds ultimately through Financial Assistance Grants based on a percentage of income tax collection which provided the states with access to funding based on a significant growth tax. Part Two was 'permitting each state to impose an income tax surcharge or return an income tax rebate', however the federal government did not alter its taxing regime accordingly and therefore this was not considered a politically viable policy option for the states (Parliament of Victoria 1998, 51).

Galligan (1995, 203) contends that the new federalism under the Hawke government 'was a more ambitious attempt at improving inter-governmental relations' with a focus on microeconomic reform. Prime Minister Hawke (in

Galligan (1995, 203) noted that the goals of the reform was ‘to improve our national efficiency and international competitiveness, and to improve the delivery and quality of the services governments provide’. To achieve these goals the Hawke government needed to facilitate improved federal-state relationships as many of the government areas in need of reform were state responsibilities. This was achieved through reviewing each area on a ‘case-by-case’ basis and progressing initiatives such as an ‘overhaul of commonwealth-state fiscal relations, changes to the Premiers’ Conferences arrangements, and a review of tied grant programs with a view to removing duplication’ (Galligan 1995, 204). From these initiatives the Hawke government succeeded in ‘adopting national standards, implementing mutual recognition of regulatory provisions across jurisdictions and integrating public infrastructure such as rail, road and electricity systems’ (Galligan 1995, 191).

It is likely that the Howard government will be remembered as being supportive of strengthening the power of the federal government. Singleton et al (2003, 110) made the following assessment of the Howard government: ‘Its early actions reflected more the heavy hand of central government as it used its financial strength to enhance and pursue its own policy preferences’. This trend continued throughout the time of the Howard government as evidenced by policy initiatives such as the plan to develop a national industrial relations system. In a speech at the Menzies Research Centre, Howard refuted this idea by claiming that his government’s policies were not about expanding “the reach of central government” but rather affecting “change in the federal-state balance ... to expand individual choice, freedom and opportunity” (Solomon 2005).

It appears that the newly elected federal government under the leadership of Prime Minister Rudd has an interest in setting a new policy direction in this area of inter-governmental relations.

After the election of the Rudd government in 2007, the *Australia 2020* summit was announced for April 2008. The purpose of this event was to ‘tackle the

long term challenges confronting Australia's future – challenges which require long-term responses from the nation beyond the usual three year electoral cycle'. The Rudd government invited '1,000 plus leading Australians to debate long-term options for the nation across 10 critical areas' (Australian Government 2008). One of these critical areas was: *The future of Australian governance* and included discussion on the structure of the federation. Oakes (2008, 17) reports the participants discussing this area recommended that a constitutional convention be held "to define roles, responsibilities and structures of our federal system". Oakes goes on to report that the participants discussing the future of the economy also discussed Australia's federation and proposed "the creation of an independent body to carry out a 'clean sheet of paper' review of the roles and responsibilities of federal, state and local governments in areas of major economic activity ... the new body would be called a federation commission [and] the key aim ... would be to produce a seamless economy". In response to these summit discussions it is interesting to note that in his final summit speech Prime Minister Rudd stated on two occasions that "this federation needs to be fixed" (Oakes 2008, 17).

### ***Constitutional Change***

Any proposal to alter the federal system of government in Australia would require changes to the Australian Constitution. As observed earlier, the Constitution is a key document in any federal system as it articulates the division of powers between the national and state governments. Developed with the intention to make it difficult to amend there are three types of government powers both stated and implied by the Constitution. Section 51 of the Constitution outlines 'the exclusive Commonwealth powers and those shared concurrently with the state governments. By implication, matters not mentioned in Section 51 or elsewhere in the Constitution comprise the states' residual powers' (Singleton *et al.* 2003, 40). In the event of conflict between federal and state laws where 'the governments exercised concurrent powers' Section 109 of the Constitution states that 'federal laws, and indeed the federal Constitution itself, should prevail' (Singleton *et al.* 2003, 38). Whilst it has been demonstrated how judicial review of the Constitution can affect inter-

governmental relations, changing the Constitution can potentially have the same affect. Section 128 of the Constitution sets out that any proposal to change the Constitution must first be passed by both houses of the federal parliament and must be then subject to a referendum whereby the proposal must be supported by a double majority as described below:

- 'a national majority of all electors from states and territories; and
- a majority of electors in a majority of the states (ie. at least four of the six states).

Since federation there have been 44 proposals for constitutional change put to Australian electors but only 8 have been approved' (Australian Electoral Commission, accessed 14 May 2008). Singleton et al (2003, 56-58) identifies three key reasons why proposed constitutional amendments have not been supported by the required double majority.

Firstly, there are a number of procedural factors, such as the difficulty associated with achieving a majority of voters in a majority of states and the fact that a number of referendums asked multiple, and at times complex questions, that either confused or concerned voters about the implications of the proposed change. Singleton et al (2003) also noted it has been argued that compulsory voting may have contributed to the unsuccessful referendums outcomes due to the participation of uninterested voters. However, there is limited evidence to support this notion. Secondly, it has been suggested that voters' attitudes have been a reason for the lack of support. Singleton et al (2003, 57) states people 'wish to maintain the identity and powers of the states ... are opposed to big governments and so deny the Commonwealth additional powers, [and/or] voters distrust politicians'. The final reason relates to party politics and the fact it is usual for one side of politics to support a referendum and the other to oppose it. Once this division along party lines exists in the community, it is very difficult for the referendum to succeed. The issue of constitutional change is of particular interest to local government in Australia in relation to constitutional recognition for local government. This is discussed further in Section 3.

## **Summary**

The centralisation of power in the Australian federation necessitates that local government focus on developing a strong relationship with the federal government. Furthermore, local government must always be seeking out opportunities to participate in the ongoing interplay between the other levels of government where appropriate. The overlapping of responsibilities and functions between the national and state government inherent in co-operative federalism also applies to local government in many policy areas. Accordingly, forums such as the Coalition of Australian Governments (COAG), which 'is the peak inter-governmental forum in Australia, comprising the Prime Minister, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association (ALGA)' are of strategic importance to local government in Australia (COAG, updated 28 March 2008). It is through meetings of COAG and other national inter-governmental forums that ALGA can represent the interests of local government across Australia, develop relationships with other levels of government, and participate in discussions on a range of policy issues such as fiscal federalism. Sansom (2008) has reviewed the performance of ALGA in relation to their role in COAG and other national inter-governmental forums. He argued that 'local government has had great success over recent decades in gaining membership of inter-governmental forums: the question is whether it can make the best use of that access to the highest levels of policy-making' (Sansom 2008, 36). Chapman and Wood (1984, 12) summarised the issue as follows:

'To survive as part of the body politic local government must accustom itself to, and be seen to be, operating as part of the inter-governmental network. Just as actors in the other two spheres are recognised to be negotiating this maze, building up coalitions, bargaining and consulting, so it should be clear that the same is happening to local government actors. The inter-governmental network is in a sense most appropriately seen as the framework within which local authorities exist'.



Achieving this position on the national political stage continues to provide many challenges for local government which is due in part to the historical and contemporary role of local government in Australia as described below.

## **Roles and Responsibilities of Local Government in Australia**

### ***History of Local Government in the Australian Federation***

By international standards, local government in Australia has a limited role in the Australian federal system. This is in part due to the history of local government in that this level of government was focused on the 'task of developing the country ... in an expansive and difficult environment' and therefore 'services to property' emerged as the main focus. It is important to note that this critical role played by local government in early Australia emerged from an attitude of ambivalence amongst colonial governments. This was in part due to the fact that prominent people and decision makers in these early Australian communities were landowners, and as such they were reluctant supporters of local government because they were required to fund council activities through the payment of taxes. However, the demand for basic services and infrastructure became too high for colonial governments to manage and local governments began to emerge (McNeill 1997, 18-20).

Chapman and Wood (1984, 18) recount the beginnings of this tier of government in Australian both pre- and post-federation:

Local self-governance in Australia came from some colonial governments trying to force some tasks of government on local citizens and from property owners trying to clear and farm virgin land and to trade whatever they could harvest from the land. Geographical inaccessibility from the centre of colonial government helped to explain much about the beginnings of local government. Local leaders emerged within small communities struggling to survive. Their tasks were to promote the needs of the community with the government of the day.

McNeill (1997, 19) described the early role of local government in a more tangible way by identifying that in order to overcome this isolation roads were

initially the highest priority for local governments followed by urgent issues of public health and safety. For early local governments 'unsafe building practices and the need for sewerage disposal, drainage and clear water became important considerations from the middle of the nineteenth century onwards'.

Whilst a system of local government in most states did emerge in some form prior to federation, Table 4 shows that this early stage in the evolution of local government was not consistent across the states.

**Table 4: Emergence of Local Government in Australia**

<b>States</b>	<b>Historical Situation</b>	<b>Outcomes</b>
Queensland	State members of parliament and premiers during the 1870s wanted to devolve responsibility for public infrastructure to councils.	Established a comprehensive system of local government through the Local Government Act 1878 and Divisional Boards Act 1879.
Victoria	A geographically smaller state that was populated quickly.	Achieved a comprehensive system of local government by 1863 under the Municipal Institutions Act 1854.
South Australia	There was a voluntary trend towards the establishment of local government in populated areas only.	A comprehensive system of local government did not exist in South Australia by the end of the 19th century.
New South Wales and Tasmania	Reluctance to extend the system of local government beyond a small number of existing councils.	Both states established Local Government Acts after federation in 1906 which created a compulsory system of local government across each of these states (apart from western New South Wales).
Western Australia	This state did not achieve representative government until 1870.	Settled communities had established local governments prior to separation from England.

Source: Chapman and Wood 1984, 28-29.

Whilst local government appeared to play a vital role in representing local communities prior to federation, Chapman and Wood (1984, 29) state that by

the middle of the 20th century this tier of government was ‘an empty bay containing only the institutional rituals of civic administration’. This assessment may be based on the lack of autonomy and independence of local government that emerged through the advent of the new federal system, and the beginning of complex and ever changing interplays between the national, state and local governments of Australia. An alternate view on the strategic importance of local government in Australia was presented by Purdie (1976, 14); ‘local government, one can say with confidence, is the only governmental body which is so constituted, located and equipped as to be best suited to supply at grass roots a very significant range of personal services. It exists to serve local people, it is administered by local people and is able to provide for them a statutory voice’.

These polarising views of local government in Australia form the basis of an ongoing tension between federal, state and local government with regard to ‘degrees of state control’ (McNeill 1997, 22). This refers to the degree of autonomy councils have over the provision of local services and whether local government should be seen as ‘merely acting as an agent of the state (or federal government)’ or be able to have total control. McNeill (1997) addresses this dilemma by claiming that local government autonomy over the delivery of a service should be directly proportional to how local the effects, preferences, access and accountability measures are in relation to a service. Whilst this argument reflects the ‘correspondence principle’ discussed earlier, McNeill (1997) goes on to state that very few, if any local government services are totally local and that state and federal interests inevitably exist. Historically, it is this vested interest of other levels of government that form the basis of many successful state-local partnerships, or conflicts between levels of government due to differing priorities (McNeill 1997, 23-24)

### ***Local Government and the Australian Constitution***

Debate about the role, relevance and importance of local government has continued into recent times. Dollery *et al.* (2006, 14) underlined a key reason for this ongoing debate when they argued that ‘Australian local government

was not an integral part of the federation process, and was not given any constitutional recognition'. It is from this point in Australian political history that the contemporary questions and issues facing local government seem to originate.

Aulich and Pietsch (2002, 14) suggest that local government was not 'excluded in a deliberate sense' from the federation process but that 'there was little pressure for its inclusion'. They go on to propose that there were five factors contributing to the lack of local government recognition in the Australian Constitution. A number of these factors related to the self interest of the colonial governments at the time and maintenance of the *status quo*. For example, the first factor cited was 'limiting the transfer of powers to a national government'. At the time it was considered that a 'minimalist approach' should be taken towards the Australian Constitution and 'that as little power as possible would be ceded to the national government, and that local or municipal matters would remain within the ambit of state governments' (Aulich and Pietsch 2002, 16). This was achieved by only allocating specific powers to the national government and for the states to retain a wide range of existing responsibilities that were not seen to be of national interest including local government. Therefore there was no need to single out local government for specific mention in the Australian Constitution.

The second factor postulated by Aulich and Pietsch (2002) follows on from this view that the power and autonomy of individual states under federalism should not be usurped by the national government. As a result, it appears that at the time of Federation the colonial leaders considered that the role of local government and its relationship with the colonies be maintained. This view was reinforced when the issue of direct funding of local government from the federal government was discussed. It appears that the prevailing view was that direct funding was in fact a threat to Federation as it undermined the power of the colonies to control funds and the activities of local government.

Perhaps the most interesting factor raised by Aulich and Pietsch (2002, 18-19) was the 'low status of local government'. The role of councils was not considered by colonial leaders as being significant and it was stated that 'for many of those involved in colonial parliaments, municipal councils were little more than an administrative convenience'. This view of local government was further reinforced by the fact that there were areas of Australia at the time of federation which did not form part of a system of local government and in these areas colonial governments assumed responsibility for dealing with the local needs of these communities. The fact that the nation's earliest leaders did not see local government as a strategic and important part of Australia's system of government not only explains the reason why there was no need to mention local government in the Australian Constitution, but it also serves as a point of origin for the powerlessness local government experiences in contemporary Australia.

Whilst the self interest of colonial governments was expressed by devaluing the role and potential contribution of local government to the Australian federation others were concerned that 'a robust local government sector might inject unwanted tensions into the federation' (Aulich and Pietsch 2002, 20). This added further weight to the need for colonial/state governments to exercise control over local government. Recognition in the Australian Constitution would be counter productive as it would have strengthened the position of local government.

The final factor articulated by Aulich and Pietsch (2002, 21) was that the overall intent and orientation of federation and the drafting of the Australian Constitution was to build the nation of Australia. Local needs and interests consistent with the role of councils was simply not seen as relevant or as a high priority in this context. Aulich and Pietsch (2002, 21) states that 'in this environment it was hardly surprising that local and municipal interests did not find their way onto the agendas of the [federation] conventions and conferences'.

Since federation there have been a number of attempts to gain constitutional recognition for local government as summarised by ALGA (2008a, 16-21). The movement for constitutional recognition began in 1973. The Whitlam government proposed the *Constitutional Alteration (Local Government Bodies) Bill* that would have enabled the federal government to directly fund councils ‘without passing grants through the state governments and Local Government Grants Commission’. It would also have had the effect of recognising the existence of local government in Australian in the Constitution. This bill was not supported by the opposition of the day and at referendum it only obtained a majority in one state and an overall minority nationally.

In 1976, the issue of local government recognition in states’ Constitutions was addressed at a constitutional convention and by 1985 three states had formally recognised local government. In the same year a further constitutional convention was held and at this forum, consideration was given to a proposed *Declaration as to the Principles to be Applied in the Constitutional Operation and Regulation of Local Government Authorities in Australia*. This declaration made a number of demands about recognising local government as a legitimate and necessary part of the Australian system of government. The declaration also suggested some key guiding principles as to how local governments should be elected and how they should operate, as stated below:

- ‘Within every jurisdiction in Australia there be a system of local government.
- The system extend to all areas in which sufficient number of people reside to warrant a local authority in their area.
- Except in special circumstances the local authority be elected by all adults resident – but not as to exclude property owners – in the area administered by the local authority.
- Local authorities be granted adequate powers and the right to manage and regulate the affairs of the local community within the framework of the laws applying to such local authorities.

- Each local authority be provided with access to adequate funds to enable it to perform its function with equity and efficiency.
- A local authority not be subject to arbitrary dismissal or suspension.'

(ALGA 2008, 17-18)

Another key outcome from this constitutional convention was the establishment of a constitutional commission that recommended to the federal government that local government be recognised in the Australian Constitution. The federal government subsequently proposed section 119A be included as listed below:

119A. Each State shall provide for the establishment and continuance of a system of local government, with local government bodies elected in accordance with the laws of the State and empowered to administer, and make by-laws for, their respective areas in accordance with the laws of the State ALGA 2008, 18.

The referendum related to this proposed amendment was held in 1988 and did not receive an overall majority nor was a majority received in any of the states. ALGA (2008a, 20-21) cites similar reasons to Singleton *et al.* (2003) for this referendum failure, including 'party politics ... asking too many questions at once ... [and] strong political opponents (including States)'.

### ***Contemporary Local Government in Australia***

To achieve a unified, national voice for local government on issues such as constitutional recognition, due consideration must be given to the size and diversity of this sector, and whilst the functions of Australian local government may be considered limited by international standards, at the national level, significant diversity exists within contemporary Australian local government.

As a sector, local government makes a significant contribution to the Australian economy. In 2004-05 local government expenditure was estimated to be \$19.43 billion or 2.07 percent of gross domestic product and in May 2006 the local government sector employed approximately 167,400 people

(DOTARS 2007, 3). However, this sector is made up of a diverse range of councils representing very different communities. DOTARS (2007, 6) describes this diversity in terms of a 'range and scale of functions, councils fiscal position, physical, economic, social and cultural environments, attitudes and aspirations of local communities and the legislative frameworks within which councils operate'.

In order to better understand the diverse nature of local government in Australia, a classification system has been established to group together councils with similar characteristics. This classification system is known as the Australian Classification of Local Government (ACLG) and is made up of two general categories, urban and rural. Urban councils are described as follows:

1. population of more than 20,000 people; or
2. population of less than 20,000 but the population density is greater than 30 people per sq km; or
3. 90 percent of the population is urban.

Urban councils are then divided into a number of sub categories as described in Table 5.

**Table 5: Summary of Urban (U) ACLG Categories**

Sub Category Level 1	Description	Sub Category Level 2	Description (population)	Category
Capital City (CC)	n/a	n/a	n/a	UCC
Metropolitan Developed (D)	Part of an urban centre of more than 1,000,000 or a population density of more than 600 sq/km	Small	Up to 30,000	UDS
		Medium	30,001-70,000	UDM
		Large	70,001-120,000	UDL
		Very Large	More than 120,000	UDV
Regional Town/City (R)	Part of an urban centre with population less than 1,000,000 and predominantly urban in nature	Small	Up to 30,000	URS
		Medium	30,001-70,000	URM
		Large	70,001-120,000	URL
		Very Large	More than 120,000	URV



Sub Category Level 1	Description	Sub Category Level 2	Description (population)	Category
Fringe (F)	A developing local government area on the margin of a developed or regional centre	Small	Up to 30,000	UFS
		Medium	30,001-70,000	UFM
		Large	70,001-120,000	UFL
		Very Large	More than 120,000	UFV

Source: DOTARS 2007, 213.

Rural councils are described as follows:

1. population of less than 20,000; and
2. population density less than 30 people per sq km; and
3. less than 90 percent of the population is urban.

Rural councils are then divided into a number of sub categories as described in Table 6.

**Table 6: Summary of Rural (R) ACLG Categories**

Sub Category Level 1	Description	Sub Category Level 2	Description (population)	Category
Significant Growth (SG)	Average annual population growth more than 3%, population more than 5,000	n/a	n/a	RSG
Agricultural (A)	n/a	Small	Up to 2,000	RAS
		Medium	2,001-5,000	RAM
		Large	5,001-10,000	RAL
		Very Large	10,001-20,000	RAV
Remote (T)	n/a	Extra Small	Up to 400	RTX
		Small	401-1,000	RTS
		Medium	1,001-3,000	RTM
		Large	3,001-20,000	RTL

Source: DOTARS 2007, 213.

Table 7 indicates the distribution of councils across each of the 22 ACLG categories as at June 2006. Table 7 indicates that, whilst there is not an even distribution of councils across ACLG categories, there are a significant number of councils/populations represented in each category. From this

information it becomes evident how some of the problems confronting one type of council would be vastly different compared to another council. For example, the biggest issue for a large rural and remote council might be road infrastructure maintenance whilst for a capital city council it may be growth management and rapid urban development. Such diversity has implications for determining the best way to advocate for local government, policy development and in creating a 'unified voice' for the sector.

**Table 7: Council by ACLG Categories, 2006**

<b>ACLG</b>	<b>Number of Councils</b>	<b>Percentage of Total (%)</b>
Urban Capital City (UCC)	7	1.0
Urban Development Small (UDS)	17	2.4
Urban Development Medium (UDM)	28	4.0
Urban Development Large (UDL)	23	3.3
Urban Development Very Large (UDV)	20	2.9
Urban Regional Small (URS)	68	9.7
Urban Regional Medium (URM)	39	5.6
Urban Regional Large (URL)	7	1.0
Urban Regional Very Large (URV)	11	1.6
Urban Fringe Small (UFS)	29	4.1
Urban Fringe Medium (UFM)	14	2.0
Urban Fringe Large (UFL)	11	1.6
Urban Fringe Very Large (UFV)	12	1.7
Rural Significant Group (RSG)	9	1.3
Rural Agricultural Small (RAS)	75	10.7
Rural Agricultural Medium (RAM)	80	11.4
Rural Agricultural Large (RAL)	68	9.7
Rural Agricultural Very Large (RAV)	70	10.0
Rural Remote Extra Small (RTX)	43	6.1
Rural Remote Small (RTS)	30	4.3
Rural Remote Medium (RTM)	28	4.0
Rural Remote Large (RTL)	11	1.6
<b>Total</b>	<b>700</b>	<b>100.0</b>

Source: DOTARS 2007, 214.

The diversity in the local government sector can also be demonstrated in the differences that exist in relation to revenue sources as summarised in Table 8. For example, 60.2 percent of local government revenue in South Australia

derives from taxation whereas in Queensland this revenue source represents just 27.1 percent of total revenue. Furthermore, councils receive 40.6 percent of their total revenue from the sale of goods and services in Tasmania, compared with 19.4 percent in Victoria. It can be argued that these differences in revenue sources would influence to varying degrees the types of products and services provided by councils and the business models used. For example, in states where the proportion of taxation revenue is low, individual councils may overcome this issue by making a greater use of a ‘user pays’ model or may deliver a comparably reduced range of products and services.

**Table 8: Local Government Revenue Sources by Jurisdiction, 2005-06**

<b>Revenue Source</b>	<b>NSW (%)</b>	<b>Vic (%)</b>	<b>Qld (%)</b>	<b>WA (%)</b>	<b>SA (%)</b>	<b>Tas (%)</b>	<b>NT (%)</b>	<b>Total (%)</b>
Taxation revenue	36.6	51.9	27.1	41.5	60.2	32.6	23.8	38.6
Sale of goods and services	34.3	19.4	39.0	21.4	16.6	40.6	23.1	30.3
Interest	4.5	1.4	2.0	3.3	1.6	3.1	2.7	2.8
Current grants and subsidies	8.9	11.3	7.0	8.5	11.8	10.9	21.5	9.2
Other revenue	15.7	16.0	24.9	25.2	9.8	12.8	29.2	19.1
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

Source: DOTARS 2007, 14.

As we have seen, councils are also involved in a wide range of activities. Table 9 shows this diversity, and the different emphasis local governments place on various activities in each state. For example, 16.1 percent of expenditure in Victorian councils relate to the provision of social security and welfare services compared to 1.1 percent in Queensland. Furthermore, expenditure in housing and community amenities in local government in Tasmania represents 36.7 percent of total expenditure compared with 15.8 percent in Western Australia. Although councils do undertake a wide range of activities to varying degrees in each state, it is important to note that in

general terms approximately 80 percent of local government expenditure in Australia lies in the following areas: Housing and community amenities (23.8 percent), transport and communication (22.2 percent), general public services (17.8 percent) and recreation and culture (15.0 percent).

**Table 9: Local Government Expenditure by Purpose, by Jurisdiction, 2005-06**

<b>Expenditure</b>	<b>NSW (%)</b>	<b>Vic (%)</b>	<b>Qld (%)</b>	<b>WA (%)</b>	<b>SA (%)</b>	<b>Tas (%)</b>	<b>NT (%)</b>	<b>Total (%)</b>
General public services	20.7	12.2	22.9	9.8	13.7	15.1	24.2	17.8
Public order and safety	4.9	2.1	1.5	3.3	1.5	1.0	0.9	2.8
Education	0.3	1.0	0.1	0.4	0.0	0.0	0.6	0.4
Health	1.2	1.3	0.7	1.8	2.2	2.0	2.1	1.3
Social security and welfare	4.9	16.1	1.1	4.6	4.1	3.7	2.9	6.3
Housing and community amenities	22.6	19.3	30.9	15.8	20.1	36.7	25.7	23.8
Recreation and culture	15.0	17.8	10.2	22.4	18.1	10.7	8.6	15.0
Fuel and energy	0.0	0.0	0.1	0.0	0.8	0.0	0.3	0.1
Agriculture, forestry and fishing	0.0	0.0	0.5	0.2	1.1	0.0	0.6	0.2
Mining, manufacturing and construction	2.2	0.0	1.6	1.7	1.6	0.0	0.3	1.4
Transport and communication	19.2	20.3	24.2	33.0	22.3	22.1	10.9	22.2
Other economic affairs	3.9	4.5	2.3	1.9	4.9	2.7	22.7	3.8
Public debt transactions	1.7	0.9	3.1	0.9	2.2	2.0	0.0	1.8
Other	3.4	4.4	1.1	4.1	6.4	3.9	0.0	3.2
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

Source: DOTARS 2007, 18.

Worthington and Dollery (2001) also demonstrate the great diversity in local government in Australia. Table 10 summarises this work by highlighting a number of elements to this diversity in Australian local government in addition to those mentioned above using updated statistics from DOTARS (2007).

**Table 10: Additional Elements of Local Government Diversity**

Element	Description
Legislation	Local government across Australia is subject to a diverse range of state based legislation. The primary legislation is the different Local Government Acts in each state (see Section 3.4.1) there is also numerous acts that regulate within each state specific activities of councils in areas such as planning, environment and public health.
National distribution	The number and type of council within each state varies considerably. In 2006 Queensland had the most number of local governments (157) followed by NSW (155) whilst Tasmania and the Northern Territory had 29 and 64 respectively. In Queensland, 58.6% of the councils were classified as rural compared with 47.7% in NSW, 65.5% in Tasmania and 90.5% in the Northern Territory (DOTARS 2007, 5, 214).
Population	DOTARS (2007, 5) also highlights the uneven distribution of Australia's population across local government. For example, the average population of a local government area in Queensland in 2006 was 25,234 compared with 41, 339 in NSW, 14, 156 in Western Australia and 3,016 in the Northern Territory.
Area covered	Significant diversity also exists in relation to the geographical area of councils in Australian. In 2006 council's in Western Australia on average covered the greatest geographical area (17,515 sq km) followed by Queensland (11,153 sq km) with the Northern Territory and South Australia having the lowest averages with 1,453 sq km and 2,102 sq km respectively (DOTARS 2007, 5).
Road length	Differences also exist in relation to average road length councils are responsible for in each state. Victorian councils have the highest average (1,615 km) followed by South Australia (1,018 km). The lowest average is 220 km in the Northern Territory and 485 km in Tasmania. This is of particular relevance given that 'the provision and maintenance of local roads are on of the most primary functions of local government' (Worthington and Dollery 2001, 54).

Source: Worthington and Dollery 2001.

It is important to note that great diversity also exists within state jurisdictions. For example, for Queensland in 2006 Brisbane City Council had the highest population of 957,010 people and maintained the greatest road length of 5,562 km. This can be compared with Ugar Island Council in the Torres Strait which had the lowest population of 57 and a total road length of 2 km. In terms of area covered the Ugar Island Council area is less than 1sq km compared with 117,084 sq km for the Cook Shire Council (DOTARS 2007, 168-174).

Another important aspect of contemporary local government is the increasing focus on 'services to people' rather than the historical 'services to property' role as discussed above. Dollery *et al.* (2006) noted a growing trend towards local government providing various community development services as well as having an increased regulatory role in various areas such as environmental management and public health.

The Commonwealth Grants Commission (2001, 53-54) identifies four characteristics of this trend from 1961-62 to 1997-98. Firstly, it is observed that the trend towards 'services to people' is continuous over this time and that expenditure on services in 'recreation and culture' and 'housing and community amenities' has risen by 20 percent in each area. At the same time, council spending on roads has halved whilst expenditure in 'education, health, welfare and public safety' has also increased. From this trend it can be argued that councils in Australia are evolving into a maximalist model of local government whereby this level of government takes on the delivery of a broad range of services and that 'they should undertake such services that local communities want and are prepared to pay for' (Local Government Inquiry 2006b, 11-12). This model is in contrast to the minimalist model of local government which is more consistent with early local government in Australia. This model describes councils as 'the body corporate for the local community and as such should look after the common property and regulate the usage of private properties' (Local Government Inquiry 2006b, 11-12). It is interesting to note that there are significant institutional implications relating to this trend.

For example, this change in the service mix of local government raises questions as to whether councils have the financial capacity to undertake this role (see Section 4.2).

### **Summary**

By examining the roles and responsibilities of local government in Australia from both an historical and contemporary perspective, a number of key observations can be made about the nature of local government. Firstly, local government's emergence in Australia reflected a 'grassroots' need for leadership and advocacy in small, isolated communities within the colonies. To ensure their survival, people required a form of local governance so that basic facilities and services could be established these areas. This expression of local democracy at the local level is still highly valued and has been preserved to some extent. This is demonstrated by the generally accepted view that local government continues to play a key role in Australia's system of government as the level of government 'closest to the people'.

Despite this view, by examining the issues surrounding constitutional recognition for local government, it is clear that local government from an institutional point of view is subservient to the other levels of government. Kiss (2007, 323) takes this point a step further and reflects the views of Australia's leaders who developed the Constitution by stating that 'Australian local governments are regarded as forms of state administration – perhaps resembling statutory authorities rather than forms of responsible local government'. However, whilst debate continues about the best way to conceptualise the political institution of local government in Australia there can be not doubt that councils make a significant contribution to the community in the delivery of various public product and services.

Finally, the local government sector by its very nature is diverse and this can be understood both as a strength and limitation. Diversity in local government shows the continuing evolution of councils as flexible and adaptable organisations that are responsive to the needs of local communities as

demonstrated by the increased emphasis on ‘services to people’ rather than the historical ‘services to property’.

Worthington and Dollery (2001) contend that this diversity is likely to continue and change due to pressures associated with changes in demographic and employment patterns in Australia, such as increased population densities in ‘urban fringe’ areas and a decline in rural populations. They go on to state that these factors will have significant impact on how council structure their activities in areas such as infrastructure development which is a key function of local government. For example, ‘in declining population areas there is a concern about the efficient use of infrastructure. However in these same areas infrastructure is likely to be relatively older and more in need of replacement than those areas experiencing population growth (Worthington and Dollery 2001, 56).

Alternatively, this diversity can promote local parochialism and cause conflict within the sector at the expense of a unified voice on important policy issues. This lack of consensus can then impact on local government’s ability to successfully engage and negotiate with other levels of government. Sansom (2008, 33) includes these concepts in a more comprehensive list of the strengths and limitations of local government in the context of the Australian system of government (see Table 11).

**Table 11: Strengths and Limitations of Local Government**

<b>Strengths</b>	<b>Weaknesses</b>
Informed localism and regionalism	Fragmented parochialism
Place focus and core business	Scatter-gun wishlists
Financial autonomy	Mendicant mentality
Larger councils and creative diversity	‘Whingers’ and ‘basket cases’
Community support	Disengaged communities

*Source:* Sansom 2008, 33.



## The Local, State and Federal Government Relationship

As we have seen, local government is not formally recognised as part of Australia's federal system of government despite the integral part it plays in delivery services to the Australian community. This subordinate role of local government can also be seen by examining various other aspects of the relationship between local, state and federal government in Australia.

### *Legislative Basis for Local Government in Australia*

The operation and function of local government in Australia is based on legislation enacted by each state. This legislation includes the states' constitution, local government acts and associated regulations and other laws which relate to many of the activities undertaken by local government such as town planning, building regulations and environmental management legislation. Table 12 provides a summary of how local government is recognised in each states' Constitution.

**Table 12: References to Local Government in States' Constitution**

State	Section of States' Constitution	Key Features
New South Wales	Part 8 Local Government 51. Local Government (1-4)	Consists of a general provision enabling the existence of elected or appointed local governments that are wholly subject to the laws of the state and identifies a number of other institutions such as the Lord Howe Island Board as a local government entity.
Victoria	Part IIA Local Government 74A. Local Government 74B. Local Government Laws	Defines local government and outlines the roles and responsibilities of councils. Identifies that parliament may make laws relating to a wide range of issues relating to local government including the election, administration, suspension, dismissal and re-instatement of a council.
Queensland	Chapter 7 – Local Government Part 1 – System of Local Government Part 2 – Procedure	Part 1 70 System of Local Government 71 Requirements for a Local Government Part 2

State	Section of States' Constitution	Key Features
	Limiting Dissolution of Local Government and Interim Arrangement Part 3 – Special Procedures for Particular Local Government Bills	72 Definition for pt 2 73 Dissolution of local government must be tabled 74 Suspension until dissolution ratified 75 Ratification of dissolution 76 No tabling or ratification of dissolution Part 3 77 Procedure for Bill affecting a local government 78 Procedure for Bill ending a system of local government
South Australia	64A – Constitutional guarantee of continuance of local government in this State (1-3)	Guarantees a system of elected local government in South Australia wholly subject to the laws of the state. This provision outlines the process to cease a system of local government as being a Bill that has been passed by an absolute majority of the members of each House of Parliament.
Western Australian	52. Elected local governing bodies 53. Certain laws not affected	Makes provision for the existence of a system of elected local government with certain powers as determined by the laws of the state.
Tasmania	Part IVA – Local Government 45A. Elected municipal councils 45B. Certain laws not affected 45C. Municipal areas	Outlines that the state is to have a system of elected local government with certain powers as determined by the laws of the state and outlines that municipal areas are not to be altered without the recommendation of the Local Government Board established under the Local Government Act 1993.

Source: ALGA 2008a, 9.

Although these state Constitutions make provision for and provide guarantees in relation to local government, the key feature of this legislation is that councils have been created by, and are wholly subservient to the states in law. The legislative position of local government in Australia is the key reason why local governments are subject to state based policy initiatives such as structural reform, and highlights the stark reality that 'if they wish ... the states can exercise their power and structure relationships in a way that excludes or completely overrides local government' (Sansom 2008, 32).

### ***Fiscal Stress***

A key feature of the relationship between local, state and federal government in Australia has been fiscal stress. This stress has been in part caused by structural factors and the actions of state and federal governments, and in some instances by substandard financial management practices of councils. Whilst the issue of vertical fiscal imbalance discussed above is a major source of fiscal stress for councils, other causes include cost shifting, changing community expectations, limited revenue raising opportunities and the 'infrastructure crisis'.

The fiscal stress experienced by local governments is in part caused by 'cost shifting and unfunded mandates'. Cost shifting can relate to 'inadequate indexation' of grants provided by the state and federal government which is a 'reduction in grant funding in real terms'. It can also mean local governments continue to provide goods and services without the required funding since a higher level of government has reduced or ceased to provide the required funds. In conjunction with this practice is the imposition of 'more stringent (and costly) conditions attached to grants' (Dollery *et al.* 2006, 26-28). Cost shifting can also refer to circumstances whereby other levels of government do not provide goods and services that they would typically offer to the community and expect local government to undertake these functions. This has been largely 'caused by the withdrawal and centralisation of most state and federal services'. A further aspect of cost shifting relates to the recovery of 'fees, charges, licence contributions and other monies from councils in order to fund their operations'. This provides benefits to the higher level of government in that it provides an indirect way of raising revenue as the cost is met by local government (Dollery *et al.* 2006, 27).

Cost shifting can also take the form of unfunded mandates which relate to state and federal governments imposing requirements on local government or using councils 'as a vehicle for implementing their own policies and political objectives' without providing the necessary funds to undertake these activities. This is most often achieved through legislation enacted by higher levels of

government which local government is then required to implement or by 'changing the requirements of existing legislation administered by local government' (Dollery *et al.* 2006, 28).

In 2002 the federal government commissioned an inquiry *Local Government and Cost Shifting* to be undertaken by the House of Representatives Committee on Economics, Finance and Public Administration. The key findings of the committee's report *Rates and Taxes: A Fair Share for Responsible Local Government* (the Hawker report) have been summarised by Sansom (2008, 18). Some of these findings are listed below:

- 'Cost shifting is widespread and exacerbated by councils accepting even more functions to satisfy community expectations (ALGA had estimated that cost shifting amounted to between \$500 million and \$1.1 billion annually).
- Local government does not always receive its fair share of commonwealth special purpose payments made to and through the states, and in some cases have offset increased federal grants by reducing their own assistance to councils'.

As we have seen, responding to changing community expectations has also been a source of fiscal stress for local governments. For example, there is a growing need for councils to undertake more 'services to the people' in addition to their historical role in providing 'services to property'. In addition to services such as refuse collection, supply of water and public infrastructure, councils are now involved in the provision of community, sport and recreation programs, economic and cultural development initiatives and many other non-traditional services. In relation to this issue, a key finding of the Hawker report was that 'some councils are guilty of poor financial management [by] not saying 'no' to community demands for expanded services when budgets are tight or functions could be left to the states or commonwealth' (Sansom 2008, 19).

Johnson (2003, 38) observed that the fiscal stress experienced by local government 'is further complicated by its limited and restrictive revenue raising options'. Local government has 'legislative restrictions on its ability to raise revenue; and limited access to a sufficiently broad range of revenue, including the holy grail of a growth tax'. An example of this issue is rate pegging in New South Wales whereby 'the state government arbitrarily sets a ceiling on percentage rates increases' (Doller *et al.* 2006, 30). Increasing community expectations combined with limited revenue raising options are causing a 'community expectation/funding gap' in local government (Johnson 2003, 37).

The provision and maintenance of public infrastructure has emerged as a major source of fiscal stress for councils. Sansom (2008, 19) contends that the Hawker report identifies that 'growth in local government responsibilities has outpaced revenues with the result that most councils are under-funding infrastructure maintenance and renewal. The infrastructure shortfall is at least \$1 billion each year, and perhaps \$2 billion'. This 'infrastructure crisis' is well recognised and in addition to the Hawker report there has been a number of investigations into the origin, nature and potential solutions to this issue. The cause of this under-funding has been mostly attributed to lack of available funds, poor financial and asset management processes and the need for councils to operate more efficiently. Dollery *et al.* (2007a) provide interesting insights into the nature of the infrastructure crisis at the local level. In the first instance, they identify that the diversity of local government directly impacts on the degree of 'infrastructure crisis' a particular council may be experiencing. The size of a council area and road network, nature of the local environment, population trends and densities, and the need to provide an increasingly wide range of services present challenges in accurately determining the true nature of the infrastructure burden on an individual council. These challenges are further complicated by the fact that 'asset measurement and reporting in most local authorities is so bad as to render efforts to accurately measure the extent of the local infrastructure crisis almost impossible' and this is due to 'conceptual and empirical difficulties in local

asset assessment [and] many municipalities simply lack the requisite technical skills to cope with these difficulties' (Dollery *et al.* 2007a, 8-9). Finally, it appears that it is the rural and remote councils most affected by the 'infrastructure crisis' and it is unlikely that they will be able to address this issue without significant financial assistance from the state and federal governments.

### **Local Government Sustainability**

Fiscal stress caused by cost shifting, changing community expectations, limited revenue raising opportunities and the 'infrastructure crisis' have raised serious questions about the financial sustainability of the local government sector in Australia. For instance, Dollery *et al.* (2006) summarise a number of theoretical approaches to explain the financial difficulties faced by local government. Much of the discussion uses 'public finance arguments' to explain the fiscal stress of councils which can be broadly described as the 'technical features of the current financial arrangements in the Australian federal system' (eg. vertical fiscal imbalance, decline in real value of inter-governmental grants and lack of a 'growth tax for local government') (Dollery *et al.* 2006, 348). However, there are other plausible theoretical explanations, such as the local government failure taxonomy and Wittman's (1989, 1995) theory of 'democratic market efficiency'.

Local government failure is based on the notion of government failure defined as 'the inability of a public agency (or agencies) in a given tier of government in a multi-tiered system of government to achieve its intended economic efficiency and equity objectives' (Dollery *et al.* 2006, 342). They postulate that local government is more susceptible to government failure than state or federal governments and this is 'hardly likely to inspire confidence that monies provided to councils will be expended effectively'. Wittman's (1989, 1995) 'democratic market efficiency' theory reframes the existence of current financial arrangements and other regulatory institutions as positive and necessary in order to reflect voter's preferences for systems that protect against local government failure. Dollery *et al.* (2006, 350) describe the

concept as ‘well informed median voters may induce higher tiers of government in the Australian federation to create agencies to scrutinise local government systems precisely because these voters are aware of the limitations of the local government political process’.

In practice, there have been various state and federal initiatives aimed at developing a methodology for measuring financial sustainability in local government in an effort to identify councils ‘as risk’. Dollery *et al.* (2007b) critically evaluated five such projects from South Australia (*South Australian Financial Sustainability Review Board*), New South Wales (*Independent Inquiry Into The Financial Sustainability of NSW Local Government*), Queensland (*Queensland Size, Shape and Sustainability Approach*), Western Australia (*Western Australia Systematic Sustainability Study*) and the *National Financial Sustainability Study of Local Government Report* prepared by PriceWaterhouseCoopers. The majority of these studies developed and applied in various ways performance indicators in the form of finance and accounting ratios to determine if a council is not financially sustainable. Dollery *et al.* (2007b, 129-130) concluded that ‘it is not possible to define sustainability with any kind of precision [and] it cannot be captured adequately through performance indicators’. They go on to state that no ‘holy grail set of financial KPIs can be constructed with any confidence’ and this is largely due to quality of data issues and the existence of different state systems for the regulation and collection of information relating to local government. Furthermore, as with the ‘infrastructure crisis’, the diversity of the local government sector ‘precludes the use of a one-size-fits-all method of assessing municipalities’ in relation to financial sustainability. Therefore, it can be argued that a measure of local government sustainability with a wider scope is more appropriate. Dollery *et al.* (2008, 57) provide such a measure through identifying ‘external and internal factors that influence the long-run sustainability of local councils in Australia’. This framework is summarised in Table 13 below.

**Table 13: Framework for Local Government Sustainability in Australia**

<b>Sustainability Factors</b>	<b>Description</b>
Demographic factors	Almost every aspect of a council's operation is impacted by demographic trends. Population growth/decline rates impact on a council's revenue and expenses. For example, a rapidly growing area will need to provide adequate infrastructure to support new housing whereas in areas of population decline, councils' efforts must turn to how funding will be provided to maintain and renew existing infrastructure.
Council revenue	Relates to horizontal and vertical fiscal imbalance, inter-governmental grants, limits to revenue raising clearly impacts on local government sustainability. Dollery, Byrnes and Crase (2008, 59) state that 'by international standards, this is a comparatively narrow range of potential sources of finance'. They also state that federal government's provision of tied grants directly to local government is likely to become and increasingly important source of local government funding and an emerging feature in the Australian federal system.
Council expenditure	Essentially this factor relates to cost shifting and the fact that local governments have increasing service responsibilities being imposed on them by state and federal governments without the requisite funding being provided. It has been clearly demonstrated in the above discussion how cost shifting is causing significant fiscal stress for councils which impacts directly on sustainability.
Financial management	Proper financial and asset management will continue to be a key feature impacting on the sustainability of councils and there is little doubt that improvements are needed in this area. However, as the key contemporary issue facing council in this area is the 'infrastructure crisis' then it is critical to note that 'a significant proportion of the stock of local infrastructure is reaching the end of its economic life around the same time ... [and] it is widely recognized that local government cannot fund all the infrastructure renewal programs that will be required over the next decade' (Dollery, Byrnes and Crase 2008, 62).
Governance	Local government sustainability is directly related to the good governance of local government areas. Dollery, Byrnes and Crase (2008, 62) state that 'the overwhelming majority of council 'failures', as epitomized by the dissolution of local authorities by their respective Department of Local Government,



Sustainability Factors	Description
	are caused by internal factors, especially, 'conflicted' elected bodies. Therefore, supporting and developing the capacity of high quality local democratic representation and decision making is central to the sustainability of local government into the future.

Source: Dollery *et al.* 2008.

### **Summary**

The legislative basis for local government in Australia and the fiscal stress experienced by this level of government shows that, in practice, councils lack autonomy and the capacity to operate independently. State government laws have not only created local government, but they also establish a regulatory framework in which councils must operate. The laws also make provision for the dissolution of a council and in some cases do not guarantee the democratic nature of this level of government. Sansom (2008, 26) contents that, 'it would also be possible for the states to make local councils simply 'branch offices', raising their own revenues through taxes and charges but with no elected members. However, to this point there has been no serious challenge to the continuation of democratically elected local government'. The fiscal stress experienced by local government also demonstrates this lack of autonomy and a degree of powerlessness within the Australian system of government. Councils are in some cases heavily dependant on grant funds from the state and federal government and/or are restricted in the way revenue can be raised. The Hawker report clearly demonstrated that cost shifting and increased community expectations are placing considerable financial pressure on local government as is the 'infrastructure crisis'. There are ongoing efforts by ALGA, state associations and other groups to improve this financial situation of local government and it appears that any gains to be made in this area will be directly related to local government's approach to, and participation in the inter-governmental network as described earlier by Chapman and Wood (1984).

## The Powerlessness of Local Government in Australia

Local government in Australia experiences a degree of powerlessness. It has been argued that the sources of local government powerlessness can be described as existing on four levels. Firstly, local government is not formally recognised as a political institution in Australia’s federal system of government through the Australian Constitution despite the key role it plays in the provision of public products and services. Although recognised in other documents and in various ways the issue of constitutional recognition remains a key strategic issue for the local government sector. Secondly, stemming from this factor, the legal status of local government in Australia means that it is wholly subservient to the states. Thirdly, local governments lack the financial capacity to deliver the products and services that are expected by communities. This is due to cost shifting and limited funding options for local government. Greater financial autonomy would enable local government to act more independently and not be so reliant on other levels of government for assistance. Finally, local government continues to face many challenges in developing and maximising its political influence and participation in discussions on a range of policy issues at the state and national levels.

Powerlessness makes local government vulnerable to *ad hoc* reform. Dollery and Dallinger (2007, 57) argue that ‘in almost all state and territory jurisdictions, Australian local government has been subjected to intense reform for the past two decades’. It is interesting to note that this reform has often involved the amalgamation of one or more councils which could be seen as contrary to the democratic principles of responsiveness, representativeness, access and accountability that local government was based on in its beginnings prior to federation (see Table 14).

**Table 14: Local Government Reform and Local Democracy**

<b>Democratic Principle</b>	<b>Description</b>	<b>Local Governance Prior to Federation</b>	<b>Local Government Post Amalgamation</b>

<b>Democratic Principle</b>	<b>Description</b>	<b>Local Governance Prior to Federation</b>	<b>Local Government Post Amalgamation</b>
Responsiveness	'A responsive government is aware of a community's needs and expectations, and acts accordingly to meet these needs and to fulfill expectations' (Dollery and Dallinger 2007, 61).	The emergence of local government was in response to basic needs of small communities to ensure their survival.	Large councils may be less efficient in responding community needs given the diversity that may exist over a large local government area and/or large councils may become too removed from the communities.
Representativeness	The role of elected members is to accurately represent their views of their constituents. This requires them to be informed about local issues so they can participate in council decision making in a meaningful way.	Local representatives would have been members of small communities who were acutely aware of local needs and expectations and whose primary role was to advocate on behalf the community.	The quality of representative democracy provided by larger local governments is comparably less than smaller councils. This could be due to the fact that elected members of larger councils are expected to represent a greater number of people across a wider area. This would reduce elected members' ability to remain in touch with the needs and expectations of their constituents (Dollery 1997, 449).
Access and Accountability	'Being able to access local governments and hold elected members	Given the size of these emerging communities, people would have had ready	People may find it more difficult to access elected members of larger councils to discuss their concerns.

<b>Democratic Principle</b>	<b>Description</b>	<b>Local Governance Prior to Federation</b>	<b>Local Government Post Amalgamation</b>
	accountable for their actions' (Dollery and Dallinger 2007, 61).	access to local representatives advocating on their behalf.	Having ready access to elected members enables people to hold local governments accountable in relation to decisions made, and the impact of decisions on their cause or on a constituency.

### **Concluding Remarks**

This paper has sought to provide contextual information about the federal system of government in Australia. Included in this discussion was a description of inter-governmental relationships at the federal level and constitutional change in Australia. In addition to this, the role of local government in Australia from a historical and contemporary perspective was discussed as was the legislative base for local government and the fiscal stress caused by cost shifting, community expectations and limited revenue raising opportunities. There seems to be four key reasons why local government experiences a degree of powerlessness in Australia with particular reference to reform processes imposed on local government by the states. How these reform processes could adversely affect the principles of local democracy was also considered.

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