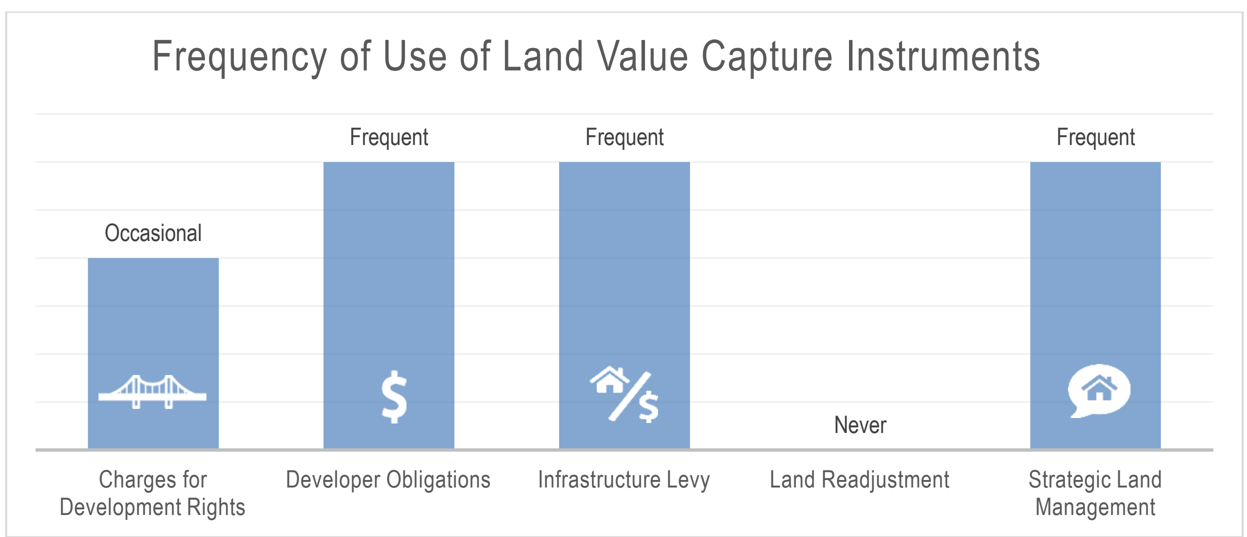
Australia



Several land value capture instruments are systematically used in the country. With considerable variation across states, infrastructure levies, developer obligations, land leasing and land banking are the most adopted instruments. Charges for development rights have been implemented recently, in limited capacities, in South Australia, New South Wales and the Australian Capital Territory, to provide affordable and social housing. Land readjustment is only adopted in the state of Western Australia, and rarely so. Common challenges to implementation are unclear development norms and land use regulations, the lack of adequate legal framework and the lack of administrative capacities.

Main instruments

Instrument (OECD-Lincoln terminology)	Local name	National legal provision	Implementation	Use
Infrastructure levy	*Improvement Tax or Infrastructure Contribution*	State legislation	Local and state governments	Frequent
Developer obligations	*Development contributions (impact fees) and Planning Agreements (exactions)*	State legislation	Local and state governments	Frequent
Charges for development rights	*Inclusionary Zoning*	State legislation	State and Local governments	Occasional
Strategic land management	Urban Land Corporation	State land banking agencies	State governments, independent public entities or similar bodies	Frequent

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Enabling framework

Australia is a federation with two levels of subnational government: 6 states and 2 self-governing territories with state-like powers at the regional level, and 562 local governments at the local level, which are mostly called “Cities” or “Shires” (OECD/UCLG, 2019[1], p. 157). Local governments depend directly on state governments, whose *Local Government Acts* define their status, power and responsibilities (OECD/UCLG, 2019[1], p. 157).

States create the legal framework for land use planning and land value capture. In practice, states delegate the responsibility to enact land use planning instruments to local governments, who develop *Local Planning Schemes* and *Metropolitan Plans* (OECD, 2017, p. 52). Therefore, planning powers and instruments vary substantially across states and even across municipalities within a same state.

Infrastructure levy

Landowners that request approval for development have to pay a levy in reason of public improvements that will be conducted in the same area of the city or metropolitan region. The national government does not interfere in the recovery of land value increases. States are in charge of the legal framework, which results in some degree of variation. In all, states and municipalities frequently charge landowners a special purpose tax or contribution to cover the costs of public improvements and collect the revenues.

The levy is paid in cash or through the in-kind provision of land or infrastructure, depending on the state regulation. If in cash, the contribution is based on land value or land area and is destined to an infrastructure funding pool. The payment may be done upfront or in installments. Exemptions to payment may be granted.

The State of Victoria and the State of Western Australia each provide relevant examples of infrastructure levies.

In Victoria, developers pay the *Growth Areas Infrastructure Contribution* (GAIC) to contribute towards the cost of essential infrastructure in Melbourne's growth areas. The charge is paid in cash, proportionally to the land area. Instead of paying the levy in cash, developers can sign an agreement with the state government, in which they agree to transfer land or carry out infrastructure works. Public authorities, land consumer transactions and property owners under financial hardship are exempt from contributing.

In Western Australia, the *Metropolitan Region Improvement Tax* (MRIT) is a special purpose tax destined to finance public improvement works, such as roads, public parks and public facilities. The charge is paid in cash, proportionally to the land value. Owners whose principal place of residence is the property or whose land is used primarily for agriculture are exempt from payment. The collected revenues go to a metropolitan fund, to finance future or ongoing public works in several metropolitan local districts.

By adopting infrastructure levies, the States of Victoria and Western Australia have generated a small but growing contribution to infrastructure funds. Nonetheless, the scale of the funds raised is insufficient to ensure quality urban infrastructure and housing supply.

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The main obstacles to implementation are the lack of local administrative capacities and the resistance of property owners. For low-income owners, even if there was willingness to pay, the fees are not viable.

Developer obligations

State ordinances foresee that developers have to pay a charge when they submit a new development or development at higher density, given that these developments generate impacts on local infrastructure. In order to raise funds to build this additional infrastructure, states and municipalities frequently charge developer obligations and collect the revenues, with the aim of funding additional local infrastructure.

The charge is paid in cash or through the in-kind provision of land or public improvements, such as roads, service facilities and public spaces, or a combination of both. In New South Wales, for instance, the charge, called "contribution towards provision or improvement of amenities or services", may be satisfied through the dedication of land free of cost, the payment of a monetary contribution or both. In any case, the charge must be paid before or at the time the development receives approval.

The charge may be calculated using an established rule or negotiated through a structured procedure. Most states refer to the principles of "nexus" between the contribution and the development; "fair apportionment" of the share of service attributable to the development; "reasonableness" of the amount charged; and "transparency" in calculating contributions and managing and spending the revenues collected. In many states, negotiated obligations may coexist with established fees.

If calculated, the formula takes into consideration the costs of the development's impact on infrastructure, as well as the size, type and market value of the development. In some states, because of the principle of "reasonableness", the capacity to pay of developers is also considered. Most schemes use a transparent calculation method to apply developer obligations, but procedures differ locally.

Developers can be exempt from paying the charge if the project provides social benefits, such as social housing, public hospitals, childcare facilities and other community or educational facilities. If the development is smaller than a specific size, the impact on infrastructure is assumed not significant, and exemptions may be granted.

If negotiated, developers enter into a voluntary planning agreement with the government as to how best satisfy the contributions. Developers have flexibility to satisfy the infrastructure requirements according to the needs of the project. Public authorities secure the infrastructure needed without having to obtain additional funds and directly carry out public works.

Some practical challenges to implementation remain. Rules and formulas used to calculate the charges are often unclear or excessively complex. The revenues raised sometimes do not cover the costs of levying and collecting the charges.

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Charges for development rights

Municipalities occasionally levy charges from developers that request a change of land use or approval for development at higher density. The Australian Capital Territory and the state of Queensland apply the instrument when lease conditions or development use rights are changed leading to higher land values. In Queensland a scheme for this process is clearly prescribed.

Some states, such as South Australia and New South Wales, charge for development permission via the in-kind provision of affordable housing units. This scheme is called inclusionary zoning. The number of units is either negotiated between a developer and planning authority during the planning assessment process, or is a fixed requirement specified as a proportion of housing or development value.

The model varies by state. In South Australia and Queensland, it is mandatory, meaning that any new development that requests to build at higher density will have to provide a certain percentage of social housing units. In other states, as New South Wales, the scheme is voluntary and incentive-based: a project with a certain share of affordable housing units is awarded a density bonus.

Developers have to build units on-site, by completion of the market-rate project. The share of units varies by zone and may go up to 15% of the total of units, depending on the jurisdiction. The units must remain affordable for a given period of time, for instance 10 years in New South Wales. The affordable units have different sizes, design standards and amenities than the market-rate ones. Beneficiaries are households whose income level falls below a specific percentage of the area's median income level. The Victorian government has established affordability requirements, but to date few units have been produced via this route and there is uncertainty over how affordability and allocation requirements should be regulated.

The provision of affordable housing through charges for development rights remain modest, and there are only a small number of schemes in place. Common challenges are the changing dynamics of the housing and land development market, the resistance of residents against higher density projects in their neighborhood and limited public resources to enforce agreements. In addition, unclear development norms, monitoring and land use regulations and the lack of administrative capacities also pose obstacles to implementation.

Strategic land management

States manage their land portfolio directly or through an special purpose body created for that purpose, such as urban land corporations or land banking authorities. Since the 1980s, some land agencies have been operating on a commercial basis as land developers, while others have focused on the production of allotments or on the wholesaling of land. Overall, a strategic approach to land management, which includes acquisition, leasing and development of land in view of public interest goals, is common in states.

States acquire vacant or unproductive land with the purposes of consolidating planned states in greenfield areas and developing urban renewal projects in brownfield areas. Direct government financing supports the purchase at market price. Acquired land is typically rezoned, but not redeveloped. After being rezoned, land is sold at market price in public auctions, using the highest bidder criterium, or leased for public interest goals, for instance to develop recreation areas or social housing.

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Public land may be leased to facilitate development with a public purpose or planned urban development. To illustrate, the State of Queensland leases land for pastoral use, industrial development and mining projects, among others. In Western Australia, there are pastoral leases, perpetual leases over agricultural land, leases to other government entities, leases to Aboriginal Parties and general leases which may be granted for commercial, residential or industry uses.

Public land lease systems vary across state and territories. The Australian Capital Territory is uniquely developed under a 99-year leasehold system for all land and does not have any freehold land. In most states, however, there is freehold land, and leasing is but a strategy to enable communities to use, benefit from and enjoy public land, particularly through the provision of recreational, cultural and sporting facilities.

Lease length depends on the permitted land use. In some states, the length is fixed, such as Victoria, where leases are typically of 21 years. Exemptions or discounts to payment may be granted to public entities or nonprofit entities or if land is destined for public purposes, notably affordable and social housing. Other aspects of land leases vary across states ordinances, such as the value of ground rents, the frequency of periodic readjustments the possibility to transfer leases in the market and so on.

The main challenges to strategic land management are the tension between public policy goals and commercial imperatives. Freehold land markets predominate, there is high concentration and key industry stakeholders are powerful. Most public land agencies are expected to deliver dividends to their state Treasury, which limits the potential and incentive for any surplus revenue they generate to be reinvested in non-commercial initiatives. Progress with establishing and maintaining legal framework at state level for strategic mechanisms reliant on co-operation of private land holders have been slow and intermittent, and consequently there is a lack of administrative capacities in monitoring and regulating outcomes.

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