

Responsibilities, Functions and Legislation

Where local councils fit in to our system of government in Australia

Local governments operate within a legislative framework established by the Victorian Parliament through the *Local Government Act 1989*. The Act gives the Victorian Parliament the power to make laws it considers necessary for local government, including laws relating to the constitution of local governments, council elections and the powers and duties of councillors and council staff.

In 2003, Parliament passed changes that represent the most fundamental and extensive amendments to the Local Government Act since its inception. These changes include electoral reforms to ensure representation that is more democratic; governance changes to improve transparency and probity; and more accountable financial management and public reporting. The amended Act also acknowledges the constitutional status of local government in Victoria for the first time.

Local government is now recognised through an amendment to the *Victorian Constitution Act 1975*. In 2003, local government was recognised as a 'distinct and essential tier of government consisting of democratically elected local governments'. The local government provisions in the Constitution cannot now be removed or changed without the approval of Victorian electors in a statewide referendum.

So while local government is not recognised in the Federal constitution after the failure of the 1988 referendum, it is recognised and protected in the Victorian constitution. A council can be suspended under certain circumstances but only after a determination of the Governor in council, supported by both houses of parliament. A council cannot be dismissed without an Act for dismissal being brought before the parliament relating specifically to that council.

Local governments also have obligations under the Victorian charter of *Human Rights and Responsibilities Act 2006 (Vic)* to protect the rights of individuals in relation to their rights of freedom, respect, equality and dignity. Local governments are required to make sure their local laws are consistent with the charter and to develop an organisational culture that understand, respects and thinks 'rights'. As well as the general powers and responsibilities given to them under the Local Government Act, local governments are responsible for a wide range of services under various pieces of legislation. These are administered by a several different Ministers and State Government departments. Examples include land use planning, building control, some public health services, domestic animal control, litter control, parking, roads and traffic. Local governments have responsibilities under more than 40 different pieces of legislation.