



1 HOW COUNCILS WORK

1.1 How Councils Operate

1.1.1 How is a council structured?

1.1.2 The Council

1.1.3 The Mayor

1.2 About Councillors

1.2.1 Term of office

1.2.2 Councillor behaviours

1.2.3 Councillors' remuneration

1.2.4 Expenses

1.3 Council administration and staff

1.3.1 The Chief Executive Officer

1.3.2 Council staff

1.3.3 Working in local government

1.4 The System Of Government

1.4.1 Local Councils in Victoria

1.4.2 Local Government Peak Bodies

1.4.3 State Government

1.4.4 Minister for Local Government

1.4.5. Local Government Victoria

1.4.6 Federal Government

1.5 The Legal Basis

1.5.1 Local Councils Recognized in the Victorian Constitution

1.5.2 The Local Government Act

1.5.3 Regulations

1.5.4 The City of Melbourne Act

1.5.5 Other Legislation relating to local government

2 HOW COUNCILS MAKE DECISIONS

2.1 Council Meetings

2.1.1 How council meetings are governed

2.1.2 What is a meeting procedure local law?

2.1.3 Ordinary meetings

2.1.4 Special meetings

2.1.5 Closed (in camera) council meetings

2.1.6 Can I attend a council meeting?

2.1.7 How do I know what a council meeting will consider?

2.1.8 How do I know what a council meeting decided?

2.2 Delegated Decision Making

2.2.1 Special committees of council

2.2.2 Why have special committees?

2.2.3 Staff as delegated decision makers

2.3 Personal interests and confidentiality

2.3.1 Interests and conflicts of interest

2.3.2 Pecuniary Interest Returns

2.3.3 Confidentiality and Access to Information

2.4 What Contributes To Council Decisions

2.4.1 Staff advice to council meetings

2.4.2 Council briefings/workshops

2.4.3 Advisory committees

2.4.4 Monitoring performance

2.4.5 Community consultation

2.4.6 Councillors and the community

2.4.7 Links with other authorities

2.4.8 Memberships of other bodies

3 WHAT COUNCILS DO

3.1 Planning And Building

3.1.1 Planning

3.1.2 Planning Permits

3.1.3 Planning schemes

3.1.4 Building control

3.2 Roads and parking

3.2.1 Road management

3.2.2 Road Management Plan

3.2.3 Parking

3.2.4 Parking permits

3.2.5 Council roads and traffic powers

3.2.6 Parking fines

3.3 Health Services

3.3.1 Municipal Public Health Plan

3.4 People Services

3.4.1 Family and Young Children's Services

3.4.2 Youth Services

3.4.3 Aged Services

3.4.4 Disability Services

3.5 Waste Management

3.5.1 Waste services

3.5.2 Regulation of waste

3.6 Animal management

3.7 Recreation and culture

3.7.1 Libraries

3.8 Local Laws

4 PLANNING AND FINANCE

4.1 Funding for local councils in Victoria

4.2 Planning and budgeting

4.2.1 Council Plan

4.2.2 Strategic Resource Plan

4.2.3 Budget

4.3 Financial management

4.3.1 Principles of sound financial management

4.3.2 Audit Committees

4.3.3 Contracts

4.3.4 Entrepreneurial activities

4.4 Paying council rates

4.4.1 Payment of rates

4.4.2 Penalty Interest

4.4.3 Financial Hardship

4.4.4 Unpaid Rates

4.4.5 Rebates and concessions

4.5 How Rates Are Calculated

4.5.1 The "Rate in the Dollar"

4.5.2 Property valuations

4.5.3 Differential rates

4.5.4 Service rates and charges

4.5.5 Municipal charge

4.6 Special rates and charges

4.6.1 Public notice and consultation

4.6.2 Appeals to VCAT

4.6.3 Variations to special rates and charges

4.7 Grants

4.7.1 Victoria Grants Commission

4.7.2 Other recurrent service grants

4.7.3 Project Grants

4.8 Annual report

4.8.1 Report of operations

4.8.2 Financial statements

5 COUNCIL ELECTIONS

5.1 Conducting elections

5.1.1 When are council elections held?

5.1.2 Postal and attendance voting

5.1.3 Who runs council elections?

5.1.4 What is the timeline for a council election?

5.1.5 How votes are counted

5.1.6 Declaration of election results

5.1.7 Melbourne City Council

5.2 Participating as a voter

5.2.1 Enrolment as a resident

5.2.2 Enrolment as a ratepayer

5.2.3 One enrolment only

5.2.4 Silent voters

5.2.5 The voters roll

5.2.6 Voting process

5.2.7 Failure to vote

5.3 Participating as a candidate

5.3.1 Who can stand as a candidate in a council election?

5.3.2 Information and Assistance

5.3.3 Key election dates for candidates

5.3.4 Declaration of the poll

5.3.5 Campaign donations

5.3.6 Election offences

5.3.7 Election complaints

5.3.8 Municipal Electoral Tribunal

5.4 Caretaker arrangements

5.4.1 The election period

5.4.2 Council decisions

5.4.3 Publication of electoral matter

5.4.4 Use of public resources

5.5 Filling occasional vacancies

5.5.1 By-election

5.5.2 Countback

5.6 Electoral Representation Reviews

5.6.1 What are Electoral Representation Reviews?

5.6.2 When is a review conducted?

5.6.3 What is the review process?

5.6.4 Subdivision Reviews

6 CONSULTATION AND COMPLAINTS

6.1 Communicate with the council

6.1.1 Contacting the council by telephone

6.1.2 Other ways to contact the council

6.1.3 Getting more information

6.1.4 Understanding broader constraints

6.2 Consultation and objections

6.2.1 Statutory consultation

6.2.2 Planning Scheme Amendments

6.2.3 Other public consultation

6.2.4 Objections

6.3 Public Information

6.3.1 Required Public Information

6.3.2 Council web sites

6.3.3 Council publications

6.4 Taking it further

6.4.1 Administrative complaints

6.4.2 Formal council decisions

6.4.3 Complaining to another organization

6.4.4 Legal action

6.5 Other organizations

6.5.1 Local Government Victoria

6.5.2 Victorian Ombudsman

6.5.3 Privacy Commissioner

6.5.4 Auditor General

6.5.5 Victorian Electoral Commission

6.5.6 Equal Opportunity Commission Victoria

6.5.7 Human Rights and Equal Opportunity Commission

6.5.8 VCAT



1 HOW COUNCILS WORK

A council is a democratically elected body that provides local government for a specific geographic area within a State. Local councils comprise a third tier of government, in addition to Federal and State governments, and are generally regarded as closest to the people. A council exercises a wide range of government functions and powers for the “peace, order and good government” of its municipal district. There are 79 local councils in Victoria. Each has between 5 and 12 elected councillors as well as council staff who implement council decisions and provide services.

1.1 How Councils Operate

Each council comprises the elected council that meets on a regular basis to make decisions that are in the interests of their community, plus the administrative organization that delivers services and ensures that council decisions are implemented. There are 79 councils in Victoria, each consisting of between 5 and 12 councillors who are democratically elected to govern a particular geographic area in the best interests of the local community. Also referred to as local governments, councils are the third tier of the Australian political system.

1.1.1 How is a council structured?

Councils consist of an elected arm (councillors who are democratically elected by the community) and an operational arm (council staff). The very rare exception occurs when the state government suspends the councillors and appoints an administrator for a fixed period. The administrator then acts as “the council” until a new council is elected. In broad terms an elected council sets the overall direction for the municipality through long-term planning. It adopts a strategic view of the future it wishes to achieve for its community and makes plans and policies to achieve this. A council then ensures that this is achieved through its monitoring and reporting processes. The operational or administrative arm is responsible for implementing council decisions. Council officers also provide advice and expertise that help a council to form policy decisions, deliver services, and implement and manage systems. For all these functions, they are accountable to the council through the chief executive officer. The elected council appoints the chief executive officer (CEO). The CEO is the only staff member the council appoints. The CEO is in turn responsible for the employment, work and conduct of the council staff.



1.1.2 The Council

The Council comprises the elected councillors meeting as a whole. Individual councillors, including the mayor do not have authority to make decisions under the Local Government Act. As the council, elected councillors:

- review matters and debate issues before their council and take part in council's decision making processes
- review council objectives and policies to ensure that they are appropriate for the local area
- review council resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery
- decide the financial and rating policies

Council decisions are made in formal meetings that must be open to the public unless the meeting is closed under the Local Government Act. [How councils make decisions](#) provides details of how council meetings work.

1.1.3 The Mayor

In Victoria, mayors are elected by their fellow councillors for a one-year term and may be re-elected each year if the council chooses. The one exception is the City of Melbourne, where all eligible voters directly elect the Lord Mayor and Deputy Lord Mayor (who nominate for office jointly) for the full term of the Council. Councils may elect to use either the title "mayor", or in shires, "president". Most choose "mayor". The mayor takes precedence at all council proceedings within the municipality and takes the chair at all meetings of the council at which he or she is present. If the mayor is absent, incapable of acting or refuses to act, the council must appoint a councillor to be acting mayor. An acting mayor may perform any function or exercise any power conferred on the mayor. As well as chairing council meetings, mayors usually take on other roles.

Council leadership

The mayor has an important role in encouraging participation by all councillors in every aspect of decision making. As leader of the council, the mayor usually works closely with the CEO to ensure the council achieves its strategic objectives.

Community leadership

The mayor acts as a community leader and the principal council spokesperson. The mayor actively promotes and develops opportunities for the municipality. This often involves developing and maintaining extensive individual and community networks, and influencing how stakeholders perceive and respond to the council.

Civic role

The mayor performs an important social and ceremonial role. Opening events, speaking at functions and supporting community groups are some of the civic responsibilities of the role. The mayor also extends hospitality on behalf of the council and the community to visiting dignitaries.

1.2 About Councillors

From November 2008, councillors will be elected every four years to represent their communities. They receive an allowance to assist them to exercise their responsibilities on a part time basis and are expected to behave in accordance with the council's code of conduct. Councillors are democratically elected by the residents and ratepayers of the municipality. Once elected, councillors take an Oath of Office to carry out their role impartially, to the best of their ability, and in the best interests of the municipality. As an individual a councillor is expected to represent the interests of residents and ratepayers. This means providing community leadership and guidance, and improving communication between the community and council. A councillor has no direct authority over an employee of council and no role in employing staff, except that the council as a whole employs the chief executive officer. As part of the council, a councillor may also review the performance of the CEO. A councillor can only make decisions as a member of "the council" at formally constituted council meetings. Actions occur after a majority vote decision of the council or of a formally delegated committee. As an individual, neither the mayor nor councillors have the authority to act or make decisions on behalf of the council or its staff. Councillors must attend council meetings. (If a councillor is absent without leave from the council for four consecutive ordinary meetings, he or she ceases to be a councillor).

1.2.1 Term of office

All councillors will in future be elected for a four year term. The next elections for all Victorian councils will be held on the last Saturday in November 2008. This is the same time of year as for fixed term Victorian state government elections, but state and local government election dates will be two years apart. The [Council elections](#) section on this site has details about becoming a councillor and council elections.

1.2.2 Councillor behaviours

Councillors are expected to observe appropriate behaviour that is consistent with their legal obligations and supports the effective decision making processes of the council. To assist councillors, all councils now adopt Codes of Conduct for councillors. A Code of Conduct must be reviewed no later than six months after each general election and applies to all councillors of the council. A Code of Conduct must include:

- The Rules of Conduct as set out in the Local Government Act, under which a councillor must act honestly; must exercise reasonable care and diligence; must not use their position or council information to gain advantage; or to cause detriment to the council (A councillor can be fined for breaking these rules)
- Procedures for the disclosure of conflicts of interest
- Processes to resolve disputes between councillors
- Caretaker procedures that will apply during an election period

Councils usually include additional information and commitments in their Codes of Conduct. A Code of Conduct may reflect the values of the local community, concerns of citizens and aspirations of the council. It generally aims to uphold basic principles of ethical and legal behaviour, and produce the best professional, accountable and effective participation of each councillor. A council must make the Code of Conduct available for public inspection at the council offices.

1.2.3 Councillors' remuneration

Councillors are entitled to receive remuneration in the form of a councillor allowance. Mayors are entitled to receive a higher allowance. The Victorian Government sets upper and lower limits for all allowances paid to councillors and mayors. For the purpose of these allowance limits, councils are divided into three categories based on the income and population of each council. Soon after being elected, each council determines the precise annual amount that will be paid to its mayor and councillors, within the limits set by the Government. These amounts will apply from the start of the first financial year after the council is elected until the end of the financial year in which the next election is held. However, a council may review its allowance level during this time if the limits set by the Government are changed. Councillors can decline to receive an allowance.

The minimum allowance that can be received by a councillor is \$5,000 per year. The maximum allowance is \$12,000 per year for councillors in Category 1 councils, \$15,000 for Category 2 councils and \$18,000 for Category 3 councils. Councillors can be paid an extra \$40 for each day they attend authorized meetings or functions that are held more than 50kms away from where they live (up to a maximum of \$5,000 per year). Mayors receive a larger annual allowance - up to \$36,000 per year for Category 1 councils, \$46,500 for Category 2 councils and \$57,500 for Category 3 councils. Councillors are not employees of their council and do not receive employment benefits like leave entitlements. Find out more about [what councils are listed in what categories \(PDF 59kb\)](#).

1.2.4 Expenses

A council may also reimburse councillors for any necessary out-of-pocket expenses they incur while performing their duties as a councillor. Most councils have set policies and procedures regarding the reimbursement of councillor expenses.

1.3 Council administration and staff

Council administrations comprise a Chief Executive Officer and the staff employed and managed by the Chief Executive Officer. The council administration is responsible for implementing council decisions and providing council services. The administration comprises the Chief Executive Officer (CEO) and the council staff. Council officers also provide advice and expertise that help a council to form policy decisions, along with delivering services, implementing decisions and managing the organization.

1.3.1 The Chief Executive Officer

The Local Government Act requires a council to appoint a CEO, negotiate his or her contract and manage and review his or her performance. The CEO is the only staff member who is appointed by the council. The CEO is appointed for no more than five years, on a performance-based contract. An incumbent CEO can be re-appointed for a further term. The CEO is responsible for:

- establishing and maintaining an appropriate organizational structure for the council
- ensuring that the decisions of the council are implemented without undue delay
- the day to day management of the council's operations in accordance with the Council Plan
- providing timely advice to the council

The CEO must ensure the council organization has the staff needed to carry out its functions. The CEO is responsible for appointing, directing, managing and dismissing council staff and for all other issues that relate to council staff.

1.3.2 Council staff

Council staff put the decisions of the elected council into action. They are the resource that ensures the day to day running of the organization and the delivery of council services and functions. Staff members have a wide range of training and expertise. Staff members are an important “public face” of the council as they interact with the community. This can range from the customer service officer answering phone calls to the parks and gardens staff maintaining a reserve, or the design engineer talking to local residents about changes to a suburban street. The Local Government Act requires council staff to observe specific conduct principles. These are:

- acting impartially
- acting with integrity and avoiding conflicts of interest
- accepting accountability for results, and
- providing responsive service

1.3.3 Working in local government

Working for a Victorian council is a unique way to participate in government. It offers the chance to do something with a direct impact on the local community. Councils operate from many locations around the State. Because they deliver a broad range of services, councils need staff with diverse training and experience – ranging from engineering to horticulture; land use planning to health; youth work to aged care or financial services. The work is both demanding and rewarding. The website of the [Municipal Association of Victoria](#) contains comprehensive information about a career in local government and links to other useful sites. As well as traditional employment advertisements, many councils now list their employment opportunities on their websites. Visit [your council's](#) site to check on employment opportunities in your field. Among employment websites listing councils jobs are:

[Australian Local Government Job Directory](#)

[Council Jobs online](#)

[Gradlink](#)

[Mycareer](#)

[Seek](#)

[Workplace](#)

1.4 The System Of Government

Local government is considered to be a separate tier of government. A local government is similar to a Federal or State government in many ways, except that it performs government activities relevant to a smaller, “local” area. In Australia there are three tiers of elected government – local, state and federal. Statutory responsibility for local government lies with each Australian state or territory. An Act of each state parliament specifies local government powers, duties and functions. This means that the roles and responsibilities of local councils sometimes vary from state to state. In Victoria, [the legal basis](#) for councils is established under the Constitution Act 1975 and the Local Government Act 1989.

Councils are representative governments elected to manage local issues and to establish and plan for the community's needs. In practice, each municipality is distinct and while there are some common services across local government there is also a degree of diversity. This diversity responds to the differing make up and priorities of communities across Victoria.

1.4.1 Local Councils in Victoria

In Victoria there are 79 councils. Each council varies in size, population, rate base and resources but all must operate in accordance with the Local Government Act. Local government has a significant impact on the lives of all Victorians. Councils spend over \$4 billion annually to provide a wide range of services and facilities for their communities. They work in partnership with the local community, a whole range of state and federal government programs, and with other agencies, to deliver these services. They are responsible for over \$40 billion worth of assets and infrastructure. Councils are complex organizations that provide and maintain a wide diversity of public buildings, amenities and services. The largest councils are in the top 100 employers in the state while smaller rural councils are often the largest employer in their region. Note: Some parts of Victoria are not incorporated into local government areas. This includes French Island, Docklands and a number of Alpine Resorts.

1.4.2 Local Government Peak Bodies

Victorian councils have four main representative bodies. These are the Municipal Association of Victoria (MAV), the Victorian Local Governance Association (VLGA), Local Government Professionals (LGPro) and the Australian Services Union (ASU).

The [Municipal Association of Victoria](#) (MAV) is the oldest representative and advocacy body for Victoria's 79 local councils. It was established in 1879 and became the official representative body of Victorian local government in 1907. Its membership consists only of councils. The MAV describes its role as representing and advocating on behalf of the local government sector, providing policy advice and insurance services, and improving the profile of the local government sector.

The [Victorian Local Governance Association](#) (VLGA) formed in 1995. It has three membership groups – local councils, community organizations and individuals. The VLGA describes its role as promoting the interests of local governments and community, empowering local governments by strengthening their capacity to engage with their communities and advocating on their behalf.

The [Local Government Professionals](#) (LGPro) is the professional body representing local council officers.

LGPro was created in 1996/97 and includes the Victorian Division of Local Government Managers Australia (LGMA); the Victorian Division of the Institute of Public Works & Engineering of Australia (IPWEA); and the Victorian Association of the Local Government Community Services Association of Australia (LGCSAA). It also auspices 16 professional networks of council officers. LGPro describes its role as providing professional programs, facilitating positive communication between the sector and State and Federal Government, and representing the views of officers where this expert advice is required in the consultation process on legislation and policy and program development. While it is a member organization, non-members access many of its activities and services.

The [Australian Services Union](#) (ASU) is one of Australia's largest trade unions. It was formed in 1993 as an amalgamation of a number of unions. The ASU represents about 140,000 members in local government, energy, water, public transport, rail, airlines, shipping, travel, ports, social and community services, information technology, call centres and private sector clerical and administrative employment. The National Local Government Division is the largest industry in the Australian Services Union, making up about half of the union's membership. Its membership consists of individual council employees.

1.4.3 State Government

State governments in Australia were established before either federal or local governments. In 1855 the British government enacted legislation that approved self government and a constitution for the colony of Victoria. Following federation in 1901 Victoria became a state of the new nation of Australia. Each Australian state government has its own constitution, which sets out its powers and responsibilities. States typically look after services like policing, public schools, roads and traffic, public hospitals, public housing, and business regulation. The Victorian Government currently includes 20 ministers and 10 government departments. The Parliament of Victoria [website](#) contains a linked list of the current Ministry and the respective government departments. For a link to the various government departments by subject heading, try [Victoria Online](#).

1.4.4 Minister for Local Government

One of the Ministers in the Victorian Government is the Minister for Local Government. The [Minister for Local Government](#) is Hon Richard Wynne MP. The Minister is responsible for administering the following principal Acts:

- Local Government Act 1989
- City of Melbourne Act 2001
- Municipal Association Act 1907
- Victoria Grants Commission Act 1976

The Minister also acts as advocate for local government issues within government and, through her department (Local Government Victoria) supports and monitors the system of local government. The Minister is not directly involved in the detailed management of individual councils.

1.4.5 Local Government Victoria

Local Government Victoria (LGV) is a division of the Victorian Government's [Department of Community Development \(DPCD\)](#). LGV supports and advises the Minister for Local Government in administering the Local Government Act. LGV's every day work includes supporting, encouraging and monitoring Victoria's 79 local councils. It provides councils with advice about a range of matters including governance. LGV also administers the funding for some council activities. The Grants Commission, which is a major source of council funding, sits within LGV. Other specific LGV funding programs include libraries, neighbourhood houses and community buses. See [Planning and finance](#) for more details on this. Apart from ensuring compliance with the Local Government Act, LGV does not become involved in the detailed management of individual councils. As a last resort, LGV may investigate any matter relating to a council's operations, the council elections or electoral matters, or any other breaches of the Local Government Act.

1.4.6 Federal Government

The Australian Federal Government, while not directly involved in the regulation or administration of local government, does support local government through a number of programs including the provision of funding through financial assistance grants as well as encouraging innovation in local government through the National Awards for Local Government. The [Federal Minister for Local Government](#) is The Hon Jim Lloyd MP.

1.5 The Legal Basis

In Victoria, councils are established and operate under various State Government laws, including the Constitution Act 1975 and the Local Government Act 1989. Local government is established under State legislation. The principal legislation in Victoria governing the establishment and operation of councils is the Local Government Act 1989 along with various Regulations made under that Act. In addition, local government has special recognition in the Victorian Constitution Act 1975.

1.5.1 Local Councils Recognized in the Victorian Constitution

The Victorian Constitution recognizes local councils as "a distinct and essential tier of government". Under [Section 74 of the Constitution Act 1975](#) democratically elected councils are to ensure "the peace, order and good government of each municipal district". The Act gives the Victorian Parliament the power to make laws it considers necessary for local government, including laws relating to the constitution of councils, council elections and the powers and duties of councillors and council staff. A council cannot be dismissed without an Act of Parliament relating specifically to that council. The status of local government in the Victorian constitution is protected. Part 2A of the Constitution Act which covers local government, cannot be repealed or amended unless the change is approved by a majority of Victorian electors voting in a referendum.

1.5.2 The Local Government Act

Victoria's 79 Councils operate within a legal framework established by the Victorian Parliament through the [Victorian Local Government Act 1989](#). This defines the purposes and functions of local government as well as providing the legal framework for establishing and administering Councils. In 2003 the Parliament made the most fundamental and extensive amendments to the Local Government Act 1989 since its inception. These changes were made by means of the Local Government (Democratic Reform) Act 2003. They included electoral reforms to ensure more democratic representation; governance changes to improve transparency and

probity; and more accountable financial management and public reporting. The changes to the local Government Act also included the addition of a preamble to reflect the recognition given to local government in the Victorian Constitution as well as the insertion of a “Local Government Charter” ([PDF 48kb](#)).

1.5.3 Regulations

Regulations made under the Local Government Act include:

- Local Government (General) Regulations 2004
- Local Government (Finance and Reporting) Regulations 2004
- Local Government (Electoral) Regulations 2005
- Local Government (Long Service Leave) Regulations 2002
- City of Melbourne (Elections) Regulations 2001

1.5.4 The City of Melbourne Act

While generally regulated by the Local Government Act, the City of Melbourne also has its own additional legislation in the form of the [City of Melbourne Act 2001](#). The City of Melbourne Act includes extra objectives that recognize the unique role of the City of Melbourne as Victoria’s capital city, and the special relationship that exists between it and the state and federal governments as a result of this position. It also provides a different electoral system for the City of Melbourne.

1.5.5 Other Legislation relating to local government

As well as the general powers and responsibilities given to them under the Local Government Act, local councils are responsible for a wide range of services under various other Act of Parliament. These are administered by a number of different Ministers and State Government departments. Examples, not covered under the Local Government Act and not handled by Local Government Victoria, include land use planning, building control, some public health services, domestic animal control, litter control, parking, roads and traffic. In fact councils have responsibilities under more than 40 different Victorian Acts, including:

1. Building Regulations Act 1994
2. Building (Interim) Regulations 2005
3. Building Act 1993
4. Building Code of Australia 1996
5. Catchment and Land Protection Act 1994
6. Cemeteries and Crematoria Act 2003
7. City of Melbourne Act 2001
8. Conservation, Forests and Lands Act 1987
9. Country Fire Authority Act 1958
10. Country Fire Authority Regulations 2004
11. Crown Lands (Reserves) Act
12. Cultural and Recreational Lands Act 1963
13. Domestic (Feral and Nuisance) Animals Act 1994
14. Emergency Management Act 1986
15. Environment Protection Act 1970
16. Flora and Fauna Guarantee Act 1988
17. Food Act 1984
18. Freedom of Information Act 1982
19. Health Act 1958
20. Health (Prescribed Accommodation Regulations 2001
21. Health (Infectious Disease) Regulations 2001.
22. Housing Act 1983
23. Impounding of Livestock Act 1994
24. Liquor Control Reform Act 1998
25. Local Government Act 1989
26. Marine Act 1988
27. Metropolitan Fire Brigades Act 1958
28. Nudity (Prescribed Areas) Act 1983
29. Parks Victoria Act 1998
30. Planning and Environment Act 1987
31. Planning and Environment Planning Schemes) Act 1996
32. Prevention of Cruelty to Animals Act 1986
33. Residential Tenancies Act 1997
34. Road Management Act 2004
35. Road Safety Act 1986
36. Shop Trading Reform Act 1996
37. Shop Trading Reform (Polls) Regulations 1996
38. Subdivision Act 1988
39. Transport Act 1983
40. Tobacco Act 1987.
41. Valuation of Land Act 1960
42. Victorian Grants Commission Act 1976
43. Water Act 1989
44. Whistleblowers Protection Act 2001

You can find copies of all Victorian legislation at the [Victorian Legislation and Parliamentary Documents website](#)

2 HOW COUNCILS MAKE DECISIONS

Councils are empowered by law, to make decisions on many matters of importance to their local communities. Decisions may be made in formally constituted council meetings, or under delegations approved by the council. Individually neither the mayor nor councillors have the legal authority to act or make decisions on behalf of the council.

2.1 Council Meetings

Council decisions are made by the votes of the majority of the councillors present at a meeting. The Local Government Act and Council Local Laws set most requirements for council meetings. Meetings are open to the public. Provided a quorum is present, council decisions are made by a majority of the councillors at the meeting. If there is a tied vote the mayor, who chairs council meetings, has a second casting vote. By convention the mayor's casting vote is used to maintain the status quo, but this is not an obligation. All councillors present at a council meeting must vote on every motion, unless they have a [conflict of interest](#). They cannot abstain from voting for any other reason.

2.1.1 How council meetings are governed

The Local Government Act lays down the basic requirements of council meetings. This includes public access to meetings, councillor voting and the need to keep minutes of meetings. The Act also requires that each council must make a [local law](#) to govern the conduct of its council meetings and special committee meetings. Each council's meetings are governed by the procedures set out in the Act, its Meeting Procedure Local Law and any other applicable council policies and protocols. Where these make no provision for a particular matter, the conduct of a council meeting is at the discretion of the council. These rules also apply to the conduct of a meeting of a [special committee of council](#).

2.1.2 What is a meeting procedure local law?

A meeting procedures local law will describe how a particular council intends to govern the conduct of its meetings – including the processes and standards that it intends to apply. Typically, it covers:

Notices of meeting

- Procedure for the agendas
- Apologies
- Minutes
- Quorums
- The order of business at meetings
- Urgent business
- Confidential business
- Question time
- Forms of motions
- Procedures for motions and amendments
- Rescission and amendment of motions
- Procedural motions
- Points of order
- Time limits for debate

Questions about the content and use of your council's local law should be addressed to the council itself. Copies of all of local laws are available for public inspection and/or purchase at your council offices. Councils hold two types of council meetings - ordinary and special meetings.

2.1.3 Ordinary meetings

Councils usually hold "ordinary meetings" once or twice a month, to transact the general business of the council. A regular meeting cycle is scheduled by each council and meeting details are publicly advertised. The Local Government Act does not specify what the 'general business' of a council is. However, each council's meeting procedure local law will generally stipulate how the agenda for an ordinary council meeting is determined. Council should only consider items listed on the agenda and which the public and members

of council are on notice about, especially for contentious or complex matters. However a council's meeting procedures local law may also provide for consideration of urgent items of business.

2.1.4 Special meetings

At "special meetings" generally only the business specified in the notice calling the meeting may be transacted. The Act sets out the procedure by which a special meeting of council may be convened and conducted. These include the following:

- the mayor or at least three councillors may by written notice call a special meeting of the council
- the notice must specify the date and time of the special meeting and the business to be transacted
- unless all councillors are present and unanimously agree to deal with another matter, only the business specified in the notice is to be transacted

2.1.5 Closed (in camera) council meetings

Entire council meetings (and meeting of Special Committees), or sections of such meetings, can be closed to the public under Section 89 (2) of the Local Government Act while the council is discussing:

- personnel matters
- the personal hardship of any resident or ratepayer
- industrial matters
- contractual matters
- proposed developments
- legal advice
- matters affecting the security of council property
- any other matter which the council or special committee considers would prejudice the council or any person
- a resolution to close the meeting to members of the public

If a council decides to close part of an open meeting, the public is asked to leave the chamber while this matter is discussed. People are then free to return to observe the remainder of the meeting. Sometimes a council will hold over an "in camera" item until the end of the meeting, to minimize public inconvenience. If a council (or special committee) resolves to close a meeting to members of the public the reason must be recorded in the minutes of the open meeting.

2.1.6 Can I attend a council meeting?

Yes you can. Except in special circumstances, formal council meetings (some times called "ordinary meetings") are required to be open to the public. Attending council meetings can be a good way of understanding how councils make decisions. Meeting cycles and meeting details are publicly advertised in local papers. Meeting notices and minutes are usually also available on council websites. Meetings are usually held in the council chamber and some councils (especially in rural areas) hold some meetings in other parts of their municipality to encourage local participation. Contact [your council](#) for details of council meetings in your area.

While council meetings are an opportunity to observe the council at work, they are not the place for members of the public to address councillors (unless they have previously been invited to make a submission). There should not be debate between the public and councillors at council meetings. Some council local laws do allow for public question time during meetings. Arrangements vary however, and enquires should be made separately to each council.

2.1.7 How do I know what a council meeting will consider?

Before each council meeting council staff will prepare a meeting agenda. This will list all the items the council intends to consider. It usually also contains the officers' reports and recommendations on these matters. Councillors use these reports as a source of information and advice to assist their decision making. Before each meeting, councils often publish council meeting agendas on their websites. Agendas are sometimes also available in places like the local library or community centre and can be collected from the

council offices. The main items on an agenda may also be advertised in local papers. Copies are made available at each council meeting.

2.1.8 How do I know what a council meeting decided?

After each council meeting, minutes will be prepared. This is the official record of the decisions made by the council. The minutes of each council meeting, which include relevant reports or summaries of these reports, must be available for public inspection for 12 months after each meeting. Councils often publish their meeting minutes on their website. Meeting minutes, are sometimes also made available in places like the local library or community centre and can be examined at the council offices. If you have a direct interest in an item that is being considered at a council meeting, you may also be contacted about the meeting to explain how you may be involved. After the meeting, you may receive a letter advising of the council's decision.

2.2 Delegated Decision Making

As well as making decisions at formal council meetings, councils also delegate some decision making ability. This makes it possible for a council organization to deal with the many issues it faces in its day to day operation. Delegated decision making power may be given to special committees of council and to nominated council officers. A formal decision at a council meeting is needed to delegate decision making powers. Because they are making decisions in the place of the council, special committees of council and nominated council officers with delegated authority are subject to strict controls and accountability.

2.2.1 Special committees of council

Councils can delegate some of their decision-making powers to Special Committees of the Council. Membership of special committees can comprise of:

- only councillors or
- councillors, council staff, other people, or any combination of these

The council always retains control over who is a member and what the committee is empowered to do. Formal delegation of specific powers and responsibilities is made at a council meeting, including any qualifications, time limit or reporting that the delegation is subject to. Councils can change or revoke a delegation at any time. Certain council powers cannot be delegated. When a council delegates powers, functions or duties to a special committee, it hands over the power to make decisions on behalf of (or acting in place of) the council itself. It is not necessary for the council to re-make or ratify the special committee's decision. This is why the Local Government Act subjects special committees to statutory procedures and conduct as the council.

Members of special committees are required to comply with conflict of [interest and confidentiality](#) provisions in the same way as councillors. A special committee's decision making power is limited only to those matters covered in the formal delegation document (the "Instrument of Delegation"). If a special committee determines matters that are not contained in the instrument of delegation these matters cannot be given effect until separately decided by the council. Where the council has delegated any functions, powers or duties to a special committee it must keep a register of those delegations.

2.2.2 Why have special committees?

Because the actions of a special committee of council are legally regarded as those of the council itself, councils appoint special committees under quite specific delegations which spell out their duties and powers. Special committees can assist a council by spreading a council's workload. Councils may delegate to a special committee to deal effectively with routine or more minor decisions that would otherwise take up valuable time in a formal meeting of the full council. For example some councils have "standing committees" of councillors who make these decisions in assigned portfolio areas. Oversight of "one off" events and short term projects can also be given to a special committee to spread a council's workload. Special committees can also enable decisions to be made at the appropriate level. Often knowledge and interest in a particular council activity lies with people at a local level and they are delegated by council to act as a special committee for that function. Delegated management of council-owned facilities like halls and recreation reserves is an example of this. Such a committee might consist of a councillor, user representatives and interested community members. Typically the committee has the delegated power of the council to do everything needed to manage and

maintain a particular facility. Special committees can also enable a council to recruit and utilize particular expertise in making its decisions. Occasionally a council will delegate some of its powers to a special committee with particular expertise on a subject.

2.2.3 Staff as delegated decision makers

Delegating specific functions to staff members enables council decisions to be made more speedily and ensures that council meetings are not tied down by procedural and every day administrative decisions. It also enables councils to utilize the technical knowledge, training and experience of staff members to provide the best possible service. Delegations are made at a formal council meeting and specify what the officer is empowered to do. Delegates must observe the strategies, policies and guidelines adopted by the council. Through the CEO and senior managers, the council can monitor the actions of staff to ensure that they exercise their delegated authority within the general framework it has already determined. In this way the council retains a measure of control over decision making.

Officers to whom delegated authority is generally given include the CEO, environmental health officers, fire prevention officers, local laws and planning officers. Many routine decisions of a council are made by members of staff as delegates. Council staff are required to act impartially, with integrity and to avoid real or apparent conflicts of interest. The council must keep a register of all delegations and this is among the documents that must be available for public inspection. All delegations to staff must be reviewed by a council within 12 months of it being elected.

2.3 Personal interests and confidentiality

Councillors follow certain procedures to ensure that their interests are transparent and that there is no conflict between their personal interests and their public duty. Additional requirements ensure some information is kept confidential. Councils are elected to serve in the best interests of their communities. The Local Government Act includes rules of conduct that require councillors and members of committees to act honestly, exercise reasonable care and diligence and not make improper use of their position or information.

2.3.1 Interests and conflicts of interest

When a matter is to be considered at a council meeting and a councillor has a personal interest in the matter they must declare that interest before the matter is considered. A declared interest may be significant or it may be quite minor. An interest might even be declared in circumstances where the councillor doesn't think they have a personal interest but where there might be a public perception that an interest exists. The purpose of declaring an interest is public transparency. A councillor is not prevented from voting on a matter in which they have a personal interest unless there is also a conflict of interest. This is an important distinction. While an "interest" is very broadly defined, a "conflict of interest" has a much narrower meaning. A conflict of interest can exist in two ways:

- If a councillor's interest in a matter is pecuniary (ie it can be measured in monetary terms) a conflict of interest generally exists
- If a councillor considers that personal interest may be in conflict with their public duty, the councillor must declare a conflict of interest, even if that interest is non-pecuniary

Section 78 of the Local Government Act includes a number of specific provisions about pecuniary interest, including exemptions. If a councillor has a conflict of interest they must declare the nature of the conflict of interest immediately before the matter is considered. The councillor will also avoid moving or seconding any motion during consideration of that matter and will leave the meeting while any vote is taken. Even though a councillor with a conflict of interest may not be able to vote, they can still participate in discussion of the matter. If a councillor, who has a conflict of interest, will not be present at the meeting they must still disclose the nature of the conflict of interest to the CEO or the chairperson of the special committee before the meeting. Members of special committees are subject to the same requirements as councillors in regard to disclosing interests and conflict of interest. Declarations of interests and conflicts of interest must be recorded in the minutes of the council or special committee meeting.

2.3.2 Pecuniary Interest Returns

Councillors complete disclosure forms that describe many of their pecuniary interests. There are two different types of forms lodged by councillors.

- Once elected each councillor completes a “primary return” which includes information about the councillor’s company, trust and property holdings as well as other interests the councillor considers may raise a material conflict between their private interest and their public duty
- At the end of each financial year each councillor completes an “ordinary return” which updates the information in his or her previous return as well as recording gifts he or she has received with a value of \$500 or more

Senior council officers and members of special committees are also required to lodge the returns, although the council can decide to exempt a member of a special committee. Returns may be inspected by members of the public, but only if they make a prior written request to the chief executive officer of the council.

2.3.3 Confidentiality and Access to Information

Councillors have access to council information necessary for them to do their job properly. However a councillor must remain impartial and must not use council information to gain advantage for themselves or any other person. Councillors must not disclose confidential council information. There are three ways information can be deemed confidential – if it is:

- provided for or at a closed meeting
- designated confidential by resolution of a council or special committee
- designated confidential by the CEO

Information discussed at a closed meeting is confidential. Unless the information is already publicly available, councillors must not talk about anything discussed at the meeting with people who were not present. If a councillor releases information that they know, or should reasonably have known was confidential, that councillor can be fined. If convicted, the councillor can also be disqualified from continuing as a councillor for seven years. The [Freedom of Information Act](#) and the [Information Privacy Act](#) also apply to councils.

2.4 What Contributes To Council Decisions

There are various processes that contribute to good council decision making. Some of these are formal, structured and continuous links with the council, while others are informal. There are other activities that contribute to good council decision making. Some of these are formal, structured and continuous links with the council, while others are informal. Any council decision taken as a result of these processes happens at a formal council meeting or under formal council delegations. In this way council decision making remains transparent and accountable to the community.

2.4.1 Staff advice to council meetings

Council staff provide advice and expertise to assist council decision-making. At formal council meetings, council officers typically present written reports on matters requiring a council decision. These reports provide background to, details of and recommendations about each matter being considered. Officer reports are included in the council meeting agenda provided before the meeting. A senior staff member may introduce a report and be available to answer councillors’ questions. Staff expertise and training is a valuable resource and officer recommendations generally form the basis of a council decision. However, a council is not bound to adopt these recommendations.

2.4.2 Council briefings/workshops

Before making decisions at a council meeting, it is important that councillors first satisfy themselves about the detail of the issues. As one way of providing this information, some councils hold council briefings or workshops. These are generally closed-door sessions during which council staff, and sometimes outside advisors, provide councillors with detailed briefings. Briefing sessions enable councillors to discuss issues frankly and fully among themselves and with senior staff, and work through topics in a way that would not be possible in an open council meeting. They can be an important forum for advice and discussion in the lead up to a formal decision about a complex issue, or for councillors to request additional information to assist in making decisions. Councillors do not make legally binding decisions in these informal forums. Council briefing sessions should not be confused with public briefings. Councils

also arrange briefing sessions for members of the community to present information about council activities or to provide detail of complex or significant matters that may be coming before the council.

2.4.3 Advisory committees

A council may establish advisory committees whose purpose is to look into and advise the council on matters referred to it. Unlike a special committee of council, an advisory committee does not have any formal, delegated powers to act in place of the council. Advisory committee decisions or recommendations have no legal standing unless they are adopted by the council at a formal meeting. Although there is no delegation of powers, an advisory committee will often still operate under a “Terms of Reference” document, in which the council sets out the committee’s purpose and how it will function. As with special committees, the council retains control over the membership and purpose of the committee. Advisory committees can assist councils by spreading a council’s workload, enabling a council to recruit and utilize particular expertise to help the council make its decisions, and by engaging community resources and opinion. Short term advisory committees (sometimes called “working groups” or “ad hoc groups”) may be created for a particular purpose and disbanded when that purpose is achieved. A council is not bound to accept a recommendation of an advisory committee.

2.4.4 Monitoring performance

Councils regularly review progress in achieving the strategic directions, goals and financial outcomes contained in the Council Plan and other strategic documents. The results of these reviews can have an important impact on future council decisions. The Act requires that at least once a year a council must consider whether its four year Council Plan requires any adjustment. The public must be consulted about any changes to the [Council Plan](#). Regular financial reports form an important part of any monitoring system. The Local Government Act requires that the CEO must ensure that the council is presented with a statement comparing the actual revenue and expenditure for the financial year with the Budget at least every three months. These quarterly financial reports are presented at a council meeting and enable a council to make any adjustments it needs to its annual program. Each council must appoint an [internal audit committee](#) to provide ongoing advice about its financial systems and approach, risk management and compliance with relevant legislation. This is in addition to the external auditor who conducts an annual audit of a council’s finances. The Chief Executive Officer has a vital role in setting up reporting systems to enable the council to monitor its progress and take any action needed to maintain progress towards its agreed outcomes.

2.4.5 Community consultation

In the lead up to important decisions, councils may use different ways to [consult with their communities](#). Many of these methods include the opportunity for direct participation from the community. The Local Government Act requires councils to call for public submissions in a number of circumstances.

2.4.6 Councillors and the community

Individual councillors are already likely to have well developed networks of community contacts and involvements. They attend community meetings and events, hold ward or community forums or represent the council at community functions. As a result of being available and approachable in this way, a councillor may be asked to bring matters of concern to an individual or a group to the attention of the council. Depending on the issue, this might be:

- a request passed on to council staff for attention
- raised informally with other councillors or at a councillor briefing
- raised at a formal council meeting
- referred to an external body

2.4.7 Links with other authorities

Councils maintain contacts with other authorities that can impact on decisions about council activities. These contacts include:

- [State](#) and [Federal Government Departments](#)

- statutory authorities like [VicRoads](#), regional catchment management authorities, the [Country Fire Authority](#) and [Metropolitan Fire and Emergency Services Board](#)
- local utility providers (gas, power, phone and water);
- local foreshore and other reserve management committees
- local health services providers

2.4.8 Memberships of other bodies

Councils also participate in broader groups and processes that can have an impact upon their decisions. Examples include:

- council membership of groups formed around particular issues
- council membership of local government peak bodies
- council membership of regional bodies

3 WHAT COUNCILS DO

Council's activities are diverse and extensive. They maintain significant infrastructure, provide a range of services and enforce various laws for their communities. Community infrastructure maintained by councils in Victoria is estimated to be valued at over \$40 Billion and includes roads, bridges, drains, town halls, libraries, recreation facilities, parks and gardens. Services provided by councils are diverse. They include property, economic, human, recreational and cultural services. Councils also enforce State and local laws relating to such matters as land use planning, environment protection, public health, traffic and parking and animal management.

Councils regularly review their activities to determine whether they are providing [best value](#) for their communities. This section of the Guide provides additional information about some council activities. However, as local government activities are numerous and services vary between councils, you should contact [your council](#) for details of activities in your local area.

3.1 Planning And Building

The use of land in each municipality is covered by a planning scheme and the Council usually administers the scheme and issues planning permits. Building permits are different from planning permits and may be issued by either council or private building surveyors. Each municipality has a planning scheme that describes what types of activities or developments may occur in areas of the municipality. Many activities require planning permits and these are usually issued by the council. A planning permit authorizes a change in the use of land. A building permit authorizes the construction or demolition of a building or structure if it complies with the building regulations.

3.1.1 Planning

Land use planning is administered under the [Planning and Environment Act 1987](#). Information provided in this guide is introductory, only. The [Department of Sustainability and Environment](#) has comprehensive information about the planning system. The main planning activities of councils are in considering and approving planning permits, under the planning scheme, and preparing and consulting on proposed changes to the planning scheme.

3.1.2 Planning Permits

A planning permit is required if the planning scheme states that an activity can only be undertaken if a permit is granted. A planning permit is not required if the planning scheme states that the activity may be undertaken without a permit. A planning permit may be required for:

- buying or leasing a property
- starting a business
- constructing, altering, demolishing or painting a building
- displaying a sign

- applying for a liquor licence
- subdividing land
- clearing native vegetation
- changing the use of a property

Contact [your council](#) for advice on whether a particular development or activity requires a planning permit. When calling, make sure you can accurately identify the property - usually the street address and nearest intersection is sufficient. It may be necessary for a search to be made of the permit history and, if a written response is required, a fee may be payable. Some other approvals and licences (eg for the sale of liquor or second hand goods) will not be given unless a valid planning permit has been issued. If, for example, you are planning to operate a restaurant, you will need to know if a valid planning permit for a restaurant exists.

3.1.3 Planning schemes

Planning schemes set out policies and provisions for the use, development and protection of land for an area. Each municipality in Victoria is covered by a planning scheme. These are legal documents prepared by the local council or the Minister for Planning and are approved by the Minister for Planning. Planning schemes can be viewed from [Planning Schemes Online](#). An important part of a council's planning scheme is the Municipal Strategic Statement (MSS). The MSS provides the broad outline and vision for existing and future land use within a municipality. It provides the rationale for the zone and overlay requirements and particular provisions in that council's planning scheme. Proposed changes to the zoning of land or to the controls in a planning scheme can be introduced as an amendment to the existing scheme. Generally an amendment is prepared by a local council and is subject to prescribed public notice and consultation processes.

3.1.4 Building control

Victorian law makes a clear distinction between a planning permit issued under the Planning and Environment Act and a building permit issued under the [Building Act 1993](#). It is important to understand the difference.

- A planning permit authorizes a change in the use of land and/or the development of land, if required by the municipal planning scheme
- A building permit authorizes the construction or demolition of a building or structure if it complies with the building regulations. These cover things like the siting of most single dwellings, protection of adjoining property during construction, structural adequacy, light, ventilation and drainage

If a planning permit is required, the building permit cannot be issued until the planning permit has been issued, and must be consistent with the planning permit. What gets built must be consistent with the issued permits. A building permit may only be issued by a licensed building surveyor. Some councils have building surveyors on staff and can issue building permits. A list of licensed building surveyors is available from the Building Commission. A building surveyor issues a building permit, after confirming compliance with the building regulations. The building regulations are the only matters that the building surveyor is required to consider before issuing the building permit. A private building surveyor must lodge a copy of the building permit with your council within seven days of issue. For more information about the building approval system, visit the [Building Commission](#).

3.2 Roads and parking

While councils do not manage all roads in their area, they do have powers and responsibilities to manage and maintain parking, traffic and roads under their control. Councils have responsibilities and powers in relation to roads and parking. This includes responsibility for the construction and maintenance of roads, traffic management on local roads, issuing parking permits and enforcing parking regulations.

3.2.1 Road management

Councils are responsible for the construction and maintenance of local roads. This includes monitoring the standard of these roads and undertaking repairs when required. It should be noted that the costs of maintaining roads can be costly and councils usually have to prioritize road construction and maintenance projects. Councils are not responsible for all roads in their areas. Main roads (or

arterial roads) are usually the responsibility of [VicRoads](#). Some councils undertake road works in their areas under contract to VicRoads. Some roads are undeclared roads. That is, they are private roads that have not been declared public highways. A council may declare a road to be a public highway, in which case the council becomes responsible for the care and management of the road and may exercise its road management powers in relation to that road.

Special charge schemes for road construction

Where road works will provide a special benefit to particular properties, councils may levy special rates or charges on the owners of those properties to pay for all or part of the cost of the works. This power is limited in a number of ways and is subject to certain consultation and objection processes. See [special rates and charges](#).

3.2.2 Road Management Plan

The Roads Management Act requires councils (and other road management authorities like VicRoads) to have a road management plan covering all the roads for which they are responsible. A council's road management plan outlines its responsibilities, includes a list of its road assets and details the standards of service, maintenance and construction for roads in each municipality. Each plan describes how a council will inspect, maintain and repair the public roads for which it is responsible, to better meet community expectations.

3.2.3 Parking

Councils are responsible for local parking arrangements in their municipality. This includes issuing parking permits and enforcing parking regulations.

3.2.4 Parking permits

Councils may issue parking permits for priority parking in particular areas. It is not uncommon for councils, particularly in busy metropolitan areas, to issue parking permits for residents in residential areas and for businesses in business precincts. Councils also issue disabled parking permits. For details about parking permits in your local area, contact [your local council](#).

3.2.5 Council roads and traffic powers

Councils have a number of powers in relation to local roads. These are described in detail in Schedule 10 of the Local Government Act and include powers to:

- discontinue roads
- deviate roads
- alter road levels or widths
- rename roads
- erect road signs
- require people to number their premises

Councils also have a number of powers in regard to traffic under schedule 11 of the Local Government Act. These include powers to restrict the use of roads in some circumstances, as well as some powers to determine speed limits. Councils also have powers in regard to parking and may issue special parking permits, remove abandoned vehicles and place or remove barriers on roads.

3.2.6 Parking fines

Parking laws exist to ensure safe and fair use of Victoria's roads for everyone's benefit. People who park illegally risk being fined. People authorized by the council may issue parking tickets when someone has parked illegally. An authorized person will have an identity card which they will display on request. A person who receives a parking fine has 28 days to pay the fine. If they don't pay the fine within that time they will generally incur additional costs. If a fine continues to remain unpaid, a warrant can be issued and property can be seized and sold to satisfy the amount owing. If you are having difficulties paying your fine, contact the council to discuss payment arrangements. If you have received a parking fine from a council but believe you should not have to pay the fine, you can write to the council explaining your objection and asking for the fine to be withdrawn. If you are dissatisfied with the council's

handling of your fine, or your request for the fine to be withdrawn, you may lodge a complaint with the [Ombudsman's Office](#). The Ombudsman's Office can make enquiries or undertake an investigation and make recommendations to the council. However, the Ombudsman's Office cannot overturn your fine. You may request that your case heard by a magistrate's court, which does have the power to overturn your fine. If you succeed at the court hearing the fine will be withdrawn. However, if you are unsuccessful you will have to pay the fine plus additional court and

3.3 Health Services

Councils provide a range of services under the Health Act and the Food Act to support public health in their areas. Council environmental health officers provide a variety of environmental and public health services including health education and the enforcement of relevant state legislation, including the [Health Act 1958](#) and the [Food Act 1984](#). Activities may include:

- Inspecting businesses to ensure compliance to the Food Act 1984 and to provide advice and training for food vendors. This includes registration of premises, food safety programs, food complaints, temporary events, safety standards, labelling requirements
- Registration and inspection of other premises such as accommodation, beauty salons, hairdressers and body piercing establishments to ensure correct hygiene and safe practices.
- Nuisance Complaints - monitoring for noise, smells and smoke
- Pest Control Advice including pests with a potential health impact, like European wasps, mosquitoes, rats and mice. For advice on native animals like possums and cockatoos contact the [Department of Sustainability](#)
- Preventing the spread of infectious diseases
- Monitoring and approving individual domestic septic systems in unsewered areas
- Monitoring compliance with tobacco laws, including tobacco sale and smoking in public places

3.3.1 Municipal Public Health Plan

The Victorian Health Act requires every council to have a Municipal Public Health Plan. This Plan is to be prepared every three years and reviewed annually. A municipal public health plan must identify and assess actual and potential public health dangers affecting the municipal district, outline programs and strategies which the council intends to pursue to prevent or minimize those dangers and enable people living in the municipal district to achieve maximum wellbeing and provide for periodic evaluation of programs and strategies.

3.4 People Services

Councils provide a range of support services and facilities to assist people and groups in their municipality. This includes services for families, children, young people and the aged. These services are often funded through partnerships between the State and/or Federal Governments, however some services may incur a fee to offset costs. The following are examples of services that Councils often provide. Not all Councils provide the same services therefore it is advisable that you contact [your local council](#) for information about the precise services available in your area.

3.4.1 Family and Young Children's Services

Councils have a range of services that support families and young children. Health services, day care facilities and play groups are council services that assist parents in raising their children and maintain the well-being of young children. Some council services for families and young children may include:

- Child Care Facilities
- Pre-Schools
- Maternal and Child Health Facilities
- Toy Libraries
- Family Day Care
- Playgroups
- Kindergartens
- School Bus Programs

- Neighbourhood and Community Houses
- School Holiday Programs

3.4.2 Youth Services

Council provide services for young people in their municipality to supporting their growth and development and provide an avenue for meeting other young people in the area. Some youth services that local council may provide are:

- Counselling Services
- Drug and Alcohol Services
- Skate Parks
- Youth Oriented Festivals
- Neighbourhood Houses
- Sports Programs
- Youth Based Advisory Councils

3.4.3 Aged Services

Local Councils recognize the important role that elderly residents have in their municipality. Councils assist the elderly and their families through a number of services, such as:

- Senior Citizens Groups and Centres
- Delivered Meals Services
- Senior Citizen Centres
- Home and Personal Care Services
- Respite Care
- Community Transport

3.4.4 Disability Services

Councils want to ensure that services are accessible to all members of the community. Councils provide programs and services that assist people with a disability to participate in community activities. Council services for people with a disability may include:

- Support Services for People with a Disability
- Delivered Meals Services
- Personal Care Assistance
- Community Buses
- Accessible Arts and Recreational Programs

3.5 Waste Management

Councils provide waste disposal and recycling services as well as regulating various waste disposal activities within the municipality to protect public health and the environment. As a society we generate considerable waste that must be properly managed to minimize risks to public health and to the environment. Councils play an active role in waste management by providing waste disposal and recycling services as well as the regulation of waste disposal by people and organizations in the municipality. In addition to providing services and regulation, councils frequently provide advice and education to assist and encourage people to dispose/recycle their waste responsibly.

3.5.1 Waste services

Councils provide a range of waste disposal and recycling services for their communities. While some services, such as the collection and disposal of general household garbage are common to all councils, many services vary, depending on the needs and priorities of the relevant communities. Contact your council to find out about the particular waste disposal and recycling services provided in your area. Specific waste services provided by councils can include:

- Collection and disposal of general household garbage, which usually includes waste that cannot be recycled using the council's recycling services
- Hard rubbish collections, which provide for the removal of items that cannot be disposed in general household garbage collections
- Recycling services that may include paper, glass, plastic and metal waste products
- Green waste collection services, which are generally connected with a service providing compost and mulch for gardens
- Disposal and/or recycling of other specific types of items such as chemicals, oil, computers or used printer cartridges
- Transfer stations and land fill sites for disposal and recycling services
- Commercial waste removal services

The way these services are provided can vary from area to area. While household garbage services most frequently involve the provision and regular emptying of bins, in some areas household waste may be disposed at transfer stations. Similarly, recycling services may be provided through collection from individual household bins or at transfer stations or depots in the municipality. Many councils levy a garbage charge as part of the rates system. Sometimes the level of the charge varies in relation to the size of bin provided.

3.5.2 Regulation of waste

Councils also make and enforce [local laws](#) to control the disposal of waste in their areas as well as regulating some waste activities under State laws. Council enforce state and local laws relating to many waste disposal matters, including:

- Disposal of dangerous pollutants such as asbestos
- Domestic wastewater (sewage) systems
- Littering
- Burning off and use of incinerators
- Proper use of council waste disposal services

For more information consult [your council](#) or the [Environment Protection Agency \(EPA\)](#).

3.6 Animal management

Councils register the dogs and cats in their municipality, to promote responsible pet ownership and assist in tracing the owners of stray animals. Councils register the dogs and cats in their municipality. This encourages responsible pet ownership and assists in tracing the owners of stray animals. Controls often have education programs and incentives to further encourage responsible animal ownership eg schools programs, discount vaccination and desexing vouchers when puppies and kittens are first registered and microchipping days (where a tiny identifying chip is inserted under the animal's skin). Through their [local laws](#) councils regulate other matters like:

- the keeping of domestic animals (including dogs and cats) on private property (eg banning some animals from residential areas and limiting numbers of others)
- the control of domestic animals in public places (eg dogs to be on a leash, restrictions on when dogs can be on beaches, parks or reserves)
- nuisances and dangers posed by domestic animals (eg barking dogs, dangerous dogs, cleaning up after your dog, impounding of wandering animals, restrictions on where horses are ridden)

The [Domestic \(Feral & Nuisance\) Animals Act 1994](#) gives councils the responsibility for registering and controlling dogs and cats, and domestic animal businesses in their municipality. The purpose of this Act is to promote animal welfare, the responsible ownership of dogs and cats and the protection of the environment by providing:

- a scheme to protect the community and the environment from feral and nuisance dogs and cats
- a registration and identification scheme for dogs and cats which recognizes and promotes responsible ownership

- the identification and control of dangerous dogs
- a registration scheme for domestic animal businesses which promotes the maintenance of standards of those businesses
- matters related to the boarding of dogs and cats

The best way to find out more detail about services in your local government area is to contact [your local council](#).

3.7 Recreation and culture

Recreation and cultural services include a broad range of programs, events and activities provided by local council.

These vary from council to council. Contact [your local council](#) to find out about local services. Programs, events and activities may include:

- halls and public buildings
- sport and recreation (sports grounds, swimming pools, support for clubs, junior development programs)
- leisure and arts (public art, theatre productions, public festivals and events)
- parks, gardens and reserves (including walking and bike trails)
- libraries and museums (static and mobile library services)
- historic buildings and places
- co-ordinating one off events(arts festivals, national/international sports events, local Australia Day celebrations)

Council involvement can be as an organizer, as a lead agency in securing funding, as a source of funds itself (eg through minor grants programs to community groups), as a source of information and advice and as the operator of a recreation or cultural facility. There is often close co-operation between councils and the community to run recreation and culture programs and facilities. Councils also work in partnership with other tiers of government to fund and co-ordinate new activities or facilities.

3.7.1 Libraries

Every council in Victorian provides a library service for its community. In some cases, library services are provided jointly by a number of councils under a regional library agreement. Library services may be provided at fixed locations or as mobile services. While libraries traditionally provide book borrowing services, their roles have diversified in recent years in line with changes in technology. Libraries in Victoria now provide a wide range of services, including:

- Book borrowing
- Internet access
- Computer search facilities
- Lending DVDs, CDs, and audio cassettes
- Toy libraries
- Connecting people with government services
- Promoting local cultural activity and art
- Supporting access to business information
- Provision of training opportunities

The specific services will, of course, vary from library to library. Contact [you local library](#) to find out what services it provides.

3.8 Local Laws

Councils have a range of responsibilities under both State and Federal Laws. Where appropriate, councils may make local laws to exercise this authority. Councils have various responsibilities and powers under both State and Federal laws. Where appropriate, councils may make local laws to exercise these powers.

Local laws are often adopted to protect public health, safety, or amenity in a municipality. They are designed to ensure that the actions of an individual or group do not have a negative or undesirable impact on the rest of the community. Local laws only apply within a

particular municipality. Local laws complement or implement other legislation. They are subservient to state and federal laws: that is, a local law cannot duplicate or contradict federal or state law. The matters covered and what an individual council's local law actually says may vary from one municipality to another. Despite this, there is often considerable commonality between the matters covered in councils' local laws and the approach taken. A council must advertise any local law that it intends to make and must consider any public submissions it receives about the local law before implementing it. Copies of all of its local laws must be available for public inspection and/or purchase at the council offices. Unless it is revoked sooner, a local law has a 10 year life and must be renewed after that time to remain valid. This ensures that local laws remain current and suitable to the purpose for which they were originally made. Councils are required to make local laws governing the conduct of council and special committee meetings, see [How councils make decisions](#). Other matters that are covered in some councils' local laws include such diverse matters as:

- Restrictions on the disposal of waste
- Parking permit schemes
- Animal management and control
- Road and traffic management
- Street trading and advertising
- Setting fees and charges

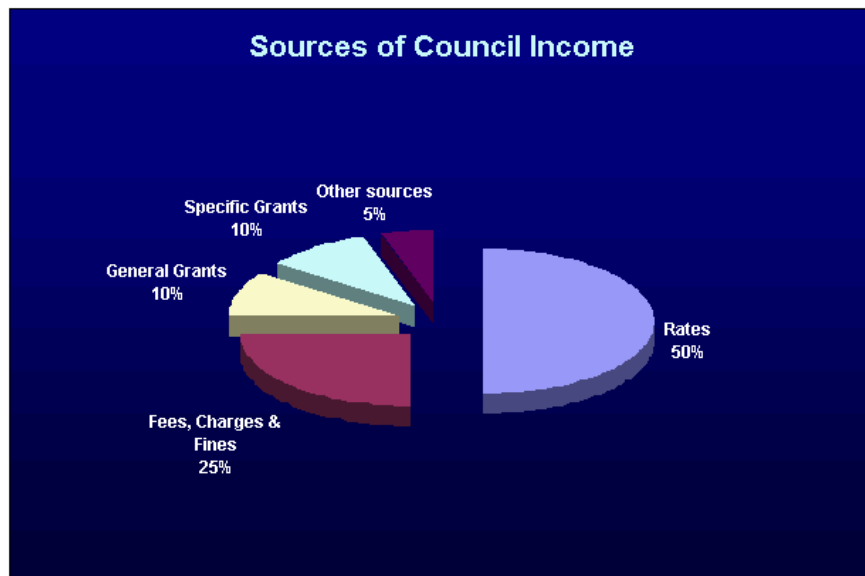
Contact [your local council](#) for details of local laws in your area

4 PLANNING AND FINANCE

Councils manage substantial finances to enable them to provide a wide range of public services and maintain considerable public infrastructure. In order to finance their activities, councils are granted certain powers to raise funds, particularly through the levying of municipal rates. Councils also receive grant funding from the Federal and State governments for municipal purposes. To ensure the responsible management of resources under their control, and to provide public accountability, councils are required by law to undertake various planning and reporting functions. Exercise of these functions includes public consultation.

4.1 Funding for local councils in Victoria

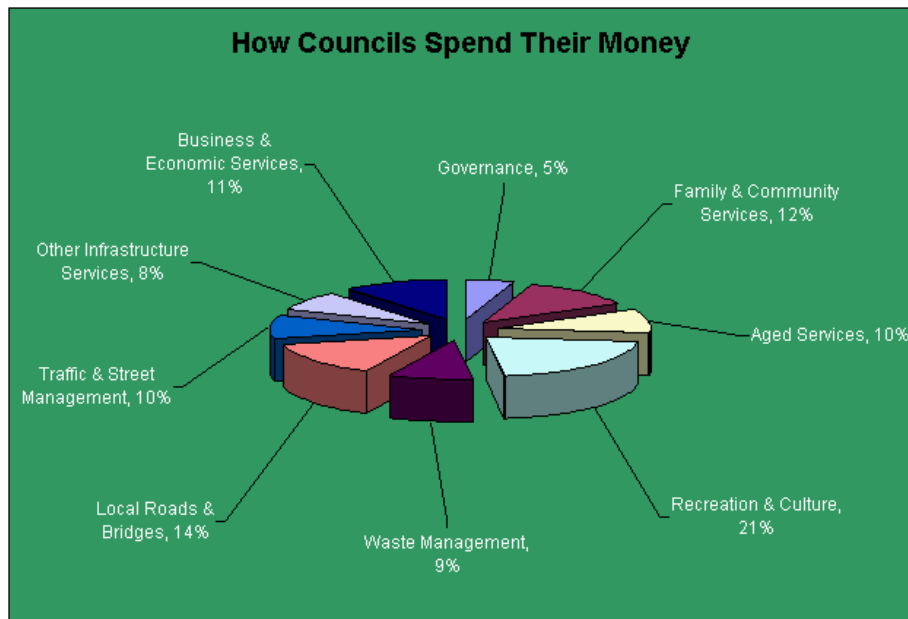
Typically rates generate about half of a council's income; fees, charges and fines about 25%; general and specific purpose grants about 10% each. A variety of sources, including bank interest, asset sales, donations, contributions and reimbursements makes up the remainder. The total funding for local councils in Victoria in 2003-04 from all sources was \$4 billion. The following chart shows the sources of funding for the average council.



There are variations from this Victoria-wide average:

- smaller rural councils typically receive higher proportions in grants, and have lower (often around 40%) reliance on rates
- many inner Melbourne and outer fringe councils receive larger amounts in other revenues (such as car parking, and developer contributions)
- developed metropolitan councils often have a higher reliance (up to 60%) on rates

Councils typically deliver services “on the ground” in about 100 different service areas. As well as implementing various commonwealth and state government programs, councils also have powers to provide a range of discretionary services in response to local community needs. They work in partnership with the local community, other tiers of government and with other agencies to deliver these services. Each municipality is distinct, providing “core” services in common with other councils and other services that respond to particular local circumstances. The following chart from the Victorian Grants Commission shows how the average Victorian council spent their income in 2003/2004.



The [Council Plan and Annual Budget](#) provide the detail that explains both a council's expected income and its expenditure. These documents can usually be found on [your council's website](#).

4.2 Planning and budgeting

In order to best use limited resources to provide effective local government and services for the community, councils regularly prepare Council Plans, Strategic Resource Plans and budgets. These are prepared in consultation with the community. This section describes how councils set future directions and plan to raise funds to provide facilities, services and governance for the local community in the medium and short term. The Local Government Act requires councils to develop formal Council Plans and Strategic Resource Plans to address the medium term needs of the community. The Act also requires each council to adopt an annual budget for each financial year. Council Plans, Strategic Resource Plans and budgets must be available for public inspection at the council office. See [annual reports](#) to see how councils report on the results of their Council Plans and budgets.

4.2.1 Council Plan

Each council is required to prepare and adopt a Council Plan by 30 June in the year following a general election (general elections will be conducted in November every four year from 2008). In some cases the Minister for Local Government may extend the period within which a council may adopt its Council Plan. A Council plan includes:

- The strategic objectives of the council

- Strategies for achieving those objectives over the next four years
- A Strategic Resource Plan
- Strategic indicators for monitoring the achievement of the objectives

Before adopting its Council Plan, a council must give public notice of its intention to adopt the plan and invite public submissions. Members of the public may make written submissions within 14 days of the notice and, if they so desire, request to be heard in support of their submission. A council may review and update its Council Plan at any time, following the same process as for the original plan. At least once every year a council must consider whether the Council Plan requires any adjustment in respect to the remaining period of the plan. If a Council Plan is to be adjusted, the adjustments must also be subject to the public consultation process.

4.2.2 Strategic Resource Plan

The Strategic Resource Plan is part of the Council Plan. It describes the resources required to achieve the strategic objectives in the Council Plan. Unlike the other material included in a Council Plan, however, a Strategic Resource Plan must always cover the resource needs for at least the next four years and must be adopted by 30 June each year. Therefore, councils generally prepare their Strategic Resource Plans on a rolling basis to cover at least the next 4 years. A Strategic Resource Plan must include:

- Standard Statements describing the financial resources required for the next four financial years
- Statements describing the non-financial resources required for the next four financial years

Statements describing non-financial resources are not prescribed. However, they generally address future staffing requirements and may also address infrastructure and information technology needs.

4.2.3 Budget

A council must prepare a budget for each financial year and, unless granted an extension by the Minister for Local Government, must adopt its budget by 31 August each year. The budget must include:

- The standard statements for the budget year (which are the Standard Income Statement, the Standard Balance Sheet, the Standard Cash Flow Statement and the Standard Statement of Capital Works)
- A description of the activities and initiatives to be funded in the budget, and a statement of how those activities and initiatives will contribute to the strategic objectives in the Council Plan
- Separately identified Key Strategic Activities to be undertaken during the financial year and performance targets and measures in relation to each Key Strategic Activity (reported on in a performance statement in the annual report)

The budget must also include additional information relating to levels of council rates, impacts of council rates, and borrowings and debt. Before adopting its budget, a council must give public notice of its intention to adopt the budget and invite public submissions. The notice must advise where copies of the proposed budget are available for inspection. Members of the public may make written submissions within 14 days of the notice and, if they so desire, request to be heard in support of their submission. The council must allow a person to be heard and must take submissions into consideration. If circumstances arise where there is a material change to the budget which affects the operations and position of the council, the council must prepare a revised budget. A revised budget must contain the same material as a budget and must also be subject to the community consultation process.

4.3 Financial management

Council finances require responsible management to ensure that the organization can continue to operate and serve the community as well as ensuring that financial imposts on the community are stable and fair. Councils manage significant finances on behalf of their communities. The responsible management of these finances is essential for the council to continue to provide the services and facilities that are needed by the local community.

4.3.1 Principles of sound financial management

The Local Government Act (section 136) provides four principles of sound financial management for councils. All councils are required to implement these principles and establish budgeting and reporting frameworks that are consistent with the principles.

The principles of sound financial management require councils to:

- manage financial risks prudently, having regard to economic circumstances
- pursue spending and rating policies that are consistent with a reasonable degree of stability in the level of the rate burden
- ensure that decisions and actions have regard to financial effects on future generations
- ensure full, accurate and timely disclosure of financial information relating to the council

The financial risks that must be managed prudently include:

- the level of council debt
- commercial or entrepreneurial activities
- management and maintenance of assets
- management of current and future liabilities
- changes in the structure of rates and charges

4.3.2 Audit Committees

All councils are required to establish audit committees. Audit committees are advisory committees that play a key role in assisting councils to fulfill their responsibilities. Their objectives are various and include:

- enhancing the credibility and objectivity of financial reporting
- supporting identification and management of financial and other risks
- ensuring compliance with laws and regulations

While an Audit Committee will pay particular attention to the council's financial management, its role is not limited to financial matters. An Audit Committees also provides advice on broader aspects of the council's operations, particularly where compliance issues and risks are involved. An Audit Committee has no executive role. It is independent of management and acts independently from the council's finance committee. The Audit Committee's reports to the council and provides advice to facilitate decision-making by the council. It is recommended that Audit Committees include a majority of independent members and that council CEOs and senior managers should not be members of the committee, although they may assist the functioning of the committee by attending meetings and providing administrative support.

4.3.3 Contracts

Councils may enter into contracts for goods or services or for the carrying out of works. Section 186 of the Local Government Act requires that a council must give public notice and invite tenders or expressions of interest before it enters into a contract which has a value of \$100,000 or more. Some exemptions apply to this requirement and a council is not required to accept the lowest priced tender.

4.3.4 Entrepreneurial activities

Section 193 of the Local Government Act gives councils the power to engage in various types of enterprises, such as becoming a member of a corporation or partnership, or participating in a joint venture with another body. However, the Act places certain requirements on councils to ensure the proper management of risks in such cases. This includes a requirement that a council consider a formal risk assessment report from a suitably qualified person before approving any such venture where the total risk exceeds \$100,000 or 1% of council's rate revenue. If the total risk exceeds \$500,000 or 5% of rates income, the council must also obtain the approval of the Minister for Local Government, and if it exceeds \$5 million, the Treasurer's approval is additionally required.

4.4 Paying council rates

Councils levy municipal rates on property owners annually. The Local Government Act determines how councils set and collect rates and charges. Each council collects rates from residents and businesses in its municipality to help fund its local community infrastructure and service obligations. Typically rates make up about half of a council's income. Council rates are a form of property tax. Councils use property values as the basis for calculating how much each property owner pays in rates. Read more about [how rates are calculated](#).

4.4.1 Payment of rates

Rates are levied annually, and must be paid in four installments, or as a lump sum if allowed by the council. Due dates for installment payments are on the last day in September, November, February and May. Where lump sum payments are allowed they are due by 15 February. Councils generally include this detail and payment options on the back of their rates notices. Sometimes a council may offer incentives to their ratepayers to pay before the due date. These must be declared when the rates and charges are formally declared and detailed on the rate notice.

4.4.2 Penalty Interest

If you are issued with a rate notice you should make sure you give it prompt attention. Councils generally charge penalty interest on unpaid rates and charges which, depending on the circumstances, may be calculated from the date that the rates were declared rather than the date that the payment was due. The penalty interest rate is fixed under the Penalty Interest Act 1983. It is quite high, as it is based on commercial rates with the addition of a penalty amount.

4.4.3 Financial Hardship

Generally councils have a hardship policy under which they may defer or waive all or part of any individual ratepayer's liability in cases of genuine financial hardship. If you are suffering financial hardship, or will suffer such hardship if you pay your rates, you may apply to the council for a waiver of all or part of your rates or a deferral of your rate payment. It may be advisable to consult your council in advance of making an application to find out about the council's hardship policy. Councils also have the power to waive part or all of any rate or charge on ratepayers who are concession card holders under the State Concessions Act 1986 (eg aged pensioners). The minimum amount of the waiver is set by the state government and indexed (currently about \$164). Councils are reimbursed this amount by the government. However individual councils may decide to increase the amount waived in some instances.

4.4.4 Unpaid Rates

Any unpaid rates remain a debt on the property, regardless of any change of ownership. If rates or charges remain overdue for more than three years and no arrangement has been made with the council, the council may obtain a court order enabling it to sell or assume ownership of the land to recover the debt.

4.4.5 Rebates and concessions

Under the Local Government Act, councils have the power to grant a rebate or concession on any rate or charge to assist "proper" development and the preservation of buildings or places of historical, environmental, architectural or scientific importance within the municipality. "Proper" development can cover land use, economic development and environmental objectives. A council resolution granting a rebate or concession must specify the benefit to the whole community that the council considers will result.

As part of preparing an annual budget, a council considers community needs in relation to its available income requirements for the coming year before deciding how much it should raise in general rates. A council will also consider the extent of the rate burden on tax payers and may decide to forgo some activities and services in order to avoid high rate rises. Developing a rating strategy requires a council to strike a balance between competing principles to come up with a mixture of rates and charges that provides the income needed for its annual budget while meeting the tests of equity, efficiency and simplicity. In broad terms, the total amount of money to be raised in general rates is divided by the total value of all rateable properties. The resulting figure is called the "rate in the dollar".

4.5 How Rates Are Calculated

4.5.1 The "Rate in the Dollar"

The council determines the amount to be paid in rates by applying a rate in the dollar to the assessed value of each property. When that total value of all properties goes up, the council reduces the rate in the dollar to compensate. There is no windfall gain.

How a "Rate in the Dollar" is Calculated

For a council using only a general rate, the rate in the dollar is calculated as follows: If council plans to raise the total rate revenue of \$10 million, and the total Capital Improved Value of all rateable properties in the municipality is \$2,380 billion, then the rate in the dollar is calculated by dividing \$10 million by \$2,38 billion = 0.42 cents in the dollar.

How are a Property's Rates Calculated?

The formula for calculating the rates for an individual property (excluding any additional charges or arrears) is the valuation multiplied by the rate in the dollar set by the council. Councils determine the rate in the dollar as part of their budget process. For example if the Capital Improved Value of a property is \$250,000 and the council rate in the dollar is set at 0.42 cents, the rate bill would be \$1050 ($\$250,000 \times 0.0042$). Your rate notice will provide specific details on how your rates are calculated.

4.5.2 Property valuations

Property values affect the amount paid in municipal rates. State legislation requires that all properties in every municipality are revalued every two years. The next general revaluation is due in January 2008. Changes in property values will vary across a municipality. These will be reflected in each property's rate bill. A general revaluation may result in the rates for some properties going up while others go down. If a property's value increases by less than the average increase across the municipality, the rates for that property will be relatively lower. Rates will be relatively higher if a property's value increases by more than the average increase in valuation.

Councils do not collect extra revenue as a result of the revaluation process. Valuations are simply used as an apportioning tool to assess the rates payable for each individual property. Information about a property's value is included on the rate notice issued by the council. Property values are determined by independent professional valuers appointed by a council. These valuers assess the market value of each property in line with guidelines laid down by the [State Valuer General](#). Valuers must assess the value of a property in three ways:

- Capital Improved Value - the total market value of the land plus buildings and other improvements;
- Net Annual Value - the current value of a property's net annual rent (by law, Net Annual Value must be at least five per cent of the Capital Improved Value for commercial property and exactly five percent of Capital Improved Value for residential property).
- Site Value - the market value of the land only

Most Victorian councils use the Capital Improved Value to levy rates. In 2004, Victoria's 2.36 million properties were valued at \$771 billion.

4.5.3 Differential rates

Councils are able to levy either a uniform rate or one or more differential rates. A uniform rate is where all rateable properties in a municipality are charged based on the same rate in the dollar. Differential rates are where councils set different rates in the dollar for different categories of rateable land. The Council may for example, have differential rates for farm land, various categories of residential property or commercial/industrial properties – each paying a higher or lower rate in the dollar. Where a differential rate is applied, this is usually to achieve greater equity or efficiency. There is no limit on the number or type of differential rates that can be levied, but the highest differential rate can be no more than four times the lowest differential rate. If a council decides to apply differential rates as part of the mix, it will usually consider three equity principles.

- the benefit or user pays principle – some groups have more access to, make more use of and benefit more from specific council services
- the capacity to pay principle – some ratepayers have more ability to pay rates than do others with similarly valued properties
- the incentive or encouragement principle – some ratepayers may be doing more towards achieving council goals than others in areas such as environmental or heritage protection

Another consideration is delivering a simple and transparent system of rates and charges. A simple rating system is more transparent, meaning that the underlying purpose and principles behind it are clearer – who is liable for a particular rate and how the liability is calculated.

4.5.4 Service rates and charges

The Local Government Act enables a councils to impose a service rate or an annual service charge (or a combination of these) for certain purposes. Of the purposes supplied in the Act, most councils today are only involved in collecting and disposing of refuse. While the ability to impose a service rate (based on the property valuation) still exists, a service charge is the more common way of recovering the costs associated with garbage collection, recycling and disposal. A unit charge may be levied on each property that receives or can access the service, and commonly appears as a separate amount on the rate assessment notice. A different amount may be charged for different property categories or for different sized bins. See [Waste Management](#).

4.5.5 Municipal charge

The Local Government Act enables councils to levy a municipal charge. The municipal charge is a flat charge that can be used to offset some of the administrative costs of the council. The total amount raised from the municipal charge cannot be more than 20% of the total raised from the combination of municipal charge and general rates. Applying a fixed municipal charge may be a way of ensuring that all properties make a standard contribution towards a council's administrative costs. Some council's will nominate the costs the charge pays for.

4.6 Special rates and charges

A council may levy a special rate, or special charge to help pay for any council service or activity that will be of special benefit to a particular group of property owners. Sometimes council will levy special rates or special charges. These are different from general rates and charges because they are levied for particular works or services and they are levied on a limited number of ratepayers. The Local Government Act enables councils to levy a special rate, a special charge (or a combination of these) to help pay for any council service or activity that will be of special benefit to a particular group of property owners. A "special benefit" is a benefit that is additional to, or greater than, the benefit generally available to other people. Common examples of special rates or charges include schemes for constructing footpaths, roads, kerbs and channels or drains; and arrangements for providing services like promotion, marketing or economic development (eg for commercial businesses).

While a council may set a special rate or charge for almost any type of activity that the council undertakes, it is limited by provisions of the Act which require special rates and charges to be levied in proportion to special benefits. Before a council proposes a special rate or charge, it must estimate the proportion of the benefits of the proposed works or services that will be of benefit to the people who are liable to pay. For example, before a council proposes a special charge for a road construction scheme it will calculate what share of the benefits of the road construction will provide for the adjoining properties (improved drainage, reduced dust, better access, etc) compared with general benefits to other people (eg other drivers using the road). The council will limit the total proportion of costs to be paid by all the property owners to their combined share of the benefits. The council will also set criteria to determine how the rate or charge will be apportioned between the affected ratepayers. Understanding the way a special rate or special charge is apportioned can be complicated. Contact [your local council](#) for more detail. The main provision allowing councils to levy special rates and charges is in Section 163 of the Local Government Act 1989.

4.6.1 Public notice and consultation

Councils will often ask the community for comment before formally proposing a special rate or charge scheme. This type of consultation is at the discretion of council. Before finalizing a special rate or charge the council must, by law, undertake formal public

consultation. For all special rate or charge schemes, the council will give public notice of the proposal and write to all affected ratepayers with information about the proposed scheme. Full details of the proposal will also be available for inspection at the council office. People are entitled to make written submissions to the council regarding a proposed special rate or charge and, if they wish, they may request to appear in person to present their case to a council or committee meeting. Under section 223 of the Local Government Act, the council is required to consider all submissions that are received within 14 days of the public notice, although councils may allow a longer time for submissions. If the council is proposing to raise more than two thirds of the total cost of a project as a special rate or charge, the affected ratepayers must also be given a formal right to object. If objections are received from a majority of properties within 28 days the council cannot approve the special rate or charge. This objection process does not apply for drainage schemes that are required for public health.

4.6.2 Appeals to VCAT

Under certain conditions, people who are required to pay a special rate or special charge may appeal to the [Victorian Civil Administrative Tribunal](#) (VCAT). Rights of appeal to VCAT are subject to a number of limitations, including time limitations. If you believe there may be justifiable grounds for an appeal to VCAT you may be wise to seek your own legal advice, promptly, about the matter.

4.6.3 Variations to special rates and charges

A council may vary a special rate or special charge it has imposed. This variation may relate to the amount to be paid, the persons liable or the land affected. If a variation to a special rate or charge means that people not previously liable now have to pay or if there is a material difference in the amounts to be paid, the council must advertise the variation and people may lodge submissions under section 223 of the Local Government Act.

4.7 Grants

Councils receive regular grant funding from the Federal and State Governments. There are a number of sources from which councils receive grant funding.

4.7.1 Victoria Grants Commission

On average, general (or Financial Assistance) grants make up about 10% of a council's income. These funds are allocated by the Victoria Grants Commission, which is an independent statutory body operating within Local Government Victoria, in the Department of Planning and Community Development. The Grants Commission's main function is to allocate general revenue assistance provided by the Commonwealth government to Victorian councils, in accordance with the Local Government (Financial Assistance) Act 1995 and the approved national distribution principles. The Commission can only provide funding to local councils. Grants Commission funds are not available to businesses, individuals or community groups.

The Australian Government provides general revenue assistance also called Financial Assistance grants to the states and territories for passing on to local councils. These are divided into General Purpose Grants and Local Roads grants, both of which are untied (which means that councils can determine how they spend these grants themselves). General purpose grants are given to the states and territories according to population, with Victoria being allocated 24.7% of the total last year. Victoria's share of local roads grants is fixed at 20.6% of the annual total. The Grants Commission then divides up the total available General Purpose Grants and Local Roads Grants among councils, using formulas that reflect the national distribution principles and factor in the local circumstances of each council. Read more about the [Victoria Grants Commission](#).

4.7.2 Other recurrent service grants

Councils also receive a range of recurrent funds from state or federal government to help pay for the operational costs of particular services or activities. Examples include:

- home care services (home help, respite care, meals on wheels, senior citizens centres etc)
- child care programs (family day care, occasional care, centre based care, maternal and child health)
- [public libraries](#)
- [neighbourhood houses](#)

- immunization programs
- school crossing supervisors

These funds usually have specific conditions attached to them and may require some additional or matching contribution from rate revenue or users.

4.7.3 Project Grants

Councils also apply for “one off” or fixed term government grants to fund a range of specific projects. These include capital or “bricks and mortar” projects that involve building something and establishing new programs. Examples include:

- Community facilities (eg new public library building, swimming pool, park, road or bridge)
- New programs (eg public environmental education programs – recycling, weed eradication, water management; recreation and leisure initiatives (eg. walking school bus, women in sport, access for all abilities)
- Special “one off” events (either statewide - eg the 2006 Commonwealth Games, or local – eg the Rescue 2006 - the world surf lifesaving championships at Geelong and Lorne)

These funds usually have specific conditions attached to them and require some additional or matching contribution by the council and/or the community. Councils often work in partnerships with their communities to develop funding applications for these project grants.

4.8 Annual report

After the end of each financial year, every council prepares an annual report which reports on the financial and other results for the financial year, as well as providing an overview of the councils operations and achievements during the year. Each year, a council must prepare an annual report which reports on the activities of the council for the preceding financial year. The annual report must be submitted to the Minister for Local Government within 3 months of the end of the financial year or at a later time if permitted by the Minister. Within one month of providing the annual report to the Minister, the council must consider its annual report in an open council meeting. Prior public notice is given of this meeting as well as advice about where copies of the annual report can be obtained. An annual report must include:

- A report on the council’s operations during the financial year
- Audited standard statements for the financial year
- Audited financial statements for the financial year
- A copy of the performance statement and a copy of the auditor’s report on the performance statement

4.8.1 Report of operations

The report of the council’s operations includes a broad range of information, and particularly:

- A statement which reviews the performance of the council against the strategic indicators in the [Council Plan](#), plus
- Information on a range of other matters such as major works undertaken, the range of activities undertaken, major policy initiatives and major changes in the council’s functions or structures
- Details about the council, including information about the councillors, the chief executive officer, senior officers and the organizational structure

4.8.2 Financial statements

A council’s financial statements document the actual financial results for the financial year and the previous financial year. These statements are compiled on an accruals basis in accordance with Australian accounting standards like other organizations, although there are some differences because councils are not-for-profit organizations. The financial statements are certified by the Council’s Principal Accounting Officer and two councillors as well as being audited by the Auditor General.

Standard statements

The standard statements compare the financial results for the year with the budget for that year and provide an explanation of any significant variation between the two. The standard statements are certified and audited in a similar manner to the financial statements.

There are four Standard Statements (and they are also included in the council's strategic resource [plan and budget](#)):

- Standard statement of financial performance (also known as the "standard income statement")
- Standard statement of financial position (also known as the "standard balance sheet")
- Standard cash flow statement
- Standard statement of capital works

Performance statement

The performance statement must include:

- The Key Strategic Activities and the related targets and measures from the budget
- The actual results achieved in respect to those targets and measures during the financial year

The performance statement is audited by the Auditor General. If the statement shows that the council has substantially failed to achieve its targets and measures, the statement must be accompanied by a written explanation of the failure.

5 COUNCIL ELECTIONS

Like members of State and Federal Parliaments, local government councillors are elected by their constituents. In local government these constituents are the residents and ratepayers of the municipality. Electoral structures for councils vary, depending on local conditions. Many councils are divided into wards, where one or more councillors are elected to represent each ward. Some other councils are not divided into wards and all councillors are elected to represent the entire council area. Following changes made to the Local Government Act in 2003, all council elections have been aligned to a common date and cycle. From November 2008, elections will be conducted for every Victorian council every four years.

5.1 Conducting elections

The election day for council elections is now the last Saturday in November every four years. Elections are nearly always conducted by an electoral commission and voting may be by postal or attendance voting. The conduct of council elections is regulated by the Local Government Act 1989 and the Local Government (Electoral) Regulations 2005. The day to day management of the election process is undertaken by a Returning Officer, who is generally appointed by an electoral commission.

5.1.1 When are council elections held?

From 2008 all councils will go to election on the last Saturday in November, and all councillors will be elected for a four year term. This is the same day of the year as Victorian Government elections, but state and local government election dates will be two years apart. Councils were previously elected for three year terms and elections were held in different years. Current councils were elected in either November 2004 or November 2005, but will all be aligned to a common date and four year term by November 2008.

5.1.2 Postal and attendance voting

The council decides whether voting in a council election will be entirely by postal voting or primarily by attendance voting.

- In an all-postal election, voting papers are posted to voters by the Returning Officer and voters vote by completing their ballot papers and returning them to the Returning Officer in the reply-paid envelope provided.
- In an attendance election, most voting is conducted at voting centres on election day, although voters may vote at early voting centres or by pre-poll postal votes.

For more detail on voting processes see [Participating as a voter](#).

5.1.3 Who runs council elections?

The Local Government Act allows councils to contract an electoral commission to run a council election on its behalf. In recent years the [Victorian Electoral Commission](#) has been contracted by all individual councils to run their elections. This means that the Returning Officer for each council election is a person appointed to the task by the Electoral Commissioner.

5.1.4 What is the timeline for a council election?

Entitlement date

To be eligible to vote at a council election, people must be on the state or local council voters roll 57 days before election day. This is called the "entitlement date".

Close of nominations

Candidates must submit their nominations to the Returning Officer before the close of nominations.

- In a postal election, nominations close at 4pm, 32 days before election day
- In an attendance election nominations close at 4pm, 31 days before election day

Close of voting

- In postal elections ballot papers must be received by 6pm on the last working day before election day
- In attendance elections, voting closes at 6pm on election day. (Voting centres open at 8am on election day)

Key election dates are publicized in the lead up to an election, enabling people to participate fully in the process. The Returning Officer, who runs an election, is also able to provide more detail of the election timeline.

5.1.5 How votes are counted

Two methods of counting votes are used in council elections, depending on whether or not the election is for a single member ward or not. A Preferential Voting system is used where a ward is electing a single councillor. This is similar to the system of vote counting used for single member electorates in the State Legislative Assembly and the Federal House of Representatives.

- All valid first preference votes are counted and sorted to determine the number of first preferences for each candidate
- If no candidate has an absolute majority, the candidate with the fewest votes is eliminated and their votes are re-allocated according to their second preferences
- Where one candidate has an absolute majority (50% plus 1 of all valid votes) that candidate is declared elected
- This process is repeated until one candidate obtains an absolute majority and is declared elected

The Proportional Representation (PR) method is used for counting election results for unsubdivided councils and multi-member wards. Proportional representation is designed to elect candidates in proportion to their share of votes. PR is used for Australian Senate elections and for the State Legislative Council (from November 2006). However, voting in council elections does not include above-the-line voting like in these Federal and State systems. In a proportional representation system, a candidate does not require absolute majority of votes to be elected. Instead they must obtain a quota of votes which is calculated by the Returning Officer in accordance with a statutory formula. The quota is calculated by dividing the total number of formal votes by one more than the number of vacancies to be filled in the ward or district and then increasing the result by one. For example, in an unsubdivided district where there are seven councillors to be elected and 80,000 formal votes have been cast, the quota would be calculated as $(80,000 \div (7+1) + 1)$, which is equal to 10,001. The vote counting process in a PR system is undertaken as follows:

- At any time during the count, when a candidate obtains a total number of votes that is equal to, or greater than, the quota they are declared elected

- Unless all the vacancies have been filled, if a candidate has received more votes than the quota, the value of votes in excess of the quota is redistributed to the next available preference on each ballot paper (this is done by redistributing all the elected candidate's votes at a lower value, so that the sum of the values is equal to the number of votes in excess of the quota)
- If all the vacancies have not been filled after redistributing the excess votes of elected candidates, the candidate with the lowest number of votes is excluded and all their votes are redistributed to the next available preference on each ballot paper
- These procedures are repeated until all the vacancies have been filled

The [Victorian Electoral Commission](#) has more information about the ways votes are counted.

5.1.6 Declaration of election results

The returning officer will publicly declare results after the votes have been counted and scrutineers have had time to examine the record of the count. This is usually within a day or two of the close of voting. The declaration of the election may be delayed if the returning officer decides to conduct a recount.

5.1.7 Melbourne City Council

Melbourne City Council elections are different. Separate provision for the capital city Council's elections is laid down in the [City of Melbourne Act 2001](#). The Lord Mayor and Deputy Lord Mayor nominate as a team and are elected on a single ballot paper using preferential voting. Councillors may nominate to run in groups and a ballot paper similar to the type used for the Australian Senate and the Victorian Legislative Council is used. This includes provision for above-the-line voting for group tickets. These votes are counted using proportional representation.

5.2 Participating as a voter

People who are residents of a municipality or who pay rates to the council are entitled to be enrolled as voters in a council election. Voters cast their votes in different ways, depending on whether the election is by postal voting or by attendance at a voting centre. The entitlement to be enrolled and vote in a council election is restricted to people who are residents or ratepayers of the municipality. People who are entitled to vote are listed on the council's voters' roll and are entitled to vote for a councillor to represent their ward or district.

The exact voting procedure will depend on whether the council has decided to conduct an election entirely by postal voting or whether the election will be predominantly by attendance voting at voting centres.

A voter in a council election must be at least 18 years of age by the election day and must be entitled to be enrolled on the voters' roll. To be entitled to be enrolled a person must qualify as a "resident" or as a "ratepayer".

5.2.1 Enrolment as a resident

For council elections, a "resident" is a person who is enrolled on the state electoral roll for an address in the council area. (State rolls are maintained by the Victorian Electoral Commission) Residents of a municipality who are Australian citizens must apply to the Australian Electoral Commission or the Victorian Electoral Commission to be enrolled on state rolls. Once on the state roll, they will then automatically be enrolled for council elections. A state elector must be an Australian citizen (or a British subject who was on an Australian electoral roll on 26 January 1984). The address for which a state elector is enrolled must have been the person's principal place of residence for at least one month prior to application.

5.2.2 Enrolment as a ratepayer

For council elections, "ratepayers" are owners or occupiers of rateable property in the council area. (Lists of ratepayer voters are compiled by the relevant councils.)

The council will generally enrol the owner of the property without requiring an application. There are exceptions to this:

- if there are more than two owners, a maximum of two can be enrolled

- if an owner is a corporation the council will not automatically enrol it. A corporation can apply to enrol one of its directors or company secretaries as a voter
- if an owner lives at the property the council will not automatically enrol them because they will normally be on the State electoral roll. A resident owner, who is not on the State roll, can apply for enrolment on the council roll

Some occupiers of rateable property are required to pay council rates as a condition of their lease. They may apply for enrolment on the council roll as ratepayers.

- owners and occupiers may not both be enrolled for the same rateable property. If occupiers are enrolled, owners will not be enrolled for the property
- no more than two occupiers can be enrolled for a single rateable property
- the enrolment of occupiers is subject to written agreement from the owner(s) unless council rate notices are addressed directly to the occupiers

Enrolments by application, from occupiers or resident owners, are valid for a single term of the council. Before the next election the council will send a letter to each person whose enrolment is due to expire, advising them how they can re-enrol if they are still eligible. All enrolment applications must be lodged by the entitlement day refer to [Conducting Elections](#). Enrolment arrangements for Melbourne City Council are different. Contact [the council](#) for details.

5.2.3 One enrolment only

A person can only be enrolled once in a council area, even if the person has entitlements in more than one ward.

- if a person is on the state electoral roll for an address in the municipality he or she will only be enrolled for that address, irrespective of any other entitlement
- if a person owns more than one property he or she can only be enrolled for one of those properties.
- a person can not apply for enrolment as an occupier or a corporation representative if he or she is enrolled as a resident or as an owner

5.2.4 Silent voters

Some people are entitled to apply to be silent voters. A silent voter is entitled to vote but their address is not shown on the printed voters roll. A person can apply for silent enrolment if they believe that having their address printed on the publicly available electoral roll could put their personal safety or their family's safety at risk. Applications to be silent voters need to be made to:

- The Victorian Electoral Commission if the voter is enrolled on the state electoral roll as a resident of the council area, or to
- The Chief Executive Officer of the council if the voter is enrolled as a ratepayer of the council

5.2.5 The voters roll

The voters roll names all those people eligible to vote at a council election. It is prepared by a "Registrar" who is generally a person appointed by the electoral commission conducting the election, but may be the Chief Executive Officer of the council. Before the final roll is prepared, the registrar will prepare an exhibition roll for public exhibition. The registrar will advertise stating where exhibition roll can be inspected and the closing date for inclusions and amendments to the roll. The advertisement will include information about how to enrol or correct enrolment details on the roll. To protect individual privacy, access to voters' rolls is strictly limited by legislation and penalties may apply if rolls are accessed or used contrary to the Local Government Act.

- Candidates may obtain copies of the voters roll for election campaigning, but subject to strict conditions and a requirement that all copies be returned or destroyed afterwards
- A council may use the voters roll in connection with an election or for communicating with or surveying constituents about council matters

- The privacy commissioner may also allow use of a voters roll for a purpose deemed to be in the public interest. This is subject to application and, again, strict conditions apply

An individual can access his/her own details on a voters roll under privacy legislation. If you require information about your personal enrolment records at the council, you may need to make your request in writing to the Chief Executive Officer.

5.2.6 Voting process

Local council elections can be conducted by either postal voting or attendance voting. Each council chooses its preferred method before each election. Since 1999, 88% of council elections have been by postal ballot.

Voting in postal elections

In a postal election, voting is conducted entirely by post. Voters are mailed ballot packs containing their ballot papers, instructions and information about the candidates. These are posted to the address at which voters are enrolled. Voters cast their votes by returning the ballot papers in the mail. Voters packs include the following material:

- A ballot paper
- Instructions on how to cast a valid vote
- A ballot paper envelope
- A reply-paid envelope

Voters packs also include candidate statements and recommended preferences, which have been provided to the Returning Officer by each candidate. To vote, a voter must

- complete the ballot paper
- place the completed ballot paper in the ballot paper envelope
- sign and date the declaration on the outside of the ballot paper envelope
- place the ballot paper envelope in the reply paid envelope and return it to the Returning Officer

If voters have changed address after the entitlement date or can't collect their mail when ballot packs are mailed out, they can apply to have their ballot pack redirected to another address. Applications for redirection must be received by the close of nominations. After the close of nominations, voters can request an early postal vote if they have a good reason for requiring it.

Voting in attendance elections

In an attendance election, most people vote at voting centres on election day. The locations of voting centres are advertised in local papers and from the [Victorian Electoral Commission](#) before elections. When you arrive at the voting centre, an election official will ask you for your name and address and whether you have already voted in the election. If you are eligible to vote the electoral roll will then be marked and you will be given a ballot paper, which contains voting instructions. You should complete the ballot paper and place it in a ballot box at the voting centre.

Early voting

You can vote before election day by visiting an early voting centre. Early voting is possible from the day after the close of nominations until the day before the election.

Voting by post

If you wish, you can apply to the returning officer for a postal vote. Information about early voting and postal voting will be advertised in local newspapers and from the [Victorian Electoral Commission](#) before elections.

5.2.7 Failure to vote

Voting in council elections is compulsory for all residents aged under 70 who are listed on the voters roll. Residents on the voters roll who do not vote may be fined if they do not have an acceptable reason. The fine for not voting is \$52.40.

5.3 Participating as a candidate

The purpose of council elections is to elect people who voters believe will represent the community's best interests and make responsible decisions on behalf of the community. Candidates must be eligible to vote in the council election and must be Australian Citizens.

5.3.1 Who can stand as a candidate in a council election?

To nominate for election as a councillor, a candidate:

- must be an Australian Citizen
- must be enrolled as a voter in the municipal district in which they are standing
- must complete and lodge a nomination form with the Returning Officer by 4pm on nomination day
- must pay a \$250 deposit, which is refundable if the candidate is elected or gains at least 4% of the first preference votes in the election

People cannot stand as a candidate if they are:

- an undischarged bankrupt
- of unsound mind
- a member of council staff who has not taken leave to stand
- convicted of certain criminal or electoral offences

If you are considering candidature for a council election and are unsure of your eligibility, you should seek advice from the Returning Officer.

5.3.2 Information and Assistance

Information and assistance are available in a number of forms prior to and during an election. Prior to the election, the electoral commission usually holds information sessions for prospective candidates. These sessions provide information about the process and enable potential candidates to meet the Returning Officer who is appointed to run the election. Details of information sessions are available from the electoral commission or the council. The electoral commission also provides a comprehensive candidate information kit which describes the election process and timelines as well as explaining the requirements of becoming a candidate. It also includes forms to be completed by candidates. The local government peak bodies [Municipal Association of Victoria](#) and [Victorian Local Governance Association](#) also conduct information sessions in the months leading up to an election for potential councillors. The [Victorian Electoral Commission](#) website contains information about council elections, including candidates' handbooks, which detail the requirements of being a candidate.

5.3.3 Key election dates for candidates

Entitlement date

To stand as a candidate a person needs to be an eligible voter in the municipalities. Entitlement Date (57 days before election day) is important for a candidate because it is the last chance a person has to be correctly enrolled to vote.

Notice of election

Not less than 40 days or more than 60 days before an election, the Returning Officer must give public notice of the election and call for nominations to fill the vacant positions.

Close of nominations

Candidates must be nominated by 4pm, 32 days before election day (for postal elections) or 31 days before election day (for attendance elections).

Ballot paper draw

The order of names on the ballot paper is determined by a single random draw. The Returning Officer will conduct the draw at the election office after nominations close. Candidates will be advised of the time for the draw.

Candidate statements (Postal elections)

Candidates in postal elections are entitled to lodge candidate statements and indications of preferences for inclusion in the ballot packs sent to voters:

- A candidate statement includes a 150 word statement and a photograph. These must be lodged in person by the candidate, or by a person authorized in writing by the candidate, no later than 4pm on the day following the close of nominations
- An indication of preferences describes the candidate's recommendations to voters as to how to number their preferences on the ballot paper. These must be lodged in person by the candidate, or by a person authorized in writing by the candidate, no later than 4pm on the third day after the close of nominations

How to Vote cards in (Attendance elections)

Candidates who wish to distribute how-to-vote cards at voting centres during an attendance election must have their cards registered by the Returning Officer in advance. How-to-vote cards can be submitted to the Returning Officer from the first working day after the close of nominations until 12 noon on the sixth working day before election day. The Returning Officer is required to register or refuse a how-to-vote card by noon on the day following the day it is submitted. Only registered cards can be handed out at or near polling places.

Close of Voting

In postal elections ballot papers must be received by 6pm on the day before election day. In attendance elections, voters cast their votes between 8am and 6pm on election day. The election day is the last Saturday in November.

5.3.4 Declaration of the poll

The Returning Officer will publicly declare results after the votes have been counted and scrutineers have had time to examine the record of the count. This is usually within a day or two of the close of voting. Candidates will be advised of the declaration time and venue. The declaration is often performed at a special ceremony. The Returning Officer will read out the person or persons elected and, where appropriate, the order in which they were elected. The event may include acceptance speeches by successful and unsuccessful candidates. The declaration of the election may be delayed if the Returning Officer decides to conduct a recount.

5.3.5 Campaign donations

Within 60 days of election day, all candidates must give the council's chief executive officer an election campaign donation return, detailing any gifts, goods or services worth \$200 or more, received during the donation period for use in connection with their election campaign. This applies to all candidates, whether elected or not and whether they received campaign donations or not. The "donation period" is defined as the period beginning 30 days after election day in the previous election and ending 30 days after election day in the current election. Copies of election campaign donation return forms will be included in candidate information kits and are also available from Local Government Victoria. Completed campaign donation returns are available for public inspection at the council offices for four years after the election.

5.3.6 Election offences

Candidates should be aware of the following electoral offences, which can carry serious penalties.

Unlawful nomination

A person who is not qualified to be a candidate or is not capable of becoming a councillor must not submit a nomination.

Misleading or deceptive material

A person must not print, publish or distribute any electoral material that is likely to mislead or deceive voters in casting their vote.

False or defamatory statements

A person must not make or publish any false or defamatory statement about the personal character or conduct of a candidate.

Bribery

A person must not offer or invite any kind of bribe or inducement that may affect an election.

Offences relating to ballot papers

A person must not:

- tamper in any way with any ballot paper
- forge or fraudulently mark, deface or destroy a ballot paper
- without authority supply a ballot paper
- be in possession of an unauthorized ballot paper
- fraudulently put any unauthorized ballot paper into a ballot box
- without authority destroy, take, open or otherwise interfere with any ballot box or parcel of ballot papers.
- fraudulently remove a ballot paper from a ballot box

5.3.7 Election complaints

Any complaints should firstly be directed to the Returning Officer. If the complaint relates to the administration of the election, the Returning Officer or the electoral commission will handle the matter. If it involves a possible breach of the Local Government Act, the electoral commission may forward the complaint to Local Government Victoria for investigation.

5.3.8 Municipal Electoral Tribunal

The Local Government Act makes provision for candidates or any 10 voters to apply for an inquiry by a Municipal Electoral Tribunal (MET). The only eligible ground is that the applicants dispute the validity of the election. The written application must be lodged within 14 days of the declaration of the election result. A MET is constituted by a magistrate or acting magistrate. Although able to operate with some informality, the tribunal is a judicial body. It can summon witnesses and penalize those who don't appear, refuse to answer or show contempt. It can also award costs against either party. The tribunal is not an investigatory body and makes its findings based on the evidence presented at the hearing. Applicants and other parties (eg the electoral commission, the council or other candidates) may be represented by legal counsel. Hearings are open to the public. A tribunal has the power to:

- declare that any person declared elected was not duly elected
- declare any candidate duly elected who was not declared elected
- declare an election void
- dismiss or uphold an application in whole or part
- amend or permit the amendment of an application
- order the inspection of, and permit the copying of documents used in connection with an election, subject to such terms and conditions as it considers appropriate
- undertake a preliminary review of an application
- require any further information relating to an application
- impose a financial penalty

Application forms to request an inquiry by a MET can be obtained from Local Government Victoria.

5.4 Caretaker arrangements

Just like Federal and State governments, Victorian councils observe special arrangements during the period leading up to a general council election. These are referred to as “caretaker arrangements” and they apply during the “election period”. The special caretaker arrangements that apply to Victorian councils broadly aim to avoid the use of public resources in a way that may unduly affect the election result and minimize councils making certain types of decisions that may unduly limit the decision making ability of the incoming council.

5.4.1 The election period

The “election period” is defined in the Local Government Act to be the period from the entitlement day, when the voters’ rolls close, until the election day. This is a 57 day period in Victorian local government elections.

5.4.2 Council decisions

By law, a council may not make the following types of decisions, either directly or by delegation, during an election period:

- decisions relating to the employment or remuneration of a permanent chief executive officer of the council
- decisions to enter into contracts that are valued at more than \$100,000 or 1% of the council’s revenue from rates (whichever is the greater)
- decisions to enter into entrepreneurial ventures that are valued at more than \$100,000 or 1% of the council’s revenue from rates (whichever is the greater)

An exception can apply if the council seeks and obtains an exemption from the Minister for Local Government to allow it to make a decision of one of the above types. In addition, some councils voluntarily place additional limits on their decision making during an election period to ensure they are not unduly committing an incoming council. These limits are usually described in the council’s code of conduct.

5.4.3 Publication of electoral matter

The Local Government Act prohibits a council from printing, publishing and distributing material that is electoral matter during an election period. Electoral matter is broadly defined to be matter which is intended or likely to affect voting in an election. This limitation does not apply to electoral material that is only about the election process. Some councils describe how they apply this principle in practice, in detailed form, in their codes of conduct.

5.4.4 Use of public resources

Councils also include in their codes of conduct provisions to ensure the resources of the council are not inappropriately applied during an election period. This includes such matters as:

- ensuring the appropriate use of council facilities and equipment during an election
- ensuring that council staff are not inappropriately involved in electoral matters

5.5 Filling occasional vacancies

Vacancies on council that occur between general elections are filled by by-election or a countback, depending on whether or not the vacancy is in a single member ward. Occasionally, a position on council will become vacant between general elections. This can occur if a councillor dies or resigns or if a councillor ceases to be eligible to hold office. Such vacancies are either filled by a by-election or by a countback, depending on how the departing councillor was elected.

5.5.1 By-election

A by-election is called if a vacancy occurs in a single member ward where votes were counted using the simple preferential system. A by-election must be held within 100 days of the vacancy occurring, but is not required if the vacancy occurs in the last six months before a general election is scheduled. In a by-election, a complete election is conducted for the ward. This involves a new nomination process and voters cast votes in the same way as in a general election.

5.5.2 Countback

A countback is a method for filling vacancies in multiple-member constituencies where votes were counted using proportional representation. The countback process involves reusing the ballot papers that were used to elect the councillor whose position has become vacant. A new, preferential, count is conducted using these votes and the candidate who obtains a majority of the votes after the distribution of preferences is invited to take the vacated position on council. In effect, this process works out who the majority of voters, who originally voted for the vacating councillor, expressed their next available preferences for to be councillor.

The countback has three important benefits:

- It allows representation to continue to be proportional to the preferences expressed by voters in the general election
 - It allows the vacancy on council to be filled in a shorter period of time, so that representation is optimized
 - It avoids the high costs of a by-election that would occur in a large, multi-member ward or district
- (In cases where a vacancy cannot be filled by a countback, a by-election is conducted)

The [Victorian Electoral Commission](#) website contains more information about by-elections and count backs.

5.6 Electoral Representation Reviews

Electoral Representation Reviews are conducted every eight years in each municipality in order to identify the most appropriate electoral structure to provide fair and equitable representation of voters in council elections. Electoral structures and boundaries for councils need to be regularly reviewed to ensure that representation continues to be democratic and appropriate. This is particularly important in rapidly developing regions.

5.6.1 What are Electoral Representation Reviews?

Electoral Representation Reviews are regular reviews of a municipality's electoral structure to provide fair and equitable representation for voters. While such reviews in the past were conducted by the elected councils themselves, they are now conducted independently by an electoral commission under contract to the council. The electoral commission conducts the review and submits a final report to the Minister for Local Government that recommends:

- The number of councillors to be elected
- The appropriate electoral structure (eg: single member wards, multi-member wards or unsubdivided)
- The location of ward boundaries, if wards are recommended

Electoral representation reviews aim to provide fair and equitable representation for voters. Considerations generally include the following types of matters:

- the "one vote, one value" principle
- communities of interest
- demographics
- geography
- growth potential

5.6.2 When is a review conducted?

Reviews are required to be conducted before every second general election for a council. This means that, as a general rule, each municipality will have an Electoral Representation Review every eight years. Of the total 79 Victorian councils, 39 had reviews conducted prior to the 2004 or 2005 elections. The Minister has announced that a further 38 are to hold reviews prior to the November 2008 council elections. Commencement times for reviews for these councils are listed below.

Reviews commencing from February 2007:

- Banyule City Council
- Bayside City Council
- Darebin City Council

- Kingston City Council
- Knox City Council
- Manningham City Council
- Whitehorse City Council

Reviews commencing from May 2007:

- Ararat Rural City Council
- Ballarat City Council
- Buloke Shire Council
- Colac Otway Shire Council
- Glenelg Shire Council
- Golden Plains Shire Council
- Hepburn Shire Council
- Moyne Shire Council
- Northern Grampians Shire Council
- Southern Grampians Shire Council
- Swan Hill Rural City Council

Reviews commencing from August 2007:

- Baw Baw Shire Council
- Benalla Rural City Council
- Campaspe Shire Council
- East Gippsland Shire Council
- Gannawarra Shire Council
- Latrobe City Council
- Mansfield Shire Council
- Moira Shire Council
- Murrindindi Shire Council
- Port Phillip City Council
- Yarra Ranges Shire Council

Reviews commencing from January 2008:

- Bass Coast Shire Council
- Boroondara City Council
- Greater Dandenong City Council
- Greater Geelong City Council
- Maroondah City Council
- Melton Shire Council
- Moonee Valley City Council
- Nillumbik Shire Council
- Borough of Queenscliffe

The Surf Coast Shire Council had its last independent review conducted in late 2003. Its next review will commence not earlier than November 2010, in time for the 2012 general election. The remaining council, Melbourne City Council, does not require Electoral Representation Reviews because its electoral structure is specified in the City of Melbourne Act 2001. A Review may not commence more than two years before an election and must be completed at least six months before the election day. The [Victorian Electoral Commission](#) website contains further detail about the review process and how you can take part.

5.6.3 What is the review process?

The process of conducting an Electoral Representation Review involves two stages of public consultation. In the first stage, preliminary written submissions are invited from the public and from the council. After considering these submissions, the reviewer appointed by the electoral commission prepares a preliminary report that includes a preferred option as to the number of councillors, the electoral structure and any required ward boundaries. The preliminary report may also include alternative options.

The second stage involves public consultation on the preliminary report and the preparation of a final report. Written public submissions are again invited, however in this stage submitters may also speak to their submissions. The final report, when completed, is submitted to the Minister and a copy is provided to the council to be available for public inspection. The Minister accepted the recommendations of the independent reviewer for all 39 reviews conducted prior to the 2004 and 2005 council elections.

5.6.4 Subdivision Reviews

If population growth in a municipality is particularly high between scheduled Electoral Representation Reviews and the balance of representation from ward to ward varies by more than a 10% margin, a subdivision review may be conducted to ensure the number of voters per councillor does not vary by more than 10% between wards. A subdivision review only considers the location of ward boundaries. It does not consider the number of councillors or the council's overall electoral structure.

6 CONSULTATION AND COMPLAINTS

This section is about solving problems. We all, at some time, may have trouble with an organization like our local council, and need to know how to sort things out. This section should be used in conjunction with other parts of the Guide to Local Government. The Guide is intended to help in understanding your council and working with it to solve problems. Information in other sections, particularly [What Councils Do](#) may contain specific information that you need to solve a problem.

6.1 Communicate with the council

The first step in working out any difficulty with a council is to get in contact with the council. There may be a very simple solution to your problem, or you may even find that the council isn't the right organization to which to direct your complaint. The [Find your council](#) section has all council's contact details.

6.1.1 Contacting the council by telephone

Councils are quite easy to contact. If you telephone your council on its main public contact number you will generally speak to a customer service officer who has a general knowledge of most things the council does and will usually be either able to solve your problem for you or put you in contact with the right person. Some council decisions are subject to [consultation or objection](#) processes, which means that you may be able to make a submission or lodge an objection. A council customer service officer at the council should be able to advise you if this is the case. Some common complaints that councils get are about services that are provided by other organizations. If your problem isn't with a council service, the customer service officer will usually be able to advise you which organization to contact, and he or she may even be able to give you contact details. Remember that the person you speak with on the telephone will usually want to help you and will be better able to do so if you help them. Be courteous. Even if you think someone at the council has made a mistake, it's unlikely to be the person you are speaking to on the telephone.

6.1.2 Other ways to contact the council

Other ways that you can make quick contact with the council include:

- Visiting the council office in person and speaking with council staff
- Lodging a complaint by email. Some councils have a dedicated email complaint service that you can access on the council's web site

Before you contact or visit the council, it will help if you have any documents or other information relevant to the problem at hand. This can avoid unnecessary delays or confusion. Sometimes the matter may be too complex to be resolved by telephone or in a brief visit

to the council. In such cases you may need to describe the issue in writing. Council contact staff should be able to advise you about what written material is needed and who it should be addressed to.

6.1.3 Getting more information

It may help you to solve your problem if you get more information about the relevant activity or service.

- This Guide has general information that relates to the types of activities undertaken by all councils. (Activities or services can differ from council to council)
- Your council's internet site is likely to have more specific information about the councils' activities and services that may assist you
- The council's customer service officers may be able to provide additional information or direct you to where you can get such information

6.1.4 Understand broader constraints

Remember that a council has to act in the best interests of the entire community and will have to take account of other people's needs as well as financial and legal restrictions. If your problem affects other people it is possible that their needs or views may be quite different from your own. Alternatively the council may not be able to afford the cost of works or services that could solve your problem or it may be unable to do something because of laws that prevent or require particular actions. You may need to work with the council and try to understand the difficulties. In the end, you may need to compromise or even accept that council can't do what you want. If this happens, though, you generally have a right to an explanation as to why the council can't do what you have asked.

6.2 Consultation and objections

Councils regularly conduct consultation with their communities and with people that are concerned with matters being considered by the council. This includes some forms of consultation that councils are required to undertake, by law, as well as forms of consultation that councils undertake because they want to make good decisions that take account of community interests.

6.2.1 Statutory consultation

There are many decisions and activities of councils that by law can only be done after the council has conducted public consultation. Among other things, this includes decisions about the following matters:

- Setting councillor and mayoral allowances
- Adopting a council plan
- Making a local law
- Changing the council's system of land valuations for council rates
- Adopting a budget
- Declaring a special rate or a special charge
- Selling, exchanging or leasing land
- Entering into a regional library agreement
- Deviating or discontinuing a road

The consultation required by law for these matters must include the following:

- The council must publish a public notice (in a local or daily newspaper) that identifies the proposal and tells people that they have the right to make a written submission to the council.
- People who wish to make submissions must lodge them within 14 days of the public notice.
- Anyone who has made a written submission and asked to be heard in support of this submission is entitled to speak to the council or a committee appointed for the purpose. The submitter may appear in person or be represented by someone else.
- The council must fix a time, date and place for this meeting and give reasonable notice of the meeting to all submitters.
- The council or a council committee must, consider any submissions received before making a decision.

- After it has made a decision, the council must write to a person who has lodged a submission advising of the council decision and the reasons for it.
- (Note: where a submission is lodged on behalf of a number of people, the council notice of the meeting is required to be sent to the person specified on the submission and the notice of the council decision is only required to be sent to one of the people.)

If you are unclear about your right to make a submission or about the consultation process, you should contact [your council](#) to find out.

6.2.2 Planning Scheme Amendments

Specific consultation arrangements apply in relation to proposed amendments to the Planning Scheme under the Planning and Environment Act 1987. These arrangements enable a person to make a submission:

- to the planning authority (the council) about an amendment to its planning scheme
- to a panel appointed to consider a planning scheme amendment

Councils are required to give public notice when proposing amendments to their planning schemes, including advice about how submissions can be made. See [Planning and Building](#).

6.2.3 Other public consultation

Council consultation is not limited to matters and processes where there is a legal requirement to consult. It is common for councils to undertake community consultation on sensitive decisions before commencing the specific consultation processes required by law. A good example of this is for a special charge to construct a road, when a council may convene public meetings and undertake surveys before developing a proposal for formal consultation. Councils also undertake consultation on other matters where they consider it important to determine public sentiment and community concerns before making a decision or commencing a project. Each council usually has its own processes for inviting, receiving and responding to public consultation. Many of these consultations include the opportunity for direct participation by individuals or community groups. Councils may invite community input:

- by convening a workshop
- via their web site
- in their newsletters
- through a questionnaire
- by phone
- at face to face discussions
- presenting at meetings of local groups and clubs
- asking individuals or groups to address the council
- creating advisory committees

Of course, any person can make an unsolicited submission to their council on any matter of interest or concern. Most commonly people do this in the form of a letter, an email or even a phone call.

6.2.4 Objections

In addition to consultation processes, there are some circumstances where people have legal rights to object to council decisions or actions. Objection rights are generally provided where an action has the capacity to involve significant cost or inconvenience to particular people. In these cases, councils are usually required to advise people of their rights. Contact [your council](#) for further details if you believe you have a right to object to a matter. When a council proposes to levy a [special rate or charge](#), and where the amount of money to be raised by the proposed rate or charge will be more than two thirds of the total cost of the works or project, the council must give the affected ratepayers a right to object. If objections are received from a majority of affected properties, the council cannot proceed with the proposal.

When the council proposes to grant a [planning permit](#), affected people may have a right to object. The council is likely to write to affected property owners, advertise the proposal and have a copy of the application available for inspection at the council offices. People may make a written objection explaining how they would be affected by the granting of the permit and the council must consider all objections in making a decision. All objections must be on planning grounds. Anyone who has made a written objection and is unhappy with the council decision may then lodge an appeal with the [Victorian Civil and Administrative Tribunal](#) (VCAT).

After the council has undertaken property valuations, a person can object to their valuation if they believe it is inaccurate or unreasonable. [Rates and Charges](#) provides details of property valuations. Objections must be lodged within two months of receiving the original valuation and rates notice. Details of how to object are usually included on the rates notice.

6.3 Public Information

Sometimes information that you need to help solve a difficulty with your council is publicly available. This includes information that councils publish to advertise their activities or to assist the community, as well as information that councils are required, by law, to make available for public inspection.

6.3.1 Required Public Information

The Local Government Act requires a council to make a range of information available for inspection at the council office on request. Documents available for inspection may be viewed and copied, but not removed. Councils may charge fees for inspection and copying of these documents. It is usually best to make an appointment with [your council](#) to arrange an inspection of a document.

There are a large number of documents that councils must make available for public inspection. They include:

- All local laws adopted by the Council
- Agendas for council meetings
- Minutes of council meetings and special committee meetings for the past 12 months(except parts of meetings closed to the public under section 89 of the Act)
- Copies of the council's Council Plan, Strategic Resource Plan, budget and annual report
- The council's adopted Code of Conduct for Councillors
- A register of council delegations to special committees and council staff
- Details of allowances fixed for the mayor and councillors
- Names of councillors who submitted returns of interest during the financial year
- Names of council officers required to submit returns of interest during the financial year
- Copies of Campaign Donation Returns lodged by candidates in the last council elections
- A list of donations and grants made by the council during the financial year
- A list of organizations that council was a member of during the financial year

6.3.2 Council web sites

All Victorian [councils](#) maintain websites, on the internet, where they publish information about their activities and about other community matters. Typically councils include copies of documents like council plans, budgets, annual reports, strategic plans and meeting minutes on their websites. Websites often also contain a "Latest News" section, where information about current issues is available. Websites sites vary and it can sometimes be difficult to find the information you need. If you can't find the information by using menu options, most sites have either a "search" option and/or an "A-Z Index", which can be used as alternatives. Council staff may also be able to direct you to the right part of the council's website to find information you need.

6.3.3 Council publications

Councils also produce publications that include useful information. Publications can include:

- Newsletters that include reports on council projects and services, summaries of documents like the council plan or the budget or information about community activities. Copies of newsletters may be delivered to letterboxes, available on council websites or available at the council office

- Brochures, flyers and booklets relating to various matters are often produced by councils to inform and assist in relation to specific services or activities. These may be available at council offices or service centres. If you are looking for information about a particular service, you may be able to telephone the council to have a brochure or booklet posted to you
- Advertisements are often placed in local newspapers to give notice of pending decisions, actions or consultations. These are sometimes required by law, such as when it is proposed to close a road or levy a special charge

6.4 Taking it further

While most problems can be solved by an initial communication with the council, there are times when it is necessary to make a more formal complaint with the council. This should be done before making a formal complaint to another organization. If your initial communication with the council is not successful in resolving your problem, you may consider making a more formal approach to the council. This may require a different approach, depending on whether the matter relates to an action or decision made by the council administration or whether it is a formal decision of the elected council.

6.4.1 Administrative complaints

Formal complaints about the actions or decisions made by council administration should initially be put in writing and addressed to the Chief Executive Officer (CEO) of the Council. The CEO is appointed by the elected council to employ and manage all staff and to ensure council decisions are implemented. You can reasonably expect the CEO to give your complaint proper consideration, or direct it to an appropriate person to consider, and you should receive a helpful response. A response from a CEO may:

- lead to a resolution of your problem
- result in an alternative solution that partly resolves your problem, and/or
- provide an explanation about why the problem cannot be resolved

6.4.2 Formal council decisions

Sometimes a matter relates to a decision of the elected council, rather than an action or decision of the council administration. As council staff are required to implement the decisions of the elected council, it may require a formal council decision to resolve the particular problem. If you want to find out about a council decision, the minutes of the council should include both the report considered by the council and the precise wording of the council decision. Minutes are available for public inspection at the council office and are usually also published on the council's internet site. If you wish to raise a concern with the elected council, you should contact the council administration to find out how you can do this. Depending on the procedures adopted by the council, possible ways to raise a concern with the elected council may include:

- Requesting to speak on the matter at a meeting of the Council or Committee (This may only be possible at the time the matter is being formally considered and will require council approval)
- Raising the matter during public question time at a meeting, subject to the council's procedures
- Speaking with, or writing to, councilors

In some cases, the process of making formal council decisions involves public consultation. Sometimes this consultation is required by law, such as when a special charge scheme is proposed, and other times it is undertaken voluntarily by the council. Your council's public contact officers will generally be able to advise you if there is a public consultation process where you can participate.

6.4.3 Complaining to another organization

There are a number of organizations that can consider complaints relating to a council. These each have specific roles and limitations. Generally, you should only take your concern to another organization if you have been unable to resolve your problem with the council itself. If you haven't tried to resolve your problem with the council first, another organization you approach will generally ask you to make a formal complaint to the council before it is willing to consider your issue. See [Other organizations](#) for details of organizations that may be able to assist with council complaints.

6.4.4 Legal action

In some cases you may be able to take a matter to a court. However, this is generally a matter of last resort. Before you do so, however, it is always advisable to get suitable advice, which would generally be from a qualified lawyer. Legal action can be demanding in terms of time and personal emotion. In addition, even if you do not employ a lawyer, if you lose your case the Court can require you to pay the legal costs of other parties who may have employed lawyers. Some council activities have special provisions for possible court remedies. They include:

- Planning decision that may be appealable through the Victorian Civil Administrative Tribunal (VCAT) (See [Planning and Building](#))
- Decisions to impose special rates or special charges that may be appealable through VCAT (See [Special Rates and Charges](#))
- Disputes about the validity of an election may be the subject of an application for a Municipal Electoral Tribunal (See [Participating as a Candidate](#))

6.5 Other organizations

This section describes some organizations that may be able to help resolve difficulties with your council. (Before referring to this section, you should read the sections on [Communicating with the council](#) and [Taking it further](#)) Once you identify an organization that may be able to help with your issue, you should ask about the type of information they need and the way they want to receive it. As a general rule, a complaint should be in writing and should cover the following points:

- The decision or action taken by the council
- A brief statement about why you consider the council is not correct
- A brief history of the case, including some important dates or events
- A brief statement of what you want as a result of taking the matter further
- Copies of all correspondence to and from the council or any other material, which records the contact made between the parties involved

6.5.1 Local Government Victoria

[Local Government Victoria](#) (LGV) is a part of the Department of Planning and Community Development (DPCD). It supports and advises the Minister for Local Government in regard to the administration of the Local Government Act 1989. LGV's role is concerned with "oversighting, supporting and encouraging" the system of local government. It provides advice and support to councils in relation to the roles and responsibilities of councils under the Local Government Act. This includes governance, electoral, and resource management matters. It is important to note that neither Local Government Victoria nor the Minister for Local Government is involved in the detailed management or day to day decisions of councils. LGV can make enquiries into possible breaches of the Local Government Act and may assign an Inspector of Municipal Administration to investigate a matter if it is considered that there is sufficient evidence of a substantive breach. Complaints about possible breaches of the Local Government Act may be directed, in writing, to Local Government Victoria or to the Minister for Local Government (who will generally refer the matter to LGV).

6.5.2 Victorian Ombudsman

The Ombudsman seeks to provide a speedy, inexpensive, non-adversarial way for people to receive a fair hearing of their grievances with government administrations. The Ombudsman can help when your complaint is about an administrative action taken by any council employee, but not those of a councillor when acting in the role of a councillor or of a council acting as a decisions making body. An "administrative action" includes any action, decision or recommendation by a council staff member. It can also relate to a failure to carry out these functions. This might mean an unreasonable delay, inadequate communication, inflexible policies and procedures, failure to correct errors and the provision of incorrect advice by authorities, or inadequacies in administrative procedures. The Ombudsman's role includes:

- Conducting independent and impartial investigations into complaints made against Victorian Government departments, public statutory authorities and council employees
- Investigating disclosures of improper conduct against public bodies and officers, including councillors, under the Whistleblowers Protection Act 2001

- Enquiring into complaints of non-compliance by agencies with the provisions of the Freedom of Information Act

The [Ombudsman's](#) website explains the role in greater detail. While an initial phone call may help to clarify an issue, to be investigated all complaints must be submitted in [writing to the Ombudsman](#)

6.5.3 Privacy Commissioner

The Office of the Victorian Privacy Commissioner is an independent statutory body that monitors the responsible handling of personal information by the Victorian public sector. The Office has a range of functions aimed at having the 10 Information Privacy Principles understood and respected, both inside and outside the public sector. These principles deal with:

- Collection of personal information
- Use and disclosure
- Data quality
- Data security
- Openness
- Access and correction
- Identifiers
- Anonymity
- Trans border data flows
- Sensitive information

Individuals whose personal information is or has been held by an agency or a local council may complain to the Privacy Commissioner about an act or practice that may interfere with the privacy of the individual. The Privacy Commissioner will try to conciliate complaints. When appropriate, complaints may be redirected to the Ombudsman or [Health Services Commissioner](#). When conciliation is not reasonably possible, or has been tried and failed, complaints may be referred to the [Victorian Civil and Administrative Appeals Tribunal](#) (VCAT). A serious or flagrant breach of an IPP or code of practice may result in a compliance notice from the Privacy Commissioner to the agency or council.

[Office of the Victorian Privacy Commissioner](#)

Level 11, 10-16 Queen St Melbourne 3000
 (PO Box 5057 Melbourne 3001)
 Ph 1300 666 444
 Fax 1300 666 445
 Email enquiries@privacy.vic.gov.au

6.5.4 Auditor General

As part of his responsibility to audit the financial statements of about 590 public sector organizations, the Auditor-General (AG) oversees the independent audit of council financial management and processes. He reviews and certifies a council's financial and performance statements as contained in its annual report. The AG's office also assists councils to improve their financial performance by producing guidelines, reviews and model documents that councils can adopt. Occasionally the Auditor-General conducts a specific investigation into the financial affairs of a particular council. This may be as a result of an investigation into that council by Local Government Victoria or the involvement of the Ombudsman. The Auditor-General is an independent officer of the Victorian Parliament, appointed to examine the management of resources in the public sector. Through his reports to the Victorian Parliament, the Auditor-General provides an independent assessment of how economically, efficiently and effectively councils have managed their services.

[Victorian Auditor-General's Office](#)

Level 34, 140 William St Melbourne 3000
 Ph 03 8601 7000

Fax 03 8601 7010

Email: comments@audit.vic.gov.au

6.5.5 Victorian Electoral Commission

The Victorian Electoral Commission (VEC) generally conducts council elections. If you have a complaint or query about how your local council elections are run, the Returning Officer appointed by the VEC to run the election is the best starting point. The Returning Officer usually sets up an office in the municipality during the election and is able to respond to most enquiries. If you have a concern about the way the Returning Officer runs the election, contact the VEC directly to pursue this. The VEC supports and does the work for the Electoral Commissioner, who reports directly to Parliament. See [Council Elections](#)

[Victorian Electoral Commission](#)

Level 8, 505 Little Collins St Melbourne 3000

Ph 1800 013 366 or 03 9299 0520

Fax 9629 8632

Email: info@vec.vic.gov.au

6.5.6 Equal Opportunity Commission Victoria

The Equal Opportunity Commission Victoria helps people resolve complaints of discrimination, sexual harassment and racial and religious vilification by offering a conciliation process that is:

- confidential
- impartial
- free
- simple

The Commission is a statutory body that reports to the Victorian Parliament through the State Attorney-General. It is not a tribunal or court. It helps people to resolve complaints by mutual agreement. It does not prosecute, make judgments for or against either side, nor can it award compensation. Contact the Equal Opportunity Commission Victoria to make a complaint under Victorian laws - the [Equal Opportunity Act 1995 \(Vic\)](#) and the [Racial and Religious Tolerance Act 2001 \(Vic\)](#). Complaints made under federal laws; the Racial Discrimination Act 1975, the Sex Discrimination Act 1984 and the Disability Discrimination Act must be lodged with the Human Rights and Equal Opportunity Commission (Below) In addition to a complaint resolution service, the commission offers information, education and consultancy services, conduct research and provide legal and policy advice. Free interpreters and Aboriginal staff are available on request.

[Equal Opportunity Commission Victoria](#)

Level 3, 380 Lonsdale St

Melbourne 3000.

Advice Line Ph 9281 7100

Toll free 1800 134 142

TTY 9281 7110

6.5.7 Human Rights and Equal Opportunity Commission

The Human Rights and Equal Opportunity Commission is a national independent statutory organization established to promote and protect human rights in Australia. One of its main functions is to investigate and conciliate complaints concerning discrimination. Discrimination occurs when a person, or a group of people, are treated less favourably than another person or group because of age, race, colour, national or ethnic origin; sex, pregnancy or marital status; disability; religion; sexual preference; or some other central characteristic. It might include harassment or victimization in the workplace; being unable to gain physical access to a building or facility; being denied goods and services; difficulty in obtaining appropriate accommodation and housing; or not being able to join a

trade union. The majority of complaints lodged with the Commission concern alleged discrimination in employment. The Human Rights and Equal Opportunity Commission is responsible for administering the following federal laws:

- Age Discrimination Act 2004
- Disability Discrimination Act 1992
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984
- Human Rights and Equal Opportunity Commission Act 1986

The Commission is a neutral third party and does not represent the interests of either the person making the complaint or the person or organization being complained about. It investigates and attempts to resolve the complaint through a conciliation process. If you make a complaint under these laws and it can't be resolved through conciliation you may choose to pursue the matter in court.

[Human Rights and Equal Opportunity Commission](#)

Level 8, Piccadilly Tower
133 Castlereagh St
Sydney NSW 2000
(GPO Box 5218 Sydney NSW 2001)
Phone: (02) 9284 9600 or 1300 369 71
Fax: (02) 9284 9611
TTY: 1800 620 241
Email: paffairs@humanrights.gov.au

Complaints Infoline: 1300 656 419

[Complaints Information online](#)

[Information in other languages](#)

6.5.8 VCAT

The Victorian Civil and Administrative Tribunal (VCAT) was created on 1 July 1998 and amalgamated 15 boards and tribunals to deal with a range of disputes. It deals with disputes between people and government in areas like:

- planning and environment
- land valuation
- licences to carry on businesses (including travel agents, motor car traders and others)
- state taxation
- many other government decisions (such as Transport Accident Commission decisions and freedom of information issues)

The most common council-related reason to appeal to VCAT is land use planning decisions. VCAT has a number of Divisions, each of which has a number of "lists" (sections) which specialize in particular types of cases. How cases are resolved varies due to the nature of the cases brought to each list. Some may take 15 minutes to resolve, while others may take several weeks, due to the complex nature of the issues involved. Similarly, the waiting time before a case is heard varies for different lists.

[Victorian Civil and Administrative Tribunal](#)

55 King St Melbourne 3000
Ph 03 9628 9700
Email vcat@vcat.vic.gov.au

*Sourced from DPCD Website www.dpcd.vic.gov.au
15 March 2008*