

## Local Government Laws Update – Client Alert

29 April 2010

### RECENT CHANGES DESIGNED TO IMPROVE LOCAL LAWS IN VICTORIA

In 2009, the Victorian Parliament enacted the *Local Government Amendment (Offences and Other Matters) Act 2009*.

#### Guidelines

A new section 111A was inserted into the *Local Government Act 1989* (LGA), effective 8 December 2009, which provides that the Minister may make guidelines for or with respect to the:

- (a) preparation, content and format of local laws; and
- (b) details to be set out in any explanatory documents prepared in relation to proposed local laws.

Changes to section 111 of the LGA state that a council must consider any guidelines made by the Minister under section 111A and a council must comply with any prescribed details relating to the preparation and content of local laws when making local laws.

#### Resources

To date, no formal guidelines have been made by the Minister, however a package of resources has recently been released by Local Government Victoria as part of the State Government's 'Better Practice Local Laws Strategy'. Although not being mandatory, these resources are designed to help councils achieve best practice outcomes when making local laws and may form the basis of future guidelines made under section 111A of the LGA.

These resources set out a manner and process for how local laws should be made and introduces a new concept known as the Local Law Community Impact Statement (LLCIS). A LLCIS is intended to be a statement that accompanies a proposed local law outlining council's reasons for the proposed local law and particulars of any impact that the proposed local law will have on the community.

New section 119(2A) of the LGA requires councils to ensure that a copy of any proposed local law and explanatory document (e.g. a LLCIS) is available for inspection and that a copy can be obtained from council's office.

#### Impact on Councils

Where a new local law is proposed, councils should ensure that the proposed local law complies with best practice principles.

Councils should also regularly review their existing local laws to ensure that they remain effective, relevant and consistent with best practice principles.

#### Penalty for breach of a local law

Councils should be aware that the value of a penalty unit for a breach of a local law (where a penalty is prescribed), remains unchanged, unlike the value of a penalty unit for a breach of other enactments (e.g. the Road Rules), where the value of a penalty unit changes from time to time. For a local law, unless the context otherwise requires, one penalty unit equals \$100 (see section 110(2) of the *Sentencing Act 1991*).

Russell Kennedy can assist councils with the preparation of new local laws to ensure that they adhere to best practice principles. Russell Kennedy can also assist councils to review existing local laws.

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