

# Closer Look

A series of discussion papers for secondary teachers and students

## A Multi-tiered System: governing Australia

### Introduction

Look around you. Are you in a building? If so does it include furniture and electrical equipment? Are there computer, radio or television programs running? Why?... because each of these things is controlled in some way by laws and regulations.

- Local councils are responsible for administering the laws relating to building codes.
- State laws define the safety standards for electrical goods.
- Federal laws define the legal content for computer, radio and television programs.

Australian governance is multi-tiered. It involves the cooperation of federal and state parliaments and local councils that make laws. Laws are implemented by executive governments and bodies at each level. The table below provides a simple overview of how various parliaments and governments share the role of governing Australia:

| Body                 | Role               | Federal                 | State                           | Local                            |
|----------------------|--------------------|-------------------------|---------------------------------|----------------------------------|
| Parliament           | Makes the law      | Parliament of Australia | State and territory parliaments | Local councils                   |
| Executive government | Implements the law | Australian Government   | State and territory governments | Executive body of local councils |

This paper sets out to explore:

- the power, role and responsibility of Australian parliaments and local councils
- the power, role and responsibility of Australian executive governments and local executive bodies
- how Australia's multi-tiered system has developed.

The paper covers the following areas:

| Part   | Focus                            | Federal                | State             | Local            |
|--------|----------------------------------|------------------------|-------------------|------------------|
| Part 1 | Australian parliaments           | The federal Parliament | State parliaments | Local councils   |
| Part 2 | Australian executive Governments | The federal Executive  | State executives  | Local executives |
| Part 3 | How this system evolved          |                        |                   |                  |

### Main points

- Parliaments and councils are legislating (law-making) bodies.
- Australia's parliaments make laws according to federal and state constitutions.
- Executive governments devise and administer the law.
- Local by-laws are administered by council officers.
- Australia's multi-tiered system is part of Australia's federal nature.

## Part 1

### Australian parliaments

A **parliament** consists of a group of elected representatives and a person who represents the Queen. In the federal Parliament that person is the Governor-General. In state parliaments that person is a governor. Parliaments make the laws for a country or a state.

The name parliament is derived from the French word parlement meaning a talk, a discussion, a meeting (an assembly, a court) where people discuss matters.

Wikipedia <http://en.wikipedia.org/wiki/Parliament>

### The federal Parliament

There is only one parliament at the national level. It is the Parliament of Australia, located in Canberra.

Parliaments are law-making bodies (legislatures). Section 1 of chapter 1 of the Australian Constitution defines the federal Parliament's power to make laws: 'The legislative power of the Commonwealth shall be vested in a Federal Parliament'. The section continues and defines the parliament as consisting of the Queen and two houses—thus a bicameral system: '... which shall consist of the Queen, a Senate and House of Representatives'. Finally this important first section names the Parliament: 'and which is hereinafter called 'The Parliament', or 'The Parliament of the Commonwealth'.

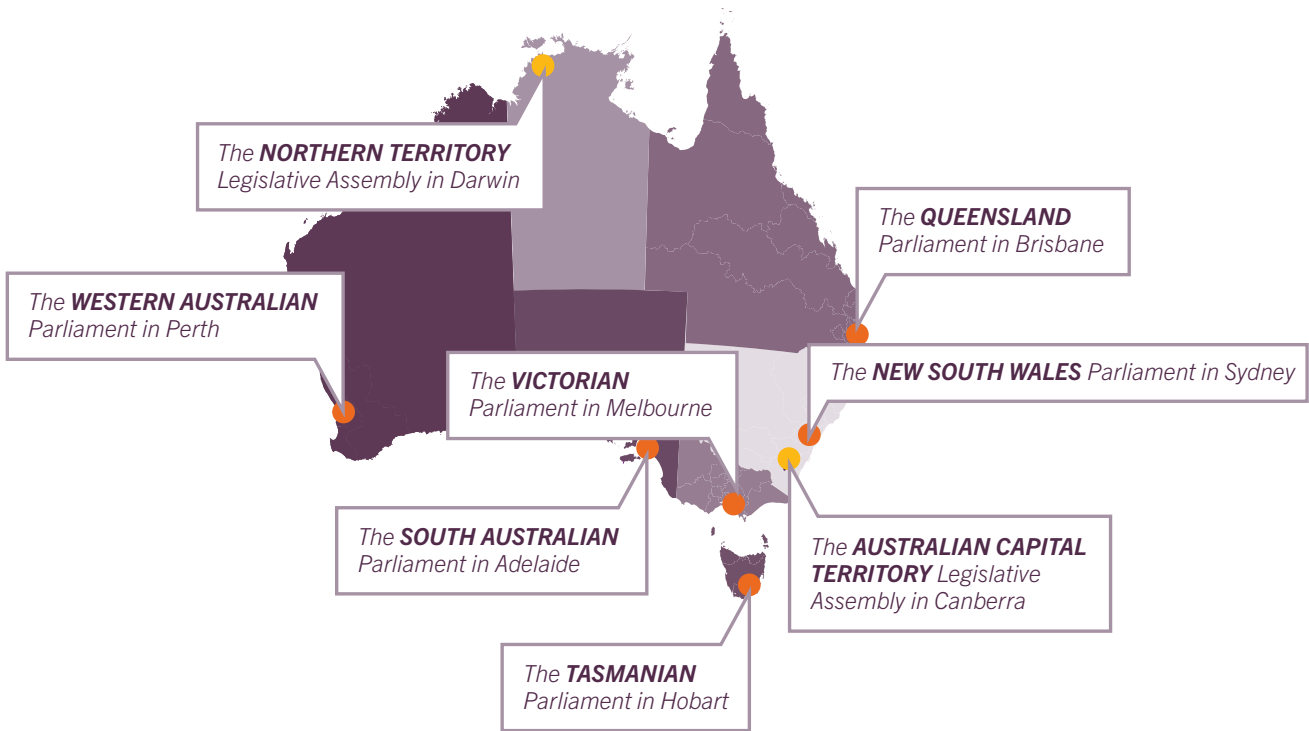
Section 51 of the same chapter lists 40 areas in which the federal Parliament is entitled to legislate. These law-making areas relate to matters of national interest such as: trade and commerce; postal, telephonic and like services; foreign relations; taxation; quarantine; fisheries; currency; copyright; marriage; immigration; defence etc.

Section 52 of the Constitution prohibits state parliaments from legislating in certain areas. These exclusive powers extend to areas such as defence and communication.

### State parliaments

Australia has six parliaments at the state level and two territory parliaments. State and territory parliaments are located in each of Australia's eight capital cities:

- Parliament of New South Wales located in Sydney
- Parliament of Victoria located in Melbourne
- Queensland Parliament located in Brisbane
- Parliament of Western Australia located in Perth
- Parliament of South Australian located in Adelaide
- Parliament of Tasmania located in Hobart
- Australian Capital Territory Legislative Assembly located in Canberra (and separate to the federal Parliament)
- Northern Territory Legislative Assembly located in Darwin.



*The Australian federation formed by the union of six states (and later two territories)*

State parliaments make laws that are enforced within the state of origin. In drafting the Australian Constitution the Founding Fathers defined federal powers under section 51, reserving most other law-making powers to the states. Generally speaking, if it is not in the Constitution, it is an area of state responsibility.

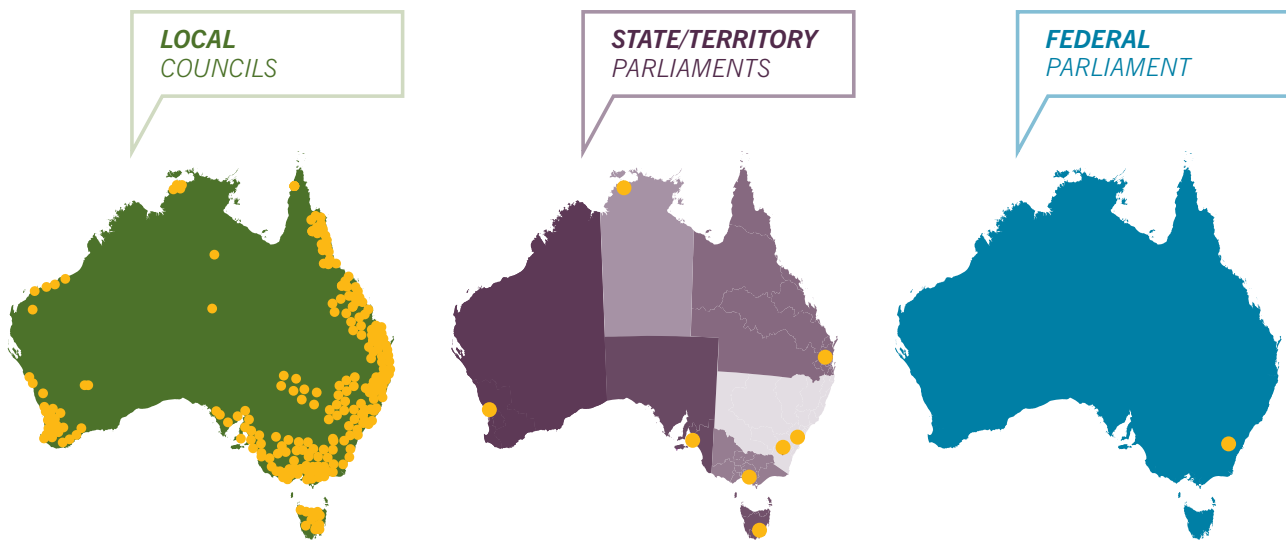
State laws generally relate to matters of state interest such as: schools and hospitals, roads and railways, utilities such as electricity and water supply, mining and agriculture.

On other matters the federal and state parliaments have concurrent powers. This means that both the Parliament of Australia and the state parliaments may make laws about the same things e.g. roads and health. However, section 109 of the Australian Constitution states that if a state law conflicts with a federal law then the federal law will prevail.

## Local councils

There are over 560 councils across Australia. The elected members of local councils are usually called councillors or aldermen while the chair of the council is usually called the mayor or president. These smaller legislative bodies make by-laws which relate to matters of local interest such as: local roads, parks and playgrounds, rubbish collection, library services, sporting fields, street signage and domestic animal regulation.

These bodies are funded through state parliaments by Acts of state parliaments.



*The three law-making bodies in Australia*

## Part 2

### Australian executive governments

A **government** is an elected group of people. Australian federal and state governments are formed from the party group or groups that hold a majority in the lower house. Governments, therefore, are subsets of the parliament. The government contributes to the law-making process by supporting executive government proposals.

**Executive government** in Australia is drawn from the membership of the government (see above). Executive governments, therefore, are subsets both of the government and the parliament. Executive government implements the laws passed by the parliament.

The Australian political structure provides for two levels of executive government at a state and national level. At the local level, by-laws are made by council representatives but administered by council employees (not councillors) in the council that the by-law originates in.

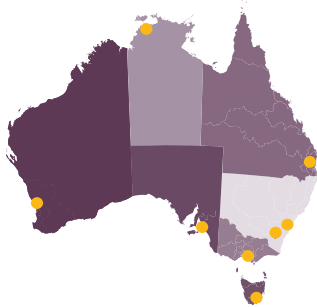
The power, role and responsibilities of federal state and local executors may overlap, but generally executive governments provide different services. The table below illustrates how the provision of goods and services is funded at each level:

## Money and government services

### WHERE THE MONEY COMES FROM



The **FEDERAL GOVERNMENT** raises money through taxes.



**STATE/TERRITORY GOVERNMENTS** receive more than half their money from federal government.



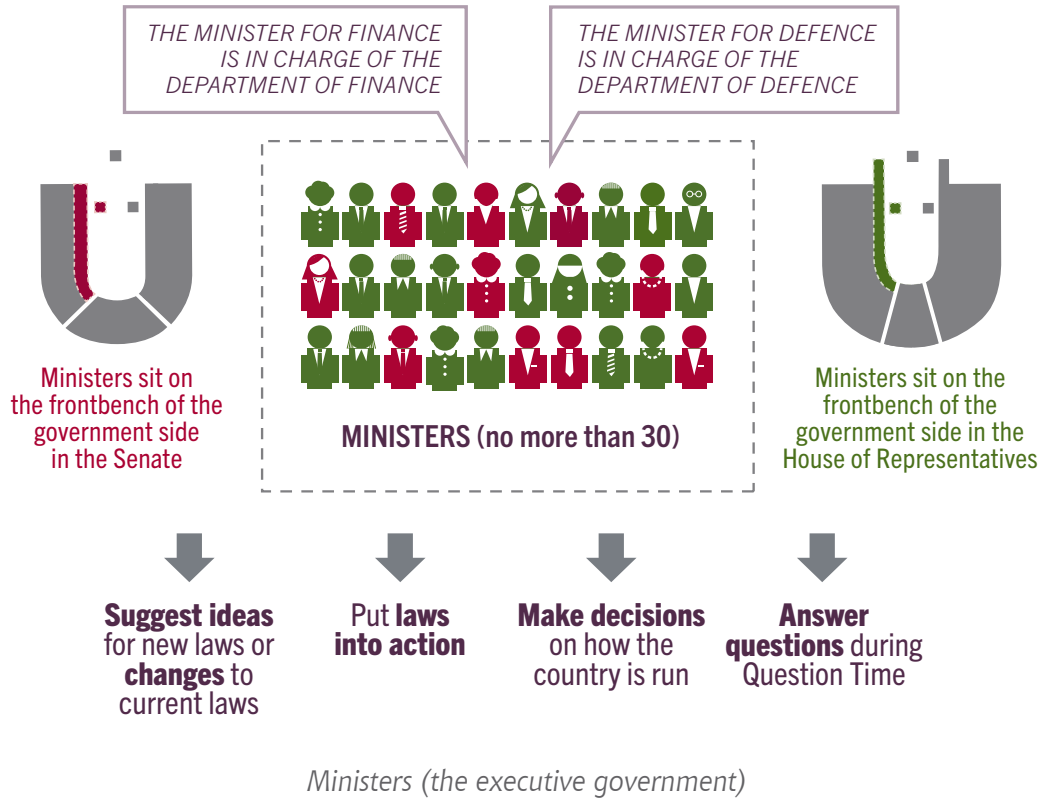
**LOCAL COUNCILS** collect taxes (rates) from all local property owners and receive grants from federal and state government.

### HOW THE MONEY IS SPENT



## The federal Executive

Ministers are members of the government and have an area of responsibility known as a portfolio. They may also be in charge of a government department.



There is one executive government at the national level. The executive is made up of the prime minister, ministers and departmental staff. All ministers (including the prime minister) must be elected members of parliament and belong to the party or coalition of parties that have formed a majority government in the House of Representatives.

The prime minister and senior ministers regularly hold private meetings known as Cabinet. During Cabinet meetings important decisions about proposals for new legislation, policy direction and how to manage government departments are discussed. It is the role of the Executive (including Cabinet ministers) to 'execute' the law—that is to make sure that the law is working well and that Australian citizens are able to meet the requirements of the law. This requires money.

The federal Executive raises money through income tax and other charges. Once a year the Treasurer publishes the Budget which states how this revenue will be shared across federal portfolios (areas of governing responsibility).

Ministers are responsible for managing the budget allocated to their department for the purpose of implementing the laws and policy decisions that fall within their portfolio.

Example 1: The Department of Immigration and Citizenship provides services related to:

- visiting, studying and working in Australia
- permanent residency and migration to Australia
- Australian citizenship

- managing Australia's borders
- and related services.

Thus, the Minister for Immigration is responsible for seeing that immigration laws are operating effectively across the country and that Australian people are provided with adequate services to meet the requirements of the law.

Department of Immigration and Citizenship website: <http://www.immi.gov.au>

### The state Executive

There are eight Australian executive governments made up of six state and two territory executive governments.

Generally, ministers of state and territory executives are first elected members of the state or territory parliament, and are drawn from the party or coalition of parties that form a majority government in the lower house.

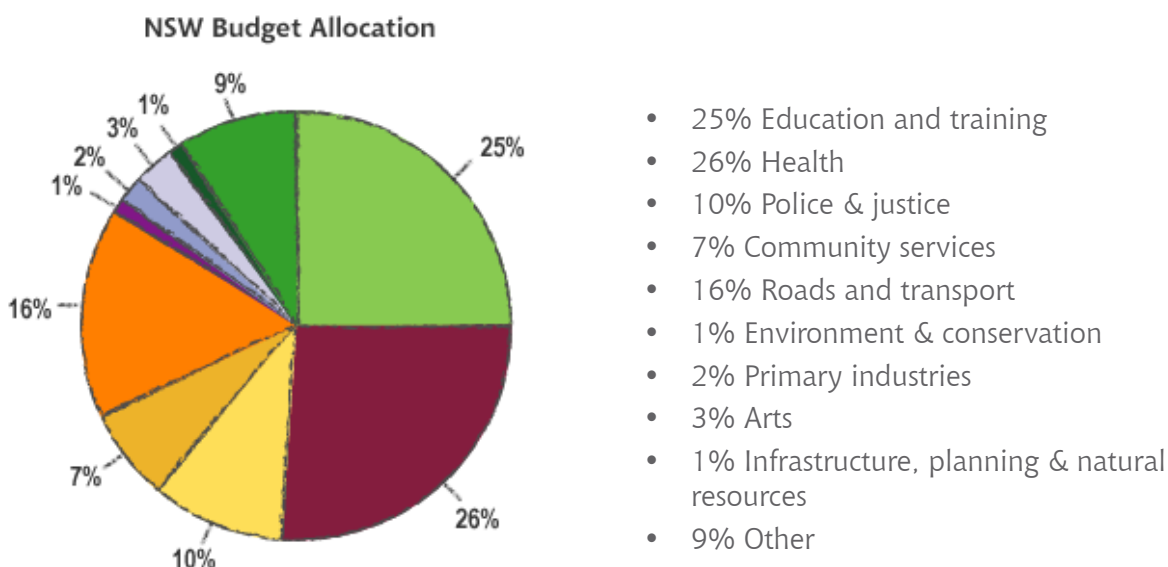
State executive government is made up of the premier, state ministers and departmental staff. Territory executive government is made up of the chief minister, territory ministers and departmental staff. Like federal Cabinet, senior state and territory ministers form a Cabinet which focus on proposals for legislation and policy direction including how to put state or territory laws into effect. Thus, state and territory executive governments are responsible for 'executing' state and territory law.

Executive government at the state and territory level receive more than half their money, including all the goods and services tax, from the federal executive government. Other sources of income include some of the funds from income taxes, vehicle registration, land tax, and gambling licenses.

The states and territories spend this revenue on administering their law and on the provision of goods and services to the people of the state. State and territory ministers, like federal ministers, are responsible for managing the budget allocated to their department.

Example 2: The graph below simplifies the New South Wales 2004 to 2005 Treasury budget allocations by department.

In the 2005 budget, the NSW Government spent money on the following areas:



## The local Executive

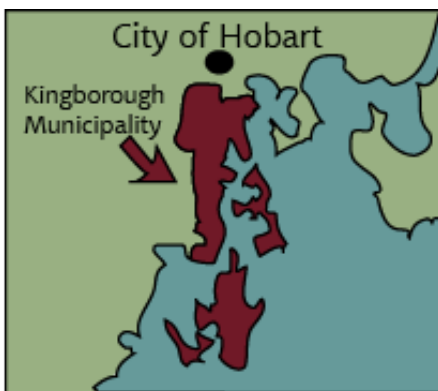
Councils administer local law across Australian cities, municipalities and shires. The area of influence ranges from small areas of a few inner suburbs of large cities to vast areas of inland Western Australia and Queensland.

Unlike executive governments at the federal and state level, the executive of an Australian council is a non elected person called the chief executive officer. It is this council officer and staff who run the council offices and administer—put into effect—the council by-laws.

Local councils are legally a branch of the state governments because they operate under a state local government Act. Local governments receive part of their income as grants from state executive government and raise their own revenue through local taxes such as rates (tax on the value of property), sewerage and water charges, dog licences, and user fees for sporting facilities and libraries.

The main responsibilities of local councils include the construction and maintenance of local roads, water and sewerage services, building standards, sporting facilities, and health standards in shops.

Example 3: Kingsborough Municipality, Tasmania provides services related to:



- animals
- tourism
- postal address
- environmental health
- fire services
- buildings and planning
- waste collection and management

## Part 3

### How this system evolved

Until the 1850s, the six Australian colonies were run by a non elected governor appointed by the British government in London. After 1851, the British government began to hand over selected powers to the colonial governments in each colony. These governments evolved a system based on the British system which included elected members of parliament, an executive and a court system. During the 1890s the colonies' people voted to hand over some rights and power to a central executive government, creating the Australian federation. In 1900 the Australian Constitution was agreed and in 1901 Australia's federal and state parliaments began writing laws and their executive governments began administering them.

In 1911 the Australian executive passed laws to create the Northern Territory (NT) and the Australian Capital Territory (ACT). These territories are not yet states and are still partly controlled by the federal government. The ACT is unique in Australia because it has amalgamated local and state functions.

## Conclusion

Australia is like other federations such as the United States, Canada, Germany, India and Malaysia all of which have three levels of governance at local, state and federal levels.

However, as law and law administration become more complicated the members of the federal, state and local executive are required to work cooperatively in order to solve problems. For example, road funding and construction might require funds from all levels even though the state owns the finished road. And of course executive government can only administer law according to the written word as passed by the parliament or council.

So if you:

- watch an interview with the minister for foreign affairs or defence, for example, you will be watching the federal Executive explain how its actions and decisions are consistent with federal law.
- discuss the services provided in schools or hospitals or housing you will be discussing the role of the state executive in implementing state law.
- receive a rates notice or your dog is impounded you will be seeing your local council by-laws being implemented by the council executive.

## More information

Australian State, Territory and Local governments <http://www.gov.au>

PEO Videos

- Making a Law <http://www.peo.gov.au/multimedia/video/makingALaw/transcript.html>
- What is Parliament? <http://www.peo.gov.au/multimedia/video/whatIsParliament/transcript.html>

PEO Fact Sheet Series

- 19 Cabinet <http://www.peo.gov.au/students/fss/fss19.html>
- 34 Federation <http://www.peo.gov.au/students/fss/fss34.html>
- 35 Separation of Powers <http://www.peo.gov.au/students/fss/fss35.html>
- 53 The Budget <http://www.peo.gov.au/students/fss/fss53.html>
- 55 Three Levels of Government <http://www.peo.gov.au/students/fss/fss55.html>

Parliament of New South Wales <http://www.parliament.nsw.gov.au>

Parliament of Victoria <http://www.parliament.vic.gov.au>

Queensland Parliament <http://www.parliament.qld.gov.au>

Parliament of Western Australia <http://www.parliament.wa.gov.au/index.htm>

Parliament of South Australia <http://www.parliament.sa.gov.au>

Parliament of Tasmania <http://www.parliament.tas.gov.au>

Australian Capital Territory Legislative Assembly <http://www.legassembly.act.gov.au>

Northern Territory Legislative Assembly <http://www.nt.gov.au/lant>

The Australian Constitution <http://www.aph.gov.au/senate/general/constitution/index.htm>

Parliament of New South Wales Budget [http://www.parliament.nsw.gov.au/prod/parliament/publications.nsf/0/246A31B4B58B9356CA256EE6002DD322/\\$File/The + Budget + Activity.pdf](http://www.parliament.nsw.gov.au/prod/parliament/publications.nsf/0/246A31B4B58B9356CA256EE6002DD322/$File/The + Budget + Activity.pdf)