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Your submission for this review:

The Australian people voted against councils in a referendum, WHY IS THIS BEING IGNORED. Most Australians are happy to pay for standard services being, Garbage, Sewer, Water, Roads, Parks etc. The Valuer General is [REDACTED] to a [REDACTED] by being involved in any TAXES to the general public via councils. see attached file

# Local Government Illegal

Armidale, Australia

24 Oct 2015 — People all over Australia are waking up to the fact that the 1988 Referendum denied an attempt to legalise local governments.

The High Court of Australia ruled that “State Governments could not raise ANY TAX” and because of this the ‘State Excise on Fuel, Tobacco & Alcohol’ was removed.

It can be clearly seen that the authors of the Constitution were not allowing for any Parliament other than the Federal Parliament to impose a tax. Therefore, the only land rates/tax that can be imposed within Australia is one imposed by the Federal Parliament through the Commissioner for Taxation.

Unless we receive a “Rates Notice” from the ‘Commissioner for Taxation it is INVALID and UNLAWFUL. Clearly, in sections 51 and 52 of the Constitution and from the Constitutional Commission (1985 – 1988) report that the power of taxation is held exclusively by the Federal Parliament.

## **Section 109 of the Australian Constitution states:**

“When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail and the former shall, to the extent of the inconsistency, be invalid.”

Because State Governments are subject to the Commonwealth Parliament and also subject to the Commonwealth Constitution, the states cannot lawfully impose a ‘Land Tax’, ‘only the Commonwealth Government holds such taxation authority’.

Unless the State governments can present the legal authority from the High Court of Australia; or from the Federal Government giving authority to raise taxes, citizens are not legally obliged to pay any ‘rates’ imposed by their local council/government. It doesn’t matter what they call themselves, local governments have no legal authority to impose any taxes, and house rates are clearly a tax on the value of the property.

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\*NOTICE TO MINISTER\*

\*THIS IS THE WILL OF THE PEOPLE\*

Ref: Local Governments Validity. Date: 2013

Dear Minister,

Statement #1:

The High Court of Australia ruled that "State Governments could not raise ANY TAX".

It can be clearly seen that the authors of the Constitution were not allowing for any Parliament other than the Federal Parliament to impose a tax. Therefore, the only land rates/tax that can be imposed within Australia is one imposed by the Federal Parliament through the Commissioner for Taxation.

Unless we receive a "Rates Notice" from the 'Commissioner for Taxation it is INVALID and UNLAWFUL.

Clearly in sections 51 and 52 of the Constitution and from the Constitutional Commission (1985 – 1988) report that the power of taxation is held exclusively by the Federal Parliament.

Since the State Parliament has no powers under the Australian Constitution to impose taxes, which has been determined where The High Court of Australia ruled, "State Governments could not raise ANY TAX" and therefore, "Land Tax" is unlawful. The state government will have to lodge an appeal to the High Court of Australia to overturn the previous decision before they can legally impose such tax upon the people or have the Federal Government hold a referendum to alter the constitution.

Section 109 of the Australian Constitution states:

"When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail and the former shall, to the extent of the inconsistency, be invalid."

Because the Parliament of [STATE] is subject to the Commonwealth Parliament and also subject to the Commonwealth Constitution, the states cannot lawfully impose a 'Land Tax', 'only the Commonwealth Government holds such taxation authority'.

Until the State of N.S.W can provide a legal authority either from the High Court of Australia; or from the Federal Government giving authority to raise taxes, to comply with your intentions would be in breach of the law itself, that you are bound to uphold. When you present such legal authority we will certainly provide the information you request.

Statement #2:

## COUNCILS ILLEGAL UNDER THE CONSTITUTION

LOCAL GOVERNMENTS ARE ILLEGAL UNDER THE COMMONWEALTH CONSTITUTION DETERMINED BY TWO REFERENDUMS

18 May 1974 & 3 September 1988

The Australian Electoral Commission on their CD "Australian Referendums 1906—1999" have advised the following points:

"Under the Australian Commonwealth Constitution any powers not delegated to the Commonwealth are the prerogative of the States UNLESS THEY ARE SPECIFICALLY DENIED."

The Referendum on 18th of May 1974

Q4. Local Government Bodies – The fourth proposal sought to amend section 51 of the Constitution to give the Federal Government power to give financial Assistance to lend and borrow money for any local government body.

The people voted NO.

Q4. The referendum was NOT carried.

One State recorded a YES vote (NSW), however; nationally only 46.85% of electors voted YES.

TODAY WE HAVE THE FEDERAL GOVERNMENT FUNDING LOCAL GOVERNMENT DIRECTLY IN CONTRAVENTION OF THE CONSTITUTIONAL WILL OF THE PEOPLE.

The Referendum on 3rd of September 1988

Q3: Constitution Alteration (Local Government) 1988.

Q3. To alter the Constitution to recognise local government

The people voted NO.

Q3. The referendum was NOT carried.

No States recorded a YES vote. However; nationally only 33.62% of electors voted YES.

The legislative proposal was, "119A. – Each State shall provide for the establishment and continuance of a system of local government, with local government bodies elected in Accordance with the laws of the State and empowered to administer, and to make bylaws, for their respective areas in accordance with the laws of the State."

Unlike a plebiscite, a referendum is binding on the government.

THE FEDERAL GOVERNMENT RECOGNITION OF LOCAL GOVERNMENT IS IN DIRECT CONTRAVENTION OF THE CONSTITUTIONAL WILL OF THE PEOPLE.

The Commonwealth Government is funding Local Governments directly contrary to the Constitution.

All local government has been constitutionally illegal since 3-9-88 when there was a referendum to incorporate local Government into the Australian Constitution.

This means that all local government authorities now operate without a lawful head of power. The legal bind is that states cannot retain legislation that condones any form of local government.

Thus all levels of government are operating illegally ignoring the instructions of the people. If the government will not obey the Constitutional Will of The People and thus democratic law, why should the people obey parliamentary law? The precedence has been set.

FURTHERMORE Local Government Rates are deemed a tax thus no GST is applicable.

Clearly in sections 51 and 52 of the Constitution and from the Constitutional Commission (1985 – 1988) report that the power of taxation is held exclusively by the Federal Parliament. No states have authority under the constitution to impose a tax. Clearly in sections 51 and 52 of the Constitution and from the Constitutional Commission (1985 – 1988) report that “The power of taxation is held exclusively by the Federal Parliament.” Thus Local Government Rates being a tax are unlawful and in breach of the constitution.

LOCAL GOVERNMENT IS NOT RECOGNISED WITHIN THE AUSTRALIAN CONSTITUTION AND WAS REJECTED AT REFERENDUM OF THE AUSTRALIAN PEOPLE IN SEPTEMBER 1988 THEREFORE LOCAL COUNCIL HAS NO LAWFUL BASE

Thus Councils Should Be Dismissed And Local Government Department Administrators Appointed Permanently.

1. In no section within the Australian Constitution is there provision for the Federal or State Parliament to establish a third level of government without the permission of the people via a Federal Referendum.

2. The High Court of Australia ruled that “State Governments could not raise ANY TAX”, and because of this the ‘State Excise on Fuel, Tobacco & Alcohol’ was removed.

3. It can be clearly seen that the authors of the Constitution were not allowing for any Parliament other than the Federal Parliament to impose a tax. Therefore, the only land rates tax that can be imposed within Australia is one imposed by the Federal Parliament through the Commissioner for Taxation.

4. Unless we receive a “Rates Notice” from the ‘Commissioner for Taxation it is INVALID and UNLAWFUL.

5. Clearly in sections 51 and 52 of the Constitution and from the Constitutional Commission (1985 – 1988) report that the power of taxation is held exclusively by the Federal Parliament.

6. The Courts of Australia have long held that council rates are a tax. Yet, under the Australian Constitution, the Parliaments of the States do not have the power of taxation.

7. “John Winston Howard, Peter Howard Costello & ‘Commissioner for Taxation’ Michael Joseph Carmody all stated before the introduction of the infamous “Goods and Services Tax”,

Quote: “Local government Council Rates will attract no GST because Council Rates are a tax and we can’t tax a tax”.

8. The organizations known as ‘local government’ did not exist at the time of the federation of the states into a commonwealth.

9. A ‘rateable person within the meaning of the local government act 1995’ did not exist at the time of the federation of the states into a commonwealth. It can be seen then, that since ‘local government’ did not exist at the time of Federation, then there can be no continuance of local government law.

10. Since ‘local government’ did not exist at the time of Federation, then there can be no continuance of ‘local government’ law. Similarly, as ‘local government land rates tax’ did not exist at the time of Federation there can be no continuance of ‘local government land rates tax’ from that time to now.

11. Following a recommendation of the Constitutional Commission of Inquiry (1985 – 1988) a Referendum was held in September 1988. (“The Constitutional Commission found that there was no basis in law, contained within the Constitution for the provision of ‘Local Government’”). They found that barely 50% of the population even knew of the existence of the Constitution, let alone its contents, and that only a few percent of those under 25 years of age knew of its existence at all.)

12. Question 3 from the referendum was: A Proposed Law; ‘To alter the Constitution to recognise local government.’ Do you approve of this alteration?

13. The specific (federal Referendum) proposal was:-

(3) Constitution Alteration (Local Government) 1988.... 119A, “Each state shall provide for the establishment and continuance of a system of local government, with local government bodies elected in accordance with the laws of the state, and empowered to administer, and make by-laws for, their respective areas in accordance with the laws of the state”.

14. It was recognized that the Parliaments of the States did not have the power to establish a third tier of government via ‘local government’ and an amendment to the Constitution was necessary for them to obtain these powers.

15. If the Constitution had to be altered to allow for the establishment of ‘local government’, before there could be a continuance of ‘local government’ from the time of federation, then it is clear that these powers did not exist at the time of the Federation of the States into a Commonwealth.

16. Therefore, if the Constitution had to be altered to allow for the “establishment and continuance” of ‘local government’ these powers did not exist at the time of Federation or sections 106 to 108 of the constitution would have applied and the constitution would not have had to be altered.

17. For the Constitution to be able to be changed, there must be a majority, (either for or against), in each state and a favourable majority must be returned in a majority of States.

The Australian Electoral Commission advice:

“Referendum results – 3 September 1988”

“(41) Local Government”, being totally reject by 3 084 678 votes of the Australian people.

“Question 3”.

“A Proposed Law: To alter the Constitution to recognise local government.”

“Do you approve this proposed alteration?”

“The Constitution recognises government at the Commonwealth and State levels but makes no mention of local government. Constitution Alteration (Local Government) 1988 sought to give such constitutional recognition to local government.”

18. “Obtained majority in no State and an overall minority of 3 084 678 votes.”

19. Therefore the continuance of Local Government in defiance of the referendum vote of the people is unlawful? Thus the Minister would be acting in accordance with the Australian people’s referendum results if he dismissed the Tweed Shire Council. In fact it is encumbered upon him explicitly follow the instruction of people’s referendum and dismiss all councils.

20. No other conclusion can be derived from this result other than that Local government was not legally recognized by the people of Australia, who are the Government of Australia through their agents the Parliaments.

21. The Parliament of the State did not have these powers before the Referendum, and they were most certainly prohibited from having them after the Referendum.

22. This was confirmed by the Parliament of NSW Legislative Council General Purpose Standing Committee (No 5), Report 19, Local Government Amalgamations, December 2003 which states on page 51, at 4.78: “Local Government is not recognized in the Australian Constitution. In 1974 and 1988 constitutional recognition of local government was considered in referenda to change the constitution but neither referendum was successful.”

23. The members of the various Parliaments of the States and the Commonwealth are the elected representatives of the people of Australia. They are not there as representatives of the Parliaments, but as elected servants of the people. Twice, in 1974 and in 1988 the people of Australia (the Government) told their elected representatives that they did not wish to constitutionally recognize local government.

24. Since the people do not wish to recognize ‘local government’, and since the Constitution does not recognize or grant the power to establish a third level of government, then under Section 109 of the Constitution it was illegal for the Parliament of Western Australia to enact the Local Government Act of 1995.

25. The 1988 Referendum was a public act under the Federal Constitution. Sections 106 and 108 subject the Constitutions of the States to the over-riding authority of the Federal Constitution and Section 118 requires that full faith and credit be given throughout the Commonwealth of Australia to the laws and public acts and records of every State. If full faith and credit is given, there appears to be NO LEGAL WAY any States can overturn the specific outcome of a Federal Referendum

26. The Referendum (Constitution Alteration) Act of 1906-1973 is a Commonwealth of Australia Act. The Schedule of the Referendum Act provides the wording of the "Writ for Referendum" and includes the words:

27. "We (the Electorate) command that you (the parliament) cause a proposed law entitled... ..... to be submitted, according to law, in each State to the electors qualified to vote for the election of Members of the House of Representatives" (for each of the six states). It is clear that a "Writ" directs that a Federal Referendum must be by way of a vote state by state. This has the same effect as a state referendum, but under the Federal Act, by doing so invokes Section 109 of the Australian Constitution as an authority that over-rides any inconsistency in the legislation of the States.

28. Since the parliament of Western Australia has no powers under the Australian Constitution to create a Third Tier of Government, and since they were twice told by the people they serve that the people did not wish to recognize Local Government, then the enactment of the Local Government Act of 1995 was illegal.

29. THE LOCAL GOVERNMENT ACT OF 1995 HAS NO BASIS EITHER CONSTITUTIONALLY OR LEGALLY.

30. The Constitution was formatted to protect the Australian people from a number of things, and also to give the people of Australia the ability of Self Determination of Government.

NOWHERE DOES IT PERMIT THE PARLIAMENTS, OR THE JUDICIARY, TO OPERATE OUTSIDE THESE GUIDELINES.