

**Electoral structure review - Hume City Council- Response Submission
Maria Fargher - 04 November 2023, 7:59 PM**

From: [Hume Submissions 2023](#)
To: [Hume Submissions 2023](#)
Subject: Hume Council Restructure: into 11 wards
Date: Tuesday, 21 November 2023 2:32:29 PM
Attachments: [Regarding Local Government Act 2020.docx](#)

From: Maria Fargher [REDACTED]
Sent: Monday, November 20, 2023 7:58 PM
To: Hume Submissions 2023 [REDACTED]
Subject: Re: Hume Council Restructure: into 11 wards

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Thank you for your email and the links provided. I have looked at these and I believe that the LG Act 2020 is also not valid please see the attached a copy will be going to the appropriate politician. In light I would like the attached added to my submission as I can not see that as the local councils are not legally structured and as people request under the constitution I cannot see how the following exercise can continue.

Kind regards
Maria Fargher

From: Maria Fargher [REDACTED] >
Sent: Sunday, November 19, 2023 7:23 PM
To: Hume Submissions 2023 [REDACTED] >
Subject: Hume Council Restructure: into 11 wards

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Maria Fargher

[REDACTED]

Greenvale 3059

[REDACTED]

[REDACTED]

Regarding the restructuring of the Hume Council into 11 Wards, first of all I would like to know where the Hume Council gets its authority to make these changes as it is a corporation and it has a registered ABN number.

The committee needs to understand that the people of Victoria had a referendum and voted against the councils being corporated. This makes it illegal as a local government and it cannot and does not have the authority to collect taxes and enforce changes.

My question to you is are these wards going to be registered corporations as well if so who is going to pay for all these changes and for all the additional staff and will Hume council corporation continue to exist.

It is also not the responsibility of the Hume council Pty Ltd to change names and applying aboriginal names to existing places.

Councils must be a department of the government just as the education department is and their job is to look after their districts make sure the rubbish is collected and maintenance is done it is not their job to become political in anyway.

Please advise me where the money is coming from for all these changes and how many more people will be employed and will they also be corporations. Most importantly where do they get their authority from.

If these wards go ahead as corporation identities with ABN numbers they then have to comply under the federal laws for companies. They can only apply their rules laws to the people in their company and not the constituencies. The actual 1901 Commonwealth of Australia Constitutional is very clear. No Crown, No Oath , No Authority.

I look forward to your to hearing from you with the answers to the above questions.

Regards

Maria

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Without ill will, vexation, or frivolity

Thank you for your email according to the document.

The purpose of this Act is to give effect to section **74A (1) of the Constitution Act 1975** which provides that local government is a distinct and essential tier of government consisting of democratically elected Councils having the functions and powers that the Parliament considers are necessary to ensure the peace, order, and good government of each municipal district.

Can you please forward me a copy of the Royal assent for following Act.

**The Local Government Act 2020 received Royal Assent on 24 March 2020.
This Act uses the 1975 Constitution 74A (1)**

Now, whilst we're about Constitutions, each State also has its own Constitution. Well, if you live in Victoria, you have two!

How can that be, you may ask – the fact is that it can't!

The issue is that the 1855 Victorian Constitution was never repealed, the Victorian Parliament just decided to make a new one in 1975 instead. Unfortunately for them, there is a legal maxim that dictates that “first in time, best in law” applies and, therefore, the 1855 Constitution takes precedence over the 1975 one. Also, Section 106 of the Commonwealth Constitution clearly states that “The constitution of each state ...” – that means that there can only be ONE Constitution for each State. This makes the 2020 Local Government act null and void.

[I would like to make it clear that Councils have no Authority.](#)

In 1974 and 1988 Australians voted in referendums that asked if we would like to approve Local Government.

There was a resounding NO to both referendums.

To circumvent the Will of the People, State Governments brought in state Acts authorizing local councils as a third tier of government.

They completely ignored the **Commonwealth of Australia Constitution Act 1901, Section 109** that 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.*

When we the People of the Commonwealth of Australia vote in a referendum the result is Constitutional Law. This means that any State law that is inconsistent with it is Null and Void...it has no authority, no power. It cannot be.

It is that simple.

This means that Local Councils are just that.... LOCAL COUNCILS. They are **not** and cannot be a third tier of government. Nor can they levy taxes, no matter

how they disguise these taxes with words like 'council rates', 'land rates', or even 'administration charges. They cannot levy taxes....no if's, and's, or but's.

These and all the other "fees" they charge, have no basis in law.... they are all inconsistent with Commonwealth Law.

The following statement is made by the council under partnering with council the Victorian Aboriginal and Local Government Strategy

Read the Strategy

Victorian Aboriginal and Local Government Strategy

The Strategy recommends actions for Local Governments, the Victorian Government and Aboriginal communities that progress Aboriginal self-determination and reconciliation. It has been developed to support alignment of the Local Government sector with the Victorian Aboriginal Affairs Framework 2018-2023, **the Victorian Treaty process**, the Victorian Closing the Gap Implementation Plan and the work of the Yoo-rrook Justice Commission.

The Strategy includes a clear framework for shared decision-making processes and actions for Aboriginal Victorians working together with local government based on mutual control, shared power and decision-making, fairness, respect, and trust.

My Objection to treaties that the State Government does not have the authority to do.

Treaties, and how they must be fulfilled pursuant to the Commonwealth constitution.

Victoria has already pushed ahead for a treaty with First Nations people despite the defeat in the referendum.

Daniel Andrews introduced the reforms. No wonder he's done a runner. The state is relatively advanced in treaty discussions the furthest along in Australia. The treaty Act, which is Australia's first ever treaty law, passed both houses of the Victorian Parliament in June 2018 and commenced on the first of August 2018. Despite nobody hearing anything about it, it has paved the way towards treaty negotiations, and established an agreement between the First Peoples Assembly and the state to develop protocols to give practical application to the guiding principles set out in the advance in the advancing the treaty process with Aboriginal Victorians.

The Australia act Section Two clearly states that any laws that the Parliament of a state makes those laws cannot be repugnant, so inconsistent with the

Commonwealth constitution. So, although the states do have their own constitutional powers, they are subject to the Commonwealth constitution.

This is the failure of the state Parliament's to acknowledge and recognise this section 106, which provides for that in the Constitution itself, that all the laws of the state that are made under the constitution of the state are subject to the Constitution, and the fact that they are enacted the Australia act in 1986.

Section Five of the Australia Act, which says you cannot write a law that is repugnant to the Commonwealth of Australia Constitution Act.

The act itself and the Constitution, which is clause, nine 128 sections.

The treaty that was enshrined into the Racial Discrimination Act of 1975. And the Commonwealth and the state governments have an obligation to either amend or repeal any act, any provision of any law or regulation, anything that can be seen to be discriminatory based on race. These are the obligations. it was in six and 5129.

Federation to the passing of the Constitution as an EP Parliament Roe v, or you're up to 1897 section 5129 specifically said External Affairs comma treaties.

A treaty is a compact between two or more independent and sovereign states. The power of making treaties is by English law vested in the crown as a part of the prerogative. So, it is a rule of international law that numbered supreme and independent sovereign powers are competent to contract treaties with foreign nations. The only exception to this rule is where the right to include treaties in its own behalf. off with other states or foreign powers has been expressly delegated to a subordinate government by the Crown and Parliament of the mother country.

That responsibility for the exercise of such delegated power continues to rest upon the Imperial authority to the same extent as for other acts and for and any other accredited public agents of the crown. But essentially, what this is saying is, it's not within the power of Australia to exercise a pair of treaty where a treaty is created. Victoria is ignoring our constitutional instructions.

High Court dealt with this in Tasmania where It wasn't constitutionally found power. So, UN convention is not, that's political. It's not something that is a defined power, and we must keep coming back to the head of power. Always, always. Now, what we're seeing, and as Albanese said the other day was regardless, we're going to go ahead with a treaty.

Well, Mr. Albanese and his legal advisors need to have a good hard look at Section 51. Because neither the States nor the Commonwealth can bring about a treaty based on

race, any special laws relating to that race. This is what we've got Victoria. And Victoria started this in 2018.

When you read the legislation that Victoria created. It's the preamble to the first act.

Victoria created two pieces of legislation. The second piece is the treaty authority and other treaty elements act 2022.

Look at the size of the preamble on this thing. The first act they created, which is sorry, this is Advancing the treaty for preventing the treaty process with Aboriginal Victorians act 2018 again, the treaty process. Victoria is acting as a sovereign entity.

The High Court said that the states do not have an international personality. And they cannot act if they do not have a sovereign status, and therefore, they cannot engage in international relations, the whole Belton Road as another example.

Clause two of our Constitution. The sovereignty is back with the United Kingdom, there's a mother country, they're the ones who have the power to draft treaties.

Here, we've got a situation where Victoria is trying to bring about a treaty within Australia to just deal with one race within Australia.

A sovereign state is defined as it must have a standing army, it's the master of its own.

affairs could have its own currency as various other things that they will rise at the sovereign state, for that treaty to occur.

For the treaty legislation that's in place and has been here in Victoria since 2009, and renewed in 2022, or another version, Please tell me where the head of authority lies, that has granted them the instrument to be able to bring about this sort of legislation in Victoria because in the light of section 5126 of the Constitution, the Commonwealth have exclusive power to make laws relating to these races.

We're talking about a law that treats the Aboriginal Torres Strait Islanders as a separate thing. This is what the referendum said no to.

As there is no head of authority for either the state or the Commonwealth to bring about a treaty.

Our power only resides within clause nine of the Constitution.

Clause two is the UK Government parliamentary power and our people power. The UK government have that ability to repeal clause two, but they haven't. It's still there to this day.

Just as the Victorian Government had no right to charge the road taxes for electric cars it also has no legal right to initiate treaties.

The Victorian government has no right to allow Aboriginals or Torre Strait Islanders to trespass on other people's properties either to encourage them to do so would be breaking the law as it stands.

What the Victorian Government has done to date without telling the people that they work for is unacceptable. These treaties must be withdrawn immediately.

I also noticed that the local council does not display the Australian Flag on their documentation. Shame on them and they call themselves Australian.

Kind Regards

Maria Fargher