



THE UNIVERSITY OF  
NEW SOUTH WALES



FACULTY OF LAW

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The Commissioners  
National Commission of Audit  
*By electronic submission*

Dear Commissioners

#### **National Commission of Audit 2013-14**

We were pleased to see the National Commission of Audit's terms of reference, which recognises that the Australian Federation is in need of renewal and reform.

Since 1901, Australia's federal system has enabled innovative, responsive policy design to meet the demands of globalised trade. Compared to many nations with unitary systems of government, Australia has fared well in terms of rates of economic growth and GDP per capita. Federalism has maximised opportunities for democratic engagement and accountability and ensured that Australia's constitutional arrangements have been remarkably stable and resilient by world standards. However, it is also clear that the Australian federal system suffers from critical problems that require significant attention if it is to facilitate, rather than frustrate, Australia's democratic, economic and social needs in the 21<sup>st</sup> century.

The problems besetting Australia's federal system can be grouped into three categories. First, there is a high degree of administrative duplication, blame-shifting and policy distortion between governments. In one estimation, the Business Council of Australia has stated that these inefficiencies cost at least \$9 billion a year in wasted taxes alone and that the total impact of suboptimal federal arrangements upon businesses and the community may be up to \$20 billion a year, or 3% of GDP.

Second, current federal fiscal arrangements, especially the growing liabilities on State budgets, are widely appreciated as unsustainable. To remain competitive in the international environment, significant investment in education, infrastructure and workforce skills training is needed, requiring critical changes to the collection and distribution of tax revenue within the federation, and a renewed focus on improving productivity through federal reform.

Third, problems of federal coordination are major contributors to declining community confidence and trust in government. In 2012, 66% of Australians felt that the Federal and State governments were not working well together. In the four years from 2008, community confidence in intergovernmental collaboration fell by 8%. Redesign of federal institutions and practices offers strong prospects for addressing declining public trust in government generally. Unless that decline is arrested, the ability of Australian governments to implement long-term social and economic policy reform in order to meet contemporary domestic challenges and seize international opportunities will be severely hampered.

For these reasons, Australian federalism researchers, political and business leaders are all in agreement that the current system urgently requires reform. Nonetheless, attempts at meaningful reform to date have been sporadic and often ineffective. This is due in part to a dearth of sustained, cross-disciplinary and internationally-informed research aimed at developing new strategies and solutions. The most important priority of such research ought to be the development of a modern delineation of the roles and responsibilities of the different tiers of Australian government. This is a complex and difficult task that raises interlocking questions of economics, public policy, law and institutional design. To this point, research has not been undertaken to enable adequate answers to such issues.

In 2009, the Senate Select Committee on the Reform of the Australian Federation concluded that: ‘federalism is the right model for dealing with issues relating to Australia’s population, culture and economic development’. However, recognising that this model needs renewal and the critical role to be played by high quality research in that process, the Committee made the following recommendation:

***Recommendation 19** The committee recommends that funding be made available by the federal, state and territory governments for the establishment within an Australian university of a centre for the study and dissemination of ideas relating to federalism and Australia’s federal system of government.*

No such centre of study has since been established. Australia has not had a dedicated research centre in this field for nearly two decades, since the Federalism Research Centre at the Australian National University was disestablished in the mid-1990s.

Unfortunately, the absence of such a body means that the work has not been done so as to enable researchers to provide adequate, credible and evidence-based answers to key parts of the Committee’s terms of reference. In particular, in order to assess the current split of responsibilities between and within the Commonwealth government and State and Territory governments, a number of preliminary questions first need to be answered:

- a. What are the objectives of allocating roles and responsibilities between different levels of government – are they to improve efficiency, flexibility, responsiveness, innovation, sustainability, diversity, consistency, minority representation or democratic accountability?
- b. How should conflicts between competing objectives be resolved?
- c. How can allocations of money and other resources be best secured through institutional arrangements to support the objectives identified?

- d. How can the transparency of functions and accountability of government be maximised to support the objectives identified?
- e. What are the proper roles of the private sector and non-government entities such that the objectives can be supported?
- f. Is duplication or inconsistency between jurisdictions always a bad thing? In what circumstances would they be acceptable?

Until answers to such questions are identified, it is very difficult, and indeed possibly dangerous, to attempt to suggest what an ideal allocation roles and responsibilities between Australia's levels of government might look like. At this point in time, such a suggestion could at best amount to guesswork based upon anecdotal evidence and influenced by overriding ideology. It would lack the empirical basis by which the Australian people could be reassured that long-term and sustainable reform is being implemented with a view to creating a mature system of democratic governance that is capable of responding to the challenges of the 21st century.

For these reasons, we urge the Commission to recommend that a national centre of study for the Australian Federation be established in line with the recommendation of the Senate Select Committee on the Reform of the Australian Federation. As in other cases where such centres have been established, the hosting of the centre should be open to competitive tender. Once created, the centre would conduct in-depth cross-disciplinary and comparative study into Australia's federal system and other governance systems around the world, producing ongoing evidence-based recommendations for sustainable reform. In this way, it would play a critical role in building the empirical foundations for the next stages of Australia's social, political and economic development.

Yours sincerely,

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Director, Federalism Project

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