

*An agreement to establish the
Council for the Australian Federation*

dated this 13th day of October 2006

between

the State of New South Wales and the State of Queensland and
the State of South Australia and the State of Tasmania and
the State of Victoria and the State of Western Australia and
the Australian Capital Territory and the Northern Territory of Australia

Recitals

The First Ministers of the above-named Australian States and Territories have agreed to create the Council for the Australian Federation as part of their plan to protect, maintain and revitalise the Australian federation and build a more collaborative, co-operative and effective federal system. First Ministers recognise that:

Australia was established as a federation in 1901 under the Commonwealth Constitution. The six States, the Northern Territory, and the Australian Capital Territory are core components of the Australian federation, as is the Commonwealth.

Federalism is based on shared principles, including respect for constitutions and the division of powers. It allows for diversity in policy priorities and their implementation coupled with the freedom to consult and co-operate on common matters where this promises the best outcomes.

There is a need to institute a new era of intergovernmental collaboration by promoting a constructive dialogue between the States and Territories so as to advance the interests of Australians and Australia.

There are and will be issues that are of importance to the States and Territories in which the Commonwealth Government has only limited involvement, or in which the Commonwealth may decline to become involved.

To operate effectively into the future the federation must evolve, and through the Council for the Australian Federation First Ministers are committed to providing the necessary leadership through institutional innovation.

The Council for the Australian Federation will be an enduring and evolving institution that will be flexible, efficient and able to anticipate and act quickly to make Australia work better for Australians.

Creation of the Council for the Australian Federation

The Premiers of the States and the Chief Ministers of the Territories establish the Council for the Australian Federation (the Council). The common objectives and organisation of the Council are as described in this Founding Agreement (the Agreement).

Composition of the Council

The Governments of the six States and the two self-governing mainland Territories of Australia are members of the Council. A member will be represented on the Council by their Premier or Chief Minister. In exceptional circumstances, a Premier or Chief Minister may designate a minister as a substitute representative for a meeting of the Council.

Objectives of the Council

The objectives of the Council are:

- to provide leadership on and promote innovative solutions to matters important to Australians
- to promote constructive engagement with the Commonwealth Government and Parliament on matters of national interest
- to promote and communicate to the Australian people the benefits of Australia's federal system in providing a diversity of policy options
- to complement the work of the Council of Australian Governments and facilitate COAG-based agreements with the Commonwealth by working towards a common position among the States and Territories, and
- to reach, where appropriate, collaborative agreements on cross-jurisdictional issues where a Commonwealth imprimatur is unnecessary or has not been forthcoming

In pursuit of these objectives, the Council will:

- examine opportunities for greater consistency of State and Territory laws and practice

- examine Commonwealth Government measures that have a major impact on States and Territories
- examine State and Territory government measures that require co-ordination with the Commonwealth
- examine matters that are relevant to States and Territories and that have long-term implications for Australia
- identify ‘best practice’ innovations in relation to State/Territory programs, policy developments and service regimes, and share and exchange information, perspectives and experiences, including acting as a neutral repository for statistical and benchmarking information
- commission joint studies, and
- develop shared policies and positions

Organisation of the Council

Chair

Premiers and Chief Ministers will take turns chairing the Council on a rotational basis to be agreed. The term of office of the chair is one year. The chair will act on behalf of the Council according to the directions received from it.

The deputy chair of the Council is the Premier or Chief Minister who will chair the Council in the following year.

Meetings

There will be at least one meeting of the Council per year in the State or Territory of the incoming chair at a location to be determined by the Council. The Council may hold further meetings in other locations at its discretion.

A quorum of the Council is 75% of its members.

The Council may decide, from time to time, to invite representatives of other bodies to its meetings. However, such representatives will not take part in any decision-making process.

The Council anticipates that decisions will be unanimous and will be reached through consensus. A consensus occurs when no members are against a proposed resolution. However, the Council may decide an issue by majority vote with the agreement of all members.

All decisions of the Council will be recorded in writing.

The Council may take decisions agreed through correspondence between members and the chair of the Council. The chair shall immediately notify all members of decisions agreed through correspondence.

A decision may only be disclosed to third parties (including the media) if the Council has made a decision to allow such disclosure or unless required by law.

Agenda

The chair of the Council will determine agenda items in consultation with the other Premiers and Chief Ministers. Agenda papers will be prepared by the jurisdiction that has suggested the agenda item. The Secretariat to the Council may assist that jurisdiction in preparing such agenda papers. Otherwise, agenda papers will be prepared by the jurisdiction of the chair or by the Secretariat alone.

Secretariat

The Council will make arrangements for the establishment and operation of the Secretariat including the appointment of the head of the Secretariat.

The Secretariat will report to the Council. For routine matters, the Secretariat will report to the chair of the Council for the time being. The Secretariat will be located in Canberra or such other location as may be determined by the Council.

The Secretariat will assist the chair in the preparation for meetings of the Council and perform any task that the Council assigns to it. The Secretariat will not perform a lobbying function on behalf of the Council nor purport to represent the views of the Council or any of its members, except where it has been given express instructions to do so by decision of the Council.

The Secretariat will be funded by the States and Territories according to their representation in the Senate of the Commonwealth Parliament.

Other matters

Amendment

This Agreement may be amended with the written consent of three quarters of the members (six jurisdictions).

Any amendments which have been made to this Agreement will be set out in a document which is distributed to all members and which will include a reference to the date the amendment will come into force.

A member may withdraw from this Agreement by giving not less than six months notice, in writing, to each of the other members. If a member withdraws from this Agreement, this Agreement will remain in force in relation to the remaining members.

Review

The objectives, functions and organisation of the Council will be reviewed no later than five years after this Agreement comes into effect.

Reservations

Nothing in this Agreement alters the legislative or other power of the State and Territory legislatures or Governments of the day or the rights of any of them with respect to the exercise of their legislative, executive or other powers under the various Constitutions.

Commencement

This Agreement commences when it has been signed on behalf of all members.

IN WITNESS WHEREOF this Agreement has been executed this 13th day of October 2006 by the Premiers and Chief Ministers of the States and Territories at Melbourne, Victoria:

Australian Capital Territory

New South Wales

Northern Territory

Queensland

South Australia

Tasmania

Victoria

Western Australia

