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Committee Secretary

Joint Select Committee on the Aboriginal and Torres Strait Islander Voice Referendum

PO Box 6201

Canberra ACT 2600

Dear Sir/Madam,

Thank you for opening submissions for the Inquiry into the Aboriginal and Torres Strait Islander Voice Referendum. Please accept my revised submission to the Inquiry.

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Yours sincerely,

Robert Vose

Introduction

My submission concerns the proposed Bill:

Constitution Alteration (Aboriginal and Torres Strait Islander Voice) 2023
A Bill for an Act to alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice.

The Bill attempts to add the following new Chapter to the Constitution through a referendum:

Chapter IX—Recognition of Aboriginal and Torres Strait Islander Peoples

129 Aboriginal and Torres Strait Islander Voice

In recognition of Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia:

- (i) there shall be a body, to be called the Aboriginal and Torres Strait Islander Voice;
- (ii) the Aboriginal and Torres Strait Islander Voice may make representations to the Parliament and the Executive Government of the Commonwealth on matters relating to Aboriginal and Torres Strait Islander peoples;
- (iii) the Parliament shall, subject to this Constitution, have power to make laws with respect to matters relating to the Aboriginal and Torres Strait Islander Voice, including its composition, functions, powers and procedures.

My concern is with the model of Government and liberal democracy inherent in the proposed implementation of the Voice to Parliament.

The proposed Bill cannot achieve its stated aims of improving the lives of the most disadvantaged people within the Aboriginal and Torres Strait Islander communities.

It is also a poor attempt to recognise the Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia.

The Voice to Parliament, as proposed, has already been politicised. If the referendum is successful, this politicisation of the Voice will render it useless as a practical platform to improve the quality of life for most Aboriginal and Torres Strait Islander peoples. A civic Voice enacted through Acts of Parliament at the State and federal tiers of Government can, by contrast, be effective because these will enhance and build civil society. In addition, more immediate, effective, and visible ways exist to recognise Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia. Compare how often people read the Constitution to how frequently people gaze upon the National Flag. The Constitution does not need to be changed to enable an effective Voice, and the Constitution does not need to be changed to recognise the Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia.

My submission will first discuss the Voice to Parliament. I will then present an alternative that will build and enhance our civil society through platforms that will enable a genuine Voice in our communities. Finally, I will present proposed flag designs where the Union Jack is replaced by the Sun from the Aboriginal Flag.

Discussion of the Voice to Parliament as formulated through this Bill

The approach taken by the Voice to Parliament seems to be based on a model of Government run through Expert consultants and influential lobbyists. This style of governing has contributed to the polarisation of the United States' political system and led to the feeling of powerlessness through much of the population. Political decisions are increasingly being made based on the opinions, reports, and influence of an elite group of Experts. Most people feel they cannot even gain access to their lawmakers. The feeling that people have no say in political decisions that impact their lives and have no real voice has led to the rise of a President like Donald Trump.

The Voice to Parliament aims to set up an Expert panel seeking the constitutional right to lobby, influence, and use this influence to direct the actions of the federal Executive and the Parliament. If they feel their voice is not helping to direct federal policy to their will, they want to lean on the Constitution to impress their view on Government. This Bill will attempt to set this expert lobbyist panel in the Constitution as if set in concrete. It is a model of democracy that is based on privilege and exclusion. Is this Voice going to be a secret whisper of an "Expert lobbyist" in the ear of the powerful, or will advice by the Voice be made through open and public channels to foster understanding in the community and build civil society? Can opinions expressed through the Voice be contested and fact-checked? We haven't heard anything about how this is supposed to work. Acts of Parliament will pass the details after the referendum.

The submissions and public hearings for this Inquiry have been very instructive. Unfortunately, the time available to make submissions is very short. Yet, I want to comment on other submissions that touch on key issues related to the Voice and how it can be effective.

I refer to the content and conclusion from submission [Number 20 by Warren Mundine](#) into the Inquiry into the Voice to Parliament:

"A fundamental principle of the cultures of all Australia's first nations is that only countrymen and women can speak for country. Bundjalung people speak for Bundjalung country. Gumbaynggirr people speak for Gumbaynggirr country. Yuin people speak for Yuin country."

There is a difference between Indigenous nations and Indigenous people. Land rights are for nations and traditional owners of traditional lands through communities. Nearly all people speaking in public hearings refer to the primacy of their nations and communities.

My interpretation of the Voice to Parliament is that it starts from an assumption that individuals are primary and communities are collections of individuals. This is the common reductionist and atomistic view of the Western world. The Voice to Parliament, as currently formulated, is about setting up a panel of 24 individuals who are supposed to speak for all the communities and nations. There are over 500 Aboriginal and Torres Strait Islander nations in Australia. These 24 individuals will not be seen to have the authority to speak for nations that they are not part of. Yet, the Voice to Parliament is trying to set this panel up as an authoritative panel of experts that is expected to speak for all Aboriginal and Torres Strait Islander nations to Parliament and the Government.

As I understand it, being from a European background, Aboriginal and Torres Strait Islander peoples' communities and nations are primary. By insisting on changing the language from First Nations and communities to First Peoples as individuals, the Voice to Parliament is a form of colonisation. It is

framing the Voice to Parliament in a way that is alien to the cultures of the First Nations. Warren Mundine, in submission 20, notes that a focus on first peoples as individuals hark back to the old colonial and racist worldview. Furthermore, it assumes the Aboriginal and Torres Strait Peoples can be viewed as a homogeneous racial group, with 24 individual representatives across all 500+ nations. That is my interpretation, anyway.

Manufacturing an artificial Voice of First Peoples based on race will work against the First Nations. It could be the ultimate divide-and-conquer strategy. I fear it could be used to destroy Indigenous land rights for nations and override the rights of traditional owners over their traditional lands by a panel of 24 individuals in the Voice to Parliament. It could silence traditional owners and work against the cultures of Indigenous communities. It may also create bitter divisions and conflict between communities and nations.

I have been listening to the public hearings of the Inquiry into the Voice to Parliament. It is fascinating and instructive. This is the most valuable thing from the Voice to Parliament and lets us hear directly from the community. It must be one of the first times we can hear the voices and people are listening.

I sense there is a widespread need for people in the communities to integrate the services available to Aboriginal and Torres Strait Islander peoples and help streamline processes and how the systems work. There are multiple tiers of Government, various departments, and multiple requirements for any funding, which are constantly changing. Many people talk of the constant changes in policies, representatives, and staff through the three tiers of Government. Every time a change occurs, the communities must start from scratch, explaining how things work.

I think the Voice to Parliament is seen as a catchall that will solve all these issues. I don't see how it can - in how it has been formulated and is being promoted politically.

Perhaps there needs to be a service for the community, run and managed by the people in the communities and within their nations. People could be trained to integrate and deal with these inter-governmental complexities. There is a need for specialist-trained local people who can bridge all the interfaces and navigate the complexities on behalf of their communities. It is nearly like a project management role. It would be to help the health services with their funding, to help the housing services, employment, and training, etc., meet all their requirements by governments so the front liners doing the actual work can go ahead and focus on what matters. It is very detailed work and knowledge that is needed. It is very local. There needs to be a program to introduce, induct, and integrate these professional cross-functional integrators with the tiers of Government and services.

There is a need for a local, and regional voice. But I do not think the Voice to Parliament can deliver these kinds of results and cannot set up these kinds of systems. It will need dynamic laws and policies that must be modified as needs change and capabilities are built up over time. A legislative approach is more applicable. It will honour the voice of the First Nations in the way that they want to speak and be heard. The Voice to Parliament imposes a colonial, individualistic mindset on the First Nations. Embedding this into the Constitution can only harm Aboriginal and Torres Strait Islander communities and nations.

Trying to institute a political body of Experts in the Constitution to improve our liberal democracy is like applying the most potent anabolic steroids to a mild rash on the liberal democratic body politics - only to see an allergic reaction flare up into eczema and become a permanent health issue. The usual

remedy is to apply even more potent anabolic steroids, almost like an addiction. Withdrawal is excruciating, with people constantly scratching at their itchy skin, and it takes many years to heal, if at all. Some solutions will only amplify the problems in an explosive positive feedback loop.

How do the people advocating the Voice to Parliament deal with dissenting views and the idea of free and open debate in a democracy? We have seen that repeatedly over the last few months. The tens of thousands of people marching on Invasion Day/ Australia Day were dismissed and marginalised. The first attempt to modify the machinery of Referendum for the Voice with the Referendum (Machinery Provisions) Amendment Bill 2022 tried to leave out the pamphlet. They tried to deny that there could even be a valid no case. I suspect that an external "Expert" strategist has been whispering into the ears of the Executive to guide them to this point with this "Rule by Expert lobbyist" model for executive Government. The ALP started by claiming that only racists could be against the Voice to Parliament as formulated. That was at least until indigenous Members of Parliament and Senators from other parties expressed their opposition to the Voice to Parliament. Senator Thorpe has been very vocal.

The Albanese Government refuses to set up organisations for both the Yes and No cases for the Voice to Parliament referendum or provide any funding to Yes and No organisations. The last referendum on the republic in 1999 included organisations for the Yes and No cases, and both were funded the same amount by the Government. For the Voice to Parliament referendum, the Government will, however, spend over \$59 million, keep \$160 million in reserve, and include educational campaigns with that funding. The money to fund both sides of the referendum debate is available. Therefore, there must be supposedly strategic reasons against setting up organisations for the Yes and the No cases. I hope that the Government is not planning to introduce an internet filtering and censorship regime under the guise of limiting hate speech over the internet due to the Government deliberately refusing to set up official organisations for the Yes and No cases. Introducing a censorship regime is a decision for the long term, and the Voice to Parliament referendum would only be an excuse to establish such a regime, which would be intended to undermine our democracy and limit freedom of speech overall.

The Voice to Parliament is meant to benefit one of Australian society's most disadvantaged and marginalised groups. Yet, the Government is telling advocates for either side in this referendum to go and find their own money to fund their campaigns. This is another aspect of this referendum that seems incongruous with the results it is expecting the Voice to Parliament to achieve. If the Voice to Parliament is successful in a referendum, how will the elections for the Voice be held? Will any funds be provided to develop a platform so people can openly express their views, or will the votes be effectively between candidates who are already well established or who already have networks they can lobby for funds from? How could someone from a rural community, with little education, no money, and no contacts outside their community, possibly be in the running for any election so that they can express their Voice? Suppose there are dysfunctions in how services are provided to their community. How could anyone speak up against established "Expert lobbyists" who have a vested interest in keeping the status quo? If the model for the Voice to Parliament does not have an answer for this, it will do little to break patterns of disadvantage.

Everyone has a voice. But not everyone has a say. So, the question is how can we set up platforms for voices to engage, for voices to debate, to communicate, inform, entertain, share our views, and build up a shared civic society with multiple communities and shared dialogues? There are also, however, many different ways that a voice with power talks. Some dictate. Some listen and engage. Some try

to diminish and cancel any opposition, denying that opposing voices even exist. So, what mode does the Voice to Parliament operate in? We can see that in how the debate has been conducted so far. The professed ends do not justify the means. Instead, the means have become the ends.

While the practical means built into the Voice to Parliament proposal may not be very effective for improving the conditions of the most disadvantaged, there is also the second theme in the Voice to Parliament referendum proposal that is purely symbolic. It is also about recognising the Aboriginal and Torres Strait Islander peoples in the Constitution. The Constitution is the bedrock of our legal and governance systems. It is meant to remain relatively constant over time. It also does not mention all the details of our system of Government, it does not even mention the Prime Minister, and it works within the context of Westminster conventions as they have evolved in Australia. The Voice to Parliament could be enacted through legislation, as in South Australia. There are other ways the Aboriginal and Torres Strait peoples can be recognised symbolically and honoured in our national symbols without modifying the Constitution. How often do people read the Constitution, compared to the frequency of seeing the National Flag?

It is one thing to criticise but quite another to propose an alternative. I am offering alternatives that can achieve the same or better outcomes as those proposed by the Voice to Parliament referendum. These alternatives will still apply whether the proposed Voice to Parliament referendum is successful or fails. In either case, the intention is to improve the welfare of all Australians, improve the welfare and opportunities for Aboriginal and Torres Strait Islander peoples, and propose potential symbols that honour the Aboriginal and Torres Strait Islander peoples as Australia's first peoples.

Mathematicians, engineers and scientists are familiar with the idea of orthogonality. It is expressed in many ways and is a foundational concept for working with two, three or higher dimensional space. The idea is that if two base vectors are orthogonal to each other, then the two vectors are independent with respect to each other. They point in two completely different directions. If an object can only move from East to West, that object cannot move North or South at the same time. On a flat surface, the direction of "East-to-West" is orthogonal to the direction of "North-to-South". The two directions are independent of each other. Another way of expressing orthogonality is as a pair of complementary principles. In the realm of psychology, the ego and the unconscious are complementary. In a more esoteric context, some people refer to Tao.

I see an issue with how the Voice to Parliament is designed: the Voice wants a say in how laws are drafted and passed and how the Executive implements laws related to anything that potentially impacts Aboriginal and Torres Strait Islander peoples. The Parliament has the authority to make laws, and the Government has the authority to enforce laws passed by Parliament. Parliament and Executive Government, however, are not the only entities active in our system of liberal democracy. There is an Opposition. There is civil society. There are media. There is the judiciary. There is public opinion. There are news forums. There is social media. There are many, many actors. There is lots of talk. But the Government makes decisions and acts on them. Decisions made by Governments can be foolish; they can be wise; they can be informed; they can be ideological. But the Government has the authority to act. And they do. Everything else is orthogonal or complementary, so to speak, to the decisions of a government.

In a functioning liberal democracy with an active civil society, every decision made by a government is scrutinised. Most, if not all, decisions will have pros and cons. Resources are limited, so a government's priorities will always be questioned. That is normal. People will usually raise issues of

concern with a local MP or contact media organisations. If many people experience a similar problem, it is natural that the media draws attention to the most popular topics to attract larger audiences. Oppositions will naturally echo the most prevalent concerns. An ineffective Government or Government afflicted with hubris will likely run second in a subsequent election. And so, it goes on. Government and civil society are orthogonal. They are complementary. The MPs and Senators in a Government are usually acutely aware of what is trending in civil society, so they can respond and act appropriately.

What is the Voice to Parliament trying to do? Is it trying to bypass the normal processes of liberal democracy to gain immediate access to the Parliament and Executive Government in the way an Expert lobbyist gains privileged access to decision-makers? Do other special interests also need to look for backdoor access to the decision-makers to be heard? This would further erode civil society within our liberal democracy.

Here are some scenarios for the Voice to Parliament if the referendum is successful:

1) If the referendum passes and the Government makes deals with the Voice on some of their policies in return for silence on other topics, how can that improve the welfare of the most disadvantaged groups? Unfortunately, this scenario is common in politics. The Voice will be co-opted into Government and cannot stand apart and look at issues independently or objectively. As a result, it will fail to improve the lives of the people it was supposed to.

2) What happens if submissions by the Voice are delivered to the Parliament and Government, and the Government goes ahead with its agenda anyway and ignores the Voice? Will the Voices get louder or more strident? Will they resort to the media and try to influence the Government through civil society? Will they investigate the causes behind the issues and publish reports, like other special interest groups in civil society? How does the Voice to Parliament add anything in this scenario? Again it will fail in its purpose.

3) What happens if competing factions use the Voice to foster alternative views about topics and issues? Whom would the Parliament and Government listen to? How can they make sense of a diversity of Voices? Will Governments decide which factions they are willing to entertain, playing favourites while ignoring the rest? Again, that will bend the Voice to the agenda of Government, and it will fail to improve the lives of those it is supposed to help. Alternatively, go to the local communities and invest in civil society and authoritative research to investigate the issues independently. That way, you will better understand what is going on beyond the vested interests of competing factions.

As a politicised body, the Voice to Parliament will add no value to the people most in need. On the contrary, it is designed to fail because it will not be independent of Parliament, Government, and power politics.

There is nothing wrong with a Voice that is part of civil society. A civic Voice could build networks within the Aboriginal and Torres Strait Islander communities without power politics and cult of personality driven factionalism. A civic Voice could build knowledge bases so that governments, parliaments, scientific institutions such as CSIRO, research bodies, etc., could be introduced to relevant stakeholders and be kept within respectful bounds for any project that will impact the communities. A civic Voice could build pathways to develop the possibilities for youth through safe mentors. These Voices need support from the wider community. A civic Voice will be owned by the

Aboriginal and Torres Strait Islander communities and become a bridge linking community. But I see a politicised Voice to Parliament as a wrong turn that will fail to reach its intended destination. The Voice to Parliament has been tempted off track and is barrelling along the wrong pathway, giddy with a promise of power. By contrast, a civic Voice builds on the community's inherent diversity and plurality of views instead of creating a contested field competing to be THE Voice privileged to propagate its version of the truth, like an ever-angry activist.

As an aside, around 20 years ago, I enrolled in a prestigious university's postgraduate course on International Relations. It was respected training for the diplomatic corp. One of the first courses I took was on ethics in international relations. It was very disappointing. Australia is a leading democracy, yet it seems that there is little understanding of how democracy works being taught in academia. There was but one ray of light. One of the lecturers invited a friend who had experience working with an NGO in Africa. This guest lecturer described a situation where funding was thrown at a problem, yet corruption prevailed. The money went missing, programs were not delivered, and things did not improve. So, the NGO tried something to rectify the problem. They started posting notices in the relevant communities stating which leaders had received how much funding for which programs, etc. They suddenly found that the people receiving the money became more accountable, money didn't go missing, and intended programs started to pay off. So, they wanted to find out what had made the difference. They found out that the deciding factor was people in the community reading the notices and talking amongst themselves and the families receiving the money about the funding for the programs. Oh, you received X dollars for this program, "How's it going?" This is an informal anecdote about the value of developing civil society and its importance for good governance. Courses at that university, however, were steeped in an authoritarian mindset, and I didn't care to complete the course. I am not surprised by the international reputation Australia has developed (especially regarding refugees).

Australia is a sophisticated liberal democracy, but it is under strain. Civil society is not valued, and democracy seems poorly understood. Those in power regularly threaten public broadcasters. Regional newspapers have been monopolised, with local reporting resources having been thinned out. A few major players dominate television. Even while some politicians mouth the value of Australia's democracy, I fear that without understanding how democracy works, they might respond to challenges in an authoritarian way, perhaps with blunt tools like state-sponsored censorship regimes. The open sharing of information is a crucial concept. Open source is also key for cyber-safe software, maintaining privacy, and developing safe applications. Liberal democracies can only prosper with a vibrant civil society. John Stuart Mill presented some of the best arguments for freedom of expression. An authentic voice is for diversity in dialogues and will say more than the one word "Yes" at the beckoning of the leader. The Voice to Parliament campaign has been conducted under some strange assumptions about the nature of democracy in Australia. But it is a long-standing systemic issue.

To present an alternative vision for what an authentic Voice in Australia could look like, I have included a draft of a new model for an Australian republic and proposed designs for a flag suitable for an Australian republic with this submission.

Ugly Duckling Model for an Australian Republic

Draft - April 2023 – included in the Voice to Parliament submission.

This document is an outline of a new model for an Australian republic. It starts with a statement of basic facts, which should form the basis for any model for a republic. I will then outline this new "Ugly Duckling" model for an Australian republic. I have been actively working on developing a model for an Australian republic for over 20 years, and this is the best option.

This new model is not a compromise; it starts with a discussion on the nature of the Crown of Australia as it is today, is based on principles, and builds on a narrative consistent with Australian values. This model focuses on the Crown of Australia and how this has changed in Australia over the 20th century. This model for an elected head of State can bridge the differences between Direct Election republicans and Parliament Appointment republicans. It may even appeal to many conservatives and some monarchists.

Finally, this document discusses some of the steps to a republic and how this vision can be implemented and achieved. The first step with this document is to convey a vision of what is possible. This is a work in progress.

This model for a republic posits a method for electing an Australian to serve as our head of State to replace the monarch. The process for elections is designed to build and enhance civil society. It aims to create a shared space for telling our stories. It aims to enable people from all sections of society to express their voice respectfully and in the community.

Introduction and the Crown of Australia

The following are statements of fact, based on the reality of the Crown of Australia.

1. After Federation in 1901, the Commonwealth and States operated under the indivisible British Crown.
2. Australia is a constitutional monarchy with a Westminster system of Government.
3. We are a federation of States and territories within the continent of Australia. There are three tiers of Government. At the top federal tier is the Commonwealth, the States constitute the second tier, and local Government are at the third tier. This bears repeating – **Australia is a Federation, with the Commonwealth being one entity out of many.** Every part of the Australian Federation needs to be transformed to become a republic, not just the Commonwealth alone.
4. Scholars generally date the beginning of Australian independence to the appointment of Sir Isaac Isaacs as the Governor-General in 1930. The formal Act of Parliament that affirmed Australia's independence from the British Crown was the Statute of Westminster Adoption Act 1942. The Act was to take effect retroactively from the third of September 1939. This date is like the formal date of birth DOB on a birth certificate, and it denotes when the divisible Crown in right of the Commonwealth was formally created. This was a significant change in the bedrock of our nation, a change from the indivisible British Crown into an independent divisible Crown. The Statute of Westminster changed the nature of the Crown for Australia, Canada, New Zealand and other so-called dominions. This event is a foundational aspect of our nationhood. <https://www.foundingdocs.gov.au/item-sdid-96.html> (last accessed 6/3/23)
5. On the third of March 1986, the six Australian States gained independence from the British Crown through the Australia Acts 1986. While there is still debate on whether the Crown of Australia is a federal Crown or whether each State has its own divisible Crown, in practice, every State has passed legislation defining the Crown in right of their respective State (see appendix 1). If we can accept that each State operates under a divisible Crown in right of their State, then the divisible Crown in right of each respective State could only have begun its existence from the day the Australia Acts came into force the third of March 1986. While I understand the inherent ambiguity of the Crown of Australia precludes such a statement, it is *logical* to say that the divisible Crowns in right of the states, as Acts of State Parliaments define them, started their existence when the Australia Acts received Royal Assent, signed personally into law by The Queen.
6. The nature of the Crown of Australia needs to be better understood. It is a heavily contested topic. Each State has legislated Acts that define the divisible Crown in right of their State (see appendix 1), but there is also a view that the Crown of Australia is a federal Crown.

7. The head of State for Australia, the Commonwealth, all States, and Territories has been and is currently the one person defined as the monarch under the rules of succession for the British monarchy.
8. There is a vice-regal representative of the monarch for the Commonwealth, known as the Governor-General. In addition, there are vice-regal representatives of the monarch for each of the six States, known as the Governor, respectively. In the absence of the monarch within Australia, the seven vice-regal representatives can serve as heads of State for their respective body politics in place of the monarch.
9. There is no formal relationship between the seven vice-regal representatives of the monarch in Australia. Each of the seven Australian vice-regal representatives advises the monarch directly and independently of the other Australian vice-regal representatives.

Australia is unique among former and current commonwealth nations in having more than one representative for the monarch. All other former and current commonwealth nations, except Nigeria, had or have only one representative of the monarch, usually called the Governor-General.

Australia stands out with seven representatives for the monarch, and models for a republic that worked for other former commonwealth nations, including Ireland, cannot be assumed to be suitable for the unique situation in Australia. The ARM cites the Republic of Ireland as an example to emulate; however, before becoming a republic, Ireland had a one-to-one relationship between the monarch and the monarch's representative, the Governor-General. Australia, however, has a one-to-many relationship between the monarch and their seven representatives for the Commonwealth and States. Therefore, structurally, the comparison between Ireland and Australia is inappropriate. They are incompatible.

This is a crucial point. When there is a one-to-one relationship between the monarch and the vice-regal representative for a commonwealth realm, it is possible to convert into a republic by effectively cutting the link to the monarchy and promoting the unitary office of the vice-regal representative, usually the Governor-General, into the practical head of State or President for the sparkling new republic. A comparative constitutional analysis of commonwealth republics will demonstrate that this is how Commonwealth constitutional monarchies transform into republics. Yet, with seven vice-regal representatives for the monarch, Australia is different. We have a one-to-many relationship between monarch and their representatives. Promoting the Governor-General to become the President in a republic still leaves the states as constitutional monarchies with a Governor representing the monarch. If we try to have the State Governors appointed by and representing the Commonwealth President (promoted Governor-General) for the respective State, we alter the structure of the Federation. Who would the Commonwealth President take advice from when appointing a State Governor? The Governor-General must act on the advice of the Prime Minister, not a Premier. This is a structural issue unique to Australia and based on the nature of the Crown of Australia. What worked for every other Commonwealth republic will not work for Australia. It cannot be solved by hand waving, pointing to comparative studies, or coming up with quick fixes (pretending that using Section 126 to appoint State Governors will solve the issue).

The Commonwealth and six States, with the seven representatives of the monarch, are signified on the Australian National Flag as the seven-pointed "Federation Star" under the Union Jack. The seven points represent the Commonwealth and six States. After the Australia Acts 1986, this seven-pointed star also represents the seven divisible Crowns that constitute the Crown of Australia, whether it is a federal Crown or not. The head of State provides a unique service for Australia by providing the personal unity needed for the divisible Crown of Australia. Most republic models miss this essential function of the monarch in their models.

In 1999 the High Court of Australia discussed the nature of the Crown of Australia in the *Sue versus Hill* case. The High Court judges identified five meanings of the term "the Crown" in constitutional theory:

[Start of quote]

"[84] The first use of the expression "the Crown" was to identify the body politic...

[85] The second usage of "the Crown" is related to the first and identifies that office, the holder of which for the time being is the incarnation of the international personality of a body politic, by whom and to whom diplomatic representatives are accredited and by whom and with whom treaties are concluded...

[87] Thirdly, the term "the Crown" identifies what Lord Penzance in Dixon called "the Government" ...

[88] The fourth use of the term "the Crown" arose during the course of colonial development in the nineteenth century. It identified the paramount powers of the United Kingdom, the parent state, in relation to its dependencies...

[93] The phrases "under the Crown" in the preamble to the Constitution Act and "heirs and successors in the sovereignty of the United Kingdom" in covering cl2 involve the use of the expression "the Crown" and cognate terms in what is the fifth sense. This identifies the term "the Queen" used in the provisions of the Constitution itself, to which we have referred, as the person occupying the hereditary office of Sovereign of the United Kingdom under rules of succession established in the United Kingdom. The law of the United Kingdom in that respect might be changed by statute..."

[end of quote]

(...as it was indeed after the Perth Agreement at CHOGM 2011).

<https://www.ato.gov.au/law/view/document?DocID=JUD%2F199CLR462%2F00002>

Accessed 12/02/2023

The nature of the divisible Crown of Australia is discussed in greater detail by Professor Emerita Anne Twomey from the University of Sydney in the article *Responsible Government and the Divisibility of the Crown*.

Full reference details provided inline:

Twomey, Anne, Responsible Government and the Divisibility of the Crown. Public Law, pp. 742-767, Winter 2008, Sydney Law School Research Paper No. 08/137, Available at SSRN: <https://ssrn.com/abstract=1301166>

The Crown of Australia is more than the King or Queen. It is more than the monarchy. As the body politics and Governments of our Federation, the Crown in Australia encompasses the federal and State parliaments. It enables elected members of Parliament and Senators through fair and open elections. It provides government agencies and services for citizens and organisations in every tier of Government. The Crown of Australia is a modern Crown. It belongs to a second generation, an offspring from the British Crown of old. The date of its formation in 1939 coincides with when Australia declared war on fascism in Germany; to protect and enable liberal democracies, individual freedom, and the rule of law. It is arguably a Crown with a decidedly democratic ethos. An image that I feel encapsulates the spirit of the Crown of Australia is the image of Gough Whitlam pouring a handful of ancient sand into Vincent Lingiari's hands. It is Australia. It is the people of Australia. It can encompass our history and lore, an appropriate vehicle for sovereignty in Australia.

One purpose of democratising the Crown of Australia is to close the loop. By enabling a process that can see extraordinary Australians, in all our diversity and differences, to be elected to serve as ceremonial heads of State under the Crown of Australia, we signal to all our democratic institutions, military, leaders, and the public that the Crown of Australia is there to serve all people in Australia. It is a thoroughly democratic Crown.

The "Ugly Duckling" Model for the Australian Republic

The Ugly Duckling is a fairy-tale by Hans Christian Andersen. If you are unfamiliar with the story, it is about a chick born in a duck's nest that looks different from all the other duck chicks. He grows up being bullied and despised but still survives. Unfortunately, everyone around him thinks he is ugly because he doesn't look, quack or act like a duck. Finally, he sees some swans on a lake and confronts them, even though his self-image is that he is an ugly duckling. To his surprise, the swans welcome him, and the crux of the story is that he isn't a duck at all: he is a swan and a beautiful swan at that. It is a story about mistaken identity.

This model for a republic views the divisible Crown of Australia as an "Ugly Duckling". Therefore, this model proposes keeping the divisible Crowns of Australia. The idea is to replace the monarch with an Australian elected to serve a fixed term as our head of State under the Crown of Australia. By analogy with the fairy-tale, the old imperial British Crown is like the mother duck. The divisible Crown of Australia is, however, thoroughly democratic and republican. It came into existence on the third of September 1939 to defend democracy against imperialism. The parliaments under the divisible Crowns of Australia represent the Australian people in the Commonwealth, six States and Territories. Therefore, the divisible Australian Crowns, as the body politics for our nation, are thoroughly democratic and republican already. In the analogy with the fairy-tale, the divisible Crown of Australia is a republican swan. Yet, it is misunderstood by monarchists and republicans alike.

Imagine if we replaced the King/Queen with an elected Australian to serve a fixed term in office as our head of State, and we keep everything else as it is. We keep the Governor-General as the representative of the elected head of State for the Commonwealth and the Governors as the representatives of the elected head of State for the States, respectively. What would we have? We would have a republic in form and substance.

Every State has enacted legislation that effectively hides the fact that the Government of the State is a divisible Crown. Perhaps it is considered embarrassing and ugly. For example, in the Crown Proceedings Act 1992, the State of South Australia doesn't even want to include the State in naming the divisible Crown: "State Crown means the Crown in right of this State". It seems distasteful to be associated with a Crown of any type.

The divisible Crowns of Australia as body politics are democratic republics. They include the three branches of Parliament, Government and Judiciary. The Parliaments conduct free and open elections, and parliamentarians represent the people within their body politics. The first step of independence from the British Crown coincided with the declaration of war against Nazi Germany at the start of WWII. The divisible Crowns of Australia are about defending democracy, human rights and the rule of law. That is what they are. They are magnificent swans. They are at the heart of being Australian, enabling and endorsing our Australian values.

Yet, it is common fare in the debate around Australia becoming a republic to claim that Australia is still operating under the old British Crown. We hear claims that the Crown in Australia as an

old duck represents colonialism, imperialism, racism, genocide, etc. Then, we hear that the best we can do is get rid of it, and everything will magically be resolved, and we can start being proud of ourselves in an ARM-designed republic. But, unfortunately, short-sighted cultural cringe sees only a grumpy, old, ugly duck even when there is only a solid bank of beautiful swans surrounding us. We even have a magnificent black swan here.

A summary of a new 'Ugly Duckling" model for an Australian republic follows. Unfortunately, conveying a new paradigm and model for a complex system such as Australia's Federation is challenging in a concise and easy-to-understand way. It might not make sense without any details, but too much detail might blur the vision. Nevertheless, I will narrate the idea as clearly and succinctly as possible.

A summary of a proposed model for an Australian republic

This list attempts to describe succinctly how the Crown of Australia could be democratised for an Australian republic.

1. A maximum of one person shall serve as head of State for all of Australia, including the Commonwealth, all States, and Territories. This condition has been self-evident in the Australian constitutional monarchy. After the Australia Acts 1986, the head of State unifies the Australian Federation through the personal unity of the divisible Crowns of Australia.
2. For all of Australia, including the Commonwealth, all States, and Territories, to transition from a constitutional monarchy into a constitutional republic, this model proposes replacing the monarch with an elected Australian to serve as head of State while leaving everything else as it is.
3. We replace the monarch with an elected Australian to serve as head of State. This model proposes to keep the divisible Crowns of Australia and democratise them in a constitutional republic to mirror our nation's highest values. We understand that for the British and their class system, the royal family represents their society's pinnacle. Australians value democracy, the rule of law, service to the community, ingenuity, a fair go, and a fair reward for honest work. We expect selecting our head of State to reflect the highest values Australians hold dear.
4. This model proposes that an Australian be elected to serve a fixed term as head of State for all of Australia, including the Commonwealth, all States, and Territories.
5. We shall retain all the vice-regal representatives in a constitutional republic as representatives of the elected head of State. There shall still be a Governor-General for the Commonwealth and a Governor for each State, respectively. They shall retain all rights and powers as in a constitutional monarchy.
6. The reserve powers of the Governor-General and State Governors are justified. One essential principle for justifying reserve powers is the doctrine of the separation of powers in a republic. A unique feature of the Westminster system is that the two branches, the Legislature and the Executive, are both led by one person, the Prime Minister (or Premier in a State). The Prime Minister (with cabinet) is the leader of Parliament and the Government. The vice-regal representative must act on the Prime Minister's or Premier's advice. This arrangement works while everything runs smoothly. However, reserve powers are needed because the Prime Minister controls two of the three branches. If the Prime Minister loses control of Parliament but refuses to let go of Government, this becomes a deadlock that might need reserve powers to resolve (as in 1975). Suppose a Premier acts illegally as the Government but still retains control of Parliament; that might lead to an exercise of reserve powers (as with the dismissal of Lang). The exercise of reserve powers is an act of last resort taken to maintain the system's integrity. Their existence alone has a moderating effect on the Prime Minister

and Premiers. They are a way to preserve the separation of powers in a republic. Codifying the reserve powers will not work because we cannot know how a Prime Minister might try to bend the rules and conventions or exercise state power illegally. I understand that many people still feel resentful about the dismissal of 1975. With tact and better judgement, that situation may have been resolved in a different way. Still, I hope people see reserve powers as a necessary check and balance on the powers of the Prime Minister and Premiers because they control two of the three branches of Government in a Westminster system.

7. The candidates, electorate, and election for head of State shall be limited to one divisible Crown at a time. Elections shall be held in one State at a time and in all the Territories combined for the Commonwealth.
8. There shall be a round-robin of the seven divisible Crowns of Australia. The round-robin shall repeat continuously.
9. The order for the round-robin is fixed, and a provisional order is set geographically clockwise around the nation, starting with the Commonwealth:
 1. Commonwealth (All the Territories, including NT, ACT, etcetera),
 2. Queensland,
 3. New South Wales,
 4. Victoria,
 5. Tasmania,
 6. South Australia, and
 7. Western Australia.(We could also alternate populous states with less populous states by swapping the places of New South Wales and South Australia in the order above.)
10. Voting in the election for head of State is proposed to be compulsory within the given electorate based on Australia's history of enabling the franchise. It could alternatively be designed as a voluntary vote. The candidate with the most votes wins the election (first past the post). There will be no preferences exchanged between candidates. The purpose of the election is to select the most popular candidate out of a field of candidates by the absolute number of votes. We do not intend to establish for the winning candidate the demonstrated support from a majority of the eligible voting population in the given electorate, as we would if we used a preferential voting system. The role is ceremonial; once the winning candidate is serving in office, they are expected to serve the whole country, not just the people in their electorate or party. Preferential voting and a two-party preferred outcome are not relevant in this situation. Candidates must not be active members of a political party.
11. The federal and State governments will need to coordinate and provide some funding to enable a platform for candidates to campaign. This needs to ensure that anyone who wishes to take part is welcome to participate with their own voice in sharing their story.
12. An elected Australian's term as head of State is one year.
13. The provisional title of the elected Australian head of State is "Australian of the Year".

14. The gender of the elected head of State shall alternate from term to term.
15. A one-year term in office as the elected head of State shall begin and end on the third of September to commemorate the Statute of Westminster Adoption Act.
16. A target date for the first elected Australian to replace the monarch is the third of September 2032. The first "Australian of the Year" to serve as head of State should be elected for the Crown in right of the Commonwealth. The "Australian of the Year" for 2023 is Taryn Brumfitt, and if the gender alternates each year, the Australian of the Year for 2032 will be male. The target date is chosen so that the amount of time between the third of September 1939 to the third of March 1986 is the same as the amount of time from the Australia Acts to the start of the republic.
17. An elected head of State shall serve for six months before taking office as an apprentice under the outgoing head of State. They will be acting as a deputy for the head of State.
18. An elected head of State shall serve for six months following their term in office as a mentor for the incoming head of State. They will be acting in a deputy capacity for the head of State.
19. Each person elected as head of State shall serve the public for two years, starting and ending on the third of March, to commemorate the Australia Acts. A person elected to serve as head of State will share their duties with a peer throughout their time in public office. This will usually help to moderate their actions.
20. In summary, the public service of an elected head of State will consist of an initial six months as the deputy, followed by twelve months as head of State, and ending with six months as the deputy.
21. There will always be one head of State and one person acting in a deputy capacity, and the two people will always include both genders (an exception being through a case of misadventure).
22. The "Australian of the Year" replaces the monarch. As such, they must adhere to all the conventions constraining a monarch's public actions and behaviour in a constitutional monarchy. The role is purely ceremonial, and the "Australian of the Year" cannot exercise any form of political power or influence. They may not advise their representatives on any matter whatsoever. They are not permitted to comment publicly on political issues. Acceptance of the role of "Australian of the Year" implies an agreement with these conventions while serving the public. Candidates pursuing political agendas have many other avenues to take their message.
23. In the case of misadventure or impeachment while serving in office, the replacement for the elected head of State shall be the Governor-General for an Australian elected in the Territories or the respective Governor for an Australian elected in a State.

24. Processes for removing an elected head of State from office due to misconduct will also need to be established.

The path to a republic

These are some of the steps on the path to a republic:

1. The Commonwealth and all States would ideally make a formal binding agreement to consult with each other on any issue regarding the head of State for Australia, inclusive of the Commonwealth and all States. For example, a Federal Agreement to maintain a single and unifying head of State in both a monarchy and a republic can be agreed to while Australia is still a constitutional monarchy. The head of State for all divisible Crowns (as body politics) in the Australian Federation is still one person, King Charles III, as the King of Australia. A formal agreement between the Commonwealth and the States has a high priority and can be easily achieved in the short term while the issue remains uncontentious.
2. Harmonisation of the Crown of Australia

The Acts of State Parliaments that define the divisible Crowns for the states use terminology that differs from State to State. Ideally, the states and Commonwealth can agree to a standard format and naming convention that is implemented to provide consistency across Australia. The definitions would specify the scope for the state-divisible Crown and a title that is more acceptable for common usage. For example, the legislation for NSW (**Crown Proceedings Act 1988 No 70** NSW) clearly specifies the scope, while the legislation for Queensland (**Crown Proceedings Act 1980** QLD) clarifies that the Crown in right of Queensland also has the title of "State of Queensland". Secondly, the title "Commonwealth of Australia" rightly refers to the Crown in right of the Commonwealth at the federal tier of Government only. While the Commonwealth represents the international personality of Australian body politics, Australia is a Federation that includes States, Territories and a third tier of local governments. One topic for discussion in a transition to a republic is how the nation's name will change. This model suggests a suitable title would be something like the "Australian Federation". The Commonwealth comprises the top tier of the Australian Federation, the States and Territories comprise the second tier, with local governments as the third tier. The formation of our Australian nation out of the six colonies in 1901 is commonly referred to as "Federation". It is somewhat mundane, but it makes sense, states clearly the nature of our nation, maintains continuity to our past, and, most importantly, it should work for most people.

3. The transition from a constitutional monarchy to a constitutional republic presents the possibility of divergent heads of State for the Commonwealth and the States. This highly undesirable situation could result in one or more states trying to secede from the Australian Federation in a polarised political climate. The Australian Republic Movement (ARM), with their proposed Australian Choice Model, readily admits that their model for a republic will result in a polycephalous nation, with an elected head of State for the Commonwealth. At the same time, the States remain as constitutional monarchies under the King of Australia. The worst-case scenario to avoid is a divided nation or even a civil war resulting from a failed attempt to convert Australia's body politics into a republic.

4. In case the idea that a State may consider seceding may seem too far-fetched, I remind the reader that Western Australia held a referendum on succession from the Australian Federation in 1933, and this referendum passed with a majority of 66%. The referendum was not acted upon then, and Western Australia remains a member of the Australian Federation to this day. The possibility that a state would try to secede from the Federation has already been entertained. A state referendum in WA passed with a clear majority in 1933. That referendum clearly warns of the consequences of an ill-considered attempt to become a republic.
5. There will need to be a Constitutional Convention where constitutional experts and relevant stakeholders can openly discuss and debate the transition from a constitutional monarchy to a constitutional republic. Ideally, a consensus will emerge from these discussions.
6. We can test the process for electing an Australian to replace the monarch before a proposal is put before the people in a referendum. This will build confidence in the process before the referendum vote. In addition, we could modify the Australian of the Year Awards to include state-wide elections in a round-robin in the years leading up to the switchover.
7. The Australian of the Year Awards has been a feature of Australian society since 1960. There are national, State, and Territory Awards every year. The Awards recognise and celebrate Australians from all walks of life who have made significant contributions to Australian society. The Australian of the Year Award is an appropriate basis for the nomination and campaigning of Australians suitable for the role of head of State. We could add a process for electing a purely ceremonial head of State in a round-robin of the States and Territories combined for the Commonwealth.
8. The modern monarchy would be a source of inspiration for candidates' election campaigns. Campaigning will involve philanthropy and raising awareness and funds for community groups, charities and not-for-profit organisations that help our communities. The campaigning cannot be on political issues. Focusing on philanthropy for election campaigns and having an elected head of State bound by conventions that limit the monarch's political influence are some of the main reasons for keeping the divisible Crowns in a republic. This is a realistic and practical way to have an elected head of State who is purely ceremonial and structured so that the role cannot evolve to become a rival of the Prime Minister. An elected head of State would be bound by history and Westminster tradition. The focus of election campaigns can be on ways to help our community and reward the people who impact our community positively.
9. The rules for selecting an Australian as our head of State would need to be formalised as text to be added as new sections to the Australian Constitution.
10. The formal rules for selecting an Australian as our head of State must be presented to the Australian people in a referendum under Section 128 of the Australian Constitution.
11. In an amendment to the Flags Act 1954 in 2008, John Howard established rules for any vote or plebiscite to change the National Flag of Australia. The new rules stipulated that the existing National Flag must be one of the options presented in the list of options for any

vote. The divisible Crown of Australia has been at the heart of our system of Government for over 80 years, and it is right and proper that it is included as one of the options in any vote on an Australian republic. This model demonstrates that it would be possible to democratise the Crown of Australia if the Australian people decide to keep it in a republic.

12. The referendum would need to be passed in a referendum by an overall majority and a majority of States. These conditions would apply to any model for an Australian republic.
13. This new model proposes some extra steps in transitioning from a constitutional monarchy to a constitutional republic. The intention is to decisively lock in all the States with the Commonwealth when the transition to a constitutional republic takes place.
14. The Statute of Westminster is still active for Australia, the United Kingdom and Canada. I propose that after a successful referendum vote on new rules for electing an Australian head of State we formally request both the United Kingdom and Canada enact common changes in Acts concerning the Statute of Westminster. For example, we could ask them to pass Acts of Parliament under the Statute of Westminster to affirm that the rules of succession for the Crown of Australia have changed to the new democratic rules added to the Australian Constitution. These requests would need to be made after a successful referendum but before the switchover from the constitutional monarchy to the constitutional republic. The successful referendum to have new democratic rules defining the election of our head of State added to the Australian Constitution would demonstrate the democratic will of Australians to have the rules of the succession for the Crown of Australia modified as per the new democratic rules. These changes through the Statute of Westminster will cascade to the Australian States and will force the States to be bound by the new rules. Going beyond the Constitution to the divisible Crown is a novel idea, and it will need a lot of work to determine how we can implement this. However, this is a safeguard against States attempting to use the republic issue to secede from the Federation.
15. The Perth Agreement from CHOGM 2011 is a precedent for Commonwealth realm nations working together and synchronising modified rules of succession to the British Crown. While the Statute of Westminster intends to keep the rules for succession for the British Crown synchronised, it might also work as a vehicle to synchronise democratic rules of succession for the Crown of Australia among the seven divisible Australian Crowns.
16. On the specified date for the transition from a constitutional monarchy to a constitutional republic, the monarch and the first elected head of State for Australia will attend a special ceremony in Canberra. On that day, sovereignty through the divisible Crown of Australia will be transferred from the monarch to the Australian people, symbolised in the person of the first elected Australian head of State. Every year on the same day, another Australian from a round-robin of States and Territories will be granted the unique honour of being the face of Australia, the "Australian of the Year", our elected head of State.
17. Independence of the Australian Federation from the British Crown, which started on the third of September 1939, will then be completed. Australia is a long-standing democracy. Our ideals of democracy, the rule of law, and human rights distinguish Australia. We will have achieved independence peacefully and through lawful processes. We have moved on

from colonial Australia. We have matured since Federation under the British Crown and stand on our terms with our unique values and history. Reconciliation is a priority.

18. For over 60,000 years, the First Nations people have lived sovereign on the Australian continent. The First Nations had well-established laws that the Mabo ruling affirmed would even be recognised under British laws at the time of colonisation. The flagpole planted by Captain Cook in 1770 was set in fertile soil. The cutting took root. A great tree has grown. As the age of monarchies dwindles and dies, a new democratic era emerges. First nations people have a special place of respect and honour in an independent Australia. With over 500 nations across the continent before 1788, Australia has always been a lawful nation of diverse and multicultural communities. Australia is fertile ground for a healthy democracy.
19. An independent Australia with an elected head of State can become a beacon for democracy, human rights, and the rule of law around the world, especially within the Commonwealth of Nations. Moreover, our unique democratic experience and assets can help developing nations build healthy and open civil societies and liberal democracies. So it is Australia's turn to take the baton and lead the way to help heal the world from the excesses of imperialism.
20. Democratic divisible Crowns demonstrate the emergence of new levels of complexity in a natural process of evolution. Evolution starts with what works and builds on it. It may not seem logical if you were to design it from scratch. But evolution works, as with all of nature, as with magnificent ecosystems dynamic with unique flora and fauna.
21. It is odd that we have gained independence from the British Crown, and that we have our system of Government built on the groundwork of the divisible Crown of Australia, and yet it seems that almost no one knows about it. This applies equally to constitutional experts. The focus of experts is generally on the Constitution. Our Westminster system includes many unwritten rules and conventions; foremost within that paradigm is the Crown. The sole purpose of republicanism is to abolish the Crown, so is it too much to ask that our experts advocating a republic have at least a basic understanding of our system of democracy and the nature of the Crown of Australia? Australia is unique among commonwealth nations. We have seven vice-regal representatives of the head of State, and models for a republic that work in other commonwealth nations like Ireland will not work here. Australia has an extraordinarily robust democracy. Many Australians seem to take it for granted. However, a republic with a head of State that ignores the states could concentrate power with the Commonwealth, erode the states' tier of Government, and undermine the checks and balances that keep our democracy strong. A fish may take water for granted, at least until it is flapping around on the land. I hope we have the imagination to appreciate the value of the Crown (Gen 2) without first allowing it to be abolished.

Who Benefits from this model?

Supporters of a direct election republic

- The head of State is elected

Supporters of a Parliamentary Appointed republic

- The Governor-General retains reserve powers and continues to be appointed by the head of State on the advice of the Prime Minister and Cabinet. The State Governors retain reserve powers and continue to be appointed by the head of State on the advice of the Premier.
- The directly elected head of State cannot become a political rival of the Prime Minister.
- Very short term of one year.
- Conventions prevent the head of State from acting politically.
- The election campaigns are designed to remain apolitical.
- The electorate and candidates are based on states and Territories, so most elected heads of State will not have a strong national profile.

Conservatives

- We keep the Crown of Australia.
- We maintain the Australian Federation with the Commonwealth, all States and Territories.
- We keep the Westminster system.
- We keep one head of State for the Commonwealth and all the States, as with the constitutional monarchy.

Monarchists

- We keep the system as it is in a constitutional monarchy.

- The monarchy is in decline anyway and may be abolished with the next unpopular monarch. This model keeps the conventions constraining the monarch's actions for an elected head of State.
- For people who like to follow the antics of the British royal family, you are most welcome to continue doing that, but I can't help you if you want to keep that drama tied to Australia through a shared monarch as head of State.

Some possible Objections

There may be an objection that a term of one year is too short and the high turnover will confuse people. A head of State is meant to symbolise stability, strength and experience. Constantly changing the head of State will make us look unstable, and the people in the role will always appear inexperienced and new.

I don't entirely agree with this objection. This is a new paradigm for an elected head of State. The election campaign is based on philanthropy and giving a voice to the community, both for candidates and community groups. The role of head of State is purely ceremonial. The head of State is there to celebrate our wins and successes and to help us mourn and heal our losses. The elected head of State is from the people, for the people, and with the people. The role replaces the monarchy, the public royal family we follow through every stage of their lives and family feuds and issues, from birth to death. The 'Australian of the Year' is not elected to be a statesman or stateswoman. We do not expect them to be great orators or persuasive speakers. We still have the Prime Minister and Cabinet to represent the Government of Australia. An elected head of State which replaces the monarch does not need to be presidential. We want them to walk with Australians when we need them, to talk with us about our collective journey: in sports, through environmental disasters, to celebrate excellence, for special events, etc.

With this novel approach to electing an Australian to replace the monarch as our head of State, we will see many leaders, both men and women, at the beginning of their careers. The two years of service will be a whirlwind experience for them. Moreover, many will follow up their service to Australia with careers bringing value and engaged leadership for Australia in diverse disciplines.

Overall

- States have equal time with one of their residents as head of State, which will favour a successful double majority referendum vote with a majority of States.
- The Australian of the Year Awards is well established and accepted. However, it would be more accessible and more credible for people to imagine and accept the process of electing a head of State when it is within this framework.

- It promotes equal opportunity on the grounds of gender and will generate public role models for both genders.
- The divisible Crowns of Australia are already wholly Australian and democratic and enable responsible Government through the parliaments.
- This approach attempts to decouple the monarchy from the divisible Crown of Australia. The Crown represents the highest ideals for society. For the British and their class system, the monarchy is a natural fit for the Crown. With Australia, however, a democratic process is more appropriate.
- A person will only need to vote once every seven years for the head of State. There would be roughly two federal and two state elections within seven years, so this one extra election is not a significant imposition on a voter.

National Days to replace Australia Day

Third of September

To commemorate the Statute of Westminster Adoption Act and the independence of the Commonwealth of Australia from the British Crown on the 3rd of September 1939.

Third of March

To commemorate the Australia Acts 1986 and the independence of the Australian States from the British Crown on the 3rd of March 1986.

- This model proposes replacing Australia Day/Invasion Day, commemorating the establishment of the first permanent European settlement as a penal colony in Sydney, with two dates celebrating Australia's independence from the British Crown. The two days to replace Australia Day are the third of September (for the Commonwealth) and the third of March (for the States). By coincidence, these two days are exactly six months apart. We can replace one public holiday with two. These two alternative days commemorate significant events for modern Australia and are more meaningful for our future and our emerging role in the region and the world.
- The third of September is already an important day in the calendar for Australians. Our National Flag Day commemorates the first Australian National Flag raising at the Exhibition Building in Melbourne in 1901. It is also a day for remembering the services of sailors in the merchant navy through Merchant Navy Day. If the day falls on a Sunday, as it will in 2023, this is Father's Day in Australia. It is a couple of days after Wattle Day, usually celebrated on the first of September. The third of September links the Federation, the Flag, independence from the British Crown, the defence of liberal democracy in WWII, and the protection of human rights, through the declaration of war on Nazi Germany in 1939 and the Statute of Westminster Adoption Act 1942. It is the most suitable candidate for replacing the twenty-sixth of January as Australia's national day. It looks to our future as a modern nation.

Conclusion

The "Ugly Duckling" model for an Australian republic is a novel approach to transitioning from a constitutional monarchy into a constitutional republic. It starts from a firm foundation in the reality of the Crown of Australia as it is today, not as it was in 1901. It posits a democratic process to replace the monarch with an elected Australian to serve a fixed term in office as head of State. The election process is tailored to ensure that the elected head of State cannot become a political rival of the Prime Minister or Premier in our Westminster system of Government. We keep everything else as it is, including the representatives of the head of State for the Commonwealth, the Governor-General and the representatives of the head of State for the States, the Governors, respectively. This has been an attempt to present an outline and vision for democratising the Crown of Australia. The Crown of Australia still carries value and will continue to do so for the benefit of all Australians. I hope you can see that if we remove the Royals from our Crown, all Australians will own it: C_OWN!

Appendix 1 - References for state-divisible Crowns

Queensland - Crown Proceedings Act 1980

"...Crown means the Crown in right of the State of Queensland and includes a corporation representing the Crown, constituted by or under any Act or incorporated or registered under the Corporations Act...

8 Proceedings by or against the Crown

Mode of proceeding

(1) Subject to this Act and any other Act or law, a claim by or against the Crown may be made and enforced by a proceeding by or against the Crown under the title the 'State of Queensland'."

<https://www.legislation.qld.gov.au/view/pdf/inforce/2020-07-21/act-1980-002>

New South Wales - Crown Proceedings Act 1988 No 70

"Crown means the Crown in right of New South Wales, and includes:

(a) the Government of New South Wales, and

(b) a Minister of the Crown in right of New South Wales, and

(c) a statutory corporation, or other body, representing the Crown in right of New South Wales."

<https://legacy.legislation.nsw.gov.au/~pdf/view/act/1988/70/whole>

Victoria - Interpretation of Legislation Act 1984 (see p55)

"5 ...Act to bind Crown

This Act binds the Crown, not only in right of the State of Victoria, but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities...

Crown means the Crown in right of Victoria; (p55)"

<https://content.legislation.vic.gov.au/sites/default/files/2022-07/84-10096aa130%20authorised.pdf>

Tasmania - Crown Proceedings Act 1993

"3. Act to bind Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities, but does not extend to the Crown in right of the Commonwealth except where specific provision is made for its application to the Crown in right of the Commonwealth.

4. Interpretation

In this Act, unless the contrary intention appears –

...State Crown means the Crown in right of this State."

<https://www.legislation.tas.gov.au/view/whole/html/inforce/current/act-1993-014>

South Australia - Crown Proceedings Act 1992

"4—Interpretation

...State Crown means the Crown in right of this State...

(2) This Act extends not only to the Crown in right of the State but also (as far as the legislative power of the State admits) to the Crown in any other capacity but does not extend to the Crown in right of the Commonwealth except where specific provision is made for its application to the Crown in right of the Commonwealth 1.

Note— 1 Specific provision is made in section 9 for representation of the Crown in right of the Commonwealth in State proceedings."

https://www.legislation.sa.gov.au/_legislation/lz/c/a/crown%20proceedings%20act%201992/current/1992.25.auth.pdf

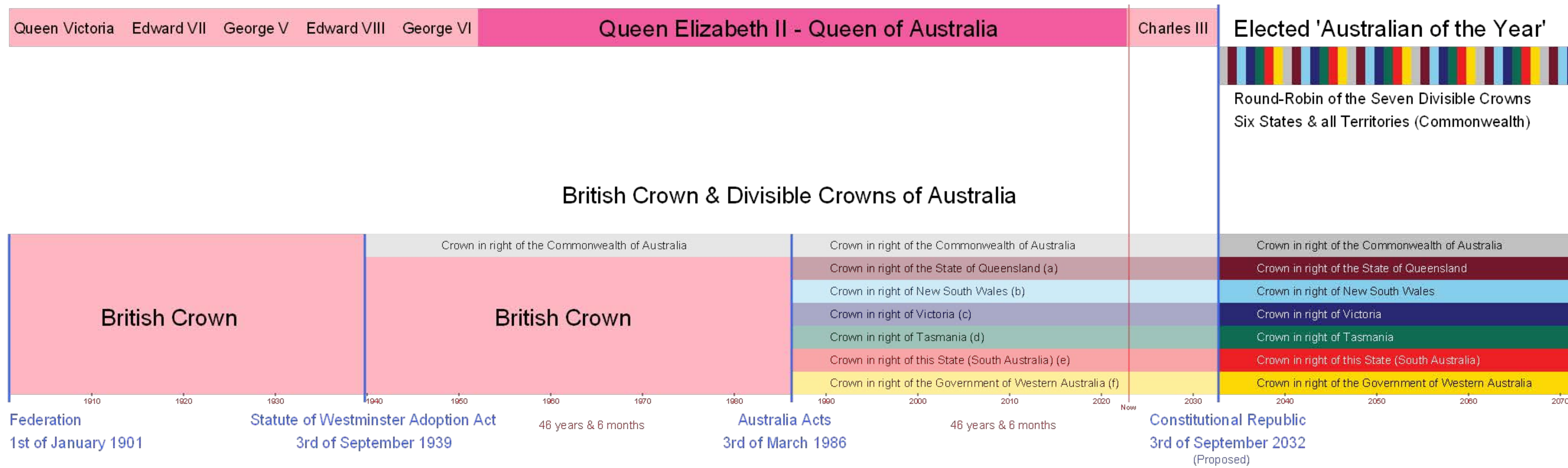
Western Australia - Crown Suits Act 1947

"Term used:

Crown In this Act, the term Crown means the Crown in right of the Government of Western Australia."

https://www.legislation.wa.gov.au/legislation/statutes.nsf/RedirectURL?OpenAgent&query=mrdoc_26881.pdf

Head of State for Australia



An Australian Republic by democratising the divisible Crown of Australia

Continuity of the Representatives of the Head of State into a Republic

Governor-General	Governor-General	Governor-General	Governor-General
Governor of Queensland	Governor of Queensland	Governor of Queensland	Governor of Queensland
Governor of New South Wales	Governor of New South Wales	Governor of New South Wales	Governor of New South Wales
Governor of Victoria	Governor of Victoria	Governor of Victoria	Governor of Victoria
Governor of Tasmania	Governor of Tasmania	Governor of Tasmania	Governor of Tasmania
Governor of South Australia	Governor of South Australia	Governor of South Australia	Governor of South Australia
Governor of Western Australia	Governor of Western Australia	Governor of Western Australia	Governor of Western Australia

Australia has developed from a constitutional monarchy under the British Crown to a constitutional monarchy under the divisible Crowns of Australia. We can complete our independence by replacing the monarchy with elected Australians to serve as head of state for fixed terms under the Crown of Australia. The Commonwealth of Australia first gained independence from the British Crown on the 3rd of September 1939. Since then, the monarch unifies all the divisible Crowns of Australia through a personal union. An elected Australian could also provide this personal union for our Federation as head of state. The nature of the divisible Crowns of Australia is contested. While each state has passed legislation defining the Crown in right of their respective state, there is a view that the divisible Crown of Australia is a federal Crown. As long as succession within Australia does not diverge, this shouldn't matter. Why keep the Crown? In *Sue v Hill* the High Court considered the meaning of 'the Crown'. A brief summary of the meanings of the Crown include 1) identifying the body politics, 2) the office and international personality of the body politics, 3) the Government, etc. Keep what we need, replace what we don't. The Crown of Australia is misunderstood. It is thoroughly democratic, egalitarian and 100% Australian. As in the story 'The Ugly Duckling' by Hans Christian Andersen, the Crown of Australia is despised, mocked and ridiculed by republicans. Yet, once we see it for what it is, it is the most beautiful model. Australian State Divisible Crowns: (a) Crown Proceedings Act 1980 - QLD, (b) Crown Proceedings Act 1988 No 70 - NSW, (c) Interpretation of Legislation Act 1984 - VIC, (d) Crown Proceedings Act 1993 - TAS, (e) Crown Proceedings Act 1992 - SA, (f) Crown Suits Act 1947 - WA

Seven Golden Stars – a flag suitable for an Australian Republic

As symbols that recognise the Aboriginal and Torres Strait Islander peoples as the first peoples of Australia, I have also included flag designs where the Union Jack is replaced by the Sun from the Aboriginal Flag. These flags were originally designed by me around 20 years ago and were registered with IP Australia. I assert the copyright for these designs. There are versions of these flags that include the Australian Coat of Arms. These flags are intended as potential State Flags for the Commonwealth of Australia. These are not official flags. In this submission I have included the Coat of Arms for completeness. These are proposed designs only, included with this submission to the Committee for the consideration of Parliament.

The proposed flag colours are the national colours of Australia; Green & Gold and Blue & Gold. The colours of the Aboriginal Flag belong to the Aboriginal community.

The flags are based on a reconfiguration of the Blue Ensign. While the Blue Ensign has a proportion of 1:2, the new Flag has a proportion of 2:3.

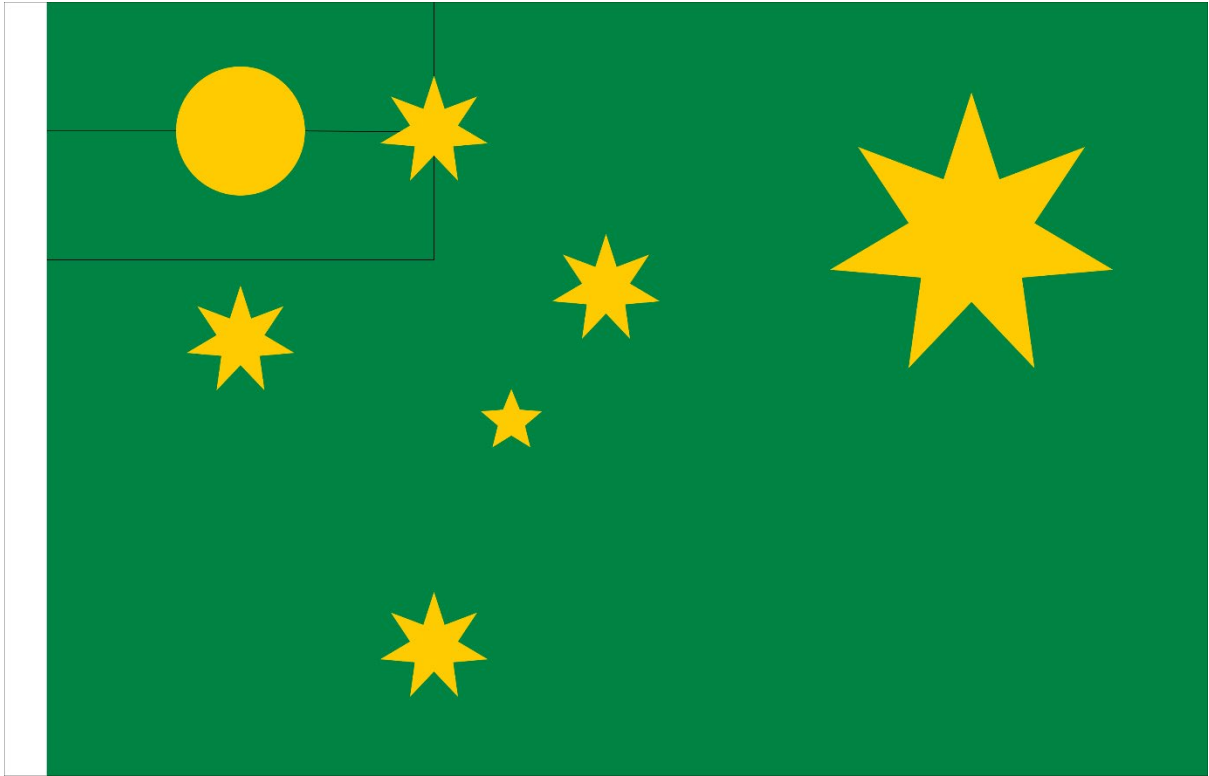
The Southern Cross from the fly becomes the hoist of the new Flag, and the quarter with the Federation Star is moved from below the Union Jack to the fly. *Beta Crucis*, *Delta Crucis* and the Federation Star are aligned, with *Delta Crucis* at the midpoint between *Beta Crucis* and the Federation Star. The Federation Star is also equidistant from the top and right edges (this symmetry is uncanny). A white strip is added to the hoist so that *Delta Crucis* is the horizontal midpoint of the complete Flag.

The original design of the Aboriginal Flag has a proportion of 2:3, although it is typically manufactured in 1:2 to match the proportion of the National Flag. The Sun from the Aboriginal Flag is placed in the Canton at a right angle to *Beta Crucis* and *Gamma Crucis*. The outline of the Aboriginal Flag can be included in the Canton.

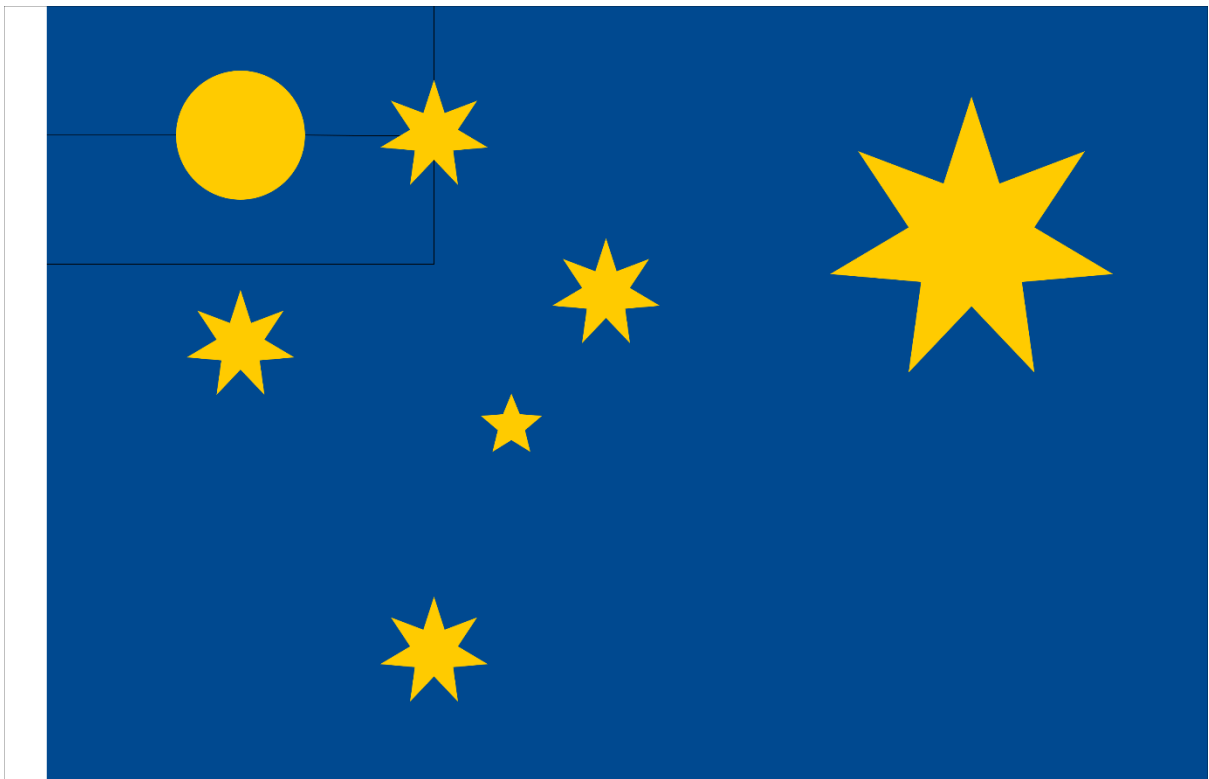
This Flag keeps the elements from the National Flag, except that the Union Jack is removed while the Sun from the Aboriginal Flag is added. This symbolises the continuity of the Indigenous laws and cultures over Australia and the fact that the Aboriginal and Torres Strait Islander peoples are the first peoples of Australia. The new Flag is in the national colours, with golden stars (the Sun is also a star) and a background of either blue or green. A tricolour version is also available. While this is intended as a new flag suitable for an Australian republic and all Australians, the colours for the Aboriginal Flag remain with the Aboriginal community.

The Federation Star for the proposed national Flag is three-eighths of the width of the Flag, as endorsed by Queen Elizabeth II with the Flags Act 1953. The designs charged with Arms or badges have the Federation Star at three-tenths the width of the Flag.

There are versions of this new flag design for all the states, the ACT and NT. There is also a state flag for the federal tier of Government. The green and gold versions are intended for sports.

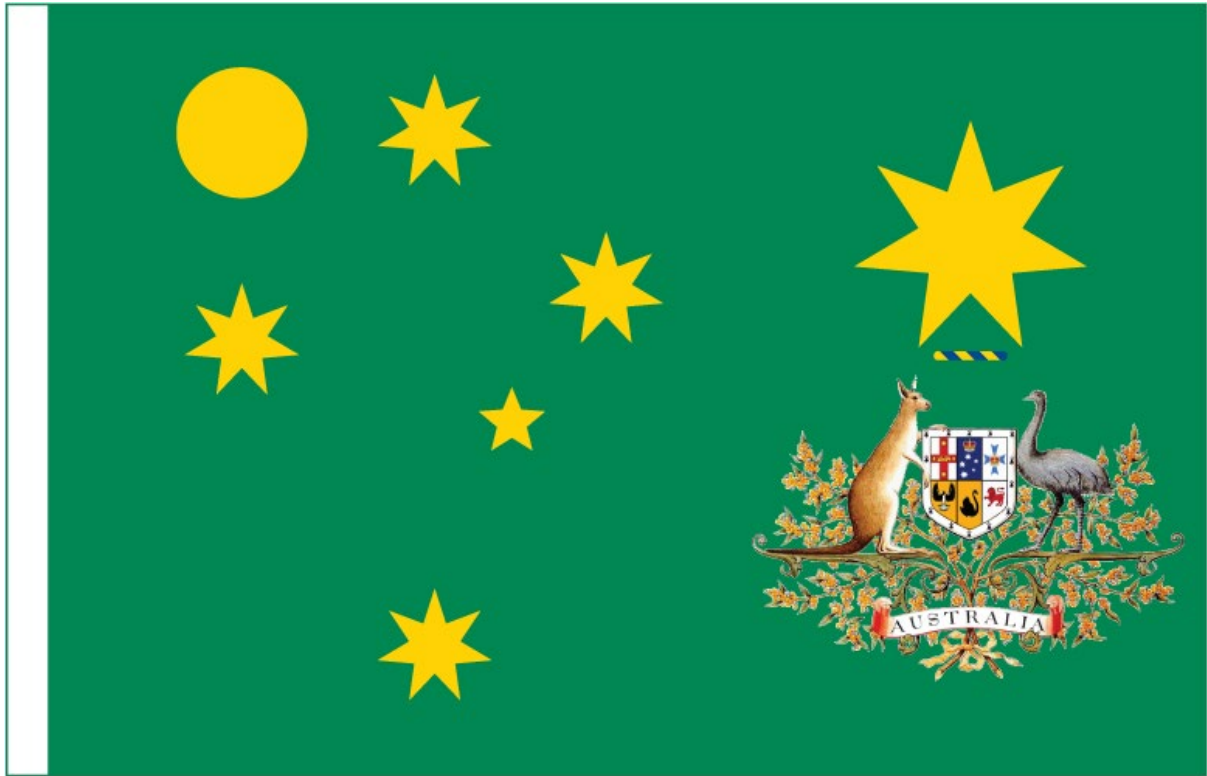


1. Green and Gold – Seven Golden Stars

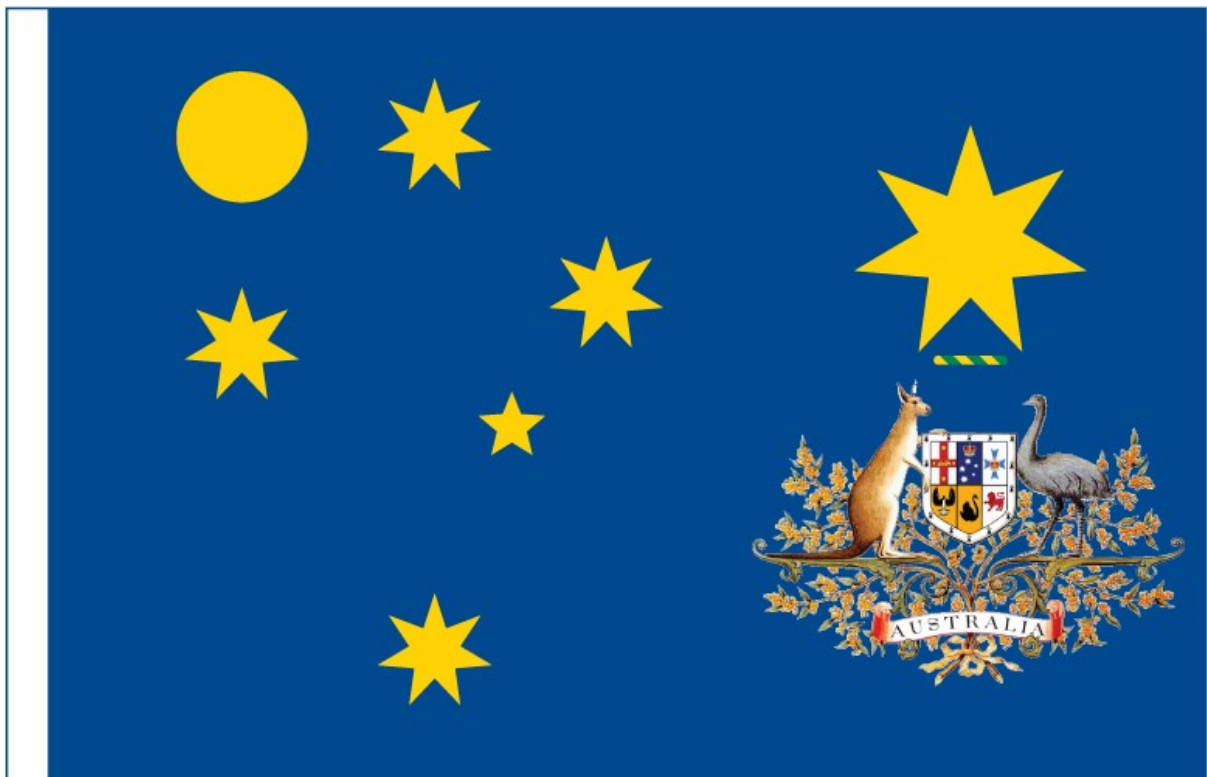


2. Blue and Gold – Seven Golden Stars

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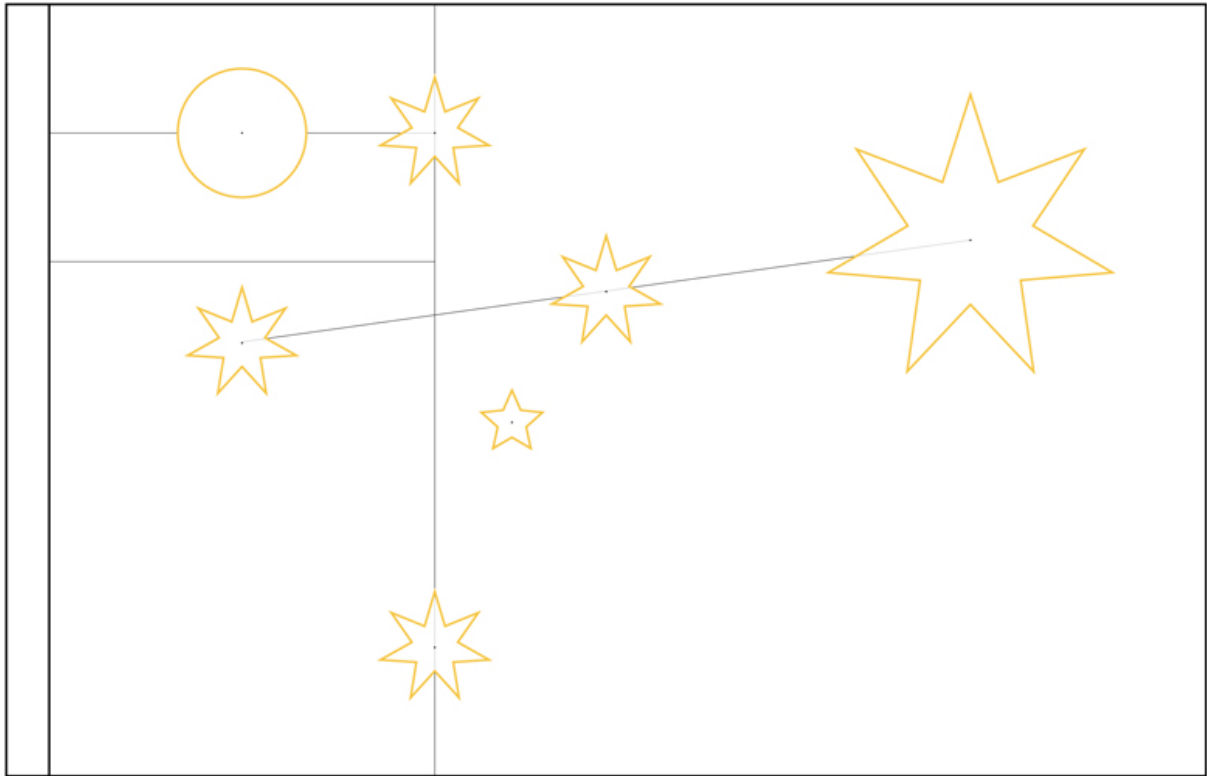


3. Green and Gold – Seven Golden Stars – State Flag charged with Coat of Arms



4. Blue and Gold – Seven Golden Stars – State Flag charged with Coat of Arms

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5. Seven Golden Stars – Design

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Proposed Alternative Flags for Australia

I acknowledge the Traditional Custodians of country throughout Australia and their connections to land, sea and community. I pay my respects to their elders past, present and future, and extend that respect to all Aboriginal & Torres Strait Islander peoples today. These designs honour & include the First Nations on our national flags.



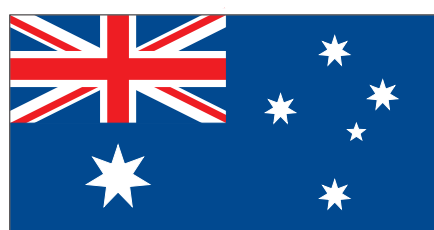
Proposed Australian National Flag

The Commonwealth of Australia first gained Independence from the British Crown on September 3, 1939. The six Australian States gained Independence on March 3, 1986. We can unify the 7 divisible Crowns of our Federation under an elected Australian who replaces the Queen only, serving a fixed term as head of state.

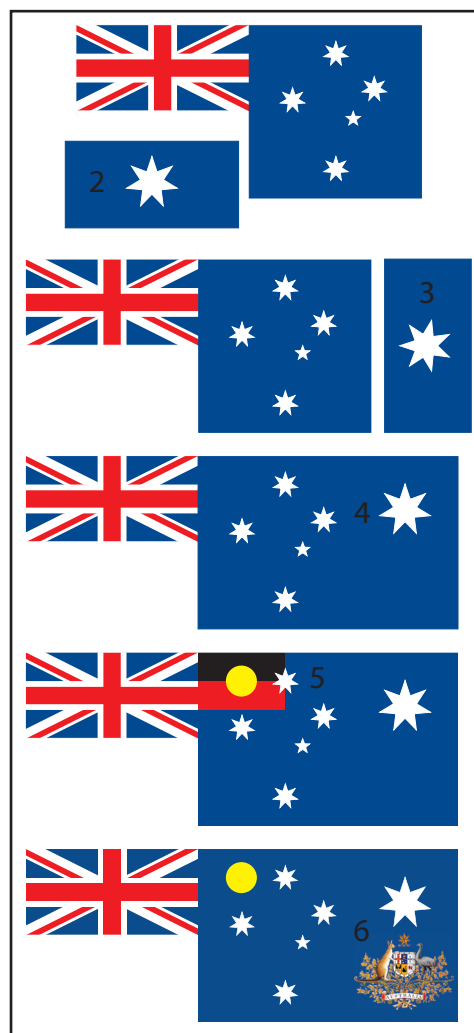
Construction of the new Flag

The new flag features the Southern Cross, Commonwealth Star and Sun. These new flag designs for Australia are based on the Australian National Flag. The new designs represent an evolution of the current flag in a way that reflects our independence, and respects and acknowledges our past. They present Australia in a new light to the world.

- Step 1. Start with the National Flag.
- Step 2. Detach the quarter below the Union Jack.
- Step 3. Move this quarter to the right of the fly, turned to 90 degrees.
- Step 4. Align the Commonwealth Star to the Southern Cross symmetrically.
- Step 5. Add the Sun from the Aboriginal Flag to the new canton.
- Step 6. Add the Coat of Arms.
- Step 7. Change all the stars to gold.
- Step 8. Remove the Union Jack.
- Step 9. Add a white strip to the hoist to centre Delta Crucis.



Current Australian National Flag



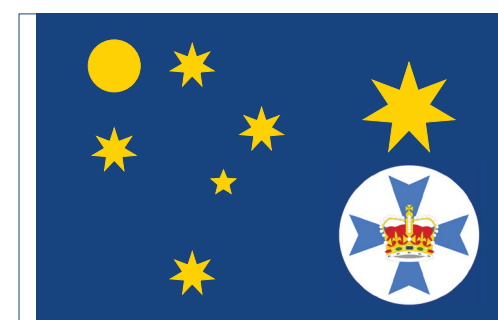
National Sporting Team Flag



Green & Gold Sporting Flag



Western Australia



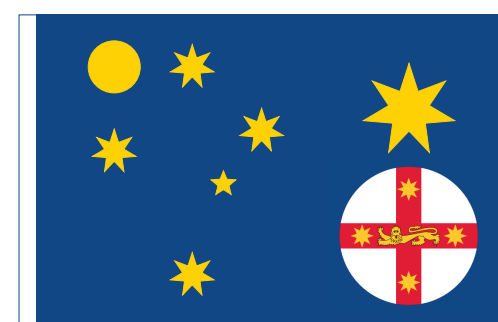
Queensland



South Australia



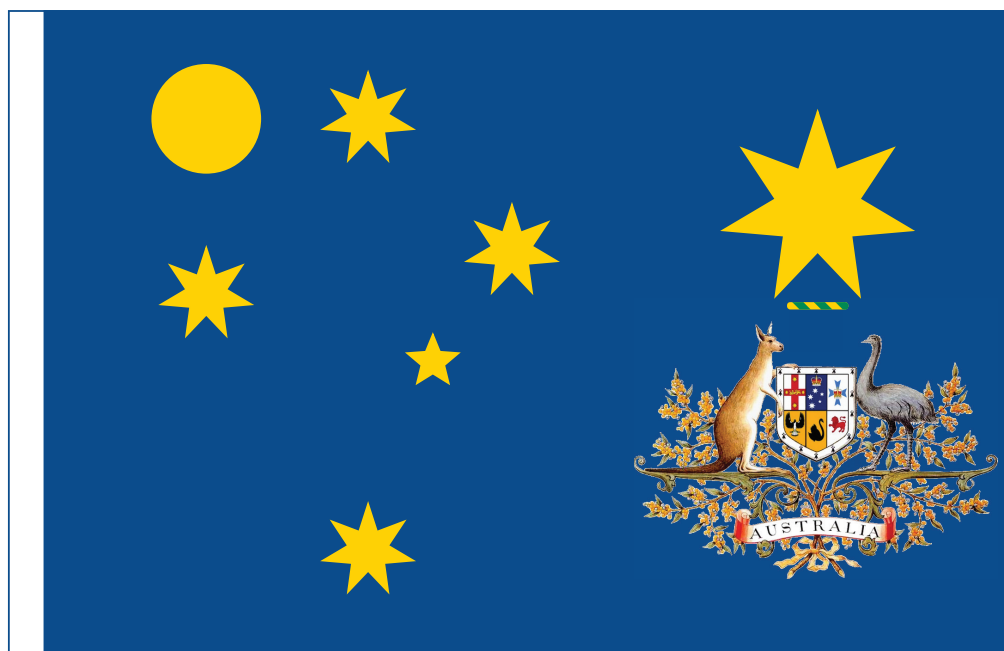
Aboriginal Flag



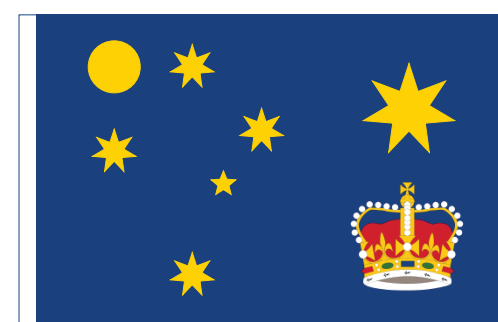
New South Wales



Tasmania



Proposed Australian State Flag



Victoria



Northern Territory



Australian Capital Territory