

Ugly Duckling Model for an Australian Republic

Written by Robert Vose

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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 on the path 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.

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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. We are a federation of States and territories within the Commonwealth of Australia.
3. 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)
4. 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, on 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.
5. 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.

6. 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.
7. 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.
8. 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.

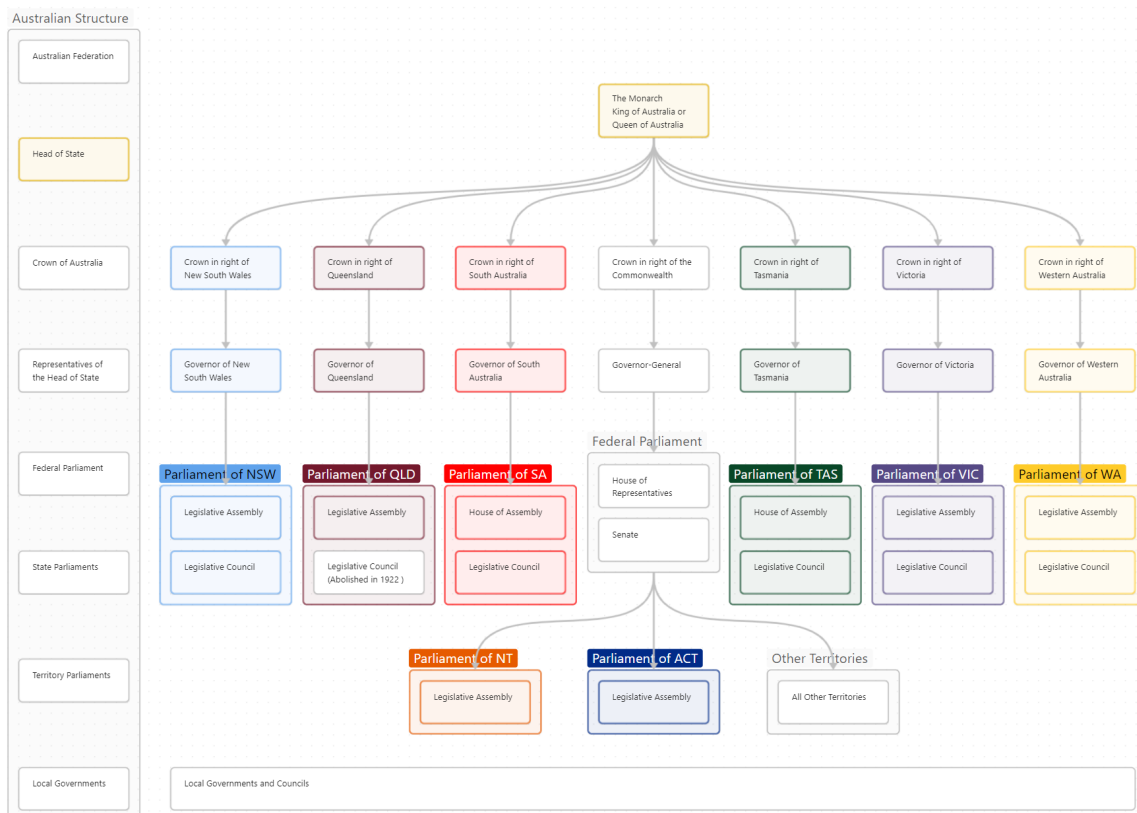


Figure 1. Diagram showing the current structure of the Australian Federation

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 can not 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. The Crown in Australia as the body politics and Governments of our federation, 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.



Prime Minister Gough Whitlam pours soil into the hand of traditional land owner Vincent Lingiari, 1975 Mervyn Bishop. © National Indigenous Australians Agency

One purpose of democratising the Crown of Australia is to close the circle. 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.

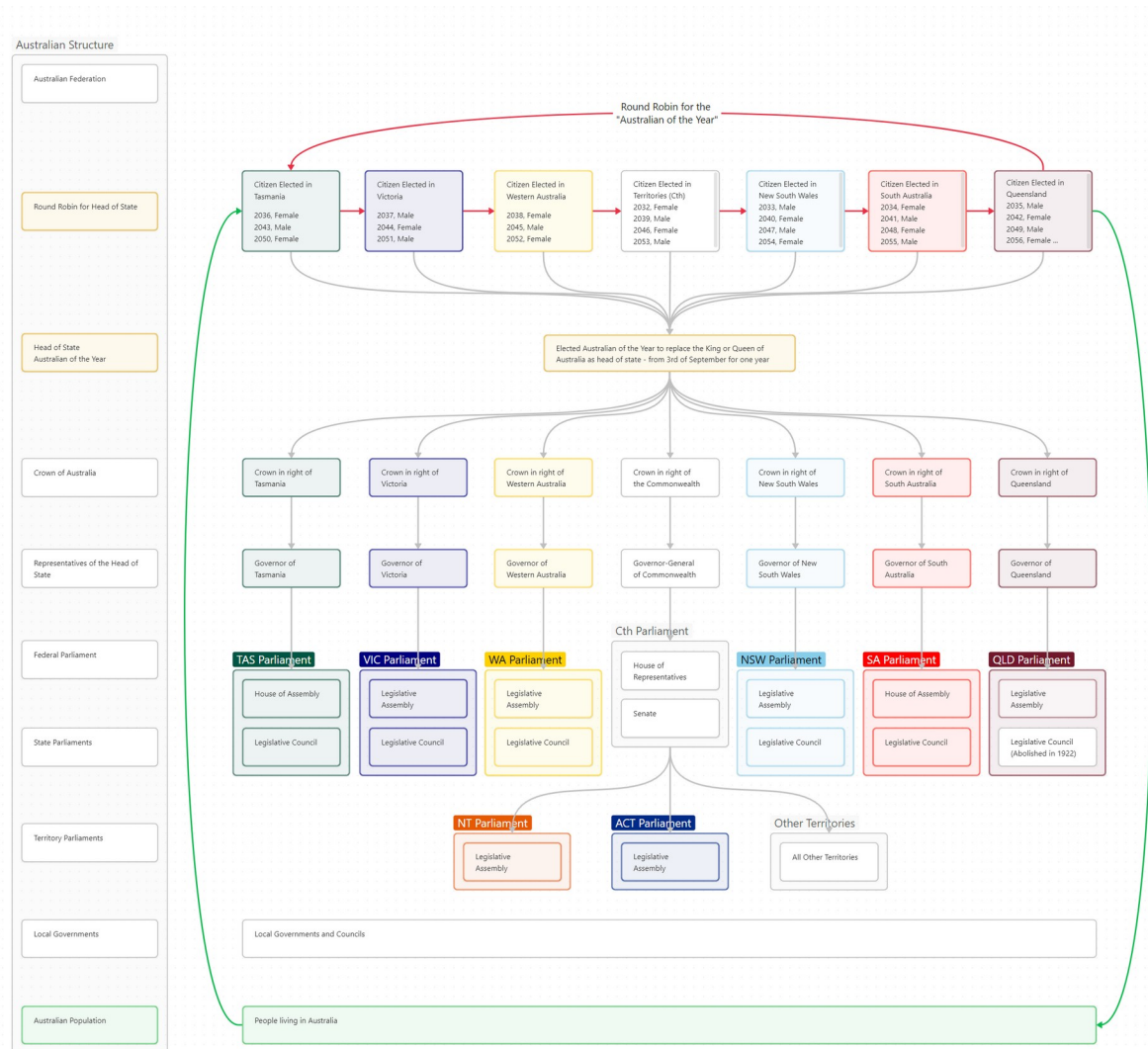


Figure 2 A Democratic Crown for Australia to close the circle and place the people of Australia at the top of our system of government

The "Ugly Duckling" Model for the Australian Republic

The Ugly Duckling is a fairytale 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 fairytale, 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 fairytale, the divisible Crown of Australia is a republic 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.

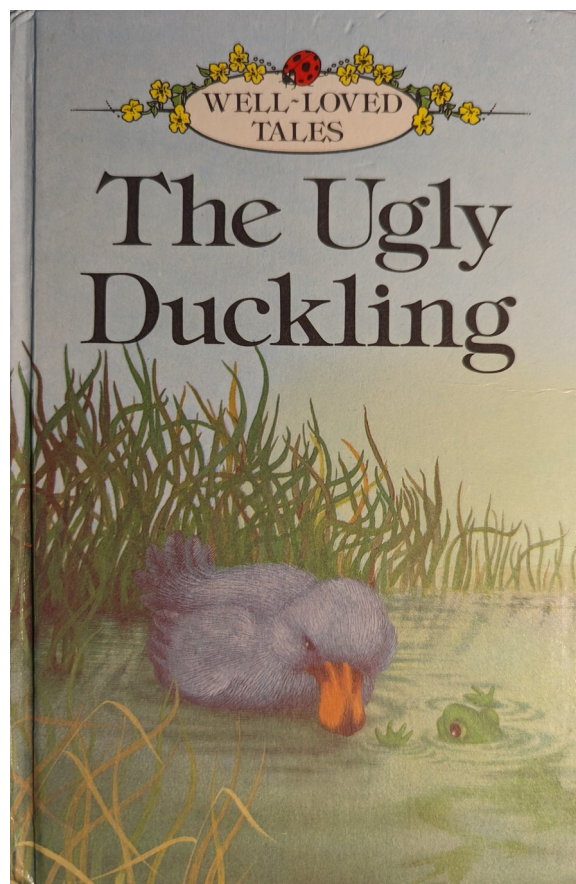
Every State has enacted legislation that effectively hides the fact that the Government of the State is a divisible Crown. Perhaps it is considered embarrassing and ugly. For example, in the Crown Proceedings Act 1992, the State of South Australia doesn't even want to include the State in naming the 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 democratised 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, et cetera),
 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.
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, while 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 extra election is not a significant imposition on voters.
- 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

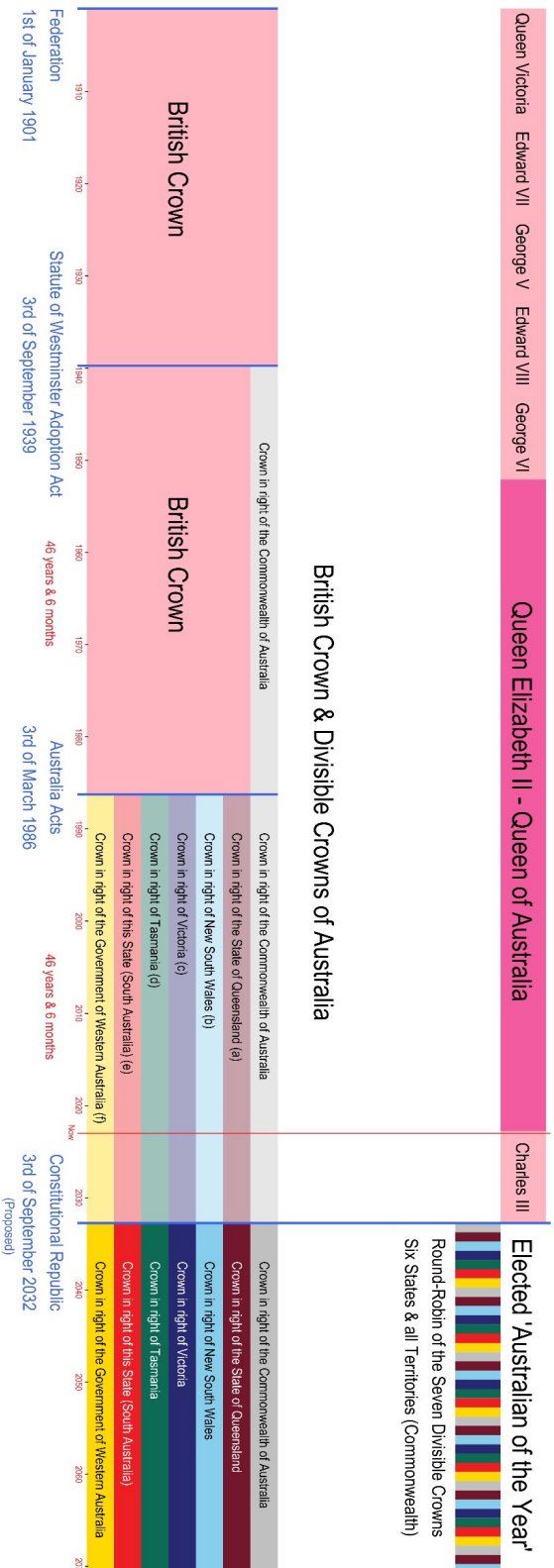
Western Australia - Crown Suits Act 1947

"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

State/Territory	Current Head of State	Proposed Head of State
Governor-General	Governor-General	Governor-General
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 Victoria	Governor of Victoria	Governor of Victoria
Governor of Tasmania	Governor of Tasmania	Governor of Tasmania
Governor of South Australia	Governor of South Australia	Governor of South 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 unites 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 1994 - VIC, (d) Crown Proceedings Act 1983 - TAS, (e) Crown Proceedings Act 1992 - SA, (f) Crown Suits Act 1947 - WA

Appendix 3 – Draft Changes to the Constitution

Section 129 – An Australian republic

Since time immemorial, Australians walk sovereign on this land.
We recognise and honour the Aboriginal and Torres Strait Islander peoples of Australia.

The people of Australia agree to restore sovereignty within our nation, by electing an Australian to serve a fixed term as head of state, in place of the monarch, under the democratic Crown of Australia.

Commencing from 10 am on the 3rd of September, 2032, successors for the Crown of Australia shall be elected of the people, by the people, and for the people of Australia.

(See Note 1 – Section 129)

Section 130 – Election of the head of state

A successor for the Crown of Australia must qualify for nomination in the same way as for a Senator or Member of the House of Representatives.

The term of office is one year.

The title of the head of state is “Australian of the Year”.

The gender of the head of state taking office in even years must be female, and the gender of the head of state taking office in odd years must be male. (see Note 2)

A successor for the Crown of Australia must serve an apprenticeship under the previous head of state, for a duration of six months prior to their term in office, starting on the 3rd of March.

A successor for the Crown of Australia must serve as a mentor to the incoming head of state, for a duration of six months after their term in office, ending on the 3rd of March.

The people of New South Wales, South Australia, Queensland, Tasmania, Victoria, Western Australia, and all the Territories combined for the Commonwealth, shall elect an Australian to serve as head of state in turn through a round robin.

Every State, and the Territories combined for the Commonwealth, must elect an Australian to serve as head of state once every seven years.

A candidate for election must be a resident of the relevant State or Territory.

The gender of the head of state elected in a State, and all the Territories combined for the Commonwealth, must alternate between male and female for each seven year cycle.

Voting shall be first past the post. (see Note 3)

There shall be two rounds of voting to elect an Australian head of state.

The first round of voting shall result in a short list of no more than the seven candidates with the highest number of votes.

The second round of voting shall be to elect the successor for the Crown of Australia from the candidates on the short list, who shall be the person receiving the highest number of votes.

If there is a draw between first and second place, the Commonwealth Parliament shall decide between these two candidates by a majority vote.

If a State, or the Territories combined for the Commonwealth, fail to adequately elect a head of state for their turn in the round robin, the Governor of the State, or the Governor-General of the Commonwealth for the Territories combined, shall serve as head of state, regardless of gender.

Section 131 – Impeachment of the head of state

The Commonwealth Parliament may impeach and remove an elected head of state with a two thirds majority vote of both houses.

Section 132 – Vacancy in the office of head of state

A successor for the Crown of Australia who has died while in office, resigned, been impeached, or who has otherwise left office prematurely shall be replaced by the Governor of the State they were elected in, or by the Governor-General if elected in the Territories combined for the Commonwealth, regardless of gender.

Section 59 – ~~Disallowance by the Queen.~~ Powers of the head of state

~~The Queen may disallow any law within one year from the Governor General's assent, and such disallowance on being made known by the Governor General by speech or message to each of the Houses of the Parliament, or by Proclamation, shall annul the law from the day when the disallowance is so made known.~~

The elected head of state replaces the monarch under the democratic Crown of Australia. He or she must abide by the conventions practised during the reigns of monarchs since the Statue of Westminster Adoption Act 1942 and in accordance with the Australia Acts 1986.

Notes

Note 1 - Section 129

This refers to Covering Clause 2 by changing and redefining the rules of succession for “successors” for the Crown of Australia only. If passed by a referendum, and enacted by identical legislation in all Australian States, the Commonwealth, and the Parliaments of the UK and Canada, the idea is to redefine rules of succession for the head of state in Australia under the Crown of Australia.

The new rules of succession define a democratic process for electing our head of state. If successfully added to the Commonwealth Constitution, and accepted under the Statute of Westminster by the UK and Canada, we can keep the divisible Crown of Australia, no matter whether this is a federal Crown or not, and turn this into a democratic Crown. Everything else can stay the same.

The Statute of Westminster changed the nature of the Crown from indivisible to divisible and thus it arguably changed the scope of **sovereignty** under divisible Crowns, even if there continues to be only one **Sovereign**.

Australian Constitution

Covering Clause 2: Act to extend to the Queen’s successors

The provisions of this Act referring to the Queen shall extend to Her Majesty’s heirs **and successors in the sovereignty** of the United Kingdom.

The date of the 3rd of September is chosen to commemorate the Statute of Westminster Adoption Act 1942 which was made to apply retroactively from the 3rd of September 1939.

The year 2032 is chosen because the length of time between the Statute of Westminster Adoption Act 1942 (starting from 3/09/1939) and the Australia Acts 1986 (starting from 3/03/1986) is the same as the length of time between the Australia Acts 1986 and the potential establishing of an Australian republic on the 3/09/2032 – 46 years and six months.

10am is the start of the day in Greenwich Mean Time (GMT) and Coordinated Universal Time (UTC). It’s best to start on the dot.

Note 2

Assuming the last monarch for Australia in 2032 will be a King, the first elected head of state for Australia in 2032 would be female.

Note 3

Two party preferred voting systems are not relevant for contests between individuals.

Process

Once this is considered a possibility, we will need to convene a convention, conference, establish a Parliamentary Inquiry, or set up an expert working group, to examine and document the options.

If expert opinion supports this possibility, it would then be suitable to start engaging with the Parliaments of the Commonwealth and States, as well as political parties.

There would need to be a formal agreement between the Commonwealth and all States on the nature of the Crown in Australia, and a commitment for the Commonwealth and States to agree to work together on any changes to the Crown in Australia. This step is critical, and further progress will need to be paused until there is a formal and universal agreement on this topic. There must also be a consensus between political parties that this option will be supported.

A draft referendum question can then be prepared and publicly discussed.

Discussions with the British monarchy, Parliaments of the UK and Canada need to be initiated.

If polling suggests that this option can win a double majority in a referendum, the next step would be to prepare for a referendum vote.

If a referendum is passed, and the new sections added to the Commonwealth constitution, this will not automatically achieve our objective.

We will then need to formally request the Parliaments of the UK and Canada to pass legislation to amend the Statute of Westminster.

The text of the Acts needs to be prepared by experts, and a process similar to that initiated at CHOGM 2011 with the Perth Agreement need to be started.

Every State needs to pass identical legislation requesting the Commonwealth to request the UK and Canada to enact Acts in their parliaments to modify the Statute of Westminster.

Even if the UK and/or Canada refuse, we will still be able to carry on with our own arrangements. It would be better to include them and the monarchy, and it would be poor form for any of them to refuse if the referendum passes. It isn't essential but it would be nice to have a formal handover.

The first election would need to be conducted before we are a republic.

Ideally, we will have the monarch visit Canberra for the transition to a democratic Crown of Australia on the 3rd of September 2032.

Note that Brisbane will host the summer Olympics in 2032 – albeit it is scheduled to run through Brisbane's winter from Friday, 23 July 2032 to Sunday, 8 Aug 2032. Perhaps we could arrange to have this rescheduled to the second and third weeks of September so that the whole world can witness the establishment of the new republic in Australia.

We have seven years to make this happen!

Appendix 4 – Proposed Flag designs

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.



National Sporting Team Flag



Western Australia



South Australia



Tasmania



Northern Territory



Proposed Australian National Flag

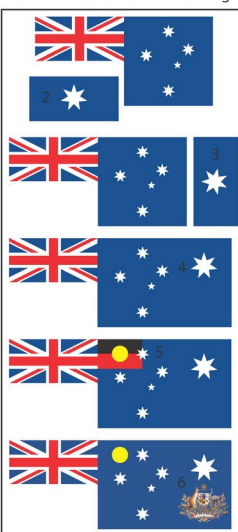
Construction of the new Flag

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.

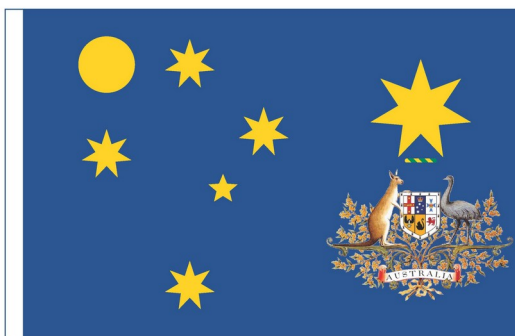
- Step 1. Start with the National Flag.
- Step 2. Detach the quarter below the Union Jack.
- Step 3. Move this quarter to the right of the fly, turned to 90 degrees.
- Step 4. Align the Commonwealth Star to the Southern Cross symmetrically.
- Step 5. Add the Sun from the Aboriginal Flag to the new canton.
- 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



Aboriginal Flag



Proposed Australian State 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.



Green & Gold Sporting Flag



Queensland



New South Wales



Victoria



Australian Capital Territory

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