



YOUR CHOICE THE PEOPLE'S CHOICE

a DISCUSSION PAPER
on a model for an AUSTRALIAN REPUBLIC
with a real DIRECTLY ELECTED HEAD OF STATE
and OTHER CONSTITUTIONAL REFORMS

October 2022

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HAVE YOUR SAY

This discussion paper outlines our ideas for a republic with a directly elected Head of State.

It also contains our suggestions for a process to achieve a republic as well as other beneficial constitutional reforms.

Our aim is to foster debate and seek feedback. We have not presumed to present drafts of new or amended sections of the Australian Constitution or to draft any new or amended laws needed to achieve our goals.

We believe it is important to discuss the issues involved in transitioning to an Australian republic and we welcome your ideas and feedback:

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INTRODUCTION – THE TIME TO ACT IS NOW

For some Australians the ascension of King Charles III could be the first time they became aware of the fact that the British Monarch is Australia's Head of State.

Past market research shows that even during the reign of Her Majesty Queen Elizabeth II a large portion of our population [didn't realise](#) that she – a monarch of a foreign nation, sitting in a foreign nation – was our Head of State.

To be a truly independent nation on the world stage Australia must have an Australian as its Head of State. Under our current constitutional monarchy that can never happen. Ever.

There is an even deeper sense of unfairness in the fact that our existing constitutional arrangements mean no one descended from our First Nations can ever be Australia's Head of State. Ever.

We must change that situation. We believe that informing Australians about how we believe our nation can become a republic is vital. That's the purpose of this discussion paper.

A GENUINE DIRECT-ELECTION MODEL

The Real Republic Australia has always advocated for a republic with a Head of State elected directly by Australian voters.

We offer a model under which any Australian who meets eligibility criteria can seek to stand for election as Head of State in a nationwide ballot.

We do not support the appointment of our Head of State by politicians or parliaments.

We do not support politicians handing down to voters a list of approved candidates from which they can take their pick. That is not a real direct election.

A CONSTITUTIONAL CONVERSATION

We suggest achieving a republic through a system of Australian Constitutional Assemblies comprising average voters to assess republic models and draft a shortlist.

Those possible models would then be put to voters in a non-binding plebiscite asking two questions – first of all if they back a republic and, if so, what model they think is best for our nation.

Only then will the next republic referendum give voters the best choice of model – one belonging to the Australian people and not to any individual or pro-republic group.

The Real Republic Australia is confident that a genuine direct-election model remains the preferred model for an Australian republic.

We believe it has the best chance to pass at any future referendum.

RESPECTING THE ROYAL FAMILY

The republic debate should never be a platform for attacking the British royal family.

Most Australians — including many republicans — rightfully acknowledge the late Queen Elizabeth's dedicated service over more than 70 years. She was rightly regarded with great respect and affection.

King Charles should also be respected.

But that doesn't mean we shouldn't pursue an Australian republic. It doesn't mean that our advocacy of a republic is a sign of disrespect to the royal family. It isn't.

'The Real Republic Australia's direct-election model does not propose a radical redrafting of the Westminster-style system of parliamentary democracy and government that Australia has enjoyed since Federation.'

Members of the royal family know that the debate is not about them. It is about our future as a nation and the republic question is entirely for us to decide.

The late Queen Elizabeth, the Duke of Edinburgh, and King Charles as Prince of Wales all expressed the view that they would respect our decision.

The bar is set very high for changes to our Constitution and we should not waste our energies on trivial personal attacks.

Ours is not an anti-royal family campaign but a positive cause for a truly independent Australia.

'NO' TO A US-STYLE SYSTEM

It is important to state clearly that we do not seek a change to anything remotely resembling the American-style system of government in which the US President is both leader of the government and Head of State.

No mainstream group or individual seeking an Australian republic wants that.

The Real Republic Australia's direct-election model does not propose a radical redrafting of the Westminster-style system of parliamentary democracy and government that Australia has enjoyed since Federation.

We point to Ireland which is a republic with a directly elected Head of State with strictly codified powers who operates comfortably within a Westminster-style system that includes a bicameral parliament and a cabinet government led by a prime minister formed in the lower house.

CHANGES TO CONSIDER NOW

The Albanese Government has said its work on constitutional change in its first term will focus on giving Aboriginal and Torres Strait Islander peoples a voice to federal parliament.

But that doesn't mean the republic campaign stands still.

AN EXCHANGE OF IDEAS

This discussion paper sets out our ideas for how an Australian republic with a genuine directly elected Head of State might work, plus how we might achieve it.

We have not presumed to present specific amendments to our Constitution. That's a job for constitutional lawyers and parliamentary drafters at a later date.

We think we first need to offer Australians a chance to have a say on the ideas we are proposing, none of which are set in stone except our central and guiding commitment to a genuine directly elected Head of State.

HAVE YOUR SAY

I hope you find this discussion paper both interesting and stimulating.

We welcome your comments and I look forward to receiving your feedback.



DAVID MUIR AM

Chair



We acknowledge the traditional custodians of country and First Nations throughout Australia and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders past, present and emerging.

OUR MODEL – AN OUTLINE

This section contains a summary of the aims and objectives of the changes to the Australian Constitution we wish to see to achieve an Australian republic with a real directly elected Head of State. Throughout this discussion paper we have refrained from including suggested new text for any new or amended sections of our Constitution or new or amended laws, instead preferring to outline our goals and the pathways we suggest for achieving them.

Our position

The Real Republic Australia seeks changes to the Constitution by referendum to deliver an Australian republic with a Head of State chosen directly by voters in a national election from candidates free to nominate themselves and who have met clear eligibility criteria.

We do not support and believe that most Australians will not support:

- any model in which a Head of State is appointed by politicians or parliaments, or
- any model which offers voters only candidates on a shortlist approved by politicians or parliaments.

Terminology

The Real Republic Australia believes that as a republic we should retain our nation's formal name, "Commonwealth of Australia", while recognising that the ultimate decision rests with voters. (See page 9)

We acknowledge that "President" is a widely used name for a Head of State in a republic but also believe it would be possible to retain the title Governor-General or adopt a new name such as "Governor of Australia". We recognise that the decision on a name for an Australian Head of State is one to be taken by Australian voters. (See page 10)

A directly elected Head of State should:

- hold office for a five-year term with a fixed day for their election,
- be eligible to be re-elected only once, imposing a limit of two terms for any individual. (See page 10)

Codified powers

A detailed discussion of proposed codified powers for an elected Head of State is included from page 11. We also present a table on pages 13 to 15 comparing current constitutional provisions and our suggestions for reforms as part of our model for a real directly elected Head of State.

In summary, we believe an elected Head of State should:

- be given responsibilities similar to those of a current Governor-General and in line with Westminster system practices and conventions,
- discharge their responsibilities in line with powers codified in the Australian Constitution or relevant laws enacted by the federal parliament,
- discharge their responsibilities based on advice from the Prime Minister as head of the nation's Executive Government or the Federal Executive Council unless otherwise explicitly defined, eg: in relation to integrity agencies.

(See pages 13-15)

Primacy of Executive Government

We recommend amendments to the Constitution to ensure that when fulfilling their responsibilities and discharging their powers, an elected Head of State would rely on advice from the Executive Government provided by the Prime Minister or the Federal Executive Council. (See pages 13-15)

Independent integrity oversight

One area in the codified powers suggested for an elected Head of State where they could act on their own discretion would be in the making of appointments to the leadership positions of federal anti-corruption and integrity agencies or offices such as the Ombudsman and Auditor-General.

We believe this will ensure greater independence, integrity, and transparency in our nation's governance. (See page 12)

Independent advice

We support the concept of an independent and expert three-person Council of State appointed at the sole discretion of the Head of State whose members could provide advice to the Head of State on constitutional issues with the full knowledge of the Prime Minister. (See page 12)

The role of states and territories

We believe that states and territories should be directly involved in preparing for a transition to a republic at an early stage as well as making a start on drafting plans for any necessary changes they need to make to their constitutions or legislative and administrative processes based on the assumption of a successful republic referendum and which can be implemented to coincide with Australia becoming a republic. (See page 15)

Clear eligibility criteria

We believe that the Australian Electoral Commission (AEC) should conduct of Head of State elections every five years and that eligibility criteria for candidates for the office of Head of State applied by the AEC should broadly align with those applied to individuals seeking to enter federal parliament and include:

- being at least 18 years of age, and
- being an Australian citizen and having completed the citizenship checklist now required by the AEC for parliamentary candidates, and
- being resident in Australia, and
- being eligible to vote in a federal election.

However, we wish to see additional eligibility criteria in the interests of integrity and transparency including:

- having not been a sworn elected member of any local, state, or federal legislative body for a period of at least five years,
- not being a member of any political party,
- requiring any governor or administrator of an Australian state or territory to resign their position prior to seeking to nominate for election as Head of State,
- presenting written endorsements of their candidacy by 100 individuals registered to vote at federal elections,
- providing to the AEC declarations to show:
 - that they have fulfilled their obligations in relation to the payment of income, corporate, or other taxes under all relevant Australian laws for at least the previous 10 financial years,
 - they have no outstanding or potential disputes with the Australian Tax Office or any state and territory revenue collection or enforcement agencies,
 - details of past disputes with federal, state, or territory tax or revenue agencies,
- delivering to the AEC for publication details of their pecuniary interests in the format now applying to federal MPs,
- delivering to the AEC a statement outlining how, if they were elected as Head of State, their personal and/or corporate assets and investments as listed in the details of pecuniary interests would be held in a blind trust for the period in which they serve as Head of State. (See pages 16-17)

CONTINUED.....

OUR MODEL – AN OUTLINE (continued)

FROM PREVIOUS PAGE....

Strict eligibility criteria (continued):

We recommend that following any successful referendum for Australia to become a republic, the federal parliament's Joint Standing Committee on Electoral Matters (JSCOEM) as composed at the time conduct an inquiry to consider and recommend any further eligibility criteria. *(See page 17)*

We suggest that all declarations or statements outlined above be made available for public scrutiny prior to an election. *(See page 17)*

We also recommend that the AEC impose appropriate fees on individuals seeking to be candidates for the office of Head of State:

- a non-refundable candidacy lodgement fee,
- a further non-refundable fee for candidates deemed by the AEC to have met eligibility criteria and whose name would be entered on the national ballot paper for the office of Head of State. *(See page 17)*

List of candidates

We believe that if only one candidate meets eligibility requirements for the office of Head of State it would not be necessary to proceed to a ballot for their election and they would be declared elected unopposed. *(See page 18)*

If no individual seeking to be elected to the office of Head of State meets the eligibility criteria a new call for nominations should be made.

In such circumstances the nation's most senior governor or administrator willing to serve would become Acting Head of State until an election could be held, and the term of the subsequently elected Head of State would be shortened to conclude on the day it would have ended if a recall of nominations had not occurred. *(See page 18)*

Responsibility of candidates

The Real Republic Australia recommends that those meeting eligibility criteria for standing for election should be required by law to advise the AEC of the appointment of a campaign agent or agents responsible for compliance with election laws and regulations. *(See page 18)*

We suggest that a formal campaign period be limited to no more than 15 days prior to the day on which a national election is held to choose our Head of State. *(See page 18)*

Each eligible candidate would be required, at their own expense, to establish and advise the AEC of a dedicated campaign website to disseminate information about themselves and their campaign as well as establish social media accounts as they see fit with a part of their campaign website devoted to publicising donations to their campaign.

Investigating public support limits

We recommend that after a successful republic referendum the federal parliament's Joint Standing Committee on Electoral Matters conducts an inquiry to determine:

- the feasibility of using online voting for Head of State elections,
- any new or amended legislation necessary to conduct such elections and to ensure voting integrity and security,
- the feasibility of campaign spending caps,
- the extent of publicly funded support, if any, to candidates, and
- the appropriateness and method for the partial reimbursement of candidates of election campaign costs. *(See page 19)*

The Real Republic Australia would support a workable cap on campaign spending, especially advertising.

We propose that the JSCOEM consider and recommend one of two options for partially reimbursing legitimate campaign costs incurred by candidates for the position of Head of State:

- a payment per vote in line with current federal electoral laws, but at a lower and non-indexed rate per vote of 50 cents and only for candidates achieving 10% or more in primary votes nationwide, or
- provision of a finite reimbursement pool to be declared every five years in advance of each Head of State election to be shared among candidates in proportion to their respective primary votes above 10%.

No candidate should be able to reclaim an amount higher than their actual campaign spending. *(See page 19)*

Donation rules

While not pre-empting the findings of any JSCOEM Inquiry, we also propose strict record-keeping and disclosure requirements for candidates via their campaign agents including advising the AEC of donations above \$200 and releasing publicly such details within 24 hours. *(See page 20)*

Method of election

The Real Republic Australia would support the use of online voting for Head of State elections to reduce costs and improve efficiency and speed of counting of votes. *(See page 21)*

We suggest the Joint Committee Inquiry mentioned above examine the feasibility of online voting. Until it is approved as being sufficiently secure voting should take place by voters attending a polling place between 8.00 am and 6.00 pm over a period of seven days ending on a designated Saturday.

Ballots for a Head of State could also be cast by postal vote as now happens for federal elections.

For in-person voting, the AEC should ensure that sufficient polling places are established in each federal electorate similar to those currently used for pre-poll voting. *(See page 21)*

Voting would be compulsory and votes would be tallied in a single nationwide election using the preferential voting system now applying to federal elections. *(See page 21)*

Rules for polling places

We believe the election process for our Head of State should include the following features:

- limits on candidates' campaign posters and other materials outside polling places,
- no distribution of how-to-vote cards at polling places,
- candidates to have the option of displaying how-to-vote cards of a size and format and in locations specified by the AEC outside a designated polling place,
- candidates to have the option of supplying to the AEC how-to-vote cards of a size and format specified by the AEC for display inside a polling place or polling booth. *(See page 21)*

CONTINUED.....

OUR MODEL – AN OUTLINE (continued)

FROM PREVIOUS PAGE....

Interim arrangements

Because of the time needed to make arrangements for the transition to a republic, including the development of laws and systems for directly electing our Head of State, a suitable transition period should apply before Australia officially becomes a republic. This could take 18-24 months and during that period the current constitutional arrangements would apply. *(See page 21)*

Vacancy in the office

The Real Republic Australia recommends that if a Head of State resigns, dies, or is temporarily or permanently incapacitated within two years of being elected, a new election should be held.

But in such circumstances the person elected as replacement Head of State would serve only the balance of that term until the next scheduled election for Head of State. *(See page 21)*

In other cases involving the resignation, death, or temporary or permanent incapacity of a Head of State outside of the first two years of a five-year term, the nation's most senior state governor or territory administrator should assume the office as Acting Head of State until the next scheduled Head of State election. *(See page 21)*

Incapacity of a Head of State should be determined by a panel consisting of the Speaker of the House of Representatives, the Chief Justice of the High Court of Australia, and the Commonwealth Chief Medical Officer.

The panel would be empowered to seek expert advice and assessments and report to the Parliament which could then decide whether or not to vote to declare the office vacant. *(See page 21)*

We believe the title Head of State should be reserved exclusively for an individual elected to the office by the Australian people and any person replacing a Head of State for the balance of a term but who is not elected should be referred to as Acting Head of State. *(See page 21)*

We suggest anyone who serves as Acting Head of State should be free to later seek the office for two full terms. *(See page 21)*

Removal from office

We suggest that either the House of Representatives or the Senate could consider a charge of misconduct against a Head of State subject to a vote in favour of a notice of motion in writing signed by not less than two-thirds of the house in which the charge originates. *(See page 21)*

When a charge seeking to remove a Head of State has been supported by two-thirds of the Members of either house of the federal parliament, the other house should elect a special committee of its Members to investigate the charge and report to its Members within one month.

The Head of State should have the right to appear and to be represented at the investigation of the charge.

If after debate on the investigating committee's report, two-thirds of that house's members vote to support the removal of the Head of State, the Head of State would be deemed to have been removed from office.

As above, if a Head of State is removed in the first two years of their term, a new election should be called for a person to complete that term. *(See page 21)*

If outside the two-year period, the most senior state governor or territory administrator would assume the office as Acting Head of State and serve the balance of the former office holder's term. *(See page 21)*

Roadmap to a republic

The Real Republic Australia suggests using a new entity, an Australian Constitutional Assembly, to achieve a republic with an elected Head of State. *(See page 22)*

We propose that the Assembly – modelled on a system used to achieve constitutional reform in Ireland – comprise:

- an independent part-time chair designated by the Speaker of federal parliament but not an elected member of any legislative body, and
- at least 99 part-time members – all Australian citizens entitled to vote at a referendum and recruited at national level in accordance with best recruitment practice so as to be broadly representative of Australian society.

The Assembly would be given 12 months to examine workable republic models and recommend a shortlist.

The shortlisted models would be put to voters in a national non-binding plebiscite asking two questions:

- whether voters supported an Australian republic, and
- what model they preferred.

If the threshold question on a republic achieved majority support, then the model most strongly supported by voters would proceed to a referendum. *(See page 23)*

We believe it is essential to have a plebiscite and not just impose a model on voters.

We also believe it is essential that two questions are asked in one plebiscite, and not risk a "no" vote to a single threshold question by not providing voters with potential models to consider.

We suggest that our recommended approach would ensure the best chance of success of a future republic referendum because the model put to voters would by then be familiar to them and belong to them.

OUR GOAL: AN AUSTRALIAN REPUBLIC

The Real Republic Australia wants an Australian republic which preserves our Westminster-style system of government with the legislative power of the Commonwealth vested in a federal parliament consisting of the Head of State and the two houses of parliament – the House of Representatives and the Senate.

Unlike our current constitutional monarchy, the Head of State of an Australian republic will be an Australian representing the Commonwealth of Australia, not a foreign monarch whose primary allegiance is to the United Kingdom.

Q: Do you want the ability to vote directly on who becomes our Head of State in an Australian republic?

We wish to see our Head of State directly elected by Australian voters from among candidates free to nominate themselves and stand for election if they meet eligibility criteria. The eligibility criteria we envisage are aimed at ensuring high standards of integrity and transparency.

Q: Do you support the idea of choosing someone in an election who has nominated themselves and met eligibility criteria rather than being given a shortlist of potential candidates chosen by politicians?

We do not support the idea of an appointed Head of State, or the concept of voters being told who they can vote for by having politicians, parliaments, or other intermediate bodies hand down an approved shortlist of candidates. That is not direct election.

Acknowledging our history

The Real Republic Australia believes that the Westminster system we inherited from Britain has served our nation well since Federation in 1901 and has delivered true participatory democracy that, unfortunately, is unknown or is under threat some other nations. But Australia must evolve and become truly independent on the world stage.

It should be intolerable that under the current constitutional monarchy no Australian could expect to be our own nation's Head of State.

Members of the Royal Family also often represent The Queen and the nation in Commonwealth or other countries, at events such as state funerals or national festivities, or through longer visits **to strengthen Britain's diplomatic and economic relations.**

It should be especially intolerable that no person with First Nations heritage could ever hope to fill the position of Head of State.

Most former British colonies have evolved to be independent nations and then moved to become republics. Many did so under the reign of the late Queen Elizabeth II and none did so out of disrespect for her. They recognised that the British monarch at any given time may hold sincere and positive feelings towards former colonies but that the monarch's primary allegiance is always to Britain.

Extracts from 'The role of the Royal family' at www.royal.uk show the UK is inevitably the priority for the British royals. Emphasis added.

In our case King Charles III's primary allegiance is to the UK. It will never be to Australia.

The royal family's [own website notes](#) this fact when outlining their major duties.



..... the Royal Family as a whole plays a role in strengthening national unity. Members of the Royal Family are able to recognise and participate in community and local events **in every part of the UK**, from the opening of new buildings to celebrations or acts of commemoration.

As a constitutional monarch and our nation's Head of State, whenever King Charles or senior royals travel

abroad they play significant roles in promoting and boosting industry, investment, exports, and tourism. But on the world stage the British royals project an image that relates entirely to Britain, not to Australia. Experience overseas, such as in Ireland, shows a directly elected Head of State can lift the profile and presence of a nation on the world stage.

The fact that the Irish President is directly elected gives the position added credibility. The Irish President, unlike our Governors-General, does not represent another individual residing in another nation.

A directly elected Head of State for Australia would promote our nation's resources, talents, and economic opportunities on the world stage, and that will translate into more investment and jobs.

Q: Do you believe we need a Head of State of Australia who is an Australian and whose primary focus on the world stage is the promotion of Australia and the Australian people?

We believe it is time to make a change so that Australia has its own Head of State who can project Australia and the achievements and talents of Australians to the world.

Learning from past mistakes

The seeds of defeat of the republic referendum on 6 November 1999 were sown at the February 1998 Constitutional Convention.

The referendum failed because the 152 delegates to the [10-day Convention](#) held in Canberra spent too much time on a futile monarchy-versus-republic debate and not enough time determining a model that would secure the support of Australians.

OUR GOAL – AN AUSTRALIAN REPUBLIC (continued)

On the last day of the Convention, after not enough time had been spent devising a model that would have succeeded at a referendum, the following motion was put to delegates:

“That this Convention supports the adoption of a republican system of government on the bipartisan appointment of a President model in preference to there being no change to the Constitution.”

In the end the model that emerged – appointment of a Head of State by a minimum two-thirds majority vote of MPs in the federal parliament – did not have majority support even among delegates. The vote was far from an enthusiastic endorsement: 73 “yes” votes ; 57 “no”, and 22 delegates abstaining.

In short, the wrong model – quickly dubbed a “politicians’ republic” – was put to Australian voters in a “take it or leave it” manner. At the referendum they chose to leave it.

The tragedy of the events of 1998 and 1999 is that the preference of voters for a directly elected Head of State was clear well before the failed November 1999 referendum.

A [June 1999 analysis](#) by Professor John Warhurst, now Emeritus Professor in the School of Politics and International Relations at the Australian National University in Canberra, said opinion polls had shown a rise in republican sentiment among Australians since 1953 when support for abandoning the monarchy was 15%. But a growing sense of Australian nationalism since the 1980s and 1990s had seen support rise in general terms, although he cautioned against directly comparing the many poll outcomes because of their differing samples and questions.

“By the time of the Constitutional Convention in February 1998 surveys regularly reported a majority in favour of an Australian republic (though this is not to say that this is how Australians would have voted at a referendum),” he noted.

But Prof Warhurst said opinion poll respondents began to firm up their views as the model that emerged from the Constitutional Convention became clearer. Faced with a choice between a directly elected Head of State and one chosen for them by federal politicians “a large majority supported the former”, he said.

His analysis mentioned opinion polls taken prior to the 1999 referendum that gave a clear indication of the unpopularity of the “politicians’ republic”.

“For instance, a poll taken in the first week of February 1998, during the Constitutional Convention, reported that 66% supported election by popular vote compared with election by Parliament (17%). When pitted against the status quo only the popular election model produced a majority for the republic,” he said.

The disdain for a “politicians’ republic” was also very clear even after the referendum question was rejected in 1999.

Historical [Newspoll figures](#) (*top table*) show that immediately before the failed November 1999 referendum, the model to be put to voters – parliamentary selection of a Head of State – had less than half the level of support recorded for keeping the current system.

Direct election had around 50% voter support – well ahead of the other options. Support for the direct election of our Head of State was still far ahead of other options when another poll was taken again three years later.

Importantly, the Newspoll figures (*bottom table*) show that when uncommitted voters or those opposed to a republic were hypothetically faced with the inevitability of change, they opted by a huge majority for a direct-election model.

This strongly suggests that even constitutional monarchists – when faced with a choice of politicians appointing their Head of State or voters having a direct say through the ballot box – will opt for a directly elected Head of State.



Constitutional Convention delegates

republic – be determined at the end of day three rather than the end of day 10.

Dr CLEM JONES—I move:

That the order of business be changed so that question 1, namely, ‘Whether Australia should become a Republic’, be determined at the end of day 3 rather than at the end of day 10.

I will be very brief because I think everybody in the room probably has an idea on this

On the first day of the 1998 Constitutional Convention, former Brisbane Lord Mayor and advocate of a direct-election model, Clem Jones, called for the question on whether or not Australia should become a republic to be resolved by day three rather than by day 10. The aim was to allow more time for drafting an acceptable model for a republic, but the motion was lost.

QUESTION: Now I'd like you to consider three broad possibilities for Australia in regards to a republic. One possibility is to change to a republic with a president who is elected by the people. A second possibility is to change to a republic with a president who is appointed by parliament. And a third possibility is to not change anything, keeping the Queen and the Governor-General in their current roles. Which one of these three possibilities would you yourself most prefer?

	SEPT 1999	OCT 1999	NOV 2002
Change to a republic with a president directly elected by the people	50	46	46
Change to a republic with a president appointed by parliament	14	15	12
Not change anything, keeping the Queen and the Governor-General in their current roles	32	36	40
Uncommitted	4	3	2

Extracts from Newspoll based on interviews with 1,200 voters across Australia on 1-3 November 2002

PREFERENCES FOR A REPUBLIC IF AUSTRALIA DECIDED TO BECOME A REPUBLIC	
QUESTION ASKED OF THOSE CHOOSING ‘NOT CHANGE ANYTHING’ OR ‘UNCOMMITTED’: and if Australians decided that Australia should become a republic, would you prefer to change to a republic with a president directly elected by the people or, a president appointed by parliament?	
President directly elected by the people	79
President appointed by parliament	18
Uncommitted	3

OUR REPUBLIC MODEL

The Real Republic Australia is proposing a combination of constitutional and legislative changes to deliver an Australian republic with an Australian as our Head of State who is elected directly by Australian voters.

The Commonwealth of Australia

The Real Republic Australia believes that once our nation becomes a republic it would not be necessary to change our nation's formal name, "Commonwealth of Australia".

We see no compelling argument to adopt a new name such as "Republic of Australia".

We support retaining "Commonwealth of Australia" and by doing so we can reinforce the fact that our transition to a republic is part of the evolution of our nation and its people.

The term "Commonwealth" is also historically associated with republics.

It was applied to England in the mid-17th century following the abolition of the monarchy and the establishment by Oliver Cromwell and others of a republic.

Our Head of State

The Real Republic Australia wants an Australian republic which preserves our Westminster-style system of government with the legislative power of the Commonwealth remaining vested in a federal parliament consisting of the Head of State and the two houses of parliament – the House of Representatives and the Senate.

Under our current constitutional monarchy the Governor-General is the British monarch's representative in Australia.

We want to see an Australian republic with an elected Head of State who represents the people of Australia, not the monarch of another nation.

We wish to see a Head of State directly elected by Australian voters and not chosen for them through appointment or shortlisting by federal or state parliaments.

In broad terms the Real Republic Australia wants to see an Australian republic with the following features:

- a Head of State elected directly by voters enrolled and eligible to vote at a federal election,
- the ability of any Australian adult registered to vote in a federal election to nominate for election to the office of Head of State provided they meet eligibility criteria,
- a Head of State discharging their responsibilities in line with powers codified in the Australian Constitution or relevant laws enacted by the federal parliament,
- codified powers that reflect current roles, powers, and responsibilities of the Governor-General in line with Westminster traditions and conventions, especially the primacy of a Head of State acting on the advice of the Prime Minister and Federal Executive Council,
- retention by the Prime Minister of responsibility for all aspects of Executive Government except for certain powers vested in the Head of State in relation to the appointments to federal integrity and anti-corruption agencies,
- a Head of State serving a maximum of two consecutive five-year terms,
- a Head of State receiving remuneration, entitlements, and allowances determined by law and receiving no other income from the Commonwealth during their term of office,
- clear processes for the nomination and election of a Head of State and for their removal and replacement in the event of their death, resignation, temporary or permanent incapacity, or misconduct.



<https://www.merriam-webster.com/dictionary/commonwealth>

Q: Do you support retaining the term "Commonwealth of Australia" when we become a republic?

Or do you prefer "Republic of Australia"?

Or do you have another name in mind?



We support continued membership of the Commonwealth of Nations and as a republic Australia would sit comfortably with other republics which now form the majority of its members.

Currently, of the 56 member nations of the modern Commonwealth:

- 36 are republics,
- 15 have King Charles III as their Head of State, including Australia,
- five have their own monarchies.

While we have always had historical bonds with other members, largely due to our shared British colonial heritage, it is important to note that the organisation has evolved since its formation and now includes nations that were formerly French, Belgian, or Portuguese territories.

Q: Do you agree that Australia should remain an active member of the Commonwealth of Nations?

If not, why do you think we would be better off not being a member?

OUR REPUBLIC MODEL (continued)

At this point it is important to also outline the type of Head of State we are NOT proposing.

- The Real Republic Australia does NOT propose a radical redrafting of the Westminster-style system of parliamentary democracy and government that Australia has enjoyed since Federation.
- We do NOT wish to see a republic in which the Head of State is also the head of government such as occurs in the USA and other nations.
- We do NOT advocate a Head of State without codified powers and responsibilities.



Terminology

The Real Republic Australia acknowledges that "President" is the most widely recognised name for a Head of State in a republic.

But we also believe it would be possible to retain the title Governor-General which, along with keeping "Commonwealth of Australia", could help underline the ongoing strength of our Westminster-based system in a republic.

It would also be possible to adopt a new term such as "Governor of Australia".

However, we recognise that the decision on a name for an Australian Head of State is one to be taken by Australian voters as part of the referendum process.

For simplicity we employ the term "Head of State" throughout this discussion paper and welcome feedback on this point.

We acknowledge that the term "President" can mislead some people into thinking a republic would mean adopting a US-style system of government led by an individual being both Head of State and Head of Government.

We do not advocate that system and are not aware of any mainstream pro-republic group that supports such a change.

Q: Do you agree that the job of Head of State should be clearly separated from that of the Prime Minister as the head of government?

Q: What name do you favour for Australia's Head of State?

- Governor-General?
- Governor of Australia?
- President?
- Another title?

Q: Do you favour a five-year term for an elected Head of State in an Australian republic?

If not, what length of term do you think should apply?

Term of office

We propose that the Head of State of an Australian republic should hold office for five years from the date upon which they assume office.

A five-year term already applies to the Governor-General and Australians are familiar with and accepting of such a period in office.

A person who holds, or who has held, office as Head of State, should be eligible for re-election to that office only once, effectively limiting a Head of State to two terms.

Elections for the office of Head of State should be held on a fixed Saturday – with a pre-poll voting period as outlined later – as soon as practicable following a successful republic referendum. Each subsequent election for Head of State would be held on the same Saturday five years from the initial election.

Proposals for dealing with issues such as a vacancy in the office due to the death, incapacity, resignation, or removal of a Head of State are dealt with in later sections of this discussion paper.

Q: Do you favour a limit of two terms for a Head of State in an Australian republic?

Q: If not, what limit if any should be applied?

Oath of office

The Head of State would be required to publicly take an oath of office at the time of assuming their new position. We suggest an oath could take the following form of words:

"I [name] acknowledge the Aboriginal and Torres Strait Islander peoples who were the first sovereign nations and custodians of the Australian continent, its waters, and islands. I solemnly and sincerely promise and declare to all Australians that I will maintain the Constitution of Australia and uphold its laws, that I will fulfil my duties faithfully and conscientiously in accordance with the Constitution and the law, and that I will dedicate my abilities to the service and welfare of all of the people of the Commonwealth of Australia."

Q: Do you favour a fixed date or day for elections to choose an Australian Head of State when we become a republic?

Q: What do you think an oath of office for a directly elected Australian Head of State should say?

OUR REPUBLIC MODEL (continued)

Codified powers of our Head of State

The Real Republic Australia believes that the powers and functions of an individual elected to the office of Head of State should be broadly in line with those relating to the Governor-General outlined in the existing Australian Constitution and relevant Acts of the Parliament of Australia as well as being dictated by the traditions and conventions of our Westminster-style parliamentary democracy.

While we recommend codification of a Head of State's powers we recognise that the task of publishing a rewritten Constitution or sections of one is complex at this stage of the public debate and is ultimately not the purpose of a discussion paper such as this. But we do believe that codification addresses any fears that an elected Head of State would be a rival source of power to a Prime Minister.

The Republic of Ireland offers an example of how a directly elected Head of State vested with codified powers can work successfully within a Westminster-style system of parliamentary democracy. The office of President of Ireland, currently held by [Michael Higgins](#) now in his second and last seven-year term after being first elected in 2011, was established by the nation's [Constitution](#) which requires the President to be elected "by direct vote of the people".



Michael Higgins

The Irish President exercises powers and functions conferred on the office by the Irish Constitution and by law. With specified exceptions, the functions of the President are performed on the advice of the Prime Minister and government.

This type of codification of powers means the Irish President has a distinct non-political role and is not a rival source of power to the Irish Prime Minister. If anything, codification means the Irish President is an alternative source of influence and ideas, as opposed to power, on matters of national interest or concern. President Michael Higgins has fostered a range of public activities focussed on specific non-partisan social issues, including:

- involving [young Irish people in a series of presidential seminars](#) to consider and share their vision for the nation's future,
- the President of Ireland's [Ethics Initiative](#) promoting discussion about the challenges of living and working ethically and determining what values and actions Ireland and its people should embrace,
- gathering a number of renowned Irish writers, musicians, and singers, as well as emerging artists to [make a special program for international broadcast](#) celebrating the nation's unique talents and creativity,
- the "[Shared Ireland, Shared Island](#)" initiative to foster discussion on how the nation's citizens could live in harmony and respect its complex history.

President Higgins has demonstrated a deep interest in social justice issues and has assisted charities and non-government organisations by helping to publicise their work and advocate for their work and roles.

His predecessors such as Mary Robinson (in office 1990-1997) and Mary McAleese (1997-2011) who, like President Higgins were also former politicians, also took an apolitical approach to the role while providing a strong voice on social issues.

While President Higgins has been careful not to adopt partisan positions, his advocacy at times has not always been comfortable for the Irish Government such as when he publicly suggested that members of the Irish military were not paid enough. The government was not happy but recognised his right to speak out. The President took the view that the military was not unionised, had no advocate, and he was their supreme commander under the Irish Constitution.

Some observers of Irish politics have expressed the view that the Irish Government is not overly concerned about a President speaking out on particular issues because it often can be a reliable way to gauge public opinion.

The Irish example shows that a directly elected Head of State in an Australian republic working within a framework of codified powers and fulfilling a non-partisan role, could also embrace key apolitical social issues and debates that may impact all Australians.

Q: Would you like to see an Australian Head of State undertake the type of non-political initiatives sponsored by the Irish President?

Current arrangements

Currently the Governor-General of Australia acts as the representative of the British Monarch – our nation's Head of State – and performs a range of roles:

- ceremonial duties as being the Monarch's representative and as a national figurehead, for example by participating in national celebrations and major events, representing Australia and the Australian people when overseas, or providing personal responses or community leadership in times of emergencies, natural disasters, or catastrophic events,
- powers originating from the Constitution, relevant laws, or unwritten conventions and exercised on the advice of the Prime Minister or Federal Executive Council, and
- so-called reserve powers that can nominally or in practice be exercised without taking advice.

The current matrix of powers and their sources can seem complex and difficult to understand to anyone unfamiliar with constitutional law.

There is also a difference between what the Australian Constitution says the Governor-General may do and what he or she does according to established conventions. For example, Section 58 says that the Governor-General has discretion to decide if they assent to legislation, although Westminster convention dictates that they always assent to Bills passed by the federal parliament. Similarly, although Section 5 allows the Governor-General to appoint sitting times for Parliament, in practice this is always a decision of the government of the day with the Governor-General issuing the necessary documents to bring the Parliament into session as advised by the Prime Minister.

OUR REPUBLIC MODEL (continued)

Similarly, although Section 28 allows the Governor-General to dissolve the House of Representatives prior to an election, in practice under current arrangements the decision on when to hold an election is always a decision of the Prime Minister.

We believe that the Constitution should be amended by referendum to ensure that the powers of a directly elected Head of State are codified and clear and easily understood by the Australian people. The changes we envisage would broadly reflect the powers and responsibilities currently vested in the Governor-General minus, of course, those connected to their roles as the British Monarch's representative.

Independent advice

While we propose that the Head of State acts on advice of the Prime Minister or Executive Government, there may be occasions when a Head of State may want to seek other information on constitutional matters.

To cater for that possibility we favour [a proposal](#) based on, but not identical to, one put forward by eminent jurist and former Chief Justice of the High Court of Australia, the late Sir Gerard Brennan, for an independent three-person Council of State which could be consulted by the Head of State in such circumstances. He proposed that the council consist of:

- a person who has served as Governor-General or Head of State of Australia or as a state Governor,
- a person who has served as a Chief Justice or Justice of the High Court of Australia or Chief Justice of a superior federal court or state Supreme Court, and
- someone who has served in one or more of the offices referred to in the first two dot points above.

The Head of State on assuming office would have absolute discretion to appoint members of the Council of State who would serve for the duration of the Head of State's term. Their role would be limited to providing advice on constitutional matters.

The Head of State would be required to advise the Prime Minister of their intention to consult the Council of State and the outcome of such consultations.

Q: Do you support the concept of a Council of State as a source of independent advice and information for the Head of State on constitutional matters provided the Prime Minister is made aware of all instances when the head of State intends to consult the Council of State?

Integrity issues

The Real Republic Australia wants to give a directly elected Head of State responsibilities in a specific area where the Governor-General is not currently involved. We believe an independent and non-partisan Head of State should make the major appointments to the leadership positions – chair or oversight board members – of federal integrity and anti-corruption agencies such as:

- the National Anti-Corruption Commission,
- the Auditor-General of Australia,
- Commonwealth Ombudsman,
- Australian Electoral Commissioner.

Q: Would you support an elected Head of State – not politicians – appointing senior leaders of federal integrity and anti-corruption agencies?

The responsibility for such key appointments currently rests with politicians in the executive government who in reality are appointing “Caesar to judge Caesar” – an untenable situation which may help explain why our politicians are held in such low repute.

Our inspiration

The proposals for giving an elected the Head of State responsibilities in relation to the oversight of integrity agencies were inspired by Ted Mack (1933-2018).

Ted gained a well-deserved reputation for honesty and integrity at all three levels of government during his career.



He served as councillor and mayor in the North Sydney Municipal Council, as state MP for North Shore in the NSW Parliament, and as the federal MP for North Sydney.

Ted was an advocate for a directly elected Head of State because he trusted Australian voters to get their choices right.

While the Head of State would appoint such officers, power to remove them would rest with the federal parliament and the process for taking such action should mirror that applying to the removal of federal judges under [Section 72 of the Constitution](#) requiring a vote by both houses and “on the ground of proved misbehaviour or incapacity”.

The [Accountability Round Table](#) has expressed concern about eroding standards of integrity and accountability across government at various levels and of various political colours. In [a recent commentary](#) it said: “We are facing a national integrity crisis in which the routine abuse of power, the rejection of ethical standards and the undermining of integrity agencies is commonplace. This is leading to a self-perpetuating downward spiral in which unprincipled behaviour secures re-election and further reduces voter trust and hope.”

Some may object to giving our Head of State an integrity oversight role, claiming it is an intrusion into executive powers. But we point to the constitutionally defined role given to the elected [President of Finland](#) in the area of foreign affairs.

Section 93 of the [Constitution of Finland](#) says: “The foreign policy of Finland is directed by the President of the Republic in co-operation with the government.” It outlines other roles in foreign affairs for the President and the executive but is clear that the President is obliged to work with or consult the government or parliament.

We propose that the Head of State be required to consult both the Prime Minister and Leader of the Opposition when making appointments to integrity and anti-corruption agencies.

Codification of powers means a Head of State in an Australian republic could be vested with duties such as being responsible for appointments to leadership positions of federal integrity agencies.

There is an urgent need to inject trust back into our nation's governance and our proposals in relation to the oversight role vested in our Head of State can help achieve that goal.

OUR REPUBLIC MODEL (continued)

Comparison of responsibilities and powers

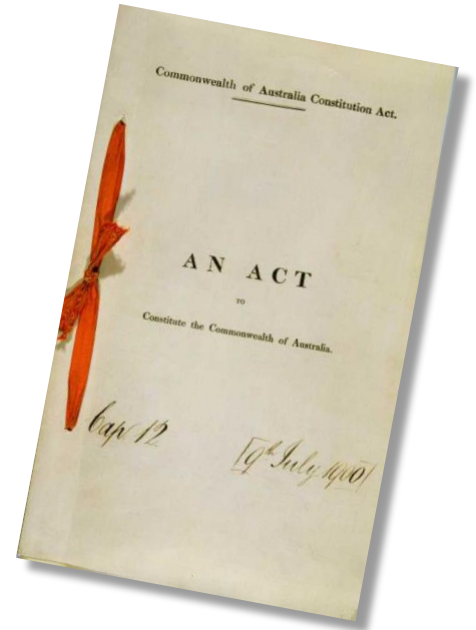
The tables on the following pages help put into context our model for an Australian republic and the codified powers of an elected Head of State.

They show the effect of existing provisions of the Australian Constitution relating to the Governor-General on the left and the thrust of new or amended codified powers we propose in the right-hand column. The left-hand column includes existing powers known as reserve powers that are not explicitly qualified by the need to act on advice, such as the Governor-General's ability to dissolve federal parliament and appoint ministers.

As mentioned elsewhere in this discussion paper we have not assumed to draft replacement or new sections for the Constitution.

We have preferred to outline the aims and concepts of codified powers to help promote public discussion and feedback.

Q: Do you support the codification of the roles and responsibilities of a directly elected Australian Head of State?



CURRENT PROVISIONS:

SECTION 1: Provides that the legislative power of the Commonwealth of Australia is vested in the federal parliament which consists of the Monarch, the Senate, and the House of Representatives.

SECTION 2: Provides for a Governor-General appointed by the British Monarch as their Australian representative with powers and functions assigned by the Australian Constitution and the Monarch.

SECTIONS 3 & 4: Provides for the Governor-General to be paid a salary set by Parliament and to not receive any other income from the Commonwealth.

SECTION 5: Enables the Governor-General to appoint the times for the holding sessions of Parliament as well as proroguing and dissolving Parliament.

SECTION 7: The Governor-General certifies Senators elected in each state or appointed by a State Parliament to fill a casual vacancy.

SECTIONS 19 & 21: The Governor-General can accept resignations of Senators and advise State Governors of Senate vacancies if the President of the Senate is absent.

SECTION 28: The Governor-General may dissolve the House of Representatives between elections.

SECTIONS 32 & 33: With advice from the Federal Executive Council, the Governor-General can issue writs for House of Representatives elections and – in the absence of the Speaker and with advice from the Federal Executive Council – can issue writs for by-elections.

SECTIONS 35 & 37: The Governor-General can accept the resignation of the Speaker of the House of Representatives and Members of the House of Representatives.

SECTION 42: The Governor-General swears in Senators and Members of the House of Representatives.

SECTION 56: The Governor-General recommends the appropriation of revenue to the Parliament.

OUR MODEL:

The Constitution should be amended to reflect the fact that the federal parliament consists of the elected Head of State, the Senate, and the House of Representatives.

The Constitution should be amended to state that the Head of State is elected directly by the people of Australia according to relevant laws and their powers and functions are assigned by the Constitution and laws made under it by the federal parliament.

We propose a similar provision.

We propose that an amended provision make it clear such action is taken by the Head of State on advice from the Prime Minister or Federal Executive Council.

We propose a similar provision.

We propose a similar provision.

We propose that the Constitution be amended to make clear that:

- the Head of State can summon, dissolve, or prorogue the Parliament of Australia or the House of Representatives but only on the advice of the Prime Minister or Federal Executive Council,
- the Head of State, on the advice of the Prime Minister, can issue writs for an election for the Parliament of Australia or the House of Representatives,
- the Head of State can in their absolute discretion refuse to dissolve Parliament on the advice of a Prime Minister who has ceased to retain the support of a majority of Members of the House of Representatives.

NOTE: We suggest that if in the future a referendum results in legislation mandating a fixed term for either or both houses of the federal parliament or synchronised elections for both houses, Members elected at an election held during a term would be elected to serve only until the next scheduled fixed election.

We propose a similar provision.

We propose a similar provision.

We propose that an amended provision makes it clear such action is taken by the Head of State on advice from the Prime Minister or Federal Executive Council.

CONTINUED OVER PAGE

OUR REPUBLIC MODEL: Comparison of responsibilities and powers (continued)

CURRENT PROVISIONS (continued):

SECTION 57: The Governor-General can dissolve both houses of parliament if they are deadlocked on legislation and can call a joint sitting of both houses after an election to pass the relevant Bills.

SECTION 58: The Governor-General can – as the Monarch's representative – assent to, as well as withhold assent, or return Bills to the Parliament with recommended amendments and can also reserve Bills for the Monarch to decide upon.

SECTIONS 59 & 60: Provides for the Governor-General to inform federal parliament if the Monarch has disallowed any Bill or has assented to a Bill reserved for their decision.

SECTION 61: Provides for the Governor-General to exercise the executive power of the Commonwealth as the Monarch's representative.

SECTIONS 62 & 63: Provides for the Governor-General to choose and summon members of the Federal Executive Council whose members advise the Governor-General.

SECTION 64: Provides for the Governor-General to appoint and dismiss Ministers including the Prime Minister although the office is not specified in the Constitution.

SECTION 65: Allows the Governor-General to decide on the number of Ministers if no number is specified by Parliament.

SECTION 67: Allows the Governor-General to appoint civil servants on advice of the Federal Executive Council.

SECTION 68: Designates the Governor-General as commander in chief of the nation's defence forces.

SECTION 72: Provides for the Governor-General to appoint and accept the resignations of Justices of the High Court of Australia on advice of the Federal Executive Council.

SECTION 126: Allows the Governor-General to appoint individuals to serve as their deputies.

SECTION 128: Allows the Governor-General to submit a referendum proposal to voters if it has been passed by one house of parliament and there is a disagreement between the houses. Also allows the Governor-General to assent to laws approved by a referendum.

OUR MODEL (continued):

We propose that the Constitution be amended to make clear that:

- the Head of State can authorise a double dissolution election and institute a joint sitting of both houses of parliament only on the advice of the Prime Minister or Federal Executive Council,
- the Head of State can in their absolute discretion refuse to authorise a double dissolution on the advice of a Prime Minister who has ceased to retain the support of a majority of Members of the House of Representatives.

NOTE: As noted above, if and when fixed terms for one or both houses of parliament are legislated we suggest that any Senators and Members elected at a double dissolution should serve only until the time that a fixed date election would have otherwise been held. We believe this would act as a disincentive for political manoeuvring in relation to a double dissolution.

We propose that the Constitution be amended to make clear that:

- every Bill passed by both houses of the parliament of the Commonwealth of Australia will require the signature of the Head of State to be enacted into law,
- following the return of the Bill to the Head of State after consideration or amendment by either house of parliament, the Head of State shall take the advice of the Prime Minister in relation to signing the Bill to enact it into law.

We propose amendments to remove reference to the Head of State being the Monarch's representatives and to clarify that they represent the people of Australia.

We propose that the Constitution be amended to provide that:

- the Head of State, on the advice of the Prime Minister, appoint from among the Ministers of State a Federal Executive Council including the Prime Minister to advise the Head of State,
- the Prime Minister advise the Head of State to dismiss or accept the resignation of any Council members,
- the Prime Minister advise the Head of State to call meetings of the Council.

We propose that the Constitution be amended to provide that:

- the Head of State, on the nomination of a majority of the House of Representatives conveyed in a petition to the Head of State, appoint from among its Members the Prime Minister of Australia to lead the Executive Government. Prior to the first meeting of the house following a general election, persons elected to the house may petition.
- the Head of State, on the nomination and advice of the Prime Minister, appoint other members of the Executive Government as Ministers of State,
- the Head of State, on the advice of the Prime Minister, accept the resignation or terminate the appointment of any Minister.

We propose a similar provision.

We propose a similar provision but which makes clear that the exercise of supreme command of the Australian Defence Forces by the Head of State is regulated by law and subject to advice by the Prime Minister or Federal Executive Council.

We propose a similar provision.

We propose that the most senior state governor or territory administrator act in place of an elected Head of State as required.

We propose that a similar provision makes clear that such action by a Head of State is exercised only on the advice of the Prime Minister or Federal Executive Council.

NOTE: We suggest this provision should be discussed further in the context of our proposals to reform Section 128 to make the process for initiating a referendum fairer. (See page 24)

OUR REPUBLIC MODEL: Comparison of responsibilities and powers (continued)

The Real Republic Australia recommends new provisions be included in the Constitution as part of the codification of the Head of State's powers and responsibilities. We again make the point that at this time we refrain from offering detailed text for suggested new sections of the Constitution, preferring to include our ideas in this discussion paper to foster public debate.

AIM OF NEW PROVISION:

To embed in the Constitution the role of the Australian people in electing their Head of State.

To put beyond doubt the primacy of the elected Parliament of Australia and Executive Government in the administration of the Commonwealth of Australia.

To provide greater levels of public trust and transparency in the administration of federal anti-corruption and integrity agencies and offices.

To enable a Head of State to seek independent and expert advice on constitutional matters.

OUR MODEL:

We propose a provision in the Australian Constitution to make clear that the Australian Head of State shall be elected by direct vote of the people of Australia and that the federal parliament cannot usurp that role in any form

We propose new provisions to confirm that:

- the Head of State must carry out their responsibilities and exercise their powers on the advice of the Prime Minister or the Federal Executive Council as outlined in the Constitution or relevant laws,
- the only exception to the above proposed provision would be the exercise by the Head of State of powers assigned to them over appointments to senior levels of federal anti-corruption and integrity agencies (*see below*), and
- the Head of State may in their absolute discretion refuse to accept the advice of a Prime Minister who has ceased to retain the support of a majority of Members of the House of Representatives.

We propose that a new provision be included in the Constitution to:

- give the Head of State responsibility for making major appointments at the leadership positions of federal integrity and anti-corruption agencies including the National Anti-Corruption Commission, the Auditor-General of Australia, the Commonwealth Ombudsman, and the Australian Electoral Commissioner.
- require the Head of State to consult the Prime Minister and Opposition Leader prior to making such appointments.

We support – but not in its entirety – of the concept outlined by the former High Court of Australia Chief Justice, the late Sir Gerard Brennan, of a three-person Council of State to be appointed by the Head of State at their sole discretion once sworn in and consisting of:

- a person who has served as Governor-General or Head of State of Australia or as a state Governor,
- a person who has served as a Chief Justice or Justice of the High Court of Australia or Chief Justice of a superior federal court or state Supreme Court, and
- someone who has served in one or more of the offices referred to in the first two dot points above.

That the Council of State members serve for the duration of the Head of State's term and can be consulted by the Head of State on constitutional matters. That the Head of State must advise the Prime Minister of the intention to consult the Council of State and the outcome of those consultations..

The role of states and territories

The constitutional arrangements of the Australian states and territories will be impacted by the nation's transition to a republic. These changes will need to take account of relationships states currently have with the Crown under our existing constitutional monarchy as well as under existing laws such as the [Australia Act 1986](#) and how those links may need to be transformed or eliminated. The Northern Territory and the Australian Capital Territory will also need to work with the federal government and parliament to determine how they will operate within a republic.

Q: How do you see an Australian republic impacting on states and territories?

In July 1998, following the February 1998 Constitutional Convention and more than a year before the November 1999 republic referendum, the government of Prime Minister John Howard [considered the issues involved](#) including the need for several states to hold their own referendum to seek voter approval of any relevant changes to their own constitutions.

The patchwork of arrangements involving the states and territories demands that they all be directly involved at an early stage in planning for and implementation of constitutional, legal, and administrative arrangements needed when a republic referendum is approved by voters.

Their involvement could occur either through the National Cabinet process or a dedicated working group. The Real Republic Australia stresses the need for a cooperative approach among federal, state, territory, and local governments when making arrangements for a republic.

Q: Do you agree that states and territories need to start now to be ready for when Australia becomes a republic?

We suggest that the federal government ensure that such a cooperative approach begins from the very start of the process leading to a republic referendum. Ideally all state and territories should outline prior to a republic referendum the specific steps they would implement if the referendum succeeded.

This would ensure voters were fully informed of the consequences for their state or territory before referendum day. It would minimise the need for an otherwise unnecessarily long waiting period to implement a republic by relying on states to make the necessary arrangements after a successful referendum.

Nevertheless, as mentioned above we see the need for an appropriate transition period once a referendum is passed and before a republic takes effect to ensure states and territories are ready. However, we should be aware of the note of caution sounded during the Howard Government's discussions – we do not want a situation where one or more states hold the implementation of a republic "hostage" by dragging their feet or refusing to make necessary changes.

MAKING OUR CHOICE

The Real Republic Australia believes the direct election of our Head of State offers an opportunity to set new and higher standards of integrity and transparency in our electoral system.

We recommend that the Australian Electoral Commission (AEC) should conduct Head of State elections on a fixed day every five years and that following a successful referendum for Australia to become a republic, the federal parliament's Joint Standing Committee on Electoral Matters as composed at the time – with AEC input – be tasked with recommending a workable timeline for the process of electing our Head of State on a nationwide basis.

Eligibility criteria for candidates

Q: Do you support using the AEC to run Head of State elections?

The Real Republic Australia believes any Australian adult meeting clear eligibility criteria should be free to nominate themselves as a candidate standing in a nationwide election for the office of Head of State.

We do not support models that insert politicians, parliaments, or others into the process and task them with filtering or limiting candidacies or drafting "approved lists" of candidates from which they then allow voters to make their choice. That is not direct election.

The Real Republic Australia believes that because of the special and paramount position of our Head of State, those seeking to fill the office should fulfil a set of eligibility criteria most of which are based on existing provisions in the [Commonwealth Electoral Act](#).

We propose that following a referendum approving a republic with a directly elected Head of State a specific new law be developed for Head of State elections that includes eligibility criteria for any person seeking to nominate. We suggest that any person seeking to become a candidate for the office:

- be at least 18 years of age, and
- be an Australian citizen, and
- be an Australian resident, and
- be eligible to vote in a federal election, and
- must have not been a sworn elected member of any legislative body at local, state, or federal level for a period of at least five years,
- must not be a member of a political party,
- must have resigned as governor or administrator of a state or territory prior to seeking to nominate for election as Head of State, and
- must have secured written endorsements of their proposed candidacy by 100 individuals registered to vote at federal elections with no voter being allowed to endorse more than one candidate.

Q: What other criteria should apply to those seeking to be our Head of State?

Q: Do you agree with barring former elected politicians from seeking election as Head of State for a set period such as five years?

We propose that requirements relating to Section 44 of the Australian Constitution applying to federal election candidates included in the AEC's [qualification checklist](#) would apply to Head of State candidates.

Section 44 draws attention to the need to replace references to "the Crown", eg: when citing an "office of profit under the Crown".

We propose the term be replaced with "the Commonwealth of Australia" or "the people of Australia" where it now relates to a role played on behalf of the Monarch by the existing Governor-General.

We propose that those seeking to register with the AEC as a candidate should:

- deliver to the Australian Electoral Commissioner declarations to show:
 - they have fulfilled their obligations in relation to the payment of income, corporate, or other taxes under all relevant Australian laws for at least the previous 10 financial years, and
 - they have no outstanding or potential disputes with the Australian Tax Office or any state and territory revenue collection or enforcement agencies,
 - details of past disputes with federal, state, or territory tax or revenue agencies,
- deliver to the Australian Electoral Commissioner for publication details of their pecuniary interests in the form of that applying to [Members of the House of Representatives](#) and [Senators](#), and
- deliver to the Australian Electoral Commissioner a statement outlining how, if they were elected as Head of State, their personal and/or corporate assets and investments as listed in the details of pecuniary interests would be held in a blind trust for the period in which they serve as Head of State. The statement would need to nominate the proposed third-party trustee or trustees who would be required to provide a separate statement declaring their willingness and ability to establish and oversee the blind trust.

Q: Do you agree that to foster integrity and transparency that special eligibility requirements such as statements about their tax status should apply to those seeking to become our Head of State?

Q: Do you agree that Head of State candidates should lodge a statement of pecuniary interests?

Q: Do you agree that the person elected Head of State should lodge their assets and investments in a blind trust for the duration of their term?

MAKING OUR CHOICE (continued)

We recommend that any amending or new legislation covering the election of the Head of State should:

- declare that the person chosen by voters at an election for Head of State would not be sworn in until a statement was released by the Australian Electoral Commissioner making it clear that the commitments listed in the above criteria had been met, and
- require individuals standing for election as Head of State to agree that all such declarations or statements made to the Australian Electoral Commissioner as outlined above would be made available for public scrutiny prior to the start of voting, and
- provide appropriate penalties for breaches of the law.

We further propose that the AEC impose fees on individuals seeking to be candidates for the office of Head of State including:

- an appropriate non-refundable lodgement fee,
- an appropriate non-refundable nomination fee for candidates deemed by the AEC to meet eligibility criteria and able to stand in a national election for the office of Head of State.

A person seeking to contest the office of Head of State:

- would be required to supply an audited statement of the total funds raised for either or both fees showing the identity and other details of each donor, and
- would be required to forfeit to the AEC for offsetting administration costs any funds raised from among voters endorsing their candidacy in excess of either or both fees.

Criteria disqualifying an individual from seeking nomination as a candidate for the office of Head of State would be broadly in line with those detailed in Section 93 of the *Commonwealth Electoral Act*.

A person would not be entitled to seek nomination if they:

- are the holder of a temporary visa within the meaning of the *Migration Act 1958*, or
- are an unlawful non-citizen under that Act, or
- are of unsound mind and incapable of understanding the nature and significance of the nomination and election process, or
- have been convicted of treason or treachery and have not been pardoned, or have served any sentence of imprisonment or have been convicted of a criminal offence.

Q: Do you agree with these disqualification criteria? Do you suggest others?

We recommend that after any successful referendum for Australia to become a republic, the federal parliament's Joint Standing Committee on Electoral Matters should conduct an inquiry to consider and recommend any further eligibility criteria.

AEC's role

As it now does with federal elections the Australian Electoral Commission would be responsible for administering eligibility criteria applying to those seeking to stand for election to the office of Head of State.

Where only one candidate meets eligibility requirements for the office of Head of State it would not be necessary to proceed to a ballot for their election and they would be declared elected unopposed.

Any new or amended law covering Head of State elections should accommodate circumstances including:

- withdrawal of a nomination or candidature,
- death of a candidate,
- lack of eligible nominees.

Q: Do you agree with these rules? Do you suggest other rules?

Any person seeking to stand for election as Head of State should be able to withdraw their application to the AEC prior to their eligibility being assessed.

Any person declared by the AEC to be an eligible candidate should also be able to withdraw their name from consideration prior to an election for Head of State.

If such a withdrawal results in only one eligible candidate remaining, that person should be declared to be elected unopposed and no election held.

Q: Do you agree with non-refundable application and nomination fees being charged to those seeking to become our Head of State which are broadly in line with those required of federal election candidates?

The Irish experience

Since the adoption of the original form of the current Constitution of Ireland in 1937 enabling the direct election of its President, the [number of candidates](#) has varied.

The first President of Ireland, Douglas Hyde took office in 1938 after being declared elected as the only person who nominated for the position.

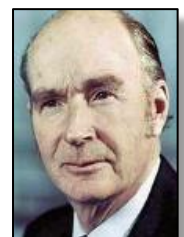
On five other occasions — 1952, 1974, 1976, 1984, and 2004 — a single nominee has also been declared elected unopposed.

They included the re-election for a second term of the nation's second President, Sean O'Kelly (1952 election), and the election unopposed of Dr Patrick Hillery for both of his terms (1976 and 1984 elections).



Sean O'Kelly

In 2004 an election was not held because Mary McAleese was unopposed for her second term.



Dr Patrick Hillery

The elections of 1959, 1966, and 1973 saw two candidates and for the 1945 and 1990 elections there were three candidates on the ballot paper.

The 1997 election saw five candidates and in 2011 seven people nominated to run.

The current Irish President, Michael Higgins was one of six candidates when he ran successfully for re-election in 2018.



Mary McAleese

MAKING OUR CHOICE (continued)

Similarly, the death of a would-be candidate prior to the AEC's declaration of their eligibility should not affect the lawful election process or timetable.

If the death of an candidate after the AEC declares their nomination eligible leaves only one eligible candidate remaining, that person should be declared elected unopposed and no election should be held.

If the AEC determines that no individual seeking to be elected to the office of Head of State meets the eligibility criteria outlined above, a new call for nominations should be made. However, if new nominations are called for and the expected timetable for doing so is to extend beyond the date on which a Head of State would normally be sworn in:

- the nation's most senior governor or administrator willing to serve would become Acting Head of State until an election could be held, and
- the term of the subsequently elected Head of State would be shortened so that it concludes on the day it would have ended if a recall of nominations had not occurred and the fixed day for the following Head of State election would not change.

Q: Do you support the idea of an eligible candidate being declared elected unopposed as Head of State if no other eligible nominations are received?

Q: Do you agree with rules enabling an Acting Head of State to be declared until an election is held if nominations need to be recalled?

Responsibilities of candidates

The Real Republic Australia recommends that once the AEC declares a list of candidates who meet eligibility criteria for standing for election for the office of Head of State and prior to incurring any campaign costs, each candidate should be required by law to advise the AEC of the appointment of their campaign agent. As well as being a point of contact between the AEC and the candidate, a campaign agent would be responsible for:

- representing the candidate in dealings with the AEC,
- authorisation of campaign materials on behalf of a candidate in terms similar to those existing in the *Commonwealth Electoral Act*,
- appointing deputy campaign agents in each state or territory,
- appointing, if they deem it necessary, local campaign agents in any federal electorate,
- advising the AEC of the details of each person appointed as deputy or local campaign agent,
- the authorisation and supply of any returns or information requests sought by the AEC in relation to campaign activities and spending, and
- any other responsibilities the AEC designates for them to fulfil.

Suitable penalties should apply through any new or amended law covering the campaign and election process for a Head of State for any breaches committed by a candidate, their agent, deputy agents, or local agents.

Q: Do you agree with the idea of candidates designating an agent to be responsible for compliance with campaign and election laws and rules?

The campaign

Simplicity and cost-effectiveness have been the governing principles we have followed when drafting our suggestions for both the campaign and election processes by which Australians can directly choose their Head of State.

As mentioned above the Real Republic Australia proposes that our nation's first directly elected Head of State take office from a specific day set by law in a year determined by the federal parliament following a successful republic referendum.

We suggest that the Australian Electoral Commission be responsible for the conduct of the election and for monitoring the campaign leading up to the Head of State election. In that regard, we propose that the AEC be tasked with outlining a workable timetable of mandatory deadlines and landmark events such as the formal start and end of a campaign period, deadlines for necessary documentation supplied by candidates or their agents, the opening and closing of polling places, and the counting of votes so that the Head of State can take office on the day set by law.

Their work should be assisted by the fact we propose a fixed day for Head of State elections to be held every five years.

The Real Republic Australia suggests that a formal campaign period be limited to no more than 15 days prior to the day on which voting starts in a national election to choose a Head of State.

Eligible candidates standing in an election for Head of State would be required, at their own expense, to establish and advise the AEC of a dedicated campaign website to disseminate information about themselves and their campaign as well as establish social media accounts as they see fit. A part of their campaign website must be devoted to publicising donations to a candidate's campaign. (see *CAMPAIGN FUNDING* next page)

Q: Do you agree with a limited campaign period of 15 days? Or do you suggest a different approach?

Prior to the start of the formal campaign period the AEC would be required to establish its own dedicated website about the Head of State election and to disseminate essential facts about the campaign and voting processes. Candidates would be offered equal space on the website to provide voters with their profiles and a campaign statement which would appear in the order in which they appear on the Head of State ballot paper.

Candidates would not be eligible to have access to or make use of full copies of electoral rolls.

MAKING OUR CHOICE (continued)

Candidates, via their agents, would need to publicly declare, via advice to the AEC details of any campaign or fundraising organisations established by or operating to support a candidate.

We recommend that following any successful referendum for Australia to become a republic, the federal parliament's [Joint Standing Committee on Electoral Matters](#) as composed at the time should conduct an inquiry to determine what other publicly funded support, if any, should be provided to candidates as well as other issues such as a requirement for public or commercial television networks to provide any specific amounts of free air time to candidates.

Q: What publicly funded support or other support, if any, do you think should be available to those seeking to be elected as our Head of State?

Q: What restrictions do you think would be appropriate?

Campaign funding

The Australian Electoral Commission already imposes restrictions on campaign fundraising by candidates for federal elections and other individuals and entities who may be involved in a campaign including restrictions on [foreign donations](#). Changes to the law in December 2021 also require sitting MPs in both houses to lodge [annual returns](#) listing donations they receive. These restrictions at present do not include a cap on campaign spending, especially advertising by candidates.

The Real Republic Australia believes the development of a process for electing our Head of State offers the chance to establish a system that is as transparent as possible in relation to the funding of candidates' campaigns and the sourcing and disclosure of donations and gifts.

For that reason we again recommend that following any successful referendum for Australia to become a republic, that the inquiry by the federal parliament's [Joint Standing Committee on Electoral Matters](#) as mentioned above should inquire into the need for specific legislation governing fundraising and campaign spending for Head of State election campaigns as well as make recommendations on the level of publicly funded entitlements for candidates, eg: whether they are supplied with or reimbursed any travel costs.

Resultant laws or regulations should be administered and monitored by the Australian Electoral Commission. We believe important issues for the Committee to consider include:

- imposing a cap on campaign spending by candidates, third parties, or others who may wish to support a candidate,
- imposing restrictions on the purposes for which campaign spending can be applied including advertising,
- the method, if desired, for the partial reimbursement of candidates of campaign costs, and
- what rules should apply to incumbent Heads of State or as-yet undeclared candidates for the position who receive donations for a future election campaign.

Q: Should a cap on campaign spending be applied to candidates seeking to be elected as our Head of State?

Q: Do you think taxpayers should help partially reimburse candidates' campaign costs subject to strict rules?

We also support in principle the provision of clear and workable rules covering the use of taxpayers' funds via the AEC as partial reimbursement of candidates' campaign expenses. However we do not believe [the current arrangement applying to federal elections](#) should be replicated in a Head of State election. At present [the AEC rules](#) mean a candidate for a federal election registering more than 4% in primary votes receives around \$3.00 per vote or a lump sum of \$11,029.

We propose that the Joint Standing Committee on Electoral Matters consider the feasibility of imposing one of two options for partially reimbursing legitimate campaign costs incurred by candidates for the position of Head of State:

- a payment per vote in line with current federal electoral laws, but at a lower rate per vote of 50 cents and only for candidates achieving 10% or more in primary votes nationwide, or
- provision of a finite reimbursement pool to be declared every five years in advance of each Head of State election to be shared among candidates in proportion to their respective primary votes above 10%.

Q: How do you think the partial reimbursement of a candidate's campaign costs should happen?

Whichever method may be recommended, we believe the following principles should apply:

- the reimbursement amounts should not be automatically indexed by CPI,
- no campaign activity, event, or communication promoting a candidate that occurs or is completed (for example, in the case of mailed communications), outside of the formal 15-day campaign period could be counted as campaign spending for the purposes of reimbursement and a penalty should apply for breaches,
- no candidate should be reimbursed an amount that exceeds their actual campaign outlays.

Q: Would you support a monetary rate per vote above a primary vote threshold or the idea of splitting a finite pool of reimbursement funds?

While not pre-empting the findings of any Committee inquiry, we also propose that:

- candidates seeking election to the office of Head of State be required to record and publicly declare all donations and gifts and all spending on goods or services linked to their campaigns,
- candidates be required to establish a specific campaign account with a bank or financial institution that should receive and apply all donations made to a candidate's campaign,

MAKING OUR CHOICE (continued)

- individuals seeking to stand in an election for Head of State could seek donations or gifts or commitments of donations for campaign activities before the AEC has declared them eligible to nominate but should be required to reimburse such donations and provide the AEC with proof of reimbursement if found not to be eligible to stand as a candidate,
- candidates should be required to supply the AEC with a full list of transactions on their campaign account produced by the bank or financial institution as part of their post-election reporting requirements and authorise its public release,
- non-monetary donations in the form of accommodation, travel, goods, services, or other considerations should be reported as donations to the AEC and their value and donor or source disclosed on a candidate's website,
- the specific disclosure rules for a Head of State election should broadly reflect those for individuals and entities involved in federal election campaigns with four exceptions:
 - only individuals registered on a federal electoral roll – not businesses or commercial or other organisations – should be entitled to make a donation to a candidate seeking to become Head of State,
 - the donation disclosure level applicable to candidates in a Head of State election should be \$200 and not the existing \$15,200 for federal political campaigns,
 - in addition to providing the AEC with a financial disclosure return following the election of a Head of State, candidates should be required to disclose to the AEC any donations above \$200 within 24 hours of being received,
 - candidates should also be required to publicly disclose all donations above \$200 on their campaign website within 24 hours of the receipt of a donation,
- foreign entities and individuals and anonymous donations to a candidate's campaign should be banned,
- any individual or entity aggregating donations or gifts to form a single donation to a candidate's campaign must provide with it the individual sources of such a donation which in turn must be supplied by the candidate to the AEC,
- the AEC must be advised immediately of any non-complying donations and candidates would be responsible for returning such funds to their source or forfeit them to the AEC if the source is unknown,
- no donations or gifts should be accepted on the final day of the formal campaign period to ensure all donations are publicly disclosed and any donations received after that deadline should be advised to the AEC but returned to the donor,
- candidates be prohibited from making use of any federal, state, or local public sector facilities or services for campaign fundraising activities unless those same facilities are usually available for hire to the general public and a candidate pays the same commercial rates as a member of the public for their use,
- a candidate's campaign agents be responsible for compliance with the above rules and appropriate penalties for breaches be included in any new or amended laws for a Head of State election, and
- penalties should apply for the failure or the late supply of any returns required by the AEC.

Q: Do you agree with limiting donors to registered voters?

Q: Do you support a lower donation disclosure threshold for Head of State elections?

Q: Do you agree with a 24-hour deadline for disclosing donations?

Q: Do you agree with banning foreign and anonymous donations?

Q: Do you believe these restrictions on using public sector facilities are needed?

Q: Do you believe a candidate's campaign agents should bear responsibility for breaches of campaign rules, especially in relation to finance and donations?

We suggest any findings made by the [inquiry into the 2022 federal election](#) by the 47th Federal Parliament's Joint Standing Committee on Electoral Matters in relation to truth in advertising be considered for their applicability to future Head of State elections.

The election

The Real Republic Australia believes that the Australian Electoral Commission should be responsible for conducting, monitoring, and enforcing laws and rules for Head of State elections.

As mentioned above we recommend that, prior to the initial election for Head of State, the federal parliament's [Joint Standing Committee on Electoral Matters](#) should inquire into and make recommendations on a best-practice election process. As a priority, the Committee should explore the cost and practicality of using secure online voting for Head of State elections as we believe such a system would reduce costs and be more convenient for voters. Online voting is already used for various purposes by a range of large organisations in Australia.

The Real Republic Australia acknowledges that some elections elsewhere – particularly the 2020 US presidential election – have generated controversy over paperless voting systems. But we also believe real or perceived hurdles to its adoption for use in Australia can be overcome.

Voters and election authorities such as the AEC would need to be satisfied about relevant issues such as adequate authentication of voters, security and encryption standards, the relative complexity of using the system, and cost savings compared with using physical polling booths and postal voting.

Q: Do you think a secure system of online voting should be explored for use as a cost-effective means to elect our Head of State?

MAKING OUR CHOICE (continued)



Online voting also offers advantages such as more rapid counting and tabulation of votes. We suggest that if such a system is not feasible in the short term, developments in the field should continue to be monitored and adoption of online voting should be considered in the future.

In the meantime we suggest that voting for our Head of State occur either by:

- voters attending a polling place within their federal electorate between 8.00 am and 6.00 pm over a period of seven days ending on a Saturday designated by law, or
- voters requesting a postal ballot supplied by and returned to the AEC.

We believe the election process for our Head of State should include the following features:

- elections to be held every five years on a fixed day,
- votes to be tallied in a single nationwide election,
- voting to be compulsory for every eligible elector,
- the preferential voting system used at federal elections,
- limits on candidates' campaign posters and other materials outside polling places, and no distribution of how-to-vote cards at polling places,
- candidates to have the option of displaying a how-to-vote card of a size and format and in locations specified by the AEC outside a designated polling place,
- candidates to also have the option of supplying one how-to-vote card of a size and format and in locations specified by the AEC for display inside a polling place.

Q: Do you agree with using partial preferential voting if a large field of candidates stands in a Head of State election?

Q: Do you agree with our plan to eliminate the handing out of how-to-vote cards at polling places?

Interim arrangements

Because of the time needed to make arrangements for the transition to a republic, including the development of laws and systems for directly electing our Head of State, a suitable transition period should apply before Australia officially becomes a republic. This could take 18-24 months and during that period the current constitutional arrangements would apply.

Vacancy in the office

In the event of the resignation, death, or temporary or permanent incapacity of the Head of State within two years of being elected, we suggest a new election be held.

The person elected in such circumstances should serve only the balance of that term until the next scheduled Head of State election. In other cases involving the resignation, death, or permanent incapacity of a Head of State after the first two years of a five-year term, the nation's most senior state governor or territory administrator willing to serve in the office should become Acting Head of State until the next election or until the incapacity of the Head of State is resolved.

A determination of the extent of incapacity of a Head of State should be determined by a panel consisting of the President of the Senate, Speaker of the House of Representatives, the Chief Justice of the High Court of Australia, and the Commonwealth Chief Medical Officer.

The panel members should be empowered to seek expert advice and assessment of the Head of State including the opinion of the Head of State's personal physician or nominated medical representatives. Their report should be considered by the federal parliament and a simple majority vote should be required to declare the Head of State temporarily or permanently incapacitated.

We believe the title Head of State should be reserved exclusively for an individual elected to the office by the Australian people and any person replacing a Head of State for the balance of a term but who is not elected should be referred to as Acting Head of State.

Removal from office

We suggest that either the House of Representatives or the Senate could consider a charge of misconduct against a Head of State subject to a vote in favour of a notice of motion in writing signed by not less than two-thirds of the house making the charge.

When a charge seeking to remove a Head of State has been supported by two-thirds of the Members of either house of the federal parliament, the other house should elect a special committee of its Members to investigate the charge and report to its Members within one month.

The Head of State shall have the right to appear and to be represented at the investigation of the charge. If after debate on the investigating committee's report, two-thirds of that house's members vote to support the charge, the Head of State would be deemed to have been removed from office.

Q: Do you support our proposals for removing a Head of State from office?

Q: Do you have other ideas for how to achieve that while maintaining procedural fairness?

As outlined above, if a Head of State is removed in the first two years of their term, a new election should be called for a person to complete that term. If after the initial two-year period, the most senior state governor or territory administrator willing to assume the office as Acting Head of State would serve the balance of the former office holder's term.

We suggest anyone who serves as Acting Head of State should be free to later seek the office for two full terms.

HOW WE GET THERE

The Real Republic Australia is proposing a new process to achieve an Australian republic and other beneficial constitutional reforms – a process that is built around the involvement of average Australians and which reduces the risk of partisan politicking stalling or scuttling reform.

History shows that few referendum questions are approved by Australian voters. At a referendum voters are asked to say “yes” or “no” to a question outlining a proposed federal law to alter the Australian Constitution. Since Federation in 1901 Australians have been asked on 19 occasions to vote “yes” or “no” to 44 referendum questions.

But only eight of those questions have succeeded in meeting the Constitution’s requirement for a “double majority”. [Section 128 of our Constitution](#) says for a question to be passed it must receive a majority of votes nationwide (including votes in the territories) as well as in a majority of states (excluding the territories).

The November 1999 republic referendum question failed to receive a majority “yes” vote nationwide and no state recorded a majority “yes” vote. The Australian Capital Territory was the sole jurisdiction in which voters expressed a majority view to shift to a republic.

It is easy to say that Section 128 itself should be the subject of a referendum to alter it in some way – for example by requiring only a nationwide majority of votes for a referendum question to succeed – before proceeding with any future referendum. But a 1974 referendum sponsored by the Whitlam Government – to enable amendments to be made to the Constitution if approved by a majority of voters and a majority of voters in at least half the States – failed.

Voters might reject such any similar proposal for a second time if they believed its motives were to make it “too easy” to change our Constitution. A consensus to conduct a referendum to alter Section 128 may emerge in the future, but the Real Republic Australia’s model for a republic and our process to achieve it is not based on that happening.

We believe that any such change would not be guaranteed to make constitutional change easier. That is because history also shows us that another significant factor in the fate of referendums in Australia is party politicking.

It is generally accepted that the best chance a referendum question has of succeeding is if it commands bi-partisan support. We think the best chance for a successful republic referendum is if politicking and the involvement of politicians are minimised.

Our ‘roadmap’ for reform

In June 2021 the Real Republic Australia outlined a suggested “roadmap” to achieve public support for a referendum on our nation’s transition to a republic, and to address other proposals for beneficial changes to our Constitution.

Central to our plan is the simple idea that the Australian Constitution belongs to the people of Australia. It is for Australians to assess and examine the Constitution and to play a role in reforming and reshaping it when and where necessary. We believe our “roadmap” provides an understandable and effective way to do just that.

While further details are provided at the end of this discussion paper, in brief our plan is based around a new entity called an Australian Constitutional Assembly created under federal law. We propose that a series of separate, successive Australian Constitutional Assemblies could be established to consider specific reform proposals under a long-term plan for constitutional review .

Each Assembly would be given 12 months to complete its review and would report to the Speaker of the House of Representatives who would also be administratively responsible for its operation through the Department of the House of Representatives. Each Assembly would comprise:

- a part-time chair designated by the Speaker of federal parliament who would be an Australian citizen but not an elected member of any legislative body, and
- at least 99 part-time members being Australian citizens entitled to vote at a referendum and recruited at national level in accordance with best recruitment practices so as to be broadly representative of Australian society similar to the sampling methods used in any national market research project.

An Assembly larger than 100 members could be established by parliamentary resolution while another option would be to establish an Assembly in each state and territory and consolidate their recommendations.

A small number of alternate delegates could be selected in case any of the original choices determined at any stage during the process that they could not continue their involvement. Alternate delegates would have no voting rights until they assumed the role of someone who had vacated their position in the Assembly.

Each Assembly would be supported by a small secretariat including administrative and research staff similar to support staff provided to commissions of inquiries or parliamentary portfolio committees. The secretariat would source for an Assembly an expert reference group consisting of individuals knowledgeable in the issue under consideration as well as undertake specific research tasks assigned to it by Assembly members.

Each Australian Constitutional Assembly would be required to report to the Speaker of the House of Representatives who would also be administratively responsible for their operation through the Department of the House of Representatives.



REPUBLIC REFERENDUM RESULTS SUMMARY 6 NOVEMBER 1999		
	% YES	% NO
NSW	46.43	53.57
Vic	49.84	50.16
Qld	37.44	62.56
WA	41.48	58.52
SA	43.57	56.43
Tas	40.37	59.63
ACT	63.27	36.73
NT	48.77	51.23
AUST	45.13	54.87



HOW WE GET THERE (continued)

It works for Ireland

In drafting our proposals we have drawn on the experience in the Republic of Ireland where a series of [Citizens' Assemblies](#) has considered issues of public policy and constitutional changes.

The [2012 Constitutional Convention](#) was the first of such bodies and involved 33 MPs and 66 Irish citizens who were asked to consider reforms to the nation's constitution.

For the 2012 convention the 66 citizens were selected [through a process](#) similar to that used by market research firms in creating samples of voters for conducting opinion polls.

At the same time extra voters were chosen to serve as "shadow" delegates to substitute for any delegates who dropped out or were unavailable to complete the deliberative process.

A flow-on from the 2012 convention was an ongoing system of Citizens' Assemblies – each comprising 99 citizens led by an appointed expert chair – to consider other issues.

The selection process now excludes some categories of people such as politicians and party members, media representatives, and active campaigners for or against the issue being considered.

Similar to the selection process used in Ireland, our proposed Australian Constitutional Assemblies would also exclude serving politicians, members of political parties, media representatives, and anyone deemed to be an active campaigner for or against the issue to be examined.

This means any government, opposition, or individual MP or parties wishing to have a say could do so by making a submission to, or appearing as a witness at an Assembly public hearing.

Those participating in an Assembly would be entitled to be paid for attending meetings, specified travel costs and other designated expenses.

It is envisaged that each Assembly would decide its work plan and the frequency and method of its meetings, with most expected to be virtual meetings held at weekends or after working hours.

At the conclusion of an Assembly, the federal government would need to decide and justify supporting or opposing recommendations of the Assembly – recommendations which would essentially reflect the views of the Australian community.



An Irish Citizens' Assembly

Q: Do you support the idea of an independent, non-partisan, voter-led body like an Australian Constitutional Assembly to help lead constitutional reform?

Q: Do you support the idea of Assembly members being selected to broadly reflect the wider Australian community?

Q: Do you agree with politicians, members of the media, and political activists being excluded from taking part in an Assembly?

Achieving an Australian republic

We believe a representative, non-partisan Australian Constitutional Assembly should be at the heart of the process to achieve an Australian republic and we further believe that such a process would ultimately see voters choose a republic model based on the genuine direct election of their Head of State.

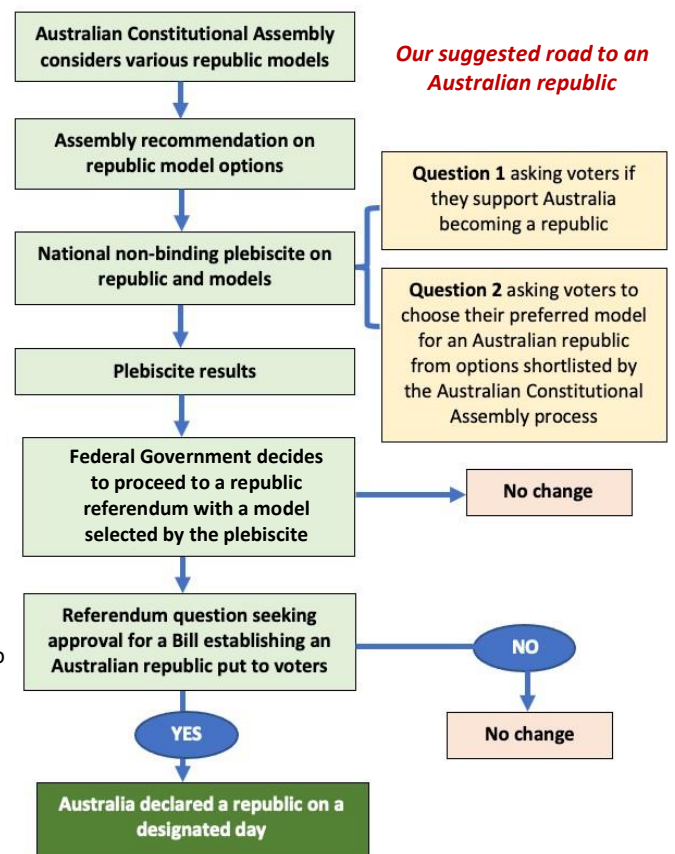
We propose that the Australian Constitutional Assembly process be used to identify options for workable republic models and to draw up a shortlist to be put to all Australian voters in a non-binding national plebiscite.

We stress that the plebiscite must consist of two questions:

- a threshold question on whether voters support Australia becoming a republic, and
- a second question asking for their preference for a specific republic model.

There is a real risk that if such a plebiscite contains only the threshold question asking voters to say "yes" or "no" to a republic, it would face certain defeat at the hands of a campaign by those opposing a republic who would advise voters "don't sign a blank cheque" in the absence of any adequate details of a republic model.

A plebiscite on a republic – a key part of our suggested process for achieving a republic or other constitutional reforms (*see diagram*) – must ask at least the two questions outlined above and must include a range of models from which voters can choose their preference.



HOW WE GET THERE (continued)

The Real Republic Australia believes that if our suggested inclusive and consultative approach was taken using the Australian Constitutional Assembly concept, and once a plebiscite identified a preferred model – which we firmly believe will be a genuine direct-election model – it would be very difficult if not impossible for any federal government not to proceed with a referendum. In addition, the model arising from a plebiscite and put to voters at that referendum would belong to Australians, not to any particular pro-republic group, and not to politicians.

Q: Do you agree that a non-binding plebiscite on a republic preceding a referendum should ask voters to pick their preferred republic model?

By establishing such a simple, inclusive, and non-partisan process we can achieve a republic instead of standing by and watching as good ideas are dealt with in a piecemeal fashion and fail at referendums because of party politicking.

Q: Do you support the idea of a cross-section of Australian voters helping lead the process for assessing republic models that would lead to an eventual referendum?

Not a blank sheet

We believe our recommendations for addressing constitutional reform issues through the Australian Constitutional Assembly process – including a shift to a republic – would largely remove partisan politics from the public debate.

The process we suggest would also underline the fact that the ownership of the Australian Constitution rests with the Australian people and is not the sole preserve of interest groups or politicians. Our plan offers the best chance to avoid partisan politicking of the type that has bedevilled previous attempts at constitutional reform.

Through our suggested series of Australian Constitutional Assemblies, we do not seek to erase the current Constitution and start again with a blank sheet. We do not propose a rushed process either. We envisage reforms would take place gradually over several terms of parliament.

We are simply proposing the establishment of a fair, open, transparent, and representative process through which beneficial reforms to our Constitution and therefore our system of government can be considered and implemented.

Our Constitution was written in the late 19th century by a select group of people – largely white males – which is a good reason to establish a new and better process to achieve meaningful reforms, not just a republic.

OTHER POTENTIAL REFORMS

The Real Republic Australia proposes using Australian Constitutional Assemblies as part of a long-term plan to consider other constitutional changes that benefit all Australians and make government more efficient and effective.

While others will have their own proposals for reform, our suggested constitutional changes include:

- constitutional recognition of First Nations peoples,
- fixed four-year terms for both houses of parliament,
- synchronised terms for both houses of parliament,
- addressing the nexus between houses and reducing the overall number of Senators,
- a casual vacancy system for the House of Representatives,
- constitutional recognition of local government, and
- a fairer process for changing Australia's Constitution.

Some of these reforms have previously failed at referendum but deserve to be reconsidered. We believe each reform should be subject to the process of assessment by an Australian Constitutional Assembly as outlined in our Roadmap for Reform mentioned previously in this discussion paper.

ABOUT US

The Real Republic Australia was founded by Brisbane's longest-serving Lord Mayor, Clem Jones, and other delegates to the 1998 Constitutional Convention in Canberra who supported a republic with a directly elected Head of State. Since his death in 2007 the Real Republic Australia continues campaigning for a republic based on a genuine direct-election model with support provided by the Clem Jones Group. Our quarterly newsletter *Constitutional Conversation* aims to foster debate on a republic and other reforms. Contact us to add your name to our mailing list.



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