



# THE AUSTRALIAN CHOICE MODEL

A GENUINE CHOICE FOR AUSTRALIANS

THE PRIMARY BARRIER TO AUSTRALIA BECOMING A REPUBLIC IS NOT THE BRITISH MONARCHY, BUT UNCERTAINTY. AS THE PEAK BODY ADVOCATING FOR AN AUSTRALIAN AS OUR HEAD OF STATE, THE AUSTRALIAN REPUBLIC MOVEMENT'S MISSION IS TO ADVANCE SUPPORT FOR REAL, WORKABLE REFERENDUM-WINNING CHANGE.

To win that change, a referendum on the republic must achieve a double majority; a majority of votes nationally, and a majority in four of six states. So any proposition for a republic must be capable of securing majority support in advance of any referendum campaign.

Australians are not naturally monarchists – it's the model that matters. Polling and research has consistently shown that more of us are for a republic than against it, but when voters are asked to support a general proposition about a republic it achieves a bare majority. We know the model is the main variable because when asked about specific proposals, support varies dramatically: varying between one third and two-thirds in favour. 92% of Australians are open to the idea of a republic, with only 8% opposed to any form of change<sup>1</sup>.

We tested this view extensively over 2020 and 2021. The ARM consulted widely, surveyed our members and registered supporters, undertook in-depth nationally representative polling, ran focus groups, and met with community and political leaders across the country. We listened carefully and we're persuaded that with the right model, Australians will back change - convincingly.

We will campaign for a change we believe is sensible and right for our parliamentary democracy, and which we know most Australians will support: our Federal, State, and Territory parliaments should nominate a short-list of Australia's best and brightest to be put to a national election. Every Australian voter would have a say in choosing which candidate should be our Head of State, using the ballot box we Australians pioneered in 1856. We call this the *Australian Choice Model*.

The Australian Choice Model provides a genuine choice for Australian voters with a robust nomination process.

<sup>1</sup> ARM POLLING DEC 2021. ONLY 8.3% OF RESPONDENTS INDICATED UNIVERSAL OPPOSITION TO ALL MODEL OPTIONS PRESENTED.



## One of us, by us, for all of us.

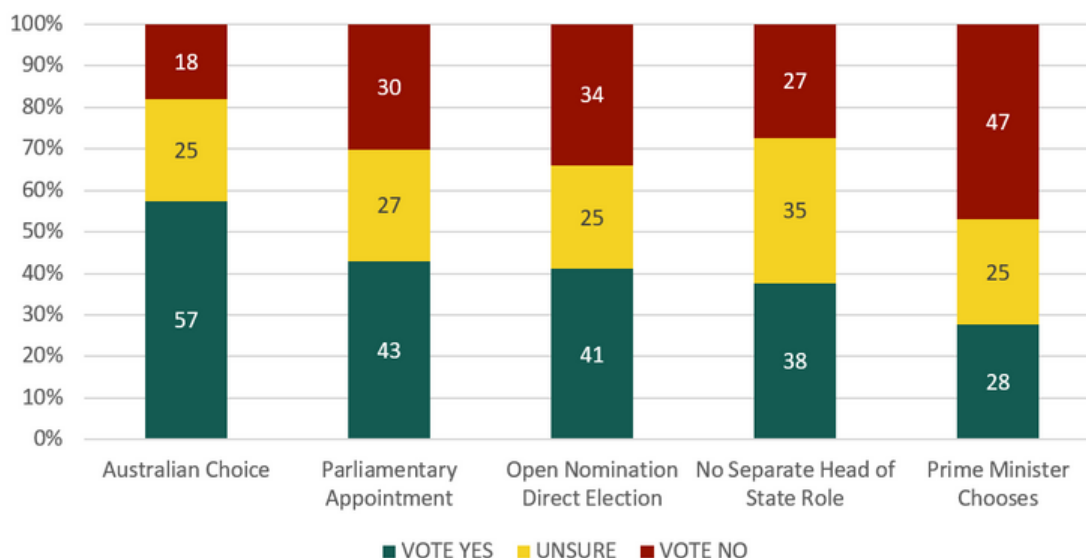
The ARM's polling and research indicates that over two-thirds of Australians – around 73%<sup>2</sup> – would back this model at a referendum, including many who would otherwise vote 'no'.

Our research found the Australian Choice Model is likely to win majority support across all states, all age groups, genders and across party voting lines.

## Rigour and integrity.

The proposed nomination process is important. Australian voters would not support either a minimalist model where the prime minister or parliament chooses the Head of State, or a full direct election model which could end up with unsuitable candidates. Australians want to choose who our Head of State will be, but we also want credible candidates who are qualified for the job.

### Public Support for Models for an Australian Republic



<sup>2</sup> ARM POLLING DEC 2021. RESPONDENTS WERE ASKED TO INDICATE THEIR SUPPORT OR OPPOSITION TO THE APPROACH, IN A YES/NO FORMULATION EQUIVALENT TO THAT WHICH THEY WOULD SEE AT A REFERENDUM.



# Strengthening our Constitution.

The popular election of the Head of State we propose will not alter our fundamental constitutional order. The nomination process we have outlined is an important safeguard. But to make sure, we referred our proposed model to a specially-established advisory body of some Australia's most senior constitutional law experts to advise us what legal reforms would be necessary to achieve this model. The reforms sufficiently define the Head of State's powers, remove ambiguity and preserve the primacy of the Federal Parliament in the Australian Constitution.



## A Head of State for an **independent** nation

As a former British colony, Australia has inherited many British traditions and institutions of government, including the British Monarchy. The Monarch continues to play a role in Australia's system of government (as our 'Head of State'), as they do in the United Kingdom.

An institution which grants inherited privilege and power to a particular family is at odds with Australia's modern democratic values. Just as our parliament, courts and governance in Australia have evolved towards greater independence and democratic participation, so too must the role of Head of State evolve to reflect our nation's development.

The role of 'Head of State'<sup>3</sup> is distinct from that of the Prime Minister. The Prime Minister is entrusted to govern the nation with the aid of ministers. The courts interpret laws and enforce them. The British monarch's representative, the Governor-General, is appointed by the King or Queen on the advice of the Prime Minister alone, who can remove them at any time.

<sup>3</sup> ALTHOUGH THE TERM 'HEAD OF STATE' IS USED THROUGHOUT THIS DOCUMENT AND AMENDMENTS, THE ARM WILL CONTINUE CONSULTATION REGARDING THE TITLE OF THE ROLE.



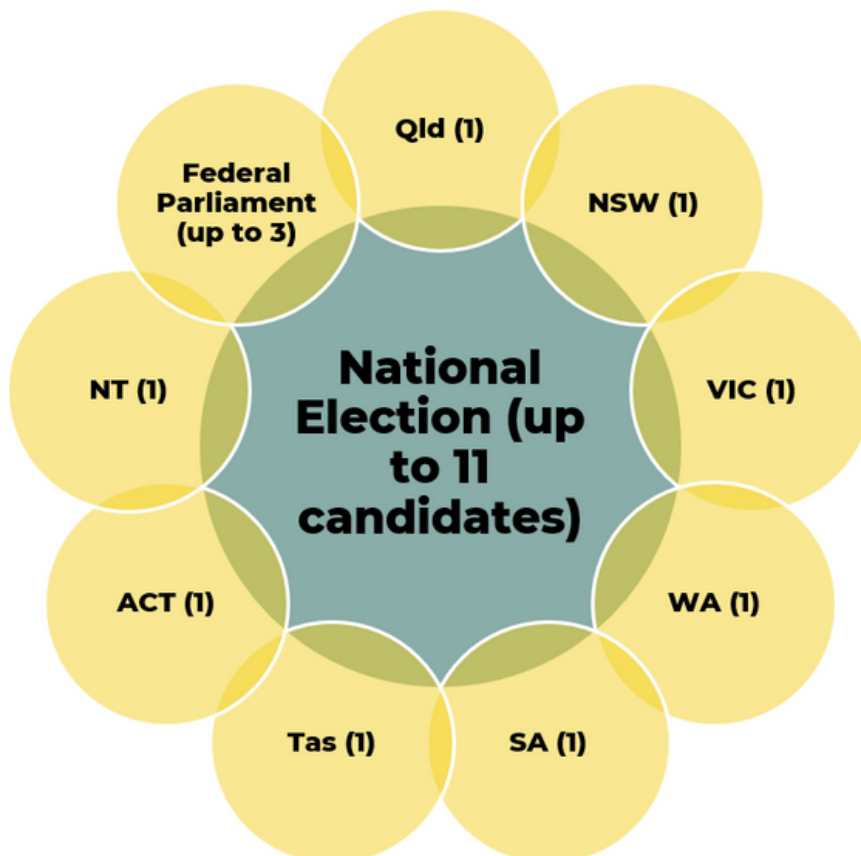
## A Head of State chosen by Australians

Modern democracies like Australia elect their representatives. Australians generally oppose the notion of hereditary rule but also reject the idea of a Head of State appointed by the Prime Minister or Federal Parliament. Australians want the final say about who speaks for them.

Australians want a genuine choice of candidates – not an unwieldy list of hundreds – but a short-list of candidates that have the credibility, character and skills that make them eminently suitable to be our Head of State.

### The Australian Choice Model proposes that:

- each State and Territory Parliament nominates one candidate; and
- the Federal Parliament nominates up to three candidates.



Each of the parliaments would be empowered to develop their own nomination methods to determine their nominee(s). However they choose to do this, it will be in their interests to nominate candidates that are likely to have broad public appeal.

This will ensure a diverse cross-section of nominees are put forward from across the country, each of whom has a reasonable prospect of achieving both local and national support.



# THE AUSTRALIAN CHOICE MODEL

**Australians will be eligible to be nominated by their State/Territory parliament or the Federal Parliament if they are:**

- an Australian citizen;
- they are eligible to be elected to the House of Representatives;
- they are not a current sitting member of any Australian parliament; and
- have not previously served more than one term as Head of State.

The short-list of up to eleven nominees would then be put to a national election, with all Australian voters able to vote for their preferred candidate.

The Australian Republic Movement believes the same method of election currently used for the House of Representatives (full preferential, single-transferable vote) should be used for the election of the Head of State.

The Head of State would be elected for a five-year term. A two-term limit would be imposed.

We expect all Australian parliaments would avail themselves of the opportunity to nominate their preferred candidate(s) - it would be unusual for a state or territory to decline the opportunity to nominate one of their residents. However, if for whatever reason only one nomination is put forward by Australia's parliaments, the ARM believes the decision as to whether or not the person serves as Australia's Head of State should remain in the hands of voters. In this instance, voters would have the opportunity to confirm or reject the election of that candidate.

*Proposed Amendment to the Constitution*

## **Chapter IX—Election and removal of Head of State**

### **129 Eligibility to be Head of State**

A person is eligible to be Head of State if the person is:

- (a) an Australian citizen and qualified to be elected to the House of Representatives in accordance with section 34 of this Constitution;
- b) not disqualified from sitting as a member of the House of Representatives in accordance with section 44 of this Constitution;



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## *Proposed Amendment to the Constitution*

(c) not a member of the House of Representatives or the Senate or a candidate standing for election to the House of Representatives or the Senate, if writs for elections to the House of Representatives or Senate have been issued;

(d) not a member of any State or Territory parliament, or a candidate standing for election to any State or Territory parliament, if writs for elections to any State or Territory parliament have been issued; and

(e) not a person previously elected as Head of State for more than one term.

### **130 Nomination for election as Head of State**

The Parliament of the Commonwealth of Australia may nominate up to three eligible persons to stand as candidates to be elected as the Head of State.

The Parliament of each State or Territory which is represented in the Senate or the House of Representatives in the Parliament of the Commonwealth, may nominate one eligible person to stand as a candidate to be Head of State.

The Parliament of the Commonwealth and the Parliaments of each nominating State or Territory may, subject to this Constitution, adopt such procedures as they see fit to select eligible persons nominated to stand as candidates to be Head of State, provided that the nominations are made at least 60 days prior to the next date for election for Head of State.

For the purposes of this section, a State or Territory is represented in the House of Representatives, if there is at least one electoral division in the House of Representatives, the boundaries of which are wholly and exclusively within that State or Territory.



*Proposed Amendment to the Constitution*

## **131 Elections for Head of State**

A Head of State shall be elected by the people of the Commonwealth from among the people nominated for election pursuant to section 130.

In the event that only one person is nominated for election for Head of State, an election to confirm or reject the appointment of the nominee shall nevertheless be held.

The Parliament of the Commonwealth may make laws consistent with this Constitution about the method of election of the Head of State.

The first election for Head of State shall occur in the month that is the fourth month after the commencement of this Chapter of the Constitution.

The election for Head of State shall thereafter occur every five years in the month in which the fifth anniversary of the previous election for Head of State falls.

Subject to section 132, a person elected Head of State holds office for a term of five years.

Before assuming office, the Head of State shall take an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution.



# Powers fit for an **Australian** Head of State, not a king

There is no appetite in Australia among supporters of an Australian republic or in the broader community for a Head of State with 'king-like' executive powers or a governing presidency like the United States. The role of Head of State in Australia is ceremonial in nature, with limited powers to safeguard and maintain the constitutional order and resolve political gridlock.

The Australian Choice Model confirms that on most matters the Head of State will act on the advice of the government of the day. The limited exceptions to this would be:

- **When appointing the Prime Minister.** They must determine who they believe is most likely to form a Government who commands the confidence (has majority support) of the House of Representatives;
- **Terminating the appointment of a Prime Minister.** If a Prime Minister no longer commands the confidence of the House of Representatives, they are expected to resign. If they do not, the Head of State can terminate their appointment and appoint a person who has majority support. Importantly, the Australian Choice Model enshrines the current practice, and prohibits a Head of State from terminating the appointment of a Prime Minister who retains the confidence of the House;
- **When summoning Parliament to determine who has the confidence of the House of Representatives.** There may be times when it is not clear who should be appointed as Prime Minister. In these instances the Head of State can test the support of the prospective or incumbent Prime Minister by recalling Parliament for that purpose; and
- **Calling an election where the confidence of the House remains indeterminate for more than seven days.** This allows time for the Parliament to come to an agreement about who should be Prime Minister, or otherwise provides the Head of State with the option of bringing forward an election to resolve the impasse.





*Proposed Amendment to the Constitution*

## **5 Sessions of Parliament. Prorogation and dissolution**

The Head of State in Council may prorogue Parliament and appoint times for holding the sessions of the Parliament.

### *(i) Summoning Parliament*

After any general election the Parliament shall be summoned to meet not later than thirty days after the day appointed for the return of the writs.

### *(ii) Dissolution of the House of Representatives*

The Head of State shall, by Proclamation, dissolve the House of Representatives where a Prime Minister who holds the confidence of the House of Representatives so requests.

The Head of State may, by Proclamation, dissolve the House of Representatives

(a) where the confidence of the House of Representatives is indeterminate for a period of no less than seven consecutive days; or

(b) In accordance with the procedure for a simultaneous dissolution of both the House of Representatives and the Senate, as provided for in section 57; and not otherwise.

(iii) The Head of State may summon the House of Representatives for the purpose of determining the confidence of the House of Representatives. The Head of State does not act in Council or on ministerial advice when summoning the House of Representatives to determine confidence or when making a Proclamation under section 5(ii)(a) dissolving the House of Representatives.

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## **32 Writs for general election**

The Head of State may cause writs to be issued for general elections of the House of Representatives when the Parliament has expired.

If the Head of State has issued a proclamation to dissolve the House of Representatives, pursuant to section 5, the Head of State must cause writs to be issued for general elections of members of the House of Representatives.

The writs shall be issued within ten days from the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

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*Proposed Amendment to the Constitution*

## **57 Disagreement between the Houses**

If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Head of State may, on the advice of the Prime Minister, dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Head of State may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Head of State for assent.

...



## *Proposed Amendment to the Constitution*

### **63 Provisions referring to the Head of State**

Unless otherwise expressly provided, the provisions of this Constitution referring to the Head of State shall be construed as referring to the Head of State acting upon ministerial advice or with the advice of the Federal Executive Council.

As it stands, the Australian Constitution includes no mention of the role of Prime Minister. In order to define the powers of the Head of State and remove the current ambiguity that exists, the Australian Choice Model incorporates the established concept of a Prime Minister into the Constitution and defines the role of the Head of State in appointing and removing them.

## *Proposed Amendment to the Constitution*

### **70A Office of Prime Minister**

- (i) The Head of State shall appoint a person to be known as the Prime Minister to be the Head of the Government of the Commonwealth.
- (ii) Following a general election, or when there is otherwise a vacancy in the office of Prime Minister, the Head of State shall appoint as Prime Minister the person whom the Head of State believes most likely to be able to form a Government which will command the confidence of the House of Representatives.
- (iii) The Prime Minister shall not hold office for a longer period than three months unless the Prime Minister is or becomes a member of the House of Representatives.
- (iv) The Prime Minister shall hold office, subject to this Constitution, until the Prime Minister dies, resigns, or the Head of State terminates the Prime Minister's appointment. The Head of State does not act in Council or on ministerial advice when terminating a Prime Minister's appointment.
- (v) The Head of State shall not terminate the appointment of a Prime Minister who holds the confidence of the House of Representatives.

Traditionally, the Governor-General, acting as the King or Queen's representative is also required to approve ('give assent') to all laws passed by Parliament. They arguably also have the power to refuse to do this, and to return laws to the parliament with their own proposed amendments at their discretion.

The Australian Choice Model entrenches the long-established expectation that the Head of State should have no role in setting or rejecting policy or interfering in matters of political policy. Proposed laws passed by Parliament will be automatically given assent after seven days, unless the Head of State is advised to assent to the laws sooner. Proposed laws may be returned to the Parliament with proposed amendments on the advice of the Federal Executive Council only. The current power afforded to the British Queen or King to disallow laws within one year of assent or reserve a law for assent after two years will be abolished. A Head of State will have no discretion to overrule the Parliament on proposed laws.

The same clarification is provided in relation to amendments approved by Australians at a referendum: the current Australian Constitution provides some discretion to the Governor-General to refuse to approve a proposed constitutional change that has been approved by voters at a referendum. The Australian Choice Model ensures the Head of State must give assent to changes endorsed by the Australian people at a referendum.

#### *Proposed Amendment to the Constitution*

### **58 Assent to Bills**

A proposed law passed by both Houses of the Parliament shall be taken to have received assent on the expiration of the seventh day following its passage unless the Head of State grants assent earlier.

### **59 Recommendations by Head of State**

The Head of State in Council may return to the House in which it originated any proposed law so presented for assent, and may transmit therewith any amendments which the Head of State in Council may recommend, and the Houses may deal with the recommendation.

...

### **128 Mode of altering the Constitution**

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And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Head of State who shall assent to it.

...



# THE AUSTRALIAN CHOICE MODEL

The ARM strongly believes that everyone who holds public office must be able to be held to account, which is something that is currently impossible to do for our Head of State without first changing the Constitution. The Australian Choice Model would allow the Head of State to be removed from office for proven misbehaviour or incapacity by a motion passed by both Houses of Parliament. This is the same process for the removal of a justice of the High Court.

If a Head of State is incapacitated, removed from office, resigns or otherwise unable to fulfill their duties, the most senior available Governor of a State will act as Head of State until the Head of State can return to office or an election can be held to fill the Head of State vacancy.

## *Proposed Amendment to the Constitution*

### **4 Provisions relating to Head of State**

The provisions of this Constitution relating to the Head of State and all other powers vested in the Head of State extend and apply to the Head of State for the time being. In the event of the absence out of Australia, incapacity, or unavailability of the Head of State, the administration of the Commonwealth shall pass to the senior available Governor of a State for the period of the Head of State's absence, incapacity or unavailability, until the Parliament otherwise provides. No such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during that person's administration of the Government of the Commonwealth.

...

### **132 Ceasing to be Head of State**

A person ceases to be Head of State if:

- (a) the Head of State resigns in writing to the Prime Minister or if there is no Prime Minister, to the President of the Senate; or
- (b) a motion is passed by both Houses of the Parliament in the same session for removal of the Head of State on the ground of proved misbehaviour or incapacity; or

(c) the Head of State ceases to be eligible to be Head of State in accordance with section 129.

If a person ceases to be Head of State, and there are more than four months of that person's term as Head of State remaining, then an election for Head of State shall occur in the month that is the fourth month after the date upon which that person ceased to be Head of State. Subject to this section, the person thereby elected Head of State holds office for a term of five years.

### **133 Remuneration of the Head of State**

The Head of State shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during the Head of State's continuance in office.

The Australian Choice Model will deliver a Head of State who is an Australian citizen, someone who lives here, has sole allegiance to Australia and who must always put Australia's interests first; which is something we've never had before. When they take office, they should swear allegiance to Australia and the Australian people, and commit to upholding the laws and Constitution of Australia.

## **Schedule 1**

### **OATH**

I, A.B., do swear that I will be loyal to the Commonwealth of Australia and the Australian people whose Constitution and laws I shall uphold.  
SO HELP ME GOD!

### **AFFIRMATION**

I, A.B., do affirm that I will be loyal to the Commonwealth of Australia and the Australian people whose Constitution and laws I shall uphold.

This would also apply to Members of Parliament, who currently swear allegiance to the Queen rather than to Australians.

# Continuing Consensus Building

We acknowledge that it may be appropriate to include a preamble at the beginning of the body of the Constitution, but recognise that any such preamble requires substantive consultation, especially with First Nations people about its form. We have not set out to pre-empt the outcome of this consultation and look forward to furthering that discussion.

We have also considered the position of the Australian states, each of which have a Governor representing the British King or Queen. State-level reforms are not a pre-condition of change occurring at a national level. The Australian Choice Model maintains the rights of states to consider these state-level reforms independently, and does not seek to impose change on state constitutional arrangements.

## THIS POLICY WAS ENDORSED UNANIMOUSLY BY THE ARM'S NATIONAL COMMITTEE:

PETER FITZSIMONS AM (CHAIR)  
TULLY FLETCHER (SENIOR DEPUTY CHAIR)  
MEREDITH DOIG (JUNIOR DEPUTY CHAIR)  
NATHAN HANSFORD (TREASURER AND SECRETARY AND ACT CONVENOR)  
ALICE CRAWFORD (EXECUTIVE MEMBER)  
BODHI HARDINGE (EXECUTIVE MEMBER AND WA CONVENOR)  
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## WITH SPECIAL THANKS TO THE AUSTRALIAN REPUBLIC MOVEMENT'S CONSTITUTIONAL ADVISORY BODY FOR THEIR ADVICE AND ASSISTANCE IN DRAFTING THE AMENDMENTS TO THE AUSTRALIAN CONSTITUTION:

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