

**Inquiry into the introduction of four
year terms for the Queensland
Parliament, including consideration
of *Constitution (Fixed Term
Parliament) Amendment Bill 2015*
and *Constitution (Fixed Term
Parliament) Referendum Bill 2015***

Report No. 16, 55th Parliament
Finance and Administration Committee
November 2015

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Finance and Administration Committee

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The Committee thanks those who briefed the Committee and participated in its inquiry.

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Abbreviations

ALP	Australian Labor Party
CCIQ	Chamber of Commerce and Industry Queensland
ECQ	Electoral Commission of Queensland
FAC	Finance and Administration Committee
FLP	Fundamental Legislative Principles under the <i>Legislative Standards Act 1992</i>
LCARC	former Legal, Constitutional and Administrative Review Committee
LGAQ	Local Government Association of Queensland
LNP	Liberal National Party
MTAQ	Motor Trades Association of Queensland
QCRC	Queensland Constitutional Reform Commission

Glossary

Acts	All Acts referred to in this report refer to Queensland Acts unless otherwise specified.
the Bills	<i>Constitution (Fixed Term Parliament) Amendment Bill 2015</i> and <i>Constitution (Fixed Term Parliament) Referendum Bill 2015</i>
the Committee	Finance and Administration Committee

Chair's Foreword

This report presents a summary of the Committee's examination of:

- the inquiry into the introduction of four year terms for the Queensland Parliament;
- the *Constitution (Fixed Term Parliament) Amendment Bill 2015*; and
- the *Constitution (Fixed Term Parliament) Referendum Bill 2015*.

The Committee considered its task was to consider the policy outcomes contemplated in the referral and then to consider whether the Bills achieved those outcomes.

The Committee undertook a wide ranging inquiry, holding public forums in metropolitan and regional areas over the course of the inquiry to hear, as much as possible, the views of Queenslanders on the issues. The Committee also called for public submissions, held a public hearing with stakeholders and received a briefing from the Member for Mansfield, who introduced the Bills, and officers from the Electoral Commission of Queensland.

The Committee also convened an expert panel in order to consider the constitutional issues raised during the inquiry. Participants in this panel were Professor Anne Twomey from the University of Sydney, Professor Graeme Orr from the University of Queensland and Mr Neil Laurie, Clerk of the Parliament.

The Committee was very conscious of the significance of this inquiry and the weight of any recommendations on Queensland's constitution and parliamentary system. The inquiry was conducted in a bipartisan manner and the Committee supported all 12 recommendations unanimously.

On behalf of the Committee, I would like to thank those who took the time to attend the public forums, provide submissions, respond to the on-line survey, meet with the Committee and provide additional information during the course of this inquiry.

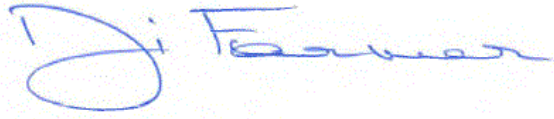
In particular the Committee would like to thank the representatives from the Local Government Association of Queensland, the LNP and the Queensland Greens for their participation at the public hearing and the Member for Mansfield for providing a briefing on the Bills. The Committee also thanks the officers from the Electoral Commission of Queensland for providing a thorough briefing on the issues to be considered with regard to any referendum to be held. The Committee very much appreciates all of the valuable assistance provided.

The Committee is especially thankful to Professors Twomey and Orr for giving their time and expertise so freely to the Committee. The Committee found the information provided to be invaluable in understanding the critical constitutional issues which the inquiry raised.

The Committee would also like to thank the Clerk of the Parliament, Mr Neil Laurie, and the Committee Office Manager, Mr Stephen Finnimore, who presented at the Committee's public forums and provided assistance and advice on a wide range of issues throughout the course of the inquiry.

The Committee would like to thank the Members for Toowoomba North, Buderim, and Burdekin for their participation in the Committee's meetings due to the absences of Committee Members. The Committee also expresses its thanks to other existing and former Members of Parliament who assisted the Committee by both promoting and participating in the public forums held throughout Queensland.

Finally, I would like to thank all Members of the Committee for their hard work and determination to address the significant and complex issues involved in this Inquiry. These are reflected by the truly bipartisan manner in which our deliberations were conducted, and the unanimity of the Committee's recommendations.



Di Farmer MP
Chair

November 2015

Recommendations

Standing Order 132 states that a portfolio committee report on a Bill is to indicate the Committee's determinations on:

- whether to recommend that the Bill be passed
- any recommended amendments
- the application of fundamental legislative principles and compliance with the requirements for explanatory notes.

The Committee has made the following recommendations:

Recommendation 1 **5**

The Committee recommends that the *Constitution (Fixed Term Parliament) Amendment Bill 2015* and *Constitution (Fixed Term Parliament) Referendum Bill 2015* be passed, with amendment, as detailed in the Committee's other recommendations.

Recommendation 2 **5**

The Committee recommends that the drafting of the legislative provisions recommended by the Committee needs to focus on:

- consistency with the simple style of drafting found in the *Constitution of Queensland Act 2001*; and
- the requirement for the Bill to be approved by the voters of Queensland at a referendum and that it is imperative that the style be easy to read and be understandable.

Recommendation 3 **6**

The Committee recommends that, should the *Constitution (Fixed Term Parliament) Amendment Bill 2015*, be proceeded with, the enacting authority be amended.

This recommendation would also apply to any other Bill(s) with similar intent which are introduced.

Recommendation 4 **6**

The Committee recommends that, should the *Constitution (Fixed Term Parliament) Amendment Bill 2015*, be proceeded with, cross-referencing in the entrenched Acts to non-entrenched Acts should not occur.

This recommendation would also apply to any other Bill(s) with similar intent which are introduced.

Recommendation 5 **6**

The Committee recommends that, should the *Constitution (Fixed Term Parliament) Amendment Bill 2015* be proceeded with, it be split into two Bills:

- One Bill containing those provisions that repeal, amend or create entrenched provisions and which must be approved by the voters at a referendum (*Constitution (Fixed Term Parliament) Amendment Bill 2015*); and
- One Bill containing those provisions that are consequential amendments to non-entrenched provisions in Acts such as the *Electoral Act 1992*.

This recommendation would also apply to any other Bill(s) with similar intent that are introduced.

Recommendation 6

7

The Committee recommends that should it proceed, the Bills resulting from the splitting of the *Constitution (Fixed Term Parliament) Amendment Bill 2015* should provide that:

- the relevant acts commence on a fixed date or the day the Legislative Assembly of the 55th Parliament is dissolved for a general election; and
- the next general election, following the dissolution of the Legislative Assembly of the 55th Parliament, be treated as an extraordinary election such that the next general election is to be held on the last Saturday in October in the third calendar year after the year in which the extraordinary general election was held.

This recommendation would also apply to any other Bill(s) with similar intent which are introduced.

Recommendation 7

8

The Committee recommends that, should it proceed, the *Constitution (Fixed Term Parliament) Amendment Bill 2015* should be amended to provide for an **extraordinary dissolution** and an **extraordinary election** in the following circumstances:

1. The Governor must dissolve the Legislative Assembly and on the same day issue a writ for a general election if, before the normal dissolution day—
 - (a) each of the following happens—
 - i. a motion in the Legislative Assembly in the form “That this House has no confidence in the government” is passed, or a motion in the form “That this House has confidence in the government” is defeated;
 - ii. at least eight days have passed after the passage or defeat of the motion above, without a motion in the form “That this House has confidence in the government” being passed;
 - iii. the Governor considers no government can be formed that will command the confidence of the majority of the Legislative Assembly; or
 - (b) the Legislative Assembly rejects a Bill for an ordinary annual appropriation Act; or
 - (c) the Legislative Assembly fails to pass a Bill for an ordinary annual appropriation Act before the day notified by the Governor by message to the Legislative Assembly that the appropriation is required.
2. Nothing affects the Governor exercising the reserve powers in accordance with established constitutional conventions.
3. A writ issued for an **extraordinary election**, including a writ issued as a consequence of the exercise of the reserve powers, must state the polling day for the general election, which must be a Saturday not less than 26 days and not more than 40 days after the day of the issue of the writ.

This recommendation would also apply to any other Bill(s) with similar intent that are introduced.

Recommendation 8

9

The Committee recommends that should it proceed, the *Constitution (Fixed Term Parliament) Amendment Bill 2015* should provide that:

- If the previous general election was not an extraordinary general election, the general election is to be held on the last Saturday in October in the 4th calendar year after the year in which the previous general election was held. (***The normal polling day.***)

Example –

An election, not being an extraordinary election, was held on 29 October 2016. The next general election will in the normal course of events be held on 31 October 2020.

- If the previous general election was an extraordinary general election, the general election is to be held on last Saturday in October in the 3rd calendar year after the year in which that extraordinary general election was held. (***The extraordinary polling day.***)

Example –

An election, not being an extraordinary election, was held on 29 October 2016. However, a vote of no confidence in the government was passed by the Legislative Assembly on 2 April 2019 and a general election (an extraordinary election) occurred on 4 May 2019. The next general election will in the normal course of events be held on 29 October 2022.

- The Governor must dissolve the Legislative Assembly and issue a writ for a general election on the day that is 26 days before the normal polling day (the ***normal dissolution day.***)
- The Governor may at any time, by proclamation, order the polling day for a general election to be postponed to a Saturday not more than 35 days after the normal polling day (the ***postponed polling day***) if there are exceptional circumstances.

Examples of exceptional circumstances—

1. *An election for members of the House of Representatives or the Senate of the Commonwealth Parliament is to be held on the normal polling day.*
2. *A natural disaster has affected such a wide area of the State that the conduct of an election on the normal polling day would be impracticable.*

This recommendation would also apply to any other Bill(s) with similar intent that are introduced.

Recommendation 9

11

The Committee recommends that, should it proceed, the *Constitution (Fixed Term Parliament) Amendment Bill 2015* should provide for the voters of Queensland's approval:

- Every Legislative Assembly summoned after the approval of the Bill must establish at least seven portfolio committees the role of which will include the review of Bills (including Appropriation Bills) introduced into the Assembly
- A process for consideration of Budget Estimates must be maintained by the Legislative Assembly.

Every Bill introduced into the Legislative Assembly must be referred to and reviewed by a committee of the Legislative Assembly, for a period of not less than six weeks, unless –

- o a special majority of the Assembly agrees to the Bill not being referred to a committee or being referred for a period less than six weeks; or
- o the resolution for the Bill not being referred to a committee is passed without division or dissent.

- A ***special majority*** to be defined as at least 65 per cent of the Members of the Legislative Assembly, including at least one Member of the official opposition.

This recommendation would also apply to any other Bill(s) with similar intent which are introduced.

Recommendation 10

11

The Committee recommends a review to ensure the efficacy of the Queensland parliamentary committee system be undertaken during the term of the 55th Parliament.

Recommendation 11

12

The Committee recommends the government introduce amendments to the Referendums Act 1997 to allow for pre-polling and declaration voting at any referendum to be held on this matter.

Recommendation 12

12

The Committee recommends that, in the event that the Bills are passed, the Legislative Assembly agree to the words of both the 'for' and 'against' cases to be published by the ECQ.

This recommendation would also apply to any other Bill(s) with similar intent that are introduced.

1 Introduction

1.1 Role of the Committee

The Finance and Administration Committee (the Committee) is a portfolio committee established by the *Parliament of Queensland Act 2001* and the Standing Orders of the Legislative Assembly on 27 March 2015.¹ The Committee's primary areas of responsibility are:

- Premier, Cabinet and the Arts; and
- Treasury, Employment, Industrial Relations, Aboriginal and Torres Strait Islander Partnerships.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each Bill and item of subordinate legislation in its portfolio area to consider –

- a) the policy to be given effect by the legislation;
- b) the application of fundamental legislative principles to the legislation; and
- c) for subordinate legislation – its lawfulness.

Standing Order 132(1) provides that the Committee shall:

- a) determine whether to recommend that the Bill be passed;
- b) may recommend amendments to the Bill; and
- c) consider the application of fundamental legislative principles contained in Part 2 of the *Legislative Standards Act 1992* to the Bill and compliance with Part 4 of the *Legislative Standards Act 1992* regarding explanatory notes.

Standing Order 132(2) provides that a report by a portfolio committee on a Bill is to indicate the Committee's determinations on the matters set out in Standing Order 132(1).

Standing Order 133 provides that a portfolio committee to which a Bill is referred may examine the Bill by any of the following methods:

- a) calling for and receiving submissions about a Bill;
- b) holding hearings and taking evidence from witnesses;
- c) engaging expert or technical assistance and advice; and
- d) seeking the opinion of other committees in accordance with Standing Order 135.

1.2 Referral

On 16 September 2015 the Parliament resolved that the Committee inquire into the introduction of four year terms for the Queensland Parliament. In undertaking the inquiry, the Committee was to consider, but not be limited to:

- a comparison of three and four year parliamentary terms, including advantages and disadvantages;
- a comparison of parliamentary terms in other Australian jurisdictions;
- mechanisms for determining the referendum question that will be put to the Queensland public; and
- the possible starting date of any new arrangements, if adopted.

¹ *Parliament of Queensland Act 2001*, s88 and Standing Order 194

The Parliament resolved that the Committee report to the Legislative Assembly by the 9 November 2015.

On 17 September 2015 Mr Ian Walker MP, Member for Mansfield and Shadow Attorney-General and Shadow Minister for Justice, Industrial Relations and The Arts introduced the *Constitution (Fixed Term Parliament) Amendment Bill 2015* and the *Constitution (Fixed Term Parliament) Referendum Bill 2015*. These Bills were also referred to the Committee for detailed consideration. The Parliament resolved that the Committee consider these Bills as part of its general inquiry into four year terms and report by 9 November 2015.

1.3 Committee process

The Committee's inquiry process included calling for public submissions, holding public forums, briefings with the Member for Mansfield and officers from the Electoral Commission of Queensland (ECQ), a public hearing and an on-line survey.

The Committee considered expert advice on the Bills' conformance with fundamental legislative principles (FLP) listed in Section 4 of the *Legislative Standards Act 1992*.

1.4 Public forums

The Committee held public forums in a number of metropolitan and regional areas including Brisbane, Toowoomba, the Gold and Sunshine Coasts, Mount Isa, Cairns, Townsville, Mackay, Rockhampton, Emerald and Maryborough. The Committee used a variety of local and regional print and radio advertising media to promote the consultation forums.

1.5 Submissions

The Committee advertised its inquiry on its webpage on 18 September 2015. The Committee also wrote to 441 stakeholder groups inviting written submissions on the Bill. The Committee also notified its 705 email subscribers of the inquiry. The Committee published an Issues Paper to facilitate the call for public submissions and discussion at upcoming public forums.

The closing date for submissions was Tuesday 20 October 2015. The Committee received 45 written submissions. A list of submissions received is contained at Appendix A. Submissions have been published on the Committee's website and are available from the committee secretariat.

1.6 Public briefings

On Wednesday 28 October 2015 Mr Ian Walker MP, Member for Mansfield and Shadow Attorney-General and Shadow Minister for Justice, Industrial Relations and The Arts provided a briefing to the Committee on the *Constitution (Fixed Term Parliament) Amendment Bill 2015* and the *Constitution (Fixed Term Parliament) Referendum Bill 2015*. The transcript of the briefing has been published on the Committee's website and is available from the committee secretariat.

The Committee also invited the ECQ to provide a public briefing on Wednesday 28 October 2015. A list of officers who gave evidence at the public briefing is contained in Appendix B. The transcript of the briefing has been published on the Committee's website and is available from the committee secretariat.

1.7 Public hearing

The Committee held public hearings with a panel of constitutional academics and professionals and key stakeholders on Wednesday 28 October 2015. The expert panel included Professor Anne Twomey, Professor of Constitutional Law, Sydney Law School, University of Sydney, Professor Graeme Orr, Professor of Law, University of Queensland and Mr Neil Laurie, Clerk of the Parliament. A list of those who gave evidence at the public hearing is contained in Appendix C. The transcripts of the hearings have been published on the Committee's website and are available from the committee secretariat.

1.8 On-line survey

The Committee sought the views of the general public via an on-line survey which was open to all members of the public. As at 5 November 2015, the survey had been completed by 1,047 people. The survey included the following four questions:

1. If a referendum was held in Queensland to change the maximum parliamentary term in the constitution, which of the following options would you be most likely to support:
 - No change – leave it as its current three year maximum term
 - Increase maximum term to four years
2. Currently in Queensland there is no fixed date or term for a general election. An election can be called at any time during the three year period by the Governor on advice from the Premier. Do you support fixing the term and/or date for election?
 - Yes – I support a fixed date or term for an election
 - Yes – minimum fixed period within the full term e.g. fixed three years within a four year term
 - No – leave it non-fixed i.e. by decision of the Governor and Premier of the day.
3. If the Parliament of Queensland were to introduce a fixed term, when is your preferred time of year to hold a general election (you may select multiple options)?
 - January; February; March; April; May; June; July; August; September; October; November; December
 - Please explain or provide comments on why this is your preferred time for a general election?
4. Do you have any other comments, questions or concerns in relation to options for changing parliamentary terms in Queensland?

1.9 Outcome of Committee deliberations

The Committee considered the terms of reference of the referral and whether the Bills would be effective in achieving the outcomes required from the Committee's consideration of the referral.

1.10 Summary of recommendations

This section of the Committee's report provides a brief summary of the recommendations made by the Committee. The further detail, including the arguments for and against, is included in the relevant sections of this report.

1.10.1 Addressing the terms of reference

The Committee recommends that a referendum for fixed four year terms should be put before the voters of Queensland. However, the Committee considers this should only occur where there is bi-partisan support.

In summary, the Committee recommends that a Bill which achieves the following be passed by the Legislative Assembly and put before the voters of Queensland:

- The repeal of *The Constitution Act Amendment Act 1890* 54 Vic No. 3.
- The amendment of the *Constitution Act Amendment Act 1934* by omitting section 4 of that Act (Duration of Legislative Assembly not to be extended except in accordance with this section).

- The amendment of the *Constitution of Queensland Act 2001* by omitting section 16 (Duration of Legislative Assembly).
- The amendment of the *Constitution of Queensland Act 2001* by inserting new, entrenched provisions, approved by the voters, which provides that:
 - A general election must be held on the last Saturday in October in the fourth calendar year after the calendar year in which the last general election was held (**the normal polling day**).
 - Every Legislative Assembly shall expire 26 days prior to the normal polling day unless earlier dissolved pursuant to the extraordinary dissolution and early election provisions (below).
 - The Governor must issue a writ for a general election on the day that is 26 days before the normal polling day (**the normal dissolution day**).
 - The Governor may, at any time, by proclamation, order the polling day for a general election to be postponed to a Saturday not more than 35 days after the normal polling day (**the postponed polling day**) if there are exceptional circumstances.
 - The Governor must dissolve the Legislative Assembly and on the same day issue a writ for a general election if, before the normal dissolution day (**an extraordinary dissolution and an extraordinary election**)—
 - (a) each of the following happens—
 - a motion in the Legislative Assembly in the form “That this House has no confidence in the government” is passed, or a motion in the form “That this House has confidence in the government” is defeated; and
 - no motion in the Legislative Assembly in the form “That this House has confidence in the government” is passed within eight days; and
 - the Governor considers no government can be formed that will command the confidence of the majority of the Legislative Assembly; or
 - (b) the Legislative Assembly rejects a Bill for an ordinary annual Appropriation Act; or
 - (c) the Legislative Assembly fails to pass a Bill for an ordinary annual Appropriation Act before the day the Governor has by message notified the Legislative Assembly that the appropriation is required.
 - Nothing affects the Governor exercising the reserve powers in accordance with established constitutional conventions.
 - A mechanism to regularise elections to the last Saturday in October following an extraordinary election.
 - A significant safeguard by entrenching a parliamentary committee system and a requirement that Bills introduced in the Legislative Assembly be reviewed by committees with a minimum six week review period, unless a special majority of the Legislative Assembly otherwise agrees.

In addition, the Committee is recommending a review of the parliamentary committee system be undertaken. This is discussed in Section 7 of this report.

The Committee's recommendations provide more detail as to the above summary.

1.10.2 Passing the Bills

Standing Order 132(1)(a), requires that the Committee examine the Bills and determine whether to recommend that the Bills be passed.

The current entrenched provisions of the Queensland Constitution require that a Bill to effect fixed four year terms must be passed by the Legislative Assembly and that the Bill needs to be placed before the voters at least two months after the passing of the Bill.

The Committee is of the opinion that the *Constitution (Fixed Term Parliament) Amendment Bill 2015* and *Constitution (Fixed Term Parliament) Referendum Bill 2015* could be the legislative vehicles for this referendum process. Therefore, in accordance with Standing Order 132(1)(a):

Recommendation 1

The Committee recommends that the *Constitution (Fixed Term Parliament) Amendment Bill 2015* and *Constitution (Fixed Term Parliament) Referendum Bill 2015* be passed, with amendment, as detailed in the Committee's other recommendations.

However, the Committee notes the recommended amendments to the Bills are significant and include splitting the *Constitution (Fixed Term Parliament) Amendment Bill 2015*. The introduction of new Bills, containing the matters recommended by the Committee, may be a more effective procedure. It is open to the Legislative Assembly to determine what is the best vehicle for this constitutional change.

1.10.3 Language and style

The Committee considered that any Bill to be considered at a referendum needs to be clear, concise and in plain English.

Recommendation 2

The Committee recommends that the drafting of the legislative provisions recommended by the Committee needs to focus on:

- consistency with the simple style of drafting found in the *Constitution of Queensland Act 2001*; and
- the requirement for the Bill to be approved by the voters of Queensland at a referendum and that it is imperative that the style be easy to read and be understandable.

1.10.4 Enacting Authority (refer section 8)

The Committee notes that Standing Order 127(2) provides that the following statement of enacting authority should be used in Bills requiring the consent of the electors of Queensland:

The Parliament of Queensland with the consent of the electors of Queensland enacts.

Recommendation 3

The Committee recommends that, should the *Constitution (Fixed Term Parliament) Amendment Bill 2015*, be proceeded with, the enacting authority be amended.

This recommendation would also apply to any other Bill(s) with similar intent which are introduced.

The Committee noted that the Bills contain references to non-entrenched Acts, such as the *Parliament of Queensland Act 2001*, the *Acts Interpretation Act 1954*, the *Referendums Act 1997* and the *Financial Accountability Act 2009*. The Committee considers that cross-referencing in the entrenched Acts to non-entrenched Acts should not occur as the non-entrenched Acts can be altered by ordinary statute.

Recommendation 4

The Committee recommends that, should the *Constitution (Fixed Term Parliament) Amendment Bill 2015* be proceeded with, cross-referencing in the entrenched Acts to non-entrenched Acts should not occur.

This recommendation would also apply to any other Bill(s) with similar intent which are introduced.

1.10.5 Splitting the Bill (refer section 8)

The Committee considers it important that any Bill to be considered at a referendum should be concise and contain only the matters necessary to be considered by the people. To this end the Committee considered that additional matters should be contained in a separate Bill.

Recommendation 5

The Committee recommends that, should the *Constitution (Fixed Term Parliament) Amendment Bill 2015* be proceeded with, it be split into two Bills:

- One Bill containing those provisions that repeal, amend or create entrenched provisions and which must be approved by the voters at a referendum (*Constitution (Fixed Term Parliament) Amendment Bill 2015*); and
- One Bill containing those provisions that are consequential amendments to non-entrenched provisions in Acts such as the *Electoral Act 1992*.

This recommendation would also apply to any other Bill(s) with similar intent that are introduced.

1.10.6 Commencement (refer section 8)

The Committee found the lack of a fixed commencement date creates unnecessary complexity in the drafting of the *Constitution (Fixed Term Parliament) Amendment Bill 2015*. Specifically it was not immediately clear if the intent was for the new fixed four year parliamentary terms to apply to the next 56th Parliament or the following 57th Parliament.

The Committee considered that, should the Bills resulting from the splitting of the *Constitution (Fixed Term Parliament) Amendment Bill 2015* be proceeded with, the commencement should be clearly defined. . Further, the Committee considers that the first four year term Parliament should commence after the end of the 55th Parliament.

To give effect to this objective and for consistency with other provisions recommended by the Committee, it is necessary that:

- a) the relevant acts commence on a fixed date (for example the 1 January 2017) or the day the Legislative Assembly of the 55th Parliament is dissolved for a general election; and
- b) the next general election, following the dissolution of the Legislative Assembly of the 55th Parliament, be treated as an extraordinary election such that the next general election is to be held on the last Saturday in October in the third calendar year after the year in which the extraordinary general election was held (refer to Recommendation 8)

Recommendation 6

The Committee recommends that should it proceed, the Bills resulting from the splitting of the *Constitution (Fixed Term Parliament) Amendment Bill 2015* should provide that:

- the relevant acts commence on a fixed date or the day the Legislative Assembly of the 55th Parliament is dissolved for a general election; and
- the next general election, following the dissolution of the Legislative Assembly of the 55th Parliament, be treated as an extraordinary election such that the next general election is to be held on the last Saturday in October in the third calendar year after the year in which the extraordinary general election was held.

This recommendation would also apply to any other Bill(s) with similar intent which are introduced.

1.10.7 Early dissolution of the Legislative Assembly (refer section 5)

The Committee noted there were circumstances where it may be necessary for an early dissolution of the Legislative Assembly. Whilst these circumstances would be rare, it considered provisions need to be included which contemplate this contingency.

Recommendation 7

The Committee recommends that, should it proceed, the *Constitution (Fixed Term Parliament) Amendment Bill 2015* should be amended to provide for an **extraordinary dissolution** and an **extraordinary election** in the following circumstances:

1. The Governor must dissolve the Legislative Assembly and on the same day issue a writ for a general election if, before the normal dissolution day—
 - (a) each of the following happens—
 - i. a motion in the Legislative Assembly in the form “That this House has no confidence in the government” is passed, or a motion in the form “That this House has confidence in the government” is defeated;
 - ii. at least eight days have passed after the passage or defeat of the motion above, without a motion in the form “That this House has confidence in the government” being passed;
 - iii. the Governor considers no government can be formed that will command the confidence of the majority of the Legislative Assembly; or
 - (b) the Legislative Assembly rejects a Bill for an ordinary annual appropriation Act; or
 - (c) the Legislative Assembly fails to pass a Bill for an ordinary annual appropriation Act before the day notified by the Governor by message to the Legislative Assembly that the appropriation is required.
2. Nothing affects the Governor exercising the reserve powers in accordance with established constitutional conventions.
3. A writ issued for an **extraordinary election**, including a writ issued as a consequence of the exercise of the reserve powers, must state the polling day for the general election, which must be a Saturday not less than 26 days and not more than 40 days after the day of the issue of the writ.

This recommendation would also apply to any other Bill(s) with similar intent that are introduced.

1.10.8 General elections (refer section 5)

The Committee considered the issue of what would occur in the circumstances of an ordinary election and where an ordinary election follows an extraordinary election.

Recommendation 8

The Committee recommends that should it proceed, the *Constitution (Fixed Term Parliament) Amendment Bill 2015* should provide that:

- If the previous general election was not an extraordinary general election, the general election is to be held on the last Saturday in October in the 4th calendar year after the year in which the previous general election was held. (***The normal polling day.***)

Example –

An election, not being an extraordinary election, was held on 29 October 2016. The next general election will in the normal course of events be held on 31 October 2020.

- If the previous general election was an extraordinary general election, the general election is to be held on last Saturday in October in the 3rd calendar year after the year in which that extraordinary general election was held. (***The extraordinary polling day.***)

Example –

An election, not being an extraordinary election, was held on 29 October 2016. However, a vote of no confidence in the government was passed by the Legislative Assembly on 2 April 2019 and a general election (an extraordinary election) occurred on 4 May 2019. The next general election will in the normal course of events be held on 29 October 2022.

- The Governor must dissolve the Legislative Assembly and issue a writ for a general election on the day that is 26 days before the normal polling day (the ***normal dissolution day***).
- The Governor may at any time, by proclamation, order the polling day for a general election to be postponed to a Saturday not more than 35 days after the normal polling day (the ***postponed polling day***) if there are exceptional circumstances.

Examples of exceptional circumstances—

1. *An election for members of the House of Representatives or the Senate of the Commonwealth Parliament is to be held on the normal polling day.*
2. *A natural disaster has affected such a wide area of the State that the conduct of an election on the normal polling day would be impracticable.*

This recommendation would also apply to any other Bill(s) with similar intent that are introduced.

1.10.9 Additional safeguards (refer section 7)

The Committee was conscious of the historical reasons for entrenchment of three year terms in 1934 and its link to the entrenchment of the abolition of the Upper House (discussed further in section 7). The Committee also heard arguments for the return of an Upper House in Queensland. The Committee agreed that the current portfolio based parliamentary committee system largely performs the essential review and scrutiny roles that an Upper House would undertake. However, the Committee is also very conscious that the Committee system could be abolished by simple legislative amendment. The Committee considered that this important accountability mechanism should be included in provisions which are entrenched as part of any extension to the term.

Further, the entrenching provisions should provide that unless there is a special majority vote of the Legislative Assembly (thus ensuring bipartisan approval), the important function of the committee system to review Bills with a reasonable timeframe for doing so, should not be able to be set aside.

The Committee has made a number of recommendations regarding what it considers to be the most significant features of the committee system that should be entrenched. Essentially the entrenched provisions will ensure that:

- there will be a committee system;
- there will be a process for the consideration of Budget estimates;
- the committee system's role will include the review of Bills; and
- a reasonable period for review of Bills will be ensured unless a special majority determines the Bill to be urgent in nature.

Entrenching the basic requirements of the system ensures such a system will continue to exist, without limiting the ability of future parliaments to review and adapt the committee system. In short, the flexibility of the committee system will not be affected at the same time as its future existence is ensured.

Recommendation 9

The Committee recommends that, should it proceed, the *Constitution (Fixed Term Parliament) Amendment Bill 2015* should provide for the voters of Queensland's approval:

- Every Legislative Assembly summoned after the approval of the Bill must establish at least seven portfolio committees the role of which will include the review of Bills (including Appropriation Bills) introduced into the Assembly
- A process for consideration of Budget Estimates must be maintained by the Legislative Assembly.
- Every Bill introduced into the Legislative Assembly must be referred to and reviewed by a committee of the Legislative Assembly, for a period of not less than six weeks, unless –
 - a special majority of the Assembly agrees to the Bill not being referred to a committee or being referred for a period less than six weeks; or
 - the resolution for the Bill not being referred to a committee is passed without division or dissent.
- A **special majority** to be defined as at least 65 per cent of the Members of the Legislative Assembly, including at least one Member of the official opposition.

This recommendation would also apply to any other Bill(s) with similar intent which are introduced.

Parliamentary committees perform an important function within Queensland's unicameral system, scrutinising the Bills before the House and the government's budget expenditure in the same way that an Upper House acts as a house of review.

In this regard, the Committee notes that the portfolio committee system is in its infancy (only being in its current form since 2011) and that despite the basic construct being recommended to be entrenched there is much detail that could and should be reviewed to ensure the Queensland Parliament has the best committee system it can have. Therefore, the Committee came to the conclusion that the committee system should be the subject of a full review during the term of the 55th Parliament in order to ensure that Queensland has the best and most appropriate committee system in place to accompany the extension of parliamentary terms. The Committee believes that it is only by periodic full review that the Legislative Assembly and the public can be assured that the committee system is appropriate and working effectively and efficiently.

Recommendation 10

The Committee recommends a review to ensure the efficacy of the Queensland parliamentary committee system be undertaken during the term of the 55th Parliament.

1.10.10 Referendum pre-poll and declaration voting (refer section 6)

The Committee notes the ECQ advice that the *Referendums Act 1997* requires amendments to allow for pre-polling and declaration voting (postal voting), without which these arrangements would not be possible for a referendum on the matter of parliamentary terms. Accordingly, the Committee considers it essential that amendments to the *Referendums Act 1997* be initiated to allow for pre-polling and declaration voting.

Recommendation 11

The Committee recommends the government introduce amendments to the *Referendums Act 1997* to allow for pre-polling and declaration voting at any referendum to be held on this matter.

1.10.11 Referendum case arguments (refer section 6)

The Committee considers that in the interest of transparency the Legislative Assembly should agree on appropriate 'for' and 'against' arguments to be published. The Committee considers that the wording should be agreed to by the Legislative Assembly and not left to the ECQ. The Committee considers that additional amendments may be required to the *Referendums Act* to allow for this to occur.

Recommendation 12

The Committee recommends that, in the event that the Bills are passed, the Legislative Assembly agree to the words of both the 'for' and 'against' cases to be published by the ECQ.

This recommendation would also apply to any other Bill(s) with similar intent that are introduced.

2 Background

2.1 The functions and role of Queensland parliament

The Queensland Parliament is unique amongst the Australian states due to the fact it is a unicameral parliament. Queensland and the Australian Commonwealth are the only jurisdictions in Australia which have a three-year parliamentary term.

2.2 The current situation in Queensland

2.2.1 The Legislative Assembly

The present position in Queensland remains as it was when succinctly summarised by the former Legal, Constitutional and Administrative Review Committee (LCARC) in 2000²:

...the Legislative Assembly is elected for a term no longer than three years. This has been the position since 1890 when it was reduced from a five year term. The Government may advise the Governor to dissolve the Assembly at any time during that three year period in order to hold a general election. By convention, the Governor acts on that advice. If the Government were to be defeated in the Assembly by a no confidence motion and were to resign, the Governor would need to decide whether the Assembly should be dissolved and an election held, or whether another Government might be formed which has the confidence of the Assembly.

Due to the changes made to the Constitution in 1934, the three year period cannot be changed without the approval of the electorate by referendum.³ So from 1934, it means that the provision in the Constitution Act, which fixes three year terms, cannot be removed, from the Constitution, without a referendum.

In summary, the key historical dates are:

- in 1890 three-year terms are fixed;
- in 1922 the Legislative Council was abolished;
- in 1934 the three-year term maximum is entrenched—that is, it cannot be removed without a referendum; and
- in 1934 the abolition of the Legislative Council was entrenched – that is, an Upper House cannot be re-established without a referendum.⁴

In 1991, a proposal to extend the term to four years was put to the people at a referendum. The proposition was:

Do you approve of a Bill to extend the maximum term of future Parliaments from three to four years?

The question was defeated by 808,112 votes (51.1 per cent) to 771, 103 (48.9 per cent). It should be noted that the proposal in 1991 did not deal with the issue of minimum or fixed terms, but simply sought approval for an extension from three to four year terms.

The former Queensland Constitutional Reform Commission (QCRC) was established in May 1999 to conduct a broad ranging investigation into whether there should be reform of legislation relating to the Queensland Constitution. As part of this inquiry, the QCRC considered the issue of parliamentary terms.

² Legal, Constitutional And Administrative Review Committee, Review of the Queensland Constitutional Review Commission's recommendation for four year parliamentary terms, July 2000 Report No 27 available at : <http://www.parliament.qld.gov.au/work-of-committees/former-committees/LJSC/inquiries/past-inquiries/four-year-parl-terms>

³ The three year period is prescribed by section 2 of the Constitution Act Amendment Act 1890. That provisions can be changed only by referendum by virtue of section 4 of the Constitution Act Amendment Act 1934 (Qld).

⁴ Mr Laurie, Clerk of the Parliament, Public forum transcript, 30 September 2015: 2

In February 2000 the QCRC recommended that the maximum term of the Legislative Assembly be extended to four years, subject to a provision that a dissolution may not be granted during the first three years unless:

- a vote of no confidence is carried or a vote of confidence fails to be carried; or
- an appropriation Bill is defeated or fails to pass.

The QCRC further recommended that these provisions should be referendum entrenched.⁵

In 2000, LCARC reviewed the QCRC recommendations. In its report, LCARC supported the recommendations of the QCRC that the maximum term of the Parliament be extended to four years, with no dissolution in the first three years of a term save in certain circumstances, being those proposed by QCRC, namely⁶:

- a vote of no confidence is passed, or fails to be passed; or
- an Appropriation Bill is defeated or fails to be passed.

LCARC also proposed that the provisions should be re-trenched.

In its response to the Committee's report, the government undertook to introduce a Bill to extend the term to four years 'in the next term of the parliament' and to submit that Bill at a referendum. However, the government response also noted:

The Government's preferred model for a longer parliamentary term is a four year fixed term. However, the model that will ultimately be put to a referendum, including any circumstances in which the Governor may dissolve the Parliament during any fixed component of the term, will be determined following negotiation with the leaders of the other political parties. The Government is open to finding common ground with the other parties so that a proposal to extend the term of presented to the electorate with all-party support.⁷

The parties were unable to reach agreement so no Bill was introduced.

Whilst the proposal for four year terms has been raised from time to time since, including being debated in the Legislative Assembly, three year terms remain in Queensland. It should be noted that at various times, political leaders from either side have either indicated they would not support a referendum or placed conditions on any support which were rejected by the other side, or indicated they would not proceed to support a referendum in the absence of bi-partisan support.

For example, in February 2008, the Parliament agreed to the following motion:

That this Parliament supports full terms and recommends that the Government drafts a Bill to put a referendum to the people of Queensland on the question of introducing four-year fixed terms for the Parliament of Queensland.⁸

However, by early March 2008, bipartisanship had dissolved when the then Opposition attached new accountability demands.⁹

⁵ Queensland Constitutional review commission, Report on the possible reform of and changes to the Acts and laws that relate to the Queensland constitution, February 2000, recommendation 5.2. See generally pages 39-41 of the QCRC's report and clauses 14(3) and (4), 15 and 84 of the QCRC's Constitution of Queensland 2000 contained in that report.

⁶ LCARC report 27, page 48

⁷ Government response to LCARC report 27, tabled 3 October 2000. Available at: <http://www.parliament.qld.gov.au/work-of-committees/former-committees/LJSC/inquiries/past-inquiries/four-year-parl-terms>

⁸ Queensland Legislative Assembly, *Parliamentary Debates (Hansard)*, 27 February 2008: 472-481

⁹ Williams, PD, *Time of Transition: The Queensland Parliament and Electoral Volatility*, 2008-09, Australasian Parliamentary Review, Vol. 25(1), Autumn 2010: 225

2.2.2 Local government in Queensland

In 1999, the various local government Acts were amended to extend the terms of local government authorities from three to four years.¹⁰ This amendment followed consultation by the minister responsible for local government with the local governments where 52 local governments had responded in favour of four year terms for local governments, 18 local governments have responded they were not in favour of four year terms and 46 local governments had not advised of their position on the matter.¹¹

Commencing in 2000, local government elections are held on a fixed day, that is the last Saturday in March every fourth year.¹²

As discussed further in sections 3 and 4 of this report, a number of submitters agreed that local government terms and election processes work relatively effectively. The Local Government Association of Queensland (LGAQ) advised:

*Four-year terms have been in place for local governments since the 2000 local government election and there has certainly been no public commentary in terms of the issue of the concerns in relation to that four-year term, nor have there been any issues raised by councils in relation to the four-year terms.*¹³

The Committee sought information from the LGAQ regarding their experience of the move to four year terms for local government. They advised:

Surveying done at the time of the proposal to introduce four-year terms done by the association by a market research company showed that 57 per cent of Queenslanders supported the change to four-year terms for councils. The reasons given were the stability of governance, longer terms to implement plans and policies as well as a reduction in the cost of elections, which for local government now are in excess of \$12 million for each election.

I should mention that, in relation to the question of long-term planning, under the Local Government Act and regulations councils have a number of statutory requirements in relation to planning: a long-term financial forecast of 10 years, a long-term asset management plan of 10 years, a corporate plan of five years and within the infrastructure area a requirement to develop planning for priority infrastructure, which runs for 10 to 15 years, and a local government infrastructure plan that has to be reviewed every five years. All of that is focused on the longer term and obviously running in parallel with that the longer term enables those plans to be constructed, implemented and efficiencies to be achieved.

*Our assessment is that the four-year term has had no impact on the nominations for local government elections. That was one of the concerns at the time.*¹⁴

¹⁰ Local Government and Other Legislation Amendment Act (No. 2) 1999 (Qld)

¹¹ See Local Government Minister's response to question on notice no 1093 dated 24 August 1999 and tabled on 20 September 1999.

¹² Local Government Act 1993, s. 269

¹³ Mr Hoffman, LGAQ, Public Hearing transcript 28 October 2015: 17

¹⁴ Mr Hoffman, LGAQ, Public hearing transcript, 28 October 2015: 17

At the Committee's public forum in Emerald, former LGAQ President and Councillor with Central Highlands Regional Council, Mr Paul Bell, advised the Committee of his experiences with three and four year terms. He advised:

When we changed as a sphere of government from three-year to four-year terms some years back, we had every issue thrown back at government and from the community to us in regard to how undesirable it was or how this would affect communities. I have this year achieved 30 years in local government, some of that at three-year terms and some of that at four-year terms. It does not impede or in any way, I think, make the desirability to have longevity as a representative in a community, whether it is three years or four years. Four-year terms to me, as someone who has experienced both, does provide, in actual fact, very much a place, I suppose, for elected members that is not in any way a discouragement or an adversity in regards to representation. I think it is just as attractive to be an elected member under a three-year-term regime or a four-year-term regime. What it has proven to us, though, is that it is more effective.¹⁵

2.3 Other Australian jurisdictions

2.3.1 The states and territories

Queensland is the only Australian state or territory with a three year term. All other states have had four year terms for considerable periods. With the exception of Tasmania, these jurisdictions have fixed four-year terms. The position in the various jurisdictions is summarised in the below table.

Table 1: Comparison of Australian states and territories requirements

Parliament	Term and date of change	Fixed term component	Reserve power to dissolve	Entrenchment
Queensland	3 years	none	Yes	yes
House of Representatives (Cwlth)	3 years	none	yes	yes
NSW	4 years, since 1981 election held on last Saturday in March.	4 years	yes	yes
Victoria	4 years, since 1984 election held on last Saturday in November.	4 years, fixed since 2003	yes	yes
South Australia	4 years, since 1985 election held on third Saturday in March.	4 years, fixed since 2002	yes	no
Western Australia	4 years, since 1987 election held on second Saturday in March.	4 years, fixed since 2001	yes	no
Tasmania	4 years, since 1972	none	yes	no
ACT	4 years, since 2003 election held on third Saturday in October in 4 th year	4 years	yes	no
Northern Territory	4 years, since 2009 election held on fourth Saturday in August in 4 th year	4 years	yes	no

Source: Relevant legislation in various states and territories

¹⁵ Councillor Bell, Central Highlands Regional Council, Emerald Public forum transcript 9 October 2015: 4

In all jurisdictions, the reserve powers for the Governor to dissolve Parliament which applies to situations where government loses the confidence of the lower House, or where the lower House rejects or fails to pass supply, are retained.¹⁶ There are also provisions to change the fixed date where it is necessary to avoid a clash with a Commonwealth election period, holiday period or other inconvenient time.¹⁷

2.3.2 The Commonwealth

At a Federal level, the House of Representatives has a three year term. As noted in the Commonwealth research paper¹⁸ prepared in 2000, Australia is very unusual in having a three year term as the overwhelming number of national lower Houses have terms of four or five years, with relatively few (13 out of 148) having a three year term.

The same paper noted the following conventions and historic trends in regards to the duration of federal Parliament and the calling of elections:

Because the current House of Representatives term is for maximum terms only, and because of the convention that Prime Ministers can call elections virtually whenever they choose, the 38 completed parliaments have had terms of greatly varying length.

Since 1901, the average term of all parliaments has been 30.3 months, though if the six double dissolution elections are not counted, this figure climbs to 32.1 months. There has been a marked reduction in term length during the past 25 years, with the average for all elections during this time being only 27.5 months.¹⁹

The following table shows the length of the House of Representatives term since 2000:

Table 2: Time between elections 30 October 1998 to 7 September 2013 for House of Representatives (Cwlth)

Date of Election	Time between elections
10 November 2001	3 yrs, 1 mth, 7 days
09 October 2004	2 yrs 10 mths, 29 days
24 November 2007	3 yrs 1 mth 5 days
21 August 2010	2 yrs 8 mths 28 days
7 September 2013	3 yrs 17 days

Source: Australian Electoral Commission, *Federal, state and territory election dates from 1946 to the present* http://www.aec.gov.au/Elections/australian_electoral_history/Federal_State_and_Territory_elections_dates_1946_Present.htm

At a national level, the issue of whether the term of the lower House of the Commonwealth Parliament should be extended from three to four years has been considered on a number of occasions. For example, in 1929, the Royal Commission on the Constitution recommended that the maximum term of the House of Representatives be extended from three to four years.²⁰

¹⁶ In Victoria and South Australia, this includes where the lower house is in deadlock over a bill and where the lower house rejects a Bill of significance or special importance.

¹⁷ In Victoria the Governor may also postpone the election on the recommendation of the Premier or Opposition Leader for reason of 'exceptional circumstance'.

¹⁸ Department of Parliamentary Library, 2000, Research Paper No. 4: Four-year terms for the House of Representatives?, p. i

¹⁹ Department of Parliamentary Library, 2000, Research Paper No. 4: Four-year terms for the House of Representatives?, p. i

²⁰ Royal Commission on the Constitution, *Report of the Royal Commission on the Constitution*, Government Printer, Canberra, 1929 at 268.

A further example was in 1988 when the Constitutional Commission, in its report, recommended that the Commonwealth Constitution be altered to provide that the maximum term of the House of Representatives be four years and that the House shall not be dissolved within three years of its first meeting after a general election unless the House has passed a resolution expressing a lack of confidence in the government and no government can be formed from the existing House.

A referendum was subsequently held on 3 September 1988 to extend the term of the House of Representatives from three to four years. However, the relevant Bill included no restriction on the holding of an early election. The proposal also included reducing the term of the Senate from six to four years in line with that proposed for the House of Representatives.

The results of this referendum show that 32.92 per cent voted in favour of the proposal and no states voted in favour. Therefore the referendum was defeated.²¹

3 Duration of parliament

Queensland currently has a maximum parliamentary term of three years. This is provided for at section 16 in the *Constitution of Queensland 2001*:

16 Duration of Legislative Assembly

The Constitution Act Amendment Act 1890, section 2 provides for the duration of the Legislative Assembly.

Note—

The Constitution Act Amendment Act 1890, section 2 is subject to the Constitution Act Amendment Act 1934, section 4 (Duration of Legislative Assembly not to be extended except in accordance with this section). See attachment 2 for a copy of these provisions.

Amongst the options available to reform the parliament, is the possible extension of parliamentary terms to four years as is the case now in all other Australian states and territories.

The Committee noted the inextricable link between the abolition of the Legislative Council in Queensland and the reduction of the parliamentary term to three years.

In his submission, Mr Don Willis advised the Committee of the history of three year terms in Queensland. He advised:

Prior to 1890 parliamentary terms in Queensland were for a maximum of five years, although it appears that soon after Queensland became a separate colony from New South Wales, calls were made for parliamentary terms to be of a shorter duration. In fact, Bills for triennial parliaments were introduced in 1864, 1865, 1868, 1881, 1882 and 1884 although none were enacted. Finally, in 1890 the Constitution Act Amendment Act 1890 was enacted to reduce the length of the parliamentary term to a maximum of three years. The parliamentary debates relating to this legislation indicate that the primary reason for the reform was to make Members of Parliament more accountable and responsive to their electors. Indeed, the introduction of maximum three year terms was seen as a much needed democratising initiative.²²

²¹ Australian Electoral Commission, Referendum dates and results, http://www.aec.gov.au/elections/referendums/referendum_dates_and_results.htm

²² D Willis, Submission No. 3: 2

He also noted that:

...not all members of the Queensland Parliament supported the 1890 Bill to reduce the length of the parliamentary term and one of the arguments they used to oppose the proposal has a distinctly modern tone. Nowadays it is suggested that the current three-year term is too short because governments spend the first year of office settling in, the second making decisions, and the third planning for the next election. This is almost the same argument that was used during the debate to oppose the 1890 Bill.²³

3.1 The case in favour of longer parliamentary terms

Critics of the status quo tend to focus on a number of specific benefits they claim will flow from the extension of parliamentary terms to four years. Many of these points were well argued in submissions made and evidence provided to the Committee.

The Chamber of Commerce and Industry Queensland (CCIQ) advised the Committee:

CCIQ believes that a three year term is not sufficient time to allow the State Government to facilitate good economic planning for both the private and public sectors; undertake effective planning of the parliamentary timetable; or to concentrate on policy and program delivery without the distraction of imminent elections.

The last five state elections have been held 31st January 2015; 24th March 2012; 21st March 2009; 9th September 2006; 7th February 2004 and over this time the average term of parliament has been just two years and nine months.

CCIQ is aware of many projects or policy initiatives stalling through change of government or at the very least delayed through caretaker arrangements implemented during elections. Accordingly in our view longer parliamentary terms have the potential to enhance business confidence and business investment, by eliminating uncertainties created by frequent elections and subsequent shifts in government policy or attitudes to towards certain projects.²⁴

The Motor Trades Association of Queensland (MTAQ) agreed advising:

The MTA Queensland's belief is that fixed four year Parliamentary terms would engender for business policy predictability and certainty and contribute to improved confidence about government decision making processes and enable Government to engage in longer term economic planning and measured approach to reforms.²⁵

Mount Isa City Council Mayor, Tony McGrady, advised the Committee:

My personal view is that there should be four-year terms and the reasons for that are I think people are sick and tired of elections. I believe that Parliaments are elected to do a job. My experience is, particularly as a new member, that in the first 12 months we are all learning our role, whether it be as a new member of parliament or indeed as a new cabinet minister; the second year you are trying to do some of the work, bringing in legislation et cetera; and the third year, regardless of what you say, you are all preparing for the election. At least with the four-year term you have a couple of years to actually make constructive not just suggestions but legislation. In Britain, they have a five-year term. I do not hear too many people complaining about the five-year terms. America is four years and New South Wales I believe has a four-year fixed term. I think the system we are working under now is antiquated and we do need the four-year term.²⁶

²³ D Willis, Submission No. 3: 3

²⁴ CCIQ, Submission No. 2: 2

²⁵ MTAQ, Submission No. 26: 2

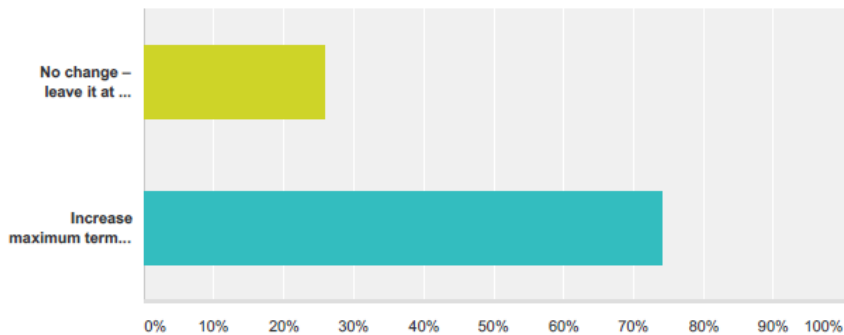
²⁶ Mayor McGrady, Mt Isa Public forum transcript 6 October 2015: 1

The Clerk of the Parliament advised the Committee that:

...I am a slow convert to four-year terms. My basic opposition to four-year terms in the past has been based upon the fact that three-year terms were one of the few safeguards within the Queensland Constitution. Being a unicameral parliament without an Upper House I felt that four-year terms was a bridge too far.

I am a convert to four-year terms, however. After being here for over 20 years I can see that three years is insufficient time for governments to come into power, plan, implement policies et cetera. What I see is that at the beginning of every term of parliament, whether or not there is a change of government, there is a change of characters. The beginning of the parliament is very much about people settling in. Then we start getting into the business. Towards the two-year mark everyone is focused only on the election process. I do think a four-year term would give us a more sensible program for basically each parliament to operate within. However, I also say that if we are going to go to four-year terms we do need to enhance our safeguards and enhance our accountability.²⁷

The following diagram depicts the results from the Committee’s on-line survey which resulted in 74.12 per cent of respondents being in favour of increasing the maximum term of the Parliament to four years.



Answer Choices	Responses	
No change – leave it at its current three year maximum term	25.88%	271
Increase maximum term to four years	74.12%	776
Total		1,047

3.1.1 Improved public policy outcomes and government decision making

A principle argument in favour of longer terms is that it encourages governments to introduce policies which are long term rather than politically expedient. Whereas with a three year term it is often said that ‘governments spend the first year of office settling in, the second year making decisions, and the third year planning for the next election’. It is also said that four year terms better enable governments to take a more responsible, long term view and allows for greater time for government to implement policies and projects and achieve results.

²⁷ Mr Laurie, Clerk of the Parliament, Public hearing transcript 28 October 2015: 7

This same view was expressed by the Constitutional Commission in its 1988 report. In recommending a four year term for the House of Representatives the Commission observed:

A short electoral cycle tends to place pressure on Governments to adopt expedient short-term measures for the purpose of electoral success. Governments which fear electoral repercussions in the near future are notoriously reluctant to make hard decisions, however necessary or desirable they may be for the long-term benefit of the country.

Many of the participants at the Committee's public forums also agreed with this view. For example, Mrs Linda Shave at the Gold Coast public forum advised:

I have always wondered why Queensland is the last to get it. To me it is about the benefits realisation. If we could have longer terms where politicians can actually work a strategic plan for policy as to how to implement it, then we are going to get the benefits realisation. We are in the digital era where agility and being responsive to rapid change is needed. In a short-term government, a position of only three years, you are just taking over the time. By the time you have settled in it is the second year and then you are in planning mode for the next one. I think this would allow us to have a longer run-in to be able to look at what is needed for Queensland and for us to be globally situated for future business.²⁸

Apart from encouraging genuine leadership, further time is often required in order to plan the best approach in resolving difficult economic and social issues. A four year term provides further time for the implementation of the policies adopted. These benefits were recognised by Professor Colin Hughes in 1981:

[I]t is often the case that governments do not know what to do, often don't know what the problem is or whether there is one there at all. They need time to assemble and evaluate the requisite information for proper planning of policies and determination of priorities. The problem is likely to be especially serious when there has been a change of government.²⁹

3.1.2 Business confidence and economic activity

It is claimed that longer terms enhance business confidence and provides greater certainty to the business community to support economic activity, business investment and employment.

The business sector has long complained that elections disrupt their long term planning and that sales and investment slump during the election periods. Whilst there is little empirical evidence to suggest this is the case, the business sector strongly advocate for longer parliamentary terms.

The Business Council of Australia has been a keen advocate of longer terms of parliament. Writing in the late 1980s in relation to the proposal for a four year term for the Commonwealth Parliament, the president of the council, Sir Roderick Carnegie commented:

The frequency of elections has major implications for government decision-making, for budgetary policies and therefore for the economic climate in which businesses have to make major investment decisions. There is a direct link here: frequent elections have an adverse effect on government planning and this has an adverse effect on private sector planning and on business confidence.³⁰

²⁸ Mrs Shave, Public forum 12 October 2015: 9

²⁹ C A Hughes, 'Extended and/or fixed parliamentary terms', paper presented at the South Australian constitutional conference, 27-28 November 1981, South Australian Parliament, Adelaide at 7

³⁰ Business Council of Australia, *Towards a Longer Term for Federal Parliament*, Business Council of Australia, Melbourne, 1987, p.10

This view was supported by CCIQ during the current inquiry process. They advised the Committee:

...during periods of state elections that there is serious disruption to the economy. Quite simply, business and consumers often delay their major purchasing decisions. They delay their capital expenditure decisions and, in some instances, they delay their employment decisions because of the uncertainty associated with state elections.³¹

...82 per cent of businesses believe that state elections have a negative impact on the Queensland economy. At a micro level, 65 per cent of businesses have indicated that during state elections their sales decrease and their profitability decreases. Sixty per cent indicated that business planning and strategy was often put on hold.³²

They considered that:

...many of those issues would be dramatically lessened if we were to go from a three- to a four-year term of office. However, some of the certainty issues that businesses have can only really be addressed if we were to move to a fixed term of office.³³

A number of the benefits of longer parliamentary terms identified in relation to the business sector also apply to other sectors of the community. For example, there are advantages for the community service sector in terms of increased certainty and longer term planning.

3.1.3 Cost of elections

The issue of the cost of elections was raised reasonably consistently throughout the Committee's inquiry as a concern to the public and as a reason to support a longer term.

The ECQ reported that the most recent 2015 state election cost approximately \$24 million. They noted that, in regard to a move from three to four year terms, there would be cost savings delivered, in the long run, simply due to the elections being further apart.³⁴

The issue of costs is canvassed further in section 6.2 of this report.

3.1.4 Enhances the quality and effectiveness of parliamentarians

A longer term will enable members of the Legislative Assembly to become more familiar with, and hence more effective in, their roles and to build better, more stable working relationships with individuals and organisations within the community.

It was also argued that longer terms may encourage more people to become a Member of Parliament as they are more likely to put other career aspirations on hold if they can be guaranteed a longer period in office.

³¹ Mr Behrens, CCIQ, Brisbane Public forum transcript 1 October 2015: 3

³² Mr Behrens, CCIQ, Brisbane Public forum transcript 1 October 2015: 4

³³ Mr Behrens, CCIQ, Brisbane Public forum transcript 1 October 2015: 4

³⁴ Mr Tiernan, ECQ, Public briefing transcript 28 October 2015: 24

At the Toowoomba public forum Mr Sivertsen argued that this may attract a higher calibre of person into political positions:

*Another point is that, in terms of four-year terms, there may be many potential candidates who are reluctant to put their hand up for only three years. I look at someone like our local member, Trevor, who in reality has had to give up a career in order to pursue another on the assumption that he may only be there for three years and then he may be outside for another three years before possibly re-entering the position. Personally, I think if it is a guaranteed four-year position then if he is successful there is a chance that you may get a better class of candidate. I am not suggesting that any of the candidates here are unsuitable.*³⁵

Community respect for parliamentarians might also be enhanced because of ‘the less frequent onset of electioneering’.³⁶

3.1.5 Voter dislike of elections

Anecdotally, a further argument often cited in favour of longer parliamentary terms is that Australians dislike the frequency with which they are required to vote. There is also an increasing disengagement of the voting public from politics in general, something that has been linked to a distaste of the perceived constant campaigning and polling within the electorate.³⁷ Fewer state elections may reduce this political apathy to some extent.

3.1.6 Parliamentary committee system provides additional checks and balances

The Fitzgerald Inquiry of 1989 recommended a series of Parliamentary Committees to hold Executive Government to account. These Committees were progressively introduced over the ensuing years. However in 2010 there was bipartisan agreement in the House to conduct a wide-ranging review of the Parliamentary Committee system in order to ensure the accountability and transparency of the Queensland Parliament. This review recommended the system which came into operation in June 2011 and which remains in operation today. A hallmark of the post-2011 regime is the additional role of Committees in scrutinising and reviewing any legislation introduced to the House – thus providing a “check and balance” mechanism before any legislation can be considered by Parliament. The process also provides for wide-ranging consultation with the people of Queensland.

One of the major arguments offered to support the retention of three year parliamentary terms was the fact that Queensland is a unicameral Parliament and therefore does not have an Upper House to provide additional scrutiny of the executive. Some submitters argued that the parliamentary committee system in place in Queensland acts to offset this concern.

The MTAQ advised:

Queensland’s unicameral system should not be an impediment to the proposed fixed four year Parliamentary terms, as to a great extent this is offset now by a competent Parliamentary committee system.

³⁵ Dr Sivertsen, Toowoomba Public forum transcript, 30 September 2015:14

³⁶ Royal Commission on the Electoral System, *Towards a better democracy*, appendix to the journals of the House of Representatives of New Zealand 1986-87, vol ix H—‘Commissions, royal commissions’, Government Printer, New Zealand, December 1986 at para 6.17.

³⁷ McAllister, I. and Wanna, J. 2001, ‘Citizens expectations and perceptions of governance’, in Glyn Davis and Patrick Weller (ed.), *Are You Being Served? State Citizens and Governance*, Allen & Unwin, Crows Nest, Australia: 11

Over the past quarter of a century or so, the Parliamentary committee system has developed to include Estimates committees where Ministers and senior departmental staff, are required to answer questions from committee members during public hearings regarding their portfolio's proposed expenditures; portfolio committees which mirror the various portfolio areas of government, accompanied by hearings; and inquiries relating to Bills or consideration of proposed policy reform such as a "Lemon Law".

The Association has taken a close interest in the Parliamentary Estimates and the portfolio committees which pertain to the motor trades. It has been an active participant in the policy and inquiry agendas by way of submissions and engaging in hearings relevant to the motor trades. It is our experience and view that these committees will continue to establish their credentials as competent fora for the scrutiny of legislation by electors, and stakeholders such as the motor trades and offset any concerns with the State's unicameral Parliamentary system.³⁸

The LNP also agreed, advising:

Parliamentary accountability in a unicameral parliamentary system, in the past has been viewed to be a limiting factor to the consideration of fixed four or four year parliamentary terms. This has changed. Public participation in the Parliamentary process has been significantly enhanced with reforms to the parliamentary committee system which includes scrutiny of Bills open to stakeholders and citizens to make submissions and to provide evidence before the specific portfolio committee; advances in communication and information technologies ensuring access and responsiveness to citizens by legislators and vice versa such as the live broadcast of parliament and committee hearings; and Right to Information legislation enabling a citizen or other entities access to documents held by government agencies and Ministers.³⁹

3.2 The case against longer parliamentary terms

Arguments against longer parliamentary terms and in favour of retaining three year terms primarily involve concerns around accountability and democracy. Again, many of these arguments have been well argued in submissions made and evidence provided to the Committee.

Mr Don Willis argued in his submission that:

Accountability of Parliament to the people is an especially important consideration given Queensland's unicameral parliamentary arrangements.⁴⁰

He further argued that:

...it would need to be explained to the Queensland community how the holding of elections less frequently than at present would facilitate public participation in the democratic process and ultimately, democracy itself. On this point the renowned constitutional scholar A V Dicey held that the citizens are the true political sovereigns of the state. The most tangible way for citizens to express their sovereignty is through the ballot box. Yet, an increase in the length of the current parliamentary term would of necessity decrease the number of opportunities for the Queensland people to exercise their sovereignty, thereby diminishing their ability to cast their judgement on the performance of their elected representatives and that of the government of the day.⁴¹

³⁸ MTAQ, Submission No. 26: 3

³⁹ LNP, Submission No. 30: 3

⁴⁰ Mr D Willis, Submission No. 3: 5

⁴¹ Mr D Willis, Submission No. 3: 5

3.2.1 Loss of voter sovereignty

The primary argument against the extension of parliamentary terms to four years is that it waters down our democratic standards and reduces the accountability of the parliament to its electors. With longer parliamentary terms the electorate must wait a longer period to register its approval or disapproval of the government. This was recognised in the dissenting view of three members to the 1929 Report of the Royal Commission on the Constitution:

*The greater the control of Parliament by the electors the better for the people, and the lengthening of the term of Parliament tends to weaken this control.*⁴²

Former Prime Minister, Paul Keating, has referred to the question of democracy, claiming that the Australian democratic system is 'very robust' because the voters have a chance to change the Parliament, and hence the Government, 'every three years or less'.⁴³ The historian, Geoffrey Blainey, has also seen this matter in terms of democracy, believing it would be a 'harsh penalty' to deprive the Australian people of the right after three years to dismiss an incompetent or lacklustre government.⁴⁴ Similarly, former Senator Brian Harradine (Ind) said that 'it is important that the people are given the chance regularly to audit what the government is doing by voting it in or out of office'. Senator Harradine's solution would be to create a climate in which parliaments are allowed to run their full three-year term.⁴⁵

Others have observed that the solution to this 'problem' lies with the Prime Ministers (in the case of the Commonwealth House of Representatives) and the state Premiers who have consistently reduced the term of Parliament by calling early elections. The former Clerk of the Senate, Harry Evans, said that if Prime Ministers could restrain themselves, at a stroke we would have longer, and therefore, more stable parliaments.⁴⁶

There is also the danger that with a longer term government may become complacent and less responsive to the interests of the electorate. The fear is that this complacency could result in worse policy formulation and decision making.

These views were supported by some participants at the Committee's public forums. For example Ms Foster, attending the Sunshine Coast public forum, stated:

*I do not think that we should go into a four-year term until we get a house of review with it. I think that is the most sensible thing to do. If you have somebody in power under a four-year term who you do not want in who is putting through bills that are wasting money and wasting energy, you are going to do a lot of damage. You need a house of review. A four-year term should not come without a house of review. The reason for that, No. 1, is that it is more economical. You can therefore spend more money on people instead of having elections constantly. I can see that point of view. However, if you have a bad government in power, four years is a long time and a lot of damage can be done. I do not think that it should be a fixed term. I think it should be flexible. The only problem with that is that, if it is flexible, governments can go ahead of time and then implement drastically disastrous conditions for the people and cause a lot of social problems.*⁴⁷

⁴² M. B. Duffy and D. L. McNamara (T. R. Ashworth concurring), Report of the Royal Commission on the Constitution, *Parliamentary Papers*, 1929–30–31, vol. II, part 1, p. 304.

⁴³ 'A Powerful Choice', ABC TV Facilities Marketing and Corporate Production video, 1994. Cited in Department of Parliamentary Library, 2000, Research Paper No. 4: Four-year terms for the House of Representatives?, p. 13

⁴⁴ *Australian*, 28 May 1988.

⁴⁵ Senator B. Harradine, Senate, *Debates*, 13 October 1983, p. 1561.

⁴⁶ Harry Evans, *Constitutionalism and Party Government in Australia*, Australasian Study of Parliament Group Occasional Paper No. 1, August 1988, p. 64, Elaine Thompson, Donald Horne and Sol Encel, *Legislative Studies Newsletter*, no. 1, April 1980, p. 9.

⁴⁷ Ms Foster, Sunshine Coast Public forum transcript 1 October 2015: 5

3.2.2 Inappropriate for unicameral parliament

The above argument assumes greater importance in Queensland where there is no Upper House to act as a House of review. The argument that the lower Houses in all other Australian state Parliaments have four year terms overlooks the fact that none of them are unicameral Parliaments.

A number of submitters who opposed extending Queensland's parliamentary term stressed the relevance of Queensland's unicameral status.

The Queensland Greens argued:

There is little evidence that demonstrates a four year term is superior in terms of improved performance of government. However if terms are extended, there will be a significant negative impact on accountability and public oversight, which is not in the interests of democracy.

This is particularly the case in Queensland, being the only state without the major accountability mechanism like an Upper House to provide some degree of continuing scrutiny over the actions of the government of the day and the potential for at least some checks and balances on an Executive that is usually almost completely unconstrained.⁴⁸

Indeed, it appears that maximum three year parliamentary terms were an essential element of the move to a unicameral Parliament in Queensland. In the lead up to the abolition of the Legislative Council in October 1921 the then Premier, the Honourable E G Theodore, advised the Governor that:

The Labor Party have been pledged for many years to secure the abolition of the Council, believing in a Parliament based on a system of one chamber only; and, so long as we have a free and unfettered franchise and parliaments that do not extend beyond a three-year period, there can be in that system no danger to the interests of the people.⁴⁹

In introducing the Bill to abolish the Legislative Council Theodore stated:

What we want in a democratic community is a system which will give a ready, free and direct expression of the will of the people. That can only be got by having frequent appeals to the people, the appeals not less frequent than once in three years at the most.⁵⁰

3.2.3 Insufficient safeguards for the parliamentary process

The very nature of the Westminster system of government is that the executive government is drawn from the parliament. As pointed out by Professor Orr, in Queensland this creates a unique tension due to the usual majority in the House that a government commands.⁵¹

Again in the absence of an Upper House or House of review this can be said to give governments control over the legislative process. Opponents of longer terms of parliament argue that the extension to a four year term for a unicameral parliament needs to be complemented by other safeguards to reinforce the role of parliament and democracy.

⁴⁸ Queensland Greens, Submission No. 28: 8

⁴⁹ Queensland Studies Centre, Griffith University, *One chamber only: Queensland's upper house 75 years on*, Proceedings of a symposium conducted at Parliament House, Brisbane on 22 March 1997, Griffith Uni Print, Brisbane, 1997 at 3.

⁵⁰ D Murphy, R Joyce and M Cribb (eds), *The Premiers of Queensland*, University of Queensland Press, Brisbane, 1990 at 322.

⁵¹ Professor Orr, Public hearing transcript 28 October 2015: 10

The undesirability of merely extending the parliamentary term to a four year term was also recognised in New Zealand by the Royal Commission on the Electoral System in relation to its unicameral parliament:

Although the effective government arguments favour a 4-year term they cannot, as we previously indicated, be said to do so conclusively. Nevertheless, they would lead us to favour the relatively modest extension to a 4-year term, which we would not regard as significantly reducing voter sovereignty, were it not for the relative lack of restraints on the power of New Zealand Governments. In our view, there are as yet insufficient restraints to justify recommending a change to a 4-year term. We would not be prepared to do so until the present trend towards additional restraints has been further developed.

While the Committee heard that Queensland's parliamentary committee system provides an important 'review' mechanism, some concern was articulated regarding the limitations of the system. Refer section 7 for further discussion regarding the parliamentary committee system.

Professor Orr advised the Committee that Queensland has no proportional representation, no Upper House and a vast, diverse jurisdiction. He considered that mechanisms are needed to 'check the great licence of the executive in this state'.⁵²

The submission from Mr David White, iterated his concern that:

The very severe time limitations that are always a feature of committee inquiries also mean that the overwhelming majority of citizens will continue to remain ignorant of how Parliament or any of its committees operate, primarily because of wholly inadequate avenues of information provided to citizens on how they can know what is happening and/or participate in any way in its proceedings. For most citizens who lead busy lives, the only information they receive about Parliament is when very controversial Bills are passed or when sensational material is published or broadcast by commercial media.⁵³

The Clerk of the Parliament highlighted his concern that whilst the Parliament has made a lot of strides towards improving accountability, those mechanisms can be disposed of by simple legislation or resolution of the House. He advised:

All of the mechanism that we have now that improve accountability can basically be disposed of by resolution of the House, an amendment of the standing orders or a simple act of parliament that does not need a referendum. Tomorrow we could have a government—and we should be thinking about tomorrow in a futuristic sense; in 10 years time, in 20 years time, in 50 years time—that in its first week abolishes the committee system by a simple act of parliament, abolishes estimates, abolishes basically most of our procedures or implements other procedures that everyone is totally against or simply truncates accountability by not sending legislation through.⁵⁴

3.2.4 Less representative parliament

Changes to electoral boundaries arising from increased and shifting population statistics would only be given effect every four years. That is, while an electoral redistribution might be triggered in the second or third year of an electoral term, the malapportionment would remain until the next election was called. With four years terms that next election date is likely to be significantly later than with three year terms. It could be argued that this is an unacceptable period of time during which the representative basis of Parliament is out-dated.

⁵² Professor Orr, Public hearing transcript 28 October 2015: 10

⁵³ Mr D White, Submission No. 36: 3

⁵⁴ Mr Laurie, Clerk of the Parliament, Public hearing transcript 28 October 2015: 7

3.2.5 Disputed benefits of longer terms

One difficulty with moving from the three-year term is the lack of evidence that such a change would actually bring the benefits that are claimed. There appears to have been no research undertaken on the consequences of the change to four-year terms that occurred in the other Australian States since the 1970s.

Claims are made about the deleterious impact of three-year terms upon the Australian economy, but as far as can be ascertained there is no methodologically sound study that establishes, without doubt, that economic performance has been materially affected by a legislative term.

A second problem relates to the contention that the existing term has a deleterious impact upon the legislative performance. Critics point to the rush to legislate before the end of a parliament, but seem not to consider the possibility that the shorter term acts as a strong motivating instrument to get planning under way and legislation passed promptly. In addition, extending the House term to four years will not necessarily see the improved pursuit of medium- and long-term planning strategies. In many cases lengthy periods may be required after the passage of legislation before policies are seen to be producing results. The required lead-time may be far longer than four years and the difference between three and four year terms may therefore be quite marginal.

However, the Committee heard anecdotal evidence throughout its inquiry process of the effect that elections have on business and therefore the economy. The CCIQ advised the Committee their members consider that elections have a negative impact on their businesses. They advised:

We sought to get a better understanding of why it is that their sales decrease and why it is that their profitability decreases. Quite simply, what the businesses come back to us with is that during state elections consumers, unfortunately, do not reach as far deep into their pockets and they stop spending. No. 2 is the uncertainty associated with future large infrastructure projects. These large infrastructure projects always cascade down economic benefit to the surrounding business communities and some of those projects, unfortunately, are delayed. It is only right that some new governments seek to determine the appropriateness of these projects for the community of Queensland. There is generally a delay associated with state elections. There is often a change in government policies, either fiscal or economic. No. 4 is that a number of decisions relating to approvals and decisions specific to that business are delayed through departments being in caretaker mode. Finally, there is an uncertainty of funding. We have a lot of members in the not-for-profit sector who rely on funding from state government. Often they feel that there is an uncertainty associated with funding arrangements for the next three years.⁵⁵

Advance Cairns, attending the Cairns public forum, advised:

Advance Cairns supports a four-year fixed term of government with a fixed election date. Our members share concerns over the rotations of government and the subsequent continual strategic planning processes which have cost the economy dearly. A four-year term would provide for better execution of plans and effectiveness of governments themselves. Fixed terms provide both political and economic certainty.⁵⁶

⁵⁵ Mr Behrens, CCIQ, Brisbane Public forum transcript 1 October 2015: 4

⁵⁶ Mr Matthews, Advance Cairns, Cairns Public forum transcript 7 October 2015: 12

3.3 How to change/what is required for change

The current provision regarding the three year term in Queensland is entrenched in accordance with section 2 of the *Constitution Act Amendment Act 1890* and section 4 of the *Constitution Act Amendment Act 1934*:

Constitution Act Amendment Act 1890

2 Duration of Legislative Assembly to be 3 years only

Every Legislative Assembly hereafter to be summoned and chosen shall continue for 3 years from the day appointed for the return of the writs for choosing the same, and no longer; subject nevertheless to be sooner dissolved by the Governor.

Constitution Act Amendment Act 1934

4 Duration of Legislative Assembly not to be extended except in accordance with this section

- (1) The provisions of section two of "The Constitution Act Amendment Act of 1890" (referred to in the preamble to this Act) shall not be amended in the direction of extending the period of three years, which, as provided by the said section two, is the period for which any Legislative Assembly, now or hereafter summoned and chosen, shall continue from the day appointed for the return of the writs for choosing the same and no longer (subject, nevertheless, to be sooner dissolved by the Governor), nor shall any other Act or law relating to the Constitution be passed extending such period of three years as aforesaid, except in the manner provided by this section.
- (2) A Bill for any purpose within subsection (1) of this section shall not be presented to the Governor for the reservation thereof for the signification of His Majesty's pleasure, or for the Governor's Assent, or be in any other way assented to, until the Bill has been approved by the electors in accordance with this section.
- (3) On a day not sooner than two months after the passage of the Bill through the Legislative Assembly, the question for the approval or otherwise of the Bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of "The Elections Acts, 1915 to 1932," or any Act amending the same or in substitution therefor.
Such day shall be appointed by the Governor in Council.
- (4) When the Bill is submitted to the electors the vote shall be taken in such manner as the Legislature prescribes.
- (5) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for the reservation thereof for the signification of His Majesty's pleasure.
- (6) The provisions of this section shall extend to any Bill for the repeal or amendment of this section.

Accordingly a move away from the current three year term would require a Bill being passed to achieve that aim and a referendum question being put to the people of Queensland to approve that Bill.

3.4 Committee comment

The Committee received strong feedback during its inquiry process indicating broad public support for a longer (four year) term for the Queensland Parliament. This was equally reflected in the results to the public survey where the majority of respondents (74.12 per cent) supported increasing the maximum term to four years.

The Committee agrees that four year terms provide significant advantages including improved governance and economic management of the state, reduced cost and less social and economic impact due to fewer elections and the enhanced effectiveness of the Parliament. In moving to a four year term, the Queensland Parliament would align with the lower Houses in all other states and territories across Australia where four year terms have been in place for up to four decades.

However, the Committee notes the concerns expressed by some for the possible loss of accountability and responsiveness of the parliament to the people resulting from a longer term. The Committee respects the intent of the earlier Queensland Parliaments who sought to entrench the maximum three year term at the time of the abolition of the Upper House. The Committee agrees that Queensland's unicameral Parliament requires alternative and effective safeguards which replicate as much as possible the role of an Upper House to scrutinise legislation and the executive. In this regard the Committee has made additional recommendations further in this report.

Accordingly the Committee supports the extension of parliamentary terms to four years and recommends that the Parliament agree to a Bill to repeal existing entrenched provisions regarding the three year term, amend the *Constitution of Queensland 2001* to entrench fixed four year terms and that the Bill be put to the voters at a referendum.

4 Fixed terms of Parliament

Queensland parliamentary terms run for not more than three years, with an election announced usually towards the end of each term. However, there is no minimum period required between State elections, so a Government can choose to hold the election at any time during its three year term.

The following table provides data on average length of terms since 1980:

Table 3: Time between elections 12 November 21977 to 31 January 2015 for Queensland Parliament

Date of Election	Time between elections
29 November 1980	3 yrs 17 days
22 October 1983	2 yrs 10 mths 23 days
01 November 1986	3 yrs 10 days
02 December 1989	3 yrs 1 mth 1 day
19 September 1992	2 yrs 9 mths 17 days
15 July 1995	2 yrs 9 mths 26 days
13 June 1998	2 yrs 10 mths 29 days
17 February 2001	2 yrs 8 mths 4 days
07 February 2004	2 yrs 11 mths 21 days
09 September 2006	2 yrs 7 mths 2 days
21 March 2009	2 yrs 6 mths 12 days
24 March 2012	3 yrs 3 days
31 January 2015	2 yrs 10 mths 7 days

Source: Australian Electoral Commission, *Federal, state and territory election dates from 1946 to the present* http://www.aec.gov.au/Elections/australian_electoral_history/Federal_State_and_Territory_elections_dates_1946_Present.htm

4.1 Arguments in favour of fixed terms

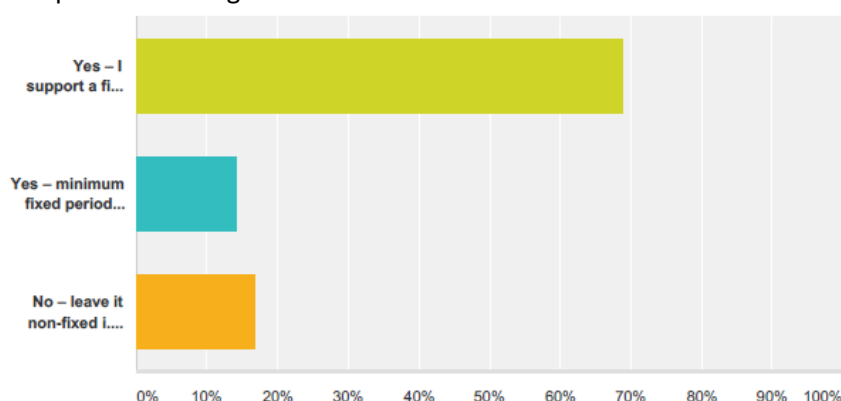
A fixed term may apply in both a three year and four year maximum term Parliament. A majority of submitters to the Committee's inquiry supported the concept of a fixed term and/or fixed date for an election.

The MTAQ submission succinctly articulated what many submitters and attendees at the public forums had communicated, stating:

Four year fixed terms would have the advantage of mitigating the uncertainty about the election date, allow stakeholders to 'wrap-up' policy and regulatory requirements with Departments or Agencies; allow business to better prepare for the election hiatus and provide policy certainty for a longer timeframe.⁵⁷

⁵⁷ MTAQ Submission No. 26: 3

The following diagram depicts the results from the Committee's on-line survey which resulted in 68.95 per cent of respondents being in favour of a fixed date or term for an election.



Answer Choices	Responses
Yes – I support a fixed date or term for an election	68.95% 724
Yes – minimum fixed period within the full term e.g. fixed three years within a four year term	14.10% 148
No – leave it non-fixed i.e. by decision of the Governor and Premier of the day	16.95% 178
Total	1,050

There was also some support for a fixed election date for three year terms. Professor Orr advised the Committee:

Can I suggest a compromise, a compromise that will not require a referendum? Fix your three-year terms, suck that and see, and let's then move on in future, if you want to, to consider fixed four-year terms. Fixing a three-year term will give many of the benefits we have talked about today—the benefits of certainty and planning that Anne mentioned in terms of the Public Service. It will also reduce the incumbency benefit, which is one of the concerns with the Westminster style where the Premier can just drive up to Paddington and call an election for almost any reason early and catch the opposition and crossbenchers on the wrong foot. As I say, you could fix three-year terms without having to have a referendum. You will not be entrenching the fixed three-year terms, but you would be setting up British style the idea of three years—‘This is the game. Let the clock commence’—and, unless there is some sort of collapse in support for the government in the lower house in a hung parliament, we have that planning and certainty that fixity can bring.⁵⁸

4.1.1 Reduces political manipulation of election dates

The advantages of a fixed period include that it ensures elections are not called early for reasons of political expediency. It is clearly not in the public interest for a government to decide to hold an early election simply to gain some electoral advantage over the opposition parties.

Some argued that the power to choose the election date gives a substantial advantage to the Premier of the day, allowing 'arbitrary, partisan and capricious early elections'.⁵⁹

⁵⁸ Professor Orr, Public hearing transcript 28 October 2015: 10

⁵⁹ Dean Jaensch, *Getting Our Houses in Order. Australia's Parliament: how it works and the need for reform*, Penguin, Ringwood, 1986, p. 172, cited in Department of Parliamentary Library, 2000, Research Paper No. 4: Four-year terms for the House of Representatives?, p. 14

At its public forums, the Committee heard support for this concept. For example, Mr Michael Olm advised the Committee:

...it relieves the opportunism that is often associated with day-to-day politics. If we know that on a certain date the election will take place, again it takes away the opportunism and provides certainty that the business community was certainly seeking. I think the electorate also likes the notion of knowing when they will be expected to exercise their democratic rights.⁶⁰

A further example came from Mr Sean McGinn, in Cairns, who advised that he preferred fixed terms:

...because it also reduces the power of the Premier to arrange things and, when the polls go right, hit with an election. The Premier should not have that sort of ability, in my view. It is only exercised, on my understanding, through the reserve powers that were intended to be reserved by Queen Victoria or somebody. It is quite a strong power for a Premier to have, to be able to control the parliament to that extent. We need to reduce the power of the Premier to set things up for themselves. I think a fixed four-year term is the best way.⁶¹

4.1.2 Reduces the incentive for political sabotage of a government

It is also argued that a fixed date reduces the incentive for political manoeuvring as an attempt to undermine confidence in a government and bring on early elections.

At the federal level, Harry Evans, has pointed out that a change to fixed terms would also help provide a solution if the Supply problems of 1975 were to be repeated. The insertion into the Constitution of a fixed House term, that could only be shortened by a motion constitutionally, identified as a motion of no confidence, would withdraw the usefulness of blocking or rejecting supply as a parliamentary tactic.⁶²

4.1.3 More certainty for government, business and community planning

A further argument for fixed terms is the guaranteed tenure for the government which helps to ensure a requisite amount of time to effectively govern. This produces arguable benefits for government agencies who can more effectively plan and implement policies, programs and projects.

The business community argued that a fixed term produces equal benefits to those who rely on government funding or contracts for the delivery of major projects and programs.

Professor Twomey advised:

...from a public servant point of view one of the great things about fixed-term elections is that you know when you are going into caretaker government. Being able to know that date in advance makes a really big difference when it comes to planning so that you can make sure that contracts and various important things do not arise during big caretaker periods. So from a planning point of view it makes life an awful lot easier, rather than having to deal with constant speculation about when you may or may not be having an election.⁶³

⁶⁰ Mr Olm, Public forum transcript 1 October 2015: 9

⁶¹ Mr McGinn, Public forum transcript 7 October 2015: 4

⁶² Harry Evans, *Constitutionalism and Party Government in Australia*, Australasian Study of Parliament Group Occasional Paper no. 1, August 1988, cited in Department of Parliamentary Library, 2000, Research Paper No. 4: Four-year terms for the House of Representatives?, p. 15

⁶³ Professor Twomey, University of Sydney, Public hearing transcript 28 October 2015: 9

She also advised:

*The other useful thing about fixed four-year terms as well as knowing the date of the election is that it is very helpful when you have legislation concerning things like political donation reform. If you have, for example, caps on expenditure, you can date those caps on expenditure so you can deal with the period of six months before the election or whatever you want because you know exactly when the election is going to be. So it does make it a lot easier to make those sorts of reforms as well.*⁶⁴

At its public forums the Committee heard real examples of the effect that elections have on communities. A public servant in Maryborough advised the Committee:

*Having worked through changes of government in my capacity, I think it does cause some problems to people who work in the Public Service. Obviously there is that delay from particularly when there is a change of government or just the speculation around that. I personally believe that departments go into a little bit of a holding pattern just prior to an election. I am not saying that that would not occur in a fixed term, but obviously we have a caretaker period.*⁶⁵

Central Highlands Regional Councillor, Paul Bell, supported fixed terms and advised:

*We in local government have been fixed term since our constitution has been put in place, but can I say that four years have been more effective in regard to our planning, in regard to the way in which we can develop policy and the way in which we can respond to our communities. That four-year term does allow the mayor and councillors to provide a greater deal of direction and certainty in regard to the way in which governance is delivered, the way in which infrastructure planning is able to be developed and the way in which those issues of planning—town planning and community planning—are able to be established. We as a council are very firmly, I think, committed to fixed terms. We have experienced it, have seen it in operation and believe that it does deliver good benefits for the people who elect the members of our state government and those who elect us as members of local government.*⁶⁶

4.1.4 Removes any benefit of an extended four year term

Finally many of the advocates of four year terms note that any extension would be a futile exercise without also providing for a fixed term as politics would remain in the equation and the Premier of the day would be free to call elections at any time within a four year maximum period when it was politically convenient.

In 1980, three University of New South Wales academics described a four-year non-fixed term as:

*The worst of all possible worlds. It gives an extra year to a government without accountability to the people and yet the opportunity for a prime minister to call an early election at will still remains.*⁶⁷

⁶⁴ Professor Twomey, University of Sydney, Public hearing transcript 28 October 2015: 9

⁶⁵ Mr Tantari, Public forum transcript 16 October 2015: 11

⁶⁶ Councillor Bell, Central Highlands Regional Council, Emerald Public forum transcript 9 October 2015: 4

⁶⁷ Elaine Thompson, Donald Horne and Sol Encel, *Legislative Studies Newsletter*, no. 1, April 1980, p. 9.

4.2 Arguments against fixed terms

Opponents of fixed terms argue that it represents a serious modification of the Westminster system of government where it is accepted that a government be able to appeal to the electorate at any time when it is felt to be necessary.

Former Chief Justice Dixon has pointed out that in our system of government, we '*insist on the dependence of Cabinet upon Parliament*'. Furthermore, our governmental arrangements provide that 'if a difficulty arises between the executive government and Parliament, it shall be resolved by an appeal to the people'.⁶⁸ This is not possible under fixed term arrangements, except when the constitutional change is written so as to allow for earlier elections if a substantive no-confidence motion is passed.⁶⁹

Former law lecturer, and later Labor Minister for Justice, Michael Tate, is another who expressed doubts over this model, focussing on the conventions of responsible government. He was particularly concerned with how such a change would affect the office of the Prime Minister. At present the Prime Minister can go to the people if circumstances warrant it, and Tate argued that this power ought not be thrown away lightly. For example, if a Prime Minister is being frustrated by the Opposition, 'he ought to be able to go to the people and renew his mandate—this is what is described as the flexibility that exists in the Westminster model'. The calling of the 1974 election by Whitlam is an illustration of what Tate had in mind.⁷⁰

A further point made by the English doyen of election studies, David Butler, relates to the issue of the cost of elections. In an article in the Blackwell Encyclopaedia of Political Science, Butler notes that flexible election dates—as in Australia—tend to produce shorter, and therefore cheaper, campaigns. Uncertainty over the date of an election means that there is usually little to be gained by an Opposition beginning to campaign well before the Prime Minister's announcement. By contrast, a well-known feature of US national elections— all of which are fixed term—is just how long the campaigning can take. This is not only because of fixed terms, but is certainly exacerbated by that aspect of the system.⁷¹

4.3 A mixed system – alternative approach

Some support has been heard for a mixed constitutional arrangement, which would combine elements of both maximum and fixed term arrangements. The model usually referred to would give the Legislative Assembly a maximum term of four years, with the parliament not dissolvable during the first three years after an election.

This is the constitutional arrangement introduced in Victoria in 1984 and South Australia in 1985. It should be noted that after an initial trial approach, both these jurisdictions moved to fixed four year terms in 2003 and 2002 respectively.⁷²

Whilst the issue of a mixed system was considered by the Committee, it found that there was limited comment from stakeholders on this issue.

⁶⁸ Sir Owen Dixon, *Jesting Pilate And Other Papers and Addresses*, Law Book Company, Melbourne, 1965, p. 107, cited in Cited in Department of Parliamentary Library, 2000, Research Paper No. 4: Four-year terms for the House of Representatives?, p. 17

⁶⁹ Philip, Ruddock, 'Australia: Fixed-term Parliaments debate', *Parliamentarian*, vol. 63, no. 4, October 1982, pp. 314–15, cited in Department of Parliamentary Library, 2000, Research Paper No. 4: Four-year terms for the House of Representatives?, p. 17

⁷⁰ Senator Tate, Senate, *Debates*, 12 October 1983, p. 1503; Professor Don Aitkin, *Canberra Times*, 6 July 1987, cited in Department of Parliamentary Library, 2000, Research Paper No. 4: Four-year terms for the House of Representatives?, p. 17

⁷¹ David Butler, 'Elections', *Blackwell Encyclopaedia of Political Science*, Blackwell, Oxford, 1991, p. 190, cited in Department of Parliamentary Library, 2000, Research Paper No. 4: Four-year terms for the House of Representatives?, p. 17

⁷² Relevant legislation in various states and territories.

4.4 Date for a fixed general election

If a fixed term and date for a Queensland state election was determined to be the preferred approach, it must also be determined when in the calendar year is the most suitable time for all areas of Queensland to hold an election.

In Queensland local government elections are held on the last Saturday of March every four years in accordance with section 23 of the *Local Government Electoral Act 2011*.

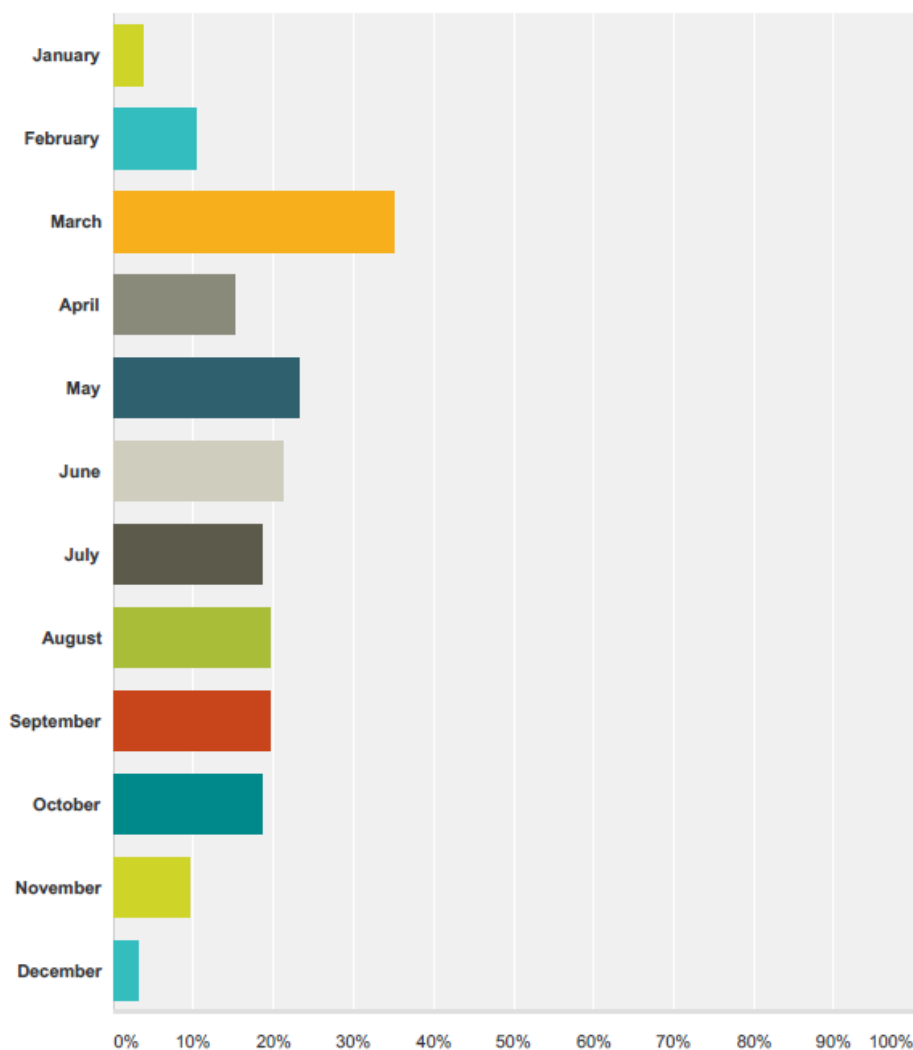
Most states and territories in Australia have a fixed election date:

- NSW, election held on the last Saturday in March;
- South Australia, election held on the third Saturday in March;
- Western Australia, election held on the second Saturday in March;
- Victoria, election held on the last Saturday in November; and
- Northern Territory, election held on third Saturday in August

The Committee received very strong feedback from stakeholders, attending forums in northern Queensland, that March should be excluded from consideration due to the high risk of monsoon rain, flooding and cyclones occurring at this time of year.

However, there was strong preference in the survey for a general election to be held in March. The diagram below depicts the results from the Committee's on-line survey which favoured the months of March (35 per cent), May (23.40 per cent), June (21.38 per cent) and August and September (each on 19.68 per cent). However, it is important to note that this question allowed for a multiple choice answer and therefore does not represent the first choice of respondents but a range of dates that they considered would be appropriate.

The Committee considered the possibility that this may reflect an outcome based on a general awareness that local government elections are held in March. Further, the Committee was unable to disaggregate the survey results to determine regional preferences, and therefore reflecting the views expressed in northern Queensland, the Committee has disregarded March from its consideration of possible fixed election dates.



Many councils advised the Committee that they would not support March elections in the same year as local government elections. The LGAQ advised:

...the association adopted a position of support for four-year fixed terms of state parliament, but with a proviso that the state election not be held within 12 months of the quadrennial local government election for the obvious reasons of impacts on voters and confusion between the issues at both state and local government elections.⁷³

⁷³ Mr Hoffman, LGAQ, Public hearing transcript 28 October 2015: 17

The LGAQ also advised the Committee of there being debate regarding the appropriateness of March elections for local government. They advised:

*The local government election date in March on the four-yearly cycle is a long-established date. There is certainly some debate within local government ranks as to the appropriateness of March and some suggestion that it be in October, the issue being that newly elected councils elected in March have immediately to deal with the budget preparation and they have to conclude that by the end of July each year. Putting the council elections to October could, in fact, enable a newly elected council to have an opportunity to properly understand and prepare a budget. So the debate has been currently March or with some support for October.*⁷⁴

Numerous stakeholders argued that, irrespective of the specific month, scheduled elections should avoid school holiday periods and periods impacted by Queensland's extreme weather, such as wet season, cyclone season and the heat of the summer period.

The ALP submitted:

*...that the Committee should give weight to those submissions from North and Far North Queensland that a March election date does risk the disenfranchisement of some remote communities during the wet season. I know it is also a significant impost on the Electoral Commission to conduct polling in these communities during the wet seasons.*⁷⁵

Notably the Northern Territory, which arguably shares similar weather conditions to Queensland, has determined that August is the most suitable time of year to hold an election.

The ECQ proposed that:

*...should a fixed election date be set, that date not coincide with the wet season. Queensland is a subtropical state. Cyclones, floods and storms are not uncommon in the months of January through March and even April. Each of these restricts access to polling booths, cuts off roads, airports, ports and mail services. If we had a set date for elections, we could greatly reduce the risk to persons and to the event of natural disasters if that set date was later in the year.*⁷⁶

In 1982, the Australian Senate passed a proposal for fixed term Parliaments which involved simultaneous House of Representatives and half-Senate elections on the third Saturday in November every third year.⁷⁷

A number of stakeholders also commented that it may be more practical to hold elections in the latter half of the year, after the state budget process, and this would reduce the impact of an election on budgets and government planning.

CCIQ advised that in response to the Committee's issues paper and aligning to the position of CCIQ, they surveyed 761 Queensland businesses as part of the Westpac Group CCIQ Pulse Survey to assess the impacts of state election campaign periods on small business operations as part of the quarterly Pulse Survey.⁷⁸

⁷⁴ Mr Hoffman, LGAQ, Public hearing transcript 28 October 2015: 19

⁷⁵ ALP, Submission No.44: 3

⁷⁶ Mr Tiernan, ECQ, Public briefing transcript 28 October 2015: 24

⁷⁷ CCIQ, Submission No. 27: 2

⁷⁸ CCIQ, Submission No. 27: 2

The results of this survey, when asked which month would be best to hold a state election, showed the majority (24 per cent) of businesses indicated that they do not have a preference for a specific month. The month which recorded the highest number of votes was March (preferred by 20 per cent of businesses).⁷⁹

CCIQ also advised:

Many commenters indicated some time well before the financial year ends (avoiding the weeks leading up to the end of the financial year when it is typically a busy period) in order for government and businesses to adequately plan for the year ahead.⁸⁰

State Government budgets were also a common theme, with some respondents believing the best time for an election would be post-Budget hand down. Campaigning after the release of the Budget would hold Governments more accountable and provide a level of transparency to the process.⁸¹

The Clerk of the Parliament advised of his support for an election in the latter half of the year, stating:

My reason for that is that having just been through two parliaments where there has been a change of government at each election—and everyone has to appreciate this—that new governments in particular need considerable time to bed down the business of government, get things normalised, appoint people and all of those sorts of things. Therefore, there is a hiatus.

I think the advantage with September is that presumably the annual appropriation has been passed. If there is a change of government, that incoming government has a considerable period until the next budget period to consider matters. Otherwise what happens the budget tends to be pushed off to a later period. I think for the last two cycles we have had the budget in September. If we are talking about business confidence and the disruption of elections and things of that nature, I think there is less likely to be disruption if the election is held in September.⁸²

Since 1947, six of the 25 state elections were held in May, although all of these were prior to 1974. Elections have been held in March and November three times each, and February, June, September and December twice each.

A date in the latter half of the year may reduce the occurrence/necessity to draw upon exceptional circumstances provisions (discussed further in section 5) as historically significant natural disasters and extreme weather events have occurred in Queensland during the January – March summer period.

The Committee did not receive any evidence/submissions in relation to holding elections in remote Indigenous and Torres Strait Island communities. These communities are likely to be impacted severely by tropical weather conditions which might impact on access to polling locations.

4.5 How to change/what is required for change

Establishing a fixed date for an election may be achieved using a number of approaches. A fixed date can be implemented in statute through amendments to the *Electoral Act 1992* and/or *Parliament of Queensland Act 2001* with the approval of the Legislative Assembly. Alternatively, the fixed date may be a matter deemed appropriate for entrenching in the constitution such that it could only be changed by agreement of the people of Queensland by majority referendum.

⁷⁹ CCIQ, Submission No. 27: 11

⁸⁰ CCIQ, Submission No. 27: 12

⁸¹ CCIQ, Submission No. 27: 13

⁸² Mr Laurie, Clerk of the Parliament, 28 October 2015: 8

Whether or not to entrench the fixed term of the parliament involves a number of considerations. Entrenching such provisions in the constitution may reduce the flexibility should a need arise in the future to change the fixed date of an election as it would need to be approved by a majority of electors who vote at a referendum. Further the detail and matters relevant to setting a fixed date may add unnecessary complexity to the referendum question put to the people and may reduce the likelihood of the question succeeding.

4.6 Committee comment

The Committee supports the adoption of fixed parliamentary terms in Queensland. From a practical perspective there is merit in the argument that a longer term of Parliament is senseless if not complemented by a mechanism that ensures the Parliament reaches its maximum term. For example if just four year terms, without the fixed date option, were to be adopted, it is feasible that an election could be held any time during that four year term. Most stakeholders were strongly in favour of fixed terms and fixed election dates, irrespective of whether they supported longer terms of Parliament. For most, the certainty of knowing when an upcoming election was to be held was important and considered less disruptive to the community and economy.

Considerable evidence was considered by the Committee in regards to a preferred and most suitable fixed date for future general elections. The Committee notes there was strong preference for elections to be held in March, followed closely by a preference for May. At the same time the Committee was urged by many stakeholders to exclude from consideration school holiday periods and periods of the year likely to be impacted by Queensland's warm and unpredictable summer and monsoon seasons. The Committee was also concerned to avoid any election date that might be adversely affected by or prove impractical due to state and federal budget processes which ordinarily occur annually between May and June. Accordingly the Committee has agreed to discount March and May as suitable for a state general election even though the survey showed a preference for these months.

The Committee instead agrees that dates in the latter part of the year better satisfy the expectations of the electorate and are more practical from a government administration and planning perspective. An election held later in the year also avoids any possibility in the future of local and state elections coinciding in the same month. Balancing all feedback received during the inquiry, the Committee preferred a fixed date for a state general election to be held on the last Saturday in October every fourth year. The Committee also agreed that, observing the same considerations, the first Saturday in September every fourth year is a suitable alternative.

5 Special provisions

Under the Westminster system of government which operates in Queensland, there are a number of constitutional laws and conventions which extend to Governors discretionary or reserve powers in relation to the dissolution of the Legislative Assembly, and the appointment or dismissal of Ministers in the event of a change in Government.⁸³

⁸³ The powers of the Governor of Queensland are derived from his commission, from the provisions of the Australia Acts, from the provisions of the Office of Governor Act, from provisions contained in the Constitution Act, and from provisions contained in a number of the other Acts which provide for certain things to be done or approved by the Governor in Council.

The Constitution of Queensland (s.15) empowers the Governor to dissolve the Parliament and call an election at their personal discretion:

Constitution of Queensland 2001

15 Summoning, proroguing and dissolving the Legislative Assembly

- (1) The Governor may summon the Legislative Assembly in the Sovereign's name by instrument under the Public Seal of the State.
- (2) The Governor may prorogue or dissolve the Legislative Assembly by proclamation or otherwise whenever the Governor considers it expedient.

Normally, by convention, if the Premier of the day, who has the confidence of that Assembly, advises the Governor to dissolve that Assembly before the expiry of the Parliamentary term, the Governor, in general, will act on such advice. In such cases, constitutional convention requires a Governor to accept the Premier's advice in all but exceptional circumstances.

In exceptional circumstances, such as the arising of a constitutional crisis, where a Premier has lost the confidence of the Parliament, where there has been a serious breach of constitutional convention or where the Governor formed the opinion that the government or its Ministers has acted illegally, the Governor may exercise their discretionary powers and dissolve the parliament contrary to the advice of the Premier or Ministers. These reserve powers are established by convention and generally accepted as important to responsible government and the Parliament.

In his submission to the former LCARC, the former Victorian Governor, the Honourable Richard McGarvie AC referred to the Governor's reserve authority as a vital safeguard of democracy:

That is the fail-safe mechanism that enables an exceptional and intractable constitutional malfunction to be referred as a last resort to the Parliament or people for resolution. It authorises the Governor in a situation of absolute necessity to act independently of ministerial advice and exercise the reserve powers of appointing or dismissing a Government or dissolving or declining advice to dissolve Parliament, in such a way as brings the constitutional malfunction before Parliament or the electorate. (Democracy, pp 145-153).

...the ultimate guarantor of democracy is reference to the electorate. If there is restriction of the Governor's capacity to refer a constitutional malfunction to the electorate when it becomes absolutely necessary in order to continue the effective operation of the democratic system and its safeguards of democracy, it follows that the democratic quality of the system suffers.⁸⁴

The adoption of a fixed term of parliament, in effect removes from convention the prerogative of the governor to dissolve the parliament on advice from the Premier as the role of the government in determining when to dissolve the parliament and issue a writ for an election become limited to the arrangements for the fixed date. In the absence of this convention, it necessary to establish other provisions dealing with the circumstances for early dissolution and delayed dissolution of the parliament.

⁸⁴ Cited in LCARC report, 2000 p. 32

In recommending that the maximum term of the Legislative Assembly be extended to four years, the QCRC recommended that such reforms be subject to a provision that extended special discretionary powers to the governor to dissolve the Assembly within the fixed term:

Despite Queensland's unicameralism some further escape mechanism is necessary. The essence of responsible government, a principle that is and should be embodied in the State Constitution, is that the political executive (the Cabinet) commands the support of a majority of the legislature (the Legislative Assembly). If it does not, effective government becomes difficult if not impossible. There are two principal types of evidence when it does not.

One involves "confidence": a vote of no confidence in the Premier or their Government may be carried by the Legislative Assembly, or a vote of confidence sought by the Government is defeated. The second is "appropriation": the Legislative Assembly may reject an appropriation bill or fail to pass such a bill. Failure to pass can introduce uncertainty. How long does consideration have to go on before failure to pass becomes operative? So, it is necessary to impose time limits, and this can be done by a message from the Governor (which is required to initiate all appropriation legislation) setting a time limit. It might be feared that identifying "an appropriation bill" could present problems; States that have introduced the mechanism have included lengthy definitions but in the context of bicameralism which increases the likelihood of argument. Unicameral Queensland could encounter the problem only in the exceptional circumstances when a minority Government faces a temporary combination of parties and Members prepared to unite against a bill which looks sufficiently like an appropriation bill, but not prepared to combine for a no confidence motion.⁸⁵

In the other Australian jurisdictions where a fixed four year term of Parliament has been implemented, similar special provisions (with some variance) relating to the reserve powers of the Governor to call an early election are established in statute.

5.1 Conditions for early dissolution

The Committee has considered whether there is a need to provide for a reserve power to dissolve the Parliament early in statute, and if so the form of that power.

Providing for reserve power to enable an early dissolution within the fixed period involves a number of difficulties. For example, it is difficult to predict today all scenarios which might arise in the future involving a constitutional malfunction of such magnitude so as to impair the effective operation of our system of parliamentary democracy. It is equally difficult to describe the conditions in sufficient detail to avoid the risk of political argument or legal challenge over whether the conditions for exercise of the reserve power had been fulfilled. Further, prescribing reserve powers may be interpreted as limiting the existing conventions or powers of the governor and as such undemocratic modification of the existing system of government.

⁸⁵ QCRC report, p. 40.

At the public hearing, Professor Twomey suggests this has been the experience in NSW and cautioned the Committee against adopting specific provisions defining the reserve powers of the governor. She advised:

The problem is essentially this: the provision which seeks to preserve the Governor's reserve powers says that the Governor may, despite the advice of the Premier or Executive Council, dissolve the Legislative Assembly and issue a writ for the election if the Governor could do so in accordance with established constitutional conventions. Here is the problem: the established constitutional conventions do not actually allow the Governor unilaterally to dissolve the parliament. The established constitutional conventions are that, if the Governor for some reason really, really wants an election, what they do is dismiss the government, appoint a new Premier and then that Premier advises the dissolution of parliament and the issue of the writ for the election. So the examples are the dismissal of the Lang government in 1932 in New South Wales and the dismissal of the Whitlam government in 1975 by the Governor-General. An election was held in each case, but the election was always held on the advice of the Premier or the Prime Minister and that advice was given by a new Premier or Prime Minister after the dismissal of the previous one.⁸⁶

5.2 Conditions for delaying dissolution/election

The Committee has considered whether there is a need to provide for special statutory provisions to delay the dissolution of Parliament beyond the maximum term, and if so the form of that power.

Circumstances may arise that make it impracticable to dissolve a Parliament and hold an election at a certain time. Because the constitution provides that Parliament shall continue for 'no longer' than three years (and may include similar wording if extended to four years), it is reasonable to anticipate that circumstances may arise that requires an exception to this provision.

The need for such a provision is only necessary if the Parliament also adopts a fixed term/fixed election date approach. If a non-fixed term was adopted/retained, then a Premier/government would presumably take "exceptional circumstances" into account when calling an election.

Examples of exceptional circumstances noted during the Committee's inquiry include natural disasters or if a federal election was called for the same date that a state election was due. It is possible that other unanticipated exceptional circumstances may arise in the future.

As with provisions for conditions for early dissolution, provisions for delayed dissolution involve some difficulties including predicting all possible scenarios and limiting the operation of the system/conventions of Westminster.

From a practical perspective it is important to clarify that any such exceptional circumstances provisions relate to the powers of the Governor in the act of dissolving the Parliament, which then "triggers" an election under the Parliament of Queensland and Electoral Acts. If any of these exceptional circumstances such as natural disaster arose after the Parliament had been dissolved and the writ issued for the election, then other provisions already included in the Electoral Act relating to postponed polling days would apply.

The Committee also considered what was a reasonable and sufficient period of time is to allow the Parliament to continue after its expiry and for the delayed election. This might reflect the nature of the exceptional circumstances and consideration of what is a practical period of time after, for example a natural disaster that administratively the state could enter into a caretaker period, the electorate would have adequate access to polling venues, and infrastructure is available to facilitate the election process.

⁸⁶ Professor Twomey, University of Sydney, Public hearing transcript 28 October 2015: 10

The Committee considered a period of 35 days a reasonable period to allow for delay of an election should there be exceptional circumstances. Examples of these exceptional circumstances would include:

- An election for Members of the House of Representatives or the Senate of the Commonwealth Parliament is to be held on the normal polling day.
- A natural disaster has affected such a wide area of the State that the conduct of an election on the normal polling day would be impracticable.

5.3 Impacts on fixed terms

The allowance for an early dissolution or a delayed election under special reserve powers or exceptional circumstances, raises the possibility under a fixed term system that the date of the election may shift or the term for the following Parliament may be shorter than the required term unless there are provisions dealing with how the parliamentary term and elections continue following one of these occurrences.

Based on the limited advice provided to the Committee given the tight timeframe for reporting, there is general agreement that in the event of an abnormal election, it is best to allow for a shorter parliamentary term (i.e. that the duration of parliament be less than four years) as opposed to a longer parliamentary term (i.e. the duration of Parliament being greater than four years) which would most likely be unacceptable to the electorate.

5.4 Committee comments

The Committee considered a number of significant technical and drafting issues relating to discretionary or reserve powers of the governor. The area of constitutional convention and constitutional law is complex.

These complexities, if not resolved, may in the future result in unintended consequences for the role and powers of the Governor, the duration of Parliament and may not be viewed favourably by the electorate. Drafting legislation is not within the imprimatur or experience of the Committee, and accordingly the Committee has avoided making specific recommendations for amendment of the Bills. In the Committee's view, these matters require constitutional and Crown Law advice before the Parliament considers the Bill/matter.

However, the Committee does agree, in principle, with special provisions for the early dissolution of the Parliament limited to the circumstances where:

- The government loses the confidence of the Legislative Assembly;
- The government is unable to secure supply through an annual Appropriation Act; or
- The Governor, in exercising the reserve powers in accordance with established constitutional conventions, considers it necessary.

The Committee also agrees in principle with special provisions for the delayed dissolution of the Parliament in exceptional circumstances by order of the Governor to enable a postponed polling day.

The Committee notes concerns regarding the significance of adequately defining a motion of confidence or no confidence. The Committee agrees that there needs to be no doubt about this issue with advice that it is best to include the actual form (words) of the motions required in the statute. This would avoid arguments and uncertainty over whether differing motions satisfy the meaning of a motion of confidence or no confidence.

The Committee also considered a period of eight days allows for a reasonable, but not excessive, period in which negotiations can occur and advice sought before an election would need to be called should extraordinary dissolution be required. The Committee considered that this time period is consistent with existing provisions.

6 Holding a referendum

As noted in section 3.3, a referendum must be held to extend the maximum term of the Queensland Legislative assembly beyond three years.

6.1 What question should be put to the people

The Committee noted the advice from the Clerk of the Parliament that section 4 of *the Constitution Act Amendment Act 1934* specifically requires that the question of approval or otherwise of the Bill proposing any change to the duration of Parliament be put to the people.

The Clerk of the Parliament explained:

You talked before about a referendum in which there were options for people to say yes to four years or whether they prefer four years fixed or would prefer an Upper House, or whatever the case may be. That is an indicative plebiscite or an indicative referendum. In order to change the law, you need one proposition in a bill. Even if we did have an indicative referendum and 60 per cent said, 'Yes, we want fixed four-year terms,' that would not enable the Assembly to pass the legislation by itself. We would still need a bill that passes the Legislative Assembly that then goes to the people and the people get the opportunity to say yes or no to that bill. If you were to have an indicative plebiscite, you would have to run an indicative plebiscite and then see what the results are and then do a bill and do another referendum.⁸⁷

Should any other form of question be put to the people, for example if an indicative plebiscite be put, then a subsequent referendum would be necessary which put a specific question to the people before any change to durations could be given effect.

In 1991 when a similar proposal was put to the people by referendum the proposition put was:

Do you approve of a bill to extend the maximum term of future parliaments from three to four years?

The NSW referendum question which was approved by the people in 1995 was worded as follows:

Do you approve of a Bill entitled: "A Bill to require the Parliament of New South Wales to serve full four year terms and to prevent politicians call early general elections or changing these new constitutional rules without a further referendum?"

There is a general acknowledgement that referendum questions to change the constitution have historically not been successful in Queensland. Queenslanders have participated in seven State-sponsored referendums since the establishment of the Queensland Parliament. The first was in 1899 and the last in 1992. Only two of the seven questions have been resolved in the affirmative. The seven referendums are outlined below:

- 2 September 1899 – Federation Referendum (Approved);
- 13 April 1910 – Religious Instruction in State Schools (Approved);
- 5 May 1917 – Abolition of Legislative Council (Failed);
- 30 October 1920 – Prohibition (Brewing manufacture) (Failed);
- 6 October 1923 – Prohibition (Failed);
- 23 March 1991 – Four year Parliamentary Terms (Failed); and
- 22 February 1992 – Daylight Saving (Failed).

⁸⁷ Mr Laurie, Clerk of the Parliament, Public forum transcript 30 September 2015: 12

The Committee noted that the most recent referenda did not have bipartisan support which could have impacted on the outcome.

Further it may be desirable to ensure that the Bill put to the voters for approval includes only those matters requiring resolution by referendum, that is, that the Bill be limited to the amendment of the three year maximum term.

The Clerk of the Parliament and others have commented that progressing Bills which deal with a range of matters consequential to the extension of the parliamentary term may unnecessarily complicate the matter at hand and may reduce the likelihood of success for the referendum.

The alternative option is to remove all matters other than the amendments to the duration of parliament and include all other “special provisions” in a separate Bill not requiring approval by referendum.

6.2 When to hold a referendum

The Committee has considered when might be an appropriate opportunity to hold a referendum. The Committee noted that section 4 of the *Constitution Act Amendment Act 1934* requires that a minimum period of two months shall pass after the Bill is approved by the Legislative Assembly before the question be put to a referendum. Section 4 (3) is as follows:

On a day not sooner than two months after the passage of the Bill through the Legislative Assembly, the question for the approval or otherwise of the Bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of “The Elections Acts, 1915 to 1932,” or any Act amending the same or in substitution therefor.

Such day shall be appointed by the Governor in Council.

The Committee noted that, in accordance with the section 394 of *Commonwealth Electoral Act 1918* (Cwlth), no state referendum or vote can be held on the same polling day as a Senate or House of Representatives election.⁸⁸

There are therefore two possible options for when a referendum may be held. It may be held at the same time as local government election or may be held as a stand-alone referendum process. There are arguments in favour of and against each option.

6.2.1 At the same time as a local government election

A local government election is scheduled to be held on Saturday 19 March 2016. This provides one of the earliest opportunities to hold a referendum. However, due to the provisions contained in section 4(3) of the *Constitution Act Amendment Act 1934* as noted above, this would require that a Bill be passed by the Legislative Assembly no later than 19 January 2016. The parliamentary sitting calendar published for 2015 and 2016 identifies that in order to meet this deadline, any Bill would need to be passed by the sitting week of 1,2,3 December 2015.

Holding a referendum alongside another election process marginally reduces the cost of holding a separate referendum ballot. The ECQ advised that the estimated cost of holding a referendum with the local government election was \$16.6m compared to \$24.1m as a standalone referendum.⁸⁹

⁸⁸ *Commonwealth Electoral Act 1918* (Cwlth), section 34

⁸⁹ Mr Tiernan, ECQ, Public departmental briefing, 28 October 2015: 25

The ECQ provided the following comparative information regarding the costs of a referendum:

	State General Election	Referendum	
	2015 Actual \$	Cost SAME Day 2016 Estimate \$	Cost SEPARATE Day 2016 Estimate \$
Human Resources			
Polling Staff & Related Payments	7,470,115	2,728,764	5,772,648
Returning Officer and Related Payments	1,886,970	326,812	1,138,377
Electoral Staff Training	436,763	30,000	30,000
	9,793,848	3,085,576	6,941,025
Voting Establishment			
Polling Booth Rental	275,424	50,000	275,424
Office of the Returning Officer	2,471,477	200,000	2,471,477
Ballot Material	805,583	805,583	805,583
Certified Lists	2,379,379	2,377,565	2,377,565
	5,931,863	3,433,147	5,930,048
Voting other than Ordinary			
Pre-Polling	322,683	313,600	313,600
Electronically Assisted (Telephone) Voting	111,913	111,913	111,913
Postal Voting including Special	934,570	711,812	711,812
	1,369,166	1,137,325	1,137,325
Logistics			
Courier Services and Postage	2,511,697	6,033,890	6,678,269
Central Office Overheads	1,879,898	309,630	704,330
Technology and Support	624,996	360,129	483,660
	5,016,591	6,703,649	7,866,259
Elector Engagement			
Media and Advertising Campaigns	891,252	881,412	881,412
Voter Information Letter	540,535	540,535	540,535
Referendum Argument Information	-	540,535	540,535
Call Centre	531,687	265,000	265,000
	1,963,474	2,227,482	2,227,482
TOTAL	24,074,941	16,587,178	24,102,139
2016 Local Government Quadrennial Election Estimate		16,821,975	16,821,975
Total Estimated Cost of two electoral events in 2016		\$ 33,409,153	\$ 40,924,114
Change			7,514,960

Assumptions and Caveats

ECQ have interpreted "Separate dates" meaning a date set after the last declaration of the polls for the LG quadrennial elections.
 Full attendance ballot for the Referendum regardless of LG arrangements.
 Assume multiple question on joint ballot paper.
 No CPI uplift from 2015 State General Election.
 Assume LG RO can be appointed as the Referendum RO.
 No further deployment of initiatives or new technologies.
 Assumes amendments to the *Referendum Act 1997* are made as ECQ recommended. (Letter to JAG 22.10.15)
 Voter Information Letter to be sent to electors.

Source: ECQ information tabled at public briefing 28 October 2015

With regard to the case for holding the referendum with the local government elections in March the ECQ advised:

With regard to the date of a referendum, the commission concedes that there may be a prima facie case to support conducting a referendum on the same date as the local government election, but this would pose some administrative issues. Firstly, it would involve the holding of essentially three elections on the same day—that being for councillors, mayors and the referendum. This could be confusing to some.

Secondly, while local government polls are about local councils, referendums are gubernatorial business. That is an issue that we need to communicate to electors. Thirdly, the electoral events would have to be conducted under different electoral jurisdictions—local government according to the Local Government Electoral Act and the referendum under the state arrangements. This means 89 of our 102 local government returning officers would have to act as state returning officers and carry out those functions according to different boundaries.

Fourthly, the difference between local government elections and state events go beyond different electoral boundaries. Local government elections use different voting systems depending on whether the council is divided or undivided. There are mayoral and councillor ballot papers and some areas conduct their elections partially or fully by postal vote. Whereas the cost of the state election and a referendum is born by the state, the cost of a local government election is recovered from council.

Fifthly, there is the issue of turnout. I would assume the Committee would expect or want to maximise turnout for a referendum. State government election turnout averages about 92 per cent of those on the roll, but it is significantly lower for local government electoral events. Finally, there are potential areas for elector confusion. The Local Government Electoral Act requires that electors must cast an ordinary vote within their local government area. The worst case scenario is that electors would have to make two trips to the polling booth if they were participating in pre-poll voting.

In closing, from a practical perspective the commission would prefer a set date later in the year. With regard to a referendum on the day of the local government quadrennial elections, whatever the arrangements the commission can deliver and will deliver results which withstand scrutiny and ensure electoral integrity.⁹⁰

In addition to the reasons identified by the ECQ, the Committee noted other reasons include that this date provides very limited time to ensure adequate education and awareness necessary to support an informed vote by the electorate and arguably, if people are unsure, misinformed or concerned about any aspect of the referendum question then it may lead to a negative outcome for the referendum. However the Committee notes that the ECQ advised it would be ready and able to conduct a referendum at any time as directed by the Parliament.

The CCIQ reported the results of their survey showed:

There is support shown for holding a referendum on this issue as part of the forthcoming Local Government elections in March 2016 for reasons of convenience. A substantial majority (82%) of businesses compellingly indicated to CCIQ that combining the referendum with the 2016 Local Government elections would be their first preference.⁹¹

⁹⁰ Mr Tiernan, ECQ, Public briefing transcript 28 October 2015: 24

⁹¹ CCIQ, Submission No. 27: 11

The LGAQ have advised the Committee that they have a strong preference against holding a joint election/referendum. They advised that they had experience with the previous referendum being held on the same date as a local government election. They advised:

We were opposed to that occurring prior to the poll and subsequently we believe that the issues got quite confused and it was unfair and unreasonable to ask the electors to comment on three separate issues when the debate is primarily focused on an election at a state level and an election at a local government level. So whilst acknowledging the cost savings and efficiencies of holding them together, it is our experience that it does not do the issues of the election nor of the referendum justice to have them debated or voted on at the same time.⁹²

The Committee sought additional information on the impact of holding the referendum on the same date as the local government elections. The LGAQ advised:

I think it had more of an impact on the issues of the referendum than necessarily at the local government election. There are a lot of dynamics at play in terms of issues that are relevant at a local level. Whilst some voters expressing their views or considering their views from a political perspective may have impacted the local government votes, I think we need to recognise that there is only one local government in Queensland in which the political parties endorse candidates. We believe and strongly support the fact that local government should be independent of the political process. The combining of a referendum on such issues does cloud the issues, although I cannot say to the extent that it would have necessarily impacted on the council election outcomes.⁹³

The ECQ noted that local government elections historically do not secure high voter participation noting, for example, that in the last local government election on average only 75 per cent of electors voted. They advised:

...on average for a state event we have about a 92 per cent turnout, which is pretty good. It is not as good as some of the other states, but we are competitive. Earlier this year we were just under 90 per cent, and there were reasons for that. It was the end of the holidays and perhaps it caught people by surprise. However, in local government it does average around 75 per cent. In 2012, for example, Burke shire only got a 66 per cent turnout; Brisbane, only 81 per cent; Cherbourg, 73 per cent; and Cassowary Coast, 80 per cent. I am not quite sure what the reason for that variation is, but that is probably something to consider when thinking about a date.⁹⁴

6.2.2 Standalone referendum ballot

The alternative, a standalone referendum may avoid some of the risks and challenges associated with a joint local government election and referendum. It would allow a single focus on the proposed constitutional amendments and the referendum question.

Holding a standalone referendum would have a somewhat higher cost estimated by the ECQ to be approximately \$24m. That said, a standalone referendum provides greater flexibility for scheduling the referendum date and allows more time for consideration of the reforms by the Legislative Assembly and subsequently by the electorate.

⁹² Mr Hoffman, LGAQ, Public hearing transcript 28 October 2015: 18

⁹³ Mr Hoffman, LGAQ, Public hearing transcript, 28 October 2015: 18

⁹⁴ Mr Tiernan, ECQ, Public briefing transcript, 28 October 2015: 30

However, the Committee identified the following risks associated with holding a standalone referendum:

- If the referendum were held in 2016, there are both a local government and federal election⁹⁵ scheduled to occur and there is a risk of voter 'fatigue'.
- This issue is not considered a high priority for the general population and as such voter turnout could be lower.
- The electorate could consider the proposed expenditure to be wasteful.
- The possibility of a federal election being called for the same date, in which case the referendum vote would need to be cancelled.
- Selecting a stand-alone date, leaves open the possibility of a federal election being called for the same date in which case the referendum vote would need to be cancelled.

The ECQ noted:

...whatever the arrangements the commission can deliver and will deliver results which withstand scrutiny and ensure electoral integrity.⁹⁶

In regards to timing the Committee notes that it is possible for the referendum to be held any time in 2016 or 2017 without reducing the ability to commence any new system of parliamentary terms following the 2018 state election.

With regard to holding a referendum on this issue, the Queensland Greens submission noted that issues addressed in previous referendums have been topics in which there has been significant public debate. They considered that this has not been the case for extended terms. They advised:

It is the opinion of the Queensland Greens that a referendum proposing four year terms could be the least inspiring referendum of all time.

We would also be worried about any potential question, which by its nature will have to be a simple affirmation of the bill as it stands. If people wanted fixed terms but not four year terms, even though fixed terms could be achieved without a referendum, politicians could take the result of the election to mean that neither fixed or longer terms are desirable.⁹⁷

6.3 Committee comments

The Committee agreed that the possible options for a referendum were:

- On the same date as the local government elections in 2016; or
- On a separate date, as a standalone election

The Committee agreed, for reasons of cost and potential convenience for the majority of voters, the most appropriate date for the referendum would be on the same day as the local government election in March 2016, contingent upon whether this could be practically achieved in the time available.

The Committee considers that no matter what date is selected for a referendum, the ECQ will meet the challenge. The Committee also noted that, whilst the LGAQ cautioned against holding a referendum at the same time as the local government election, they considered that it would impact more on the outcome of the referendum rather than the outcome of their elections.

⁹⁵ The current term for the HoR will expire on 11 November 2016; subject to commonwealth electoral laws the earliest possible date for the next federal election is 6 August 2016 and the latest possible date is 14 January 2017.

⁹⁶ Mr Tiernan, ECQ, Public briefing transcript 28 October 2015: 24

⁹⁷ Queensland Greens, Submission No. 28: 10

The Committee has identified the positives and negatives and agreed the Legislative Assembly make the final decision on the date.

6.4 Polling requirements for the referendum

Over the past decade there has been significant change in electorate expectations and practice regarding polling resulting in a significant increase in the number of votes participating in pre-polling and declaration voting (ordinary postal vote). Technology has also advanced providing greater opportunity for the use of electronic voting, however this has to date been limited to persons with mobility and vision impairment.

The *Electoral Act 1992* was amended in 2011⁹⁸ to remove limitations on the use of pre-polling and declaration voting, however the Referendums Act has not been amended in a similar way.

The Committee received feedback at its public forums, especially in some of the regional areas of Queensland, that access to pre-polling and postal voting for any possible future referendum would be expected.

The ECQ advised the Committee that:

In addition to the electoral acts, the commission is also charged with responsibility under the Referendums Act 1997 with the conduct of state referendums. In its current form, the Referendums Act 1997 has notable anomalies when compared with the more modern electoral acts. Under the Electoral Act and the Local Government Electoral Act, Queensland voters can access progressive voting arrangements, including unrestricted postal voting, unrestricted pre-poll voting, enrol and vote and electronically assisted voting. These are absent in various levels of detail from the Referendums Act 1997.

The commission holds concerns that the public expectation is that these forms of voting will be readily available at a referendum. It is the strong recommendation of the commission that, as a minimum, these key anomalies be addressed through legislative change so that the referendums act reflects the modern electoral services as depicted under the Electoral Act.⁹⁹

Limited access to pre-polling and declaration voting for the referendum would also cause some practical difficulties for the electoral commission especially if the referendum was held alongside a local government election because of the fact that ballots are taken almost exclusively via pre-polling or postal voting in a number of local council areas across the state.

This demands amendments to the Referendum Act prior to the calling of any referendum on the matter of four year terms. The ECQ advised the Committee that such amendments has previously been progressed via the *Justice and Other Legislation Amendment Bill 2014*, introduced into the legislative assembly by the then Attorney-General and Minister for Justice, Mr Jarrod Bleijie MP, on 26 November 2014. This Bill lapsed on 6 January 2015 when the 54th Parliament was dissolved.

The explanatory notes to the *Justice and Other Legislation Amendment Bill 2014* (lapsed) explain the objective of the amendments to the *Referendums Act 1997* as follows:

...to align requirements and processes to facilitate electronically assisted voting, postal voting, and proof of identity to vote in a State election with processes under the Electoral Act.¹⁰⁰

⁹⁸ Refer *Electoral Reform and Accountability Amendment Act 2011*, passed by the legislative assembly on 11/05/2011, sections 10-12

⁹⁹ Mr Tiernan, ECQ, Public briefing transcript 28 October 2015: 24

¹⁰⁰ Justice and Other Legislation Amendment Bill 2014, Explanatory notes, p.3.

To achieve this objective the following amendments were proposed:

Clause 119 inserts a new part 4, division 3, subdivision 1A to provide for pre-poll ordinary voting in referendums. This new subdivision mirrors the provisions in part 7, division 5, subdivision 2 of the Electoral Act 1992.

Clause 120 amends section 25 (Who may make a declaration vote) to: insert a new section 25(1)(a) to provide that an 'ordinary postal voter', being an elector who wishes to make a declaration vote before the polling day for a referendum, may make a declaration vote; and clarify the interaction of the provision with the Electoral Act.

Clause 121 amends section 30 (Making a declaration vote using posted referendum papers) to provide that an elector who is an ordinary postal voter can request a ballot paper and declaration envelope by completing an approved form and giving it to the commission or returning officer for the electoral district for which the elector is enrolled, by no later than 7p.m. on the Wednesday before the polling day for the referendum.

Clause 122 amends section 31 (Electoral visitor voting) to provide that an elector who is an electoral visitor voter can request a ballot paper and declaration envelope by completing an approved form and giving it to the commission or returning officer for the electoral district for which the elector is enrolled, by no later than 7p.m. on the Wednesday before the polling day for the referendum.¹⁰¹

6.5 Committee comments

It is apparent to the Committee that the community generally expects that a referendum would allow voters to participate in pre-polling and declaration voting (ordinary postal vote) as they can for state and local government elections. This is not only important for accessibility and equity reasons but also has a direct impact on participation rates and the cost of holding a referendum.

The Committee is concerned that without prior amendments to the *Referendums Act 1997* or alternative provisions made in statute that pre-polling and declaration voting would not be possible for a referendum on the matter of parliamentary terms.

Whilst the Committee is aware that similar amendments were included in the *Justice and Other Legislation Amendment Bill 2014* introduced towards the end of the last parliament, this Bill lapsed when the Parliament was dissolved in January 2015. The ability and timing of another Bill or similar amendments to be introduced and considered by the Parliament has important implications for when a referendum could reasonably be held in Queensland.

Accordingly the Committee considers it essential that amendments to the *Referendums Act 1997* be initiated to allow for pre-polling and declaration voting.

Refer Recommendation No. 11

6.6 Authority for referendum campaign

The Committee has also considered what information should be provided to Queenslanders to support them in casting an informed vote. It seems reasonable that the public would expect both argument in favour and against to be presented as part of any information package provided to voters prior to and at the polls.

¹⁰¹ Justice and Other Legislation Amendment Bill 2014, Explanatory notes, p. 36.

However there may be some practical issues arising from the current provisions in the Referendums Act. The Act provides for an argument in favour of or against a bill or question to be published by the ECQ. Arguments must be authorised by a majority of the Members who voted in favour of or against the Bill. The Referendums Act also limits the arguments to not more than 1,000 words and places limitation on expenditure by the state on the presentation of arguments, as outlined below:

When must an argument in favour of or against the Bill or question be published

11. (1) An argument in favour of or against the Bill must be distributed or published by the commission under section 125 if the argument is—
- (a) not more than 1 000 words; and
 - (b) authorised by—
 - (i) for an argument in favour of the Bill—a majority of the members who voted for the Bill and wish to forward the argument to the commission; or
 - (ii) for an argument against the Bill—a majority of the members who voted against the Bill and wish to forward the argument to the commission; and
 - (c) forwarded to the commission by members within 4 weeks after the passage of the Bill.
- (2) An argument in favour of or against the question must be distributed or published by the commission under section 12 if the Legislative Assembly resolves that the question be submitted to the electors and the argument is—
- (a) not more than 1 000 words; and
 - (b) authorised by—
 - (i) for an argument in favour of a 'yes' answer to the question—a majority of the members who voted in favour of the 'yes' answer and wish to forward the argument to the commission; or
 - (ii) for an argument in favour of a 'no' answer to the question—a majority of the members who voted against the 'yes' answer and wish to forward the argument to the commission.
 - (c) forwarded to the commission by members within 4 weeks after the Assembly's resolution.

Limitation on expenditure by State

14. The State must not spend money on the presentation of arguments about Bills or questions that are to be submitted to electors at a referendum other than—
- (a) to prepare and publish a newspaper notice under section 12(2); and
 - (b) to prepare, print and distribute pamphlets under section 12(1), or prepare, print and distribute the pamphlets in languages other than English; and
 - (c) to enable the commission to provide other publications or information about the Bill or question; and
 - (d) to provide for the salaries and allowances of members and their staff and of officers of the public service.

An issue arising is that, in the event that a proposed constitutional amendment Bill passes the Legislative Assembly unanimously, there may not be any authority for the publication of an argument against the Bill. It is arguable whether this is in the interests of public transparency and accountability.

The ECQ advised:

There is a provision in the Referendums Act which says if parliament asks us we have to mail out the case to the electors. If there is bipartisan support, it is just one case. If you have two sides and certain criteria are met, then we are obliged to mail out two cases. We are also obliged to advertise the cases in a newspaper circulating generally in the state.¹⁰²

¹⁰² Mr Brough, ECQ, Public briefing transcript 28 October 2015: 28

6.7 Committee comment

The Committee envisages the possibility that the proposal could be passed unanimously by the Legislative Assembly. The Committee considers that in the interest of transparency that the Legislative Assembly should agree on appropriate 'for' and 'against' arguments to be published. The Committee considers that the wording should be agreed to by the Legislative Assembly and not left to the ECQ. The Committee considers that additional amendments may be required to the Referendums Act to allow for this to occur.

Refer Recommendation No. 12.

7 Maintaining integrity of the parliamentary system in Queensland

As already discussed there is a view that a three year parliamentary term is a necessary safeguard to maintain the accountability of the executive and parliament to the people in the absence of a formal House of review or Upper House in Queensland's unicameral parliamentary system.

As already cited, the abolition of the Upper House in 1922 was supported on the basis that:

...free and unfettered franchise and parliaments that do not extend beyond a three-year period, [ensured] there can be in that system no danger to the interests of the people.¹⁰³

The reintroduction of an Upper House in Queensland is a matter not under consideration as part of this inquiry, indeed the Committee notes that there is unlikely to be any broad public support for such a measure. However, some submitters have argued that an extension to four year terms for a unicameral Parliament needs to be complemented by other safeguards to reinforce the role of parliament and democracy.

Arguably proposals for a four year term may also be more acceptable if at the same time the parliament took steps to strengthen democracy and the parliamentary system.

Mr Don Willis, argued:

First, any proposal to extend the current length of the parliamentary term would need to satisfactorily explain to the Queensland community why it is no longer necessary for the nexus between Queensland's maximum three-year parliamentary term and its unicameral parliamentary arrangements to be maintained. One argument that might be made is that Queensland now has greater accountability mechanisms and safeguards to restrain excessive executive action compared to what existed when the (unelected) Legislative Council was abolished in 1922. For instance, it might be said that Queensland now has a well-established parliamentary committee system. Experience in Queensland has shown however, that the reality of organised party discipline in the Parliament is such that this particular accountability mechanism can be subject to interference by the executive. Furthermore, as the 1998 experience in Victoria showed when the independence of that State's Auditor-General was under threat from the changes that were introduced by the then Kennett State Government,²⁴ such accountability mechanisms are also susceptible to the political whims of the government of the day. Such would especially be the case under a unicameral parliamentary system where a government, in control of the single House of Parliament, can act without the usual bicameral checks and balances. On the other hand, Queensland's system of maximum three-year parliamentary terms is currently constitutionally entrenched, and has been since 1934, which makes it more resistant to executive manipulation.¹⁰⁴

¹⁰³ Queensland Studies Centre, Griffith University, *One chamber only: Queensland's upper house 75 years on*, Proceedings of a symposium conducted at Parliament House, Brisbane on 22 March 1997, Griffith Uni Print, Brisbane, 1997 at 3

¹⁰⁴ Mr Willis, Submission No 3: 4

The Clerk of the Parliament, Mr Neil Laurie, in his submission, noted his reticence to date to support a longer duration of parliament because of a lack of effective, entrenched accountability mechanisms arguing as follows:

The Legislative Assembly and the parliamentary committee system is the only avenue for review of bills, finances and actions of the government. This is inherently problematic, because as the government of the day is formed from the majority party within the Assembly, and historically they have comfortable or large majorities in Queensland due to single member constituencies. Usually, the government has practically unfettered power to pass legislation and financial measures, despite objections from the Opposition, Cross Bench (if any) and the public generally. The only historical safeguard has been the fear of the public reaction at the next election.

The introduction of the estimates committee process in 1996 and the introduction of the portfolio committee system in 2011 have gone a long way to assisting the Legislative Assembly scrutinise bills and finances – and in some way perform the review functions often seen in other jurisdictions with Upper Houses. If the portfolio committee system is used correctly, it enables legislation to be properly scrutinised, allows external review and formal consultation with stakeholders.¹⁰⁵

Parliamentary committees are established under section 88 of the *Parliament of Queensland Act 2001*, whilst section 92 outlines the role of portfolio committees:

Part 3 Portfolio committees

Division 1 Establishment

88 Establishment

- (1) The Assembly must, by standing rules and orders, establish committees of the Assembly under this section (portfolio committees).
- (2) The standing rules and orders must state, for each portfolio committee—
 - (a) its name; and
 - (b) its primary area of responsibility (its portfolio area).
- (3) Each department must be covered by a portfolio area, whether by allocating the whole department to the portfolio area of a committee or allocating parts of the department to the portfolio areas of different committees.
- (4) As soon as practicable after a change in the Administrative Arrangements, the Assembly must prepare and adopt any amendments of the standing rules and orders concerning the portfolio committees that are necessary to comply with this section.
- (5) As well as 1 or more departments or parts of departments, a committee's portfolio area may include other government entities and matters.

92 Role generally

- (1) In relation to its portfolio area, a committee may—
 - (a) consider Appropriation Bills; and
 - (b) consider other legislation and proposed legislation as provided in section 93; and
 - (c) perform its role in relation to public accounts and public works as provided in this division.
- (2) A committee is to also deal with an issue referred to it by the Assembly or under another Act, whether or not the issue is within its portfolio area.
- (3) A committee may deal with a matter under this section by—
 - (a) considering the matter; and
 - (b) reporting on the matter, and making recommendations about it, to the Assembly.

¹⁰⁵ Mr Laurie, Submission No 43: 1

The Clerk of the Parliament expressed concern that the parliamentary committee system could be significantly strengthened to enhance the accountability mechanisms in the absence of an Upper House of review:

However, I caution the committee that these enhanced accountability mechanisms are not a complete panacea to an Upper House for a number of reasons:

- 1. The portfolio committees are not entrenched. The portfolio committee system can be disposed of by way of a simple Act of Parliament (amending the Parliament of Queensland Act 2001) without the need for a referendum, or effectively neutered by amendments to Standing Orders which limit the matters referred to those committees. It must be emphasised that from 1922 to 1988 governments of both persuasions saw fit to govern without a high degree of parliamentary oversight and there was virtually no committee system in Queensland.*
- 2. Processes such as estimates are established by Standing Orders and can be abolished, set aside or amended by simple resolution of the House. (For example, the system was modified in 2014 by resolution against the will of the Opposition and Cross Bench.)*
- 3. Existing provisions within Standing Orders allow the government of the day to declare a bill 'urgent' and thus bypass whichever requirement for time, review or debate is in force at the time,¹⁰⁶ including portfolio committee review. Alternatively, committee review can be so truncated in time as to be less than effective.*
- 4. The ability for governments to remove their members from committees, act as a powerful incentive to 'toe the party line' on committees. (For example, government appointed members of the Parliamentary Crime and Misconduct Committee were removed in 2013.)¹⁰⁷*

The Clerk of the Parliament made the following recommendations to enhance the accountability mechanisms of parliament:

In my view if Members of Parliament wish to propose four year terms to the Queensland public, they need to go to the public with 'clean hands' – indicating that they are willing to trade off four year terms against an entrenched review of bills process (including financial bills). That is, along with the increase in term accountability will be enhanced and safeguarded.

¹⁰⁶ For example prior to 2011, Bills had to lay on the table for at least 13 calendar days, but even this requirement was not adhered to and bills were often passed with shorter time on the table.

¹⁰⁷ Mr Laurie, Submission no. 43: 2

...The proposed enhancement of committee review of bills could be achieved in two ways:

- 1. Constitutional entrenchment - Manner and form provisions entrench certain legislative provisions so as to prevent their amendment or repeal by an Act of Parliament enacted in the ordinary course, that is, passed by a simple majority of the Legislative Assembly and assented to by the Governor as the Queen's representative. As in the current matter before the Committee, the most common manner and form provision imposes a referendum requirement. I propose that in the Bill to be placed before the Queensland public for a referendum to enable fixed four year terms, a provision be included, that provides:*
 - a. That every Parliament established after the approval of the bill must establish at least seven portfolio committees the role of which will include the review of bills (including financial bills) introduced into the Assembly*
 - b. That every Bill introduced into the Legislative Assembly must be referred to and reviewed by a portfolio committee, for a period of not less than 6 weeks, unless a special majority of the Assembly agrees to the bill not being referred to a portfolio committee or being referred for a period less than 6 weeks*
 - c. A special majority to be defined as at least 65% of the members of the Assembly (currently 58 members), including at least one member who is not a member of the party or parties constituting the government*
 - d. That the provision is entrenched, that is cannot be altered without a referendum.*
- 2. Statutory requirement – Alternatively enhance the current provisions relating to portfolio committees contained in the Parliament of Queensland Act 2001 to provide that:*
 - a. Every Bill introduced into the Legislative Assembly must be referred to and reviewed by a portfolio committee, unless a special majority of the Assembly agrees to the bill not being referred to a portfolio committee*
 - b. A special majority to be defined as at least 65% of the members of the Assembly (currently 58 members), including at least one member who is not a member of the party or parties constituting the government.*

The effect of either of the above provisions would be to ensure that governments with comfortable or large majorities could not simply declare bills urgent by using provisions in Standing Orders, or by simply suspending Standing Orders – there would need to be bipartisan support. There would need to be justifiable reasons of urgency.¹⁰⁸

¹⁰⁸ Mr Laurie, Submission no 43: 2-3

Professor Orr advised the Committee:

I can see merits in potentially entrenching a committee system. Remember, what you are giving up is the flexibility of having an unentrenched system and whether you would necessarily want to include too much detail in the committee system and make it inflexible and then ask the people to have to go to a referendum. The procedures of parliament is not top of mind for the average Queenslander. On the other hand, there are other ways of entrenching that may involve not going to a referendum but special majorities for a future parliament to change or undo it. So think about that if you want to go down that path—that rabbit hole—about flexibility into the future and not binding future parliaments with too much of the detail of the committees system that needs to evolve.¹⁰⁹

Professor Twomey advised the Committee that it is her view that it in order to entrench provisions such as the parliamentary committee system, a referendum would be required. She advised:

Just from a legal point of view, you might want to get crown law advice on whether you can actually now entrench things without yourself going to a referendum first, because I think that some changes that were made back in the Bjelke-Petersen period accidentally, at least arguably, changed the system so that you cannot actually do future entrenchment without doing a referendum. Certainly there is an argument in that regard. Although I could not give you chapter and verse at the moment, I would just be very careful about that proposition that you can entrench by using ordinary legislation now. Certainly you used to be able to do that, but since some changes to section 2 of the 1867 act, I think you cannot do that anymore. You might have to hold a referendum to do that.¹¹⁰

The Clerk of the Parliament also noted his view that:

...it is unfortunate that we are looking at one issue here. That issue is four-year terms. I think we should be looking at a greater variety of matters and constitutional issues, and not just isolating four-year terms but looking at our system of government generally. My personal belief is that EARC voted itself out of existence too early. It should have been a continuing commission so there was constant constitutional review of our system.¹¹¹

7.1 Committee comment

Ensuring that public confidence in the system of democracy and the parliament is maintained under a fixed four year term is of particular interest to the Committee. Under a unicameral parliamentary system, there is no Upper House to scrutinise legislation and hold the executive to account. At the time that the Upper House was abolished, there was a very strong view that three year terms and the ability for the Premier to take the Legislative Assembly to an election at any time was paramount to maintaining democracy and accountability of the parliament to the people. The Committee agrees that an extension to four year terms needs to be complemented by other safeguards to reinforce the role of parliament and democracy.

The Committee appreciates the important role of parliamentary committees within Queensland's parliamentary system. Yet it was not clear to the Committee during the inquiry process that the public had confidence that the committee system acted as a complete panacea for the absence of an Upper House, nor fully understood the role of parliamentary committees. However, it is clear to the Committee that the effectiveness of the committee system is somewhat compromised because of a lack of statutory protections for the role and functions of committees.

¹⁰⁹ Professor Orr, University of Queensland< Public hearing transcript 28 October 2015: 13

¹¹⁰ Professor Twomey, University of Sydney, Public hearing transcript 28 October 2015: 14

¹¹¹ Mr Laurie, Clerk of the Parliament, Public hearing transcript 28 October 2015: 8

It is the Committee's view that the likelihood of a referendum to introduce fixed four year term succeeding is improved if the Parliament can demonstrate a commitment to greater accountability and transparency. The Committee has recommended that the Parliament enhance the accountability mechanism by entrenching the role of committees. The Committee is of the view that this sends a strong message to the voters about the protections that the Parliament is putting in place alongside the extension of four year terms in order to not only enhance but protect systems of accountability and scrutiny that have developed in the past quarter of a century.

The Committee notes that aside from the entrenchment of committees, the Committee is recommending entrenched, mandatory referral of all Bills to committees for consideration within adequate timeframes, with a special bipartisan majority required for exemptions (to allow for the passage of genuinely urgent Bills). The Committee also considers that minimum time frame for consideration of Bills should be included in the provisions is six weeks. The Committee is confident that the requirement for a special bipartisan majority to approve exemption from committee review for urgent Bills will still leave the Legislative Assembly with enough flexibility to deal with genuinely urgent Bills.

Importantly, an entrenched provision that simply requires the following does not limit the flexibility of the Legislative Assembly to review and reform its committee system. –

- a) a minimum number of parliamentary committees to exist, the role of which will include the review of Bills;
- b) a requirement that all Bills be referred to, reviewed and reported on by a committee
- c) a minimum timeframe in which Bills are to be subject to committee review (without special majority exemption); and
- d) the existence of a Budget estimates process for the annual Appropriation Bills.

The entrenched provisions will only provide a basic construct to ensure the existence of a committee system and the review of Bills by committee.

In this regard, the Committee notes that the portfolio committee system is in its infancy (only being in its current form since 2011) and that despite the basic construct being recommended to be entrenched there is much detail that could and should be reviewed to ensure the Queensland Parliament has the best committee system it can have. Therefore, the Committee recommends a wide ranging review of the current parliamentary committee system be conducted and necessary improvements implemented prior to commencement of the next Parliament.

Refer Recommendation Nos. 9 and 10.

8 Consideration of the Constitution (Fixed Term Parliament) Amendment Bill 2015 and Constitution (Fixed Term Parliament) Referendum Bill 2015

The policy objectives of the Bills, as outlined in the explanatory notes, are to:

- Provide that a general election must be held on the second Saturday in March in the fourth calendar year after the calendar year in which the last election was held.
- Provide that the Legislative Assembly expires on the day that is four years from the day the writ for the general election was returned for the Assembly (thus ensuring a fixed, four year term).
- Provide for exceptional circumstances in which the Governor must dissolve the Legislative Assembly and issue a writ for a general election.

- Provide that the Governor may, despite the advice of the Premier of the day or the Executive Council, dissolve the Legislative Assembly and issue a writ for a general election, in accordance with established constitutional conventions.
- Provide that the amendment Bill is not presented to the Governor for assent, unless it has been passed by the Legislative Assembly and has been approved by a majority of electors at a referendum (held on a Saturday at least 2 months after the Bill has been passed by the Legislative Assembly).
- Provide for the facilitation of a referendum, including when the referendum is to be held and who is eligible to vote.

8.1 Proposed amendments to the Bills

Whilst agreeing that the Bills could achieve many of the matters identified in the Committee's inquiry, the Committee has identified a number of issues where amendments to the Bills would be required. These amendments are summarised below and discussed in the Committee's recommendations.

8.1.1 Enacting Authority

The Committee noted that Standing Order 127(2) provides that the following statement of enacting authority should be used in Bills requiring the consent of the electors of Queensland:

"The Parliament of Queensland with the consent of the electors of Queensland enacts".

Refer Recommendation No. 3.

8.1.2 Splitting the Bill

The Committee considered that only those issues that contain the provisions that repeal, amend or create entrenched provisions should be included in the Bill to be approved by the voters at any referendum. The Committee considers that the other consequential amendments should be included in a separate Bill. The Committee considers that including the other consequential amendments in the Bill to be approved by voters adds unduly to its complexity. The Committee is conscious of ensuring that any Bill considered as part of a referendum question should be clear, concise and in plain English.

Refer Recommendation No. 5.

8.1.3 Commencement

The Committee considered that the drafting of the commencement provisions in the *Constitution (Fixed Term Parliament) Amendment Bill 2015* to be confusing and overly complex. The Committee considered that it would be better to identify the actual commencement date in the Bill. For example, the Bills could be stated to commence on 1 January 2017 or on the day the Legislative Assembly of the 55th Parliament is dissolved for a general election. This would ensure that voters at the referendum are clear regarding when four year terms for the Queensland Parliament would commence. This would also omit the requirement for transitional provisions to be included in the Bill.

Refer Recommendation No. 6.

8.1.4 Early dissolution of the Legislative Assembly

The Committee considers that circumstances for early dissolution of the Legislative Assembly need to be included in the Bill. Recommendation 7 refers to this issue.

The Committee was concerned that the Bill was potentially ambiguous as to the circumstance where the Legislative Assembly could be dissolved early.

The Clerk of the Parliament advised the Committee:

In terms of the issue of stating in the bill a vote of no confidence or a vote of confidence, I prefer the UK model whereby the actual words of the no-confidence motion or the motion of confidence is spelt out in the bill. In parliamentary terms, what is a vote of confidence and what is not is sometimes an area of some dispute and conjecture. I think it is best to set out in the legislation the actual words that have to be passed by the assembly.¹¹²

Professor Twomey agreed advising:...I agree very much with the Clerk about the reference to no-confidence motions and confidence motions. I think it is important that it is quite clear in the legislation what a no-confidence motion is for these purposes. Saying it is no confidence in the government is probably enough. I was more concerned about where it says 'or a motion of confidence in government has been defeated' because that could be interpreted as being something like the defeat of an important government bill. If government puts up a bill and says, 'This is very important to us,' defeat in that might be taken as a vote of no confidence in the government. Because of the ambiguity about that, I think it is dangerous.¹¹³

Professor Twomey also advised the Committee of the need to include notice provisions with regard to confidence motions in the legislation. She advised:

The other important aspect there is that in New South Wales, and I think most other states, in order to have one of these resolutions of no confidence, for constitutional purposes you need to give three days notice. The reason for that in the other states is (a) so that everybody knows that this is one of those bills that is going to count for the purposes of the Constitution and (b) that the notice makes sure that the government is able to bring in all its members if they happen to be overseas or the pairing system has broken down, or whatever it is, so that you are sure you have all the people on the ground before you have a vote. Again, I would very much recommend that you have some kind of a mechanism like that to ensure that people are (a) absolutely sure when you have having a no-confidence motion that counts for constitutional purposes and (b) the parties are able to make sure that they have all their people on the ground before that happens.¹¹⁴

The Committee is loath to entrench the requirement for notice of a no confidence motion or a confidence motion. However, the Committee proposes that any legislative amendments include a period of eight days after a no confidence motion in which a government can achieve a positive confidence motion before the Governor can issue the writ for an early election. This would allow for any negative motion or result to be retested within a reasonable time.

Refer Recommendation No. 7.

¹¹² Mr Laurie, Clerk of the Parliament, Public hearing transcript 28 October 2015: 8

¹¹³ Professor Twomey, University of Sydney, Public hearing transcript 28 October 2015: 9

¹¹⁴ Professor Twomey, University of Sydney, Public hearing transcript 28 October 2015: 9

9 Compliance with *Legislative Standards Act 1992* – Fundamental Legislative Principles

Section 4 of the *Legislative Standards Act 1992* states that fundamental legislative principles (FLPs) are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

The Committee examined the Bills’ consistency with FLPs. This section of the report discusses potential breaches of the FLPs identified during the Committee’s examination of the Bill and includes any reasons or justifications contained in the explanatory notes and provided by the department.

The Explanatory Notes for both Bills state:

*The Bill is consistent with fundamental legislative principles.*¹¹⁵

9.1 Constitution (Fixed Term Parliament) Amendment Bill 2015

It is considered that this Bill raises no FLP issues.

9.2 Constitution (Fixed Term Parliament) Referendum Bill 2015

It is considered that this Bill raises no FLP issues.

9.3 Explanatory Notes

Part 4 of the *Legislative Standards Act 1992* relates to explanatory notes. It requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory Notes were tabled with the introduction of the Bills. The notes contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bills’ aims.

¹¹⁵ Explanatory Notes, *Constitution (Fixed Term Parliament) Amendment Bill 2015*: 2 and Explanatory Notes, *Constitution (Fixed Term Parliament) Referendum Bill 2015*: 1

Appendices

Appendix A – List of submissions received

No.	Name
001	Marelle Ahmend
002	CCIQ
003	Don Willis
004	Graeme and Sandra McKenna
005	Lavinia Berry
006	Colleen Dobson (ALP – Emerald Branch Secretary)
007	Don Willis – Supplementary
008	Gordon Moore
009	Scott A. Donovan
010	Peter Burke
011	Glen and Joy Vonhoff
012	Bob Burke
013	Dr Christian Rowan MP
014	Jenifer and Harvey Carter
015	Rachel and Nathan Farquhar
016	Moreton Bay Regional Council
017	Quilpie Shire Council
018	Vern Veitch
019	Chek Ling
020	Lee Nightingale
021	Association of Independent Retirees (AIR) Ltd – Capricorn Branch
022	Steve Dickson MP
023	Karen McDonald
024	Kirsten Lovejoy
025	Elizabeth Handley
026	MTA Queensland
027	CCIQ – Supplementary
028	Queensland Greens
029	Brisbane City Council
030	Liberal National Party
031	Hon John Mickel

032	Ian Joyner
033	Anne Boccabella
034	John Hughes
035	Brisbane Residents United
036	David White
037	Neil Cotter
038	Alan Bambrick
039	John Pyke
040	Queenslanders for Constitutional Monarchy Association Inc.
041	Lyndon Duncan
042	Frank O'Dea
043	Neil Laurie, Clerk of the Parliament
044	Australian Labor Party Queensland Branch
045	Darcy O'Dempsey

Appendix B – Witness appearing at the public hearings – Wednesday 28 October 2015

Witnesses – Expert panel
Mr Neil Laurie, Clerk of the Parliament
Professor Anne Twomey, Professor of Constitutional Law, Sydney Law School, University of Sydney
Professor Graeme Orr, Professor of Law, University of Queensland

Witnesses – Other Stakeholders
Mr Richard Williams, Member of State Executive, LNP
Ms Amanda Stoker, Policy Chair, LNP
Mr Greg Hoffman, General Manager, Advocacy, Local Government Association of Queensland
Mr Joshua O’Keefe, Team Leader, Intergovernmental Relations, Local Government Association of Queensland
Mr Anthony Pink, Queensland Greens
Ms Kirsten Lovejoy, Queensland Greens

Appendix C – Officers appearing on behalf of Electoral Commission of Queensland at public briefing – Wednesday 28 October 2015

Witnesses
Mr Dermot Tiernan, Assistant Electoral Commissioner
Mr Carrick Brough, A/Assistant Director, Funding Disclosure and Regulation