

# Regulatory Impact Statement: Enabling a four-year term of Parliament

## Coversheet

| Purpose of Document  |  |
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| Decision sought:   | Analysis produced to inform final Cabinet decisions. |
| Advising agencies:   | Ministry of Justice                                  |
| Proposing Ministers:   | Hon. Paul Goldsmith, Minister of Justice             |
| Date finalised:  | 25 September 2024                                    |
| Problem Definition   |  |
| <p>The maximum term of Parliament in New Zealand has been set at three years since 1879. Since 1956, the maximum term of Parliament has also been entrenched, as a way of signalling the moral force of the maximum term as a 'broadly accepted democratic rule'.<sup>1</sup></p> <p>The question of whether the maximum term of Parliament should be increased has been raised a number of times, in various fora. Two referendums were held on a proposed extension to a four-year term of Parliament, in 1967 and 1990;<sup>2</sup> both of these referendums occurred prior to the introduction of the Mixed Member Proportional (MMP) voting system.<sup>3</sup> Wider societal changes have influenced how people engage with the democratic process since the topic was last put to referendum in 1990, including the extent to which digital technology has changed how people access information and engage with decision makers.</p> <p>Both the 2013 Constitutional Advisory Panel and the 2023 Independent Electoral Review (IER) considered the length of the term of Parliament, with the IER noting arguments between three and four years were finely balanced. In its final Report, the IER panel recommended a referendum on the topic.<sup>4</sup></p> <p>Both coalition agreements between the National and the ACT and New Zealand First Parties include commitments relating to extending the term of Parliament, subject to a referendum.<sup>5</sup></p> <p>Given the constitutional significance of the term of Parliament, this is a matter that voters should have a direct opportunity to vote on periodically. The current coalition agreements provide an opportunity to hold a referendum for the public to decide whether the current three-year term strikes the right balance between providing voters with regular accountability and allowing sufficient time for the Government and Parliament to operate effectively and deliver on their elected mandate. A referendum should be accompanied by an effective and accessible public information campaign, to enable voters to make an informed choice on the subject matter, and to support the legitimacy of the outcome.</p> |  |

<sup>1</sup> McGee and Wilson, *Parliamentary Practice in New Zealand*, Fifth Edition, Chapter 14.2.6.

<sup>2</sup> In both previous referendums the majority of voters opposed extending the term to four years.

<sup>3</sup> The 1990 referendum was prompted by a recommendation of the 1986 Royal Commission on the Electoral System. That Royal Commission report also led to the introduction of MMP in 1996 (following the MMP referendum in 1993). New Zealand Royal Commission on the Electoral System, *Towards a Better Democracy* (1986), [Report of the Royal Commission on the Electoral System 1986 | Elections](#).

<sup>4</sup> R11, Final Report of the Independent Electoral Review, Ch 5 pgs 135 – 142.

<sup>5</sup> Coalition Agreement between the National Party and the ACT Party, 24 November 2023, and Coalition Agreement between the National Party and the New Zealand First Party, 24 November 2023.



## Executive Summary

Under current law, Parliament can run no longer than three years after the date fixed for the return of the writ for the preceding general election and a general election must be held once the term has ended.<sup>6</sup>

The purpose of a limited term of Parliament is to ensure that voters have regular opportunity to elect their representatives. Regular elections are one of the main mechanisms the public has for democratic participation and holding government and Members of Parliament to account. Governments must regularly renew the mandate voters have given them. However, voters also need government and Parliament to operate effectively while maintaining trust in public institutions and upholding the legitimacy of the democratic system. Shorter terms may have some cost in efficiencies, opportunity costs of time spent campaigning then government formation over day-to-day executive and parliamentary action, and policy “short-termism”.

There is limited evidence and varying views on whether a three- or four-year term of Parliament would strike a better balance.

The most recent consideration of the length of the parliamentary term was by the Independent Electoral Review (IER) panel. Feedback from the public engagement the IER panel undertook was mixed, and the IER panel considered the arguments between a three- or four year term were finely balanced. The panel recommended that there be a “referendum on the parliamentary term, supported by a well-resourced information campaign (including dedicated engagement with Māori as Tiriti o Waitangi/Treaty of Waitangi partners)”.<sup>7</sup>

Both coalition agreements include a commitment to progress work relating to extending the term of Parliament. Specifically:

- The ACT Party agreement states that the parties will “pass the *Constitution (Enabling a 4-Year Term) Amendment Bill* through first reading in the first 15 months of the term”.<sup>8</sup>
- The NZ First Party agreement states that the parties will “support to select committee a bill that would enact a binding referendum on a four-year term of parliament”.<sup>9</sup>

The Ministry has been directed to progress the ACT Party’s *Constitution (Enabling a 4-Year Term) Amendment Bill*, subject to some policy and drafting clarifications.<sup>10</sup> The intent of that Bill is to improve law making, while improving the checks and balances on Executive government by improving Parliamentary oversight.

Under the *Constitution (Enabling a 4-Year Term) Amendment Bill* the standard term of Parliament would still be three years, with potential to extend the term of Parliament to four years if the membership of select committees is proportionate to non-Executive party membership. This creates a variable term of Parliament.

The Ministry has considered the following options:

- The status quo (Option 1)
- Hold a referendum on a maximum four-year term of Parliament (Option 2)
- Hold a referendum on a variable term of Parliament (Option 3/the Bill Option):

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<sup>6</sup> Constitution Act 1986, section 17(1) and Electoral Act 1993, section 125.

<sup>7</sup> R11, Final Report of the Independent Electoral Review, Ch 5 pgs 135 – 142.

<sup>8</sup> Coalition Agreement between the National Party and the ACT Party, 24 November 2023. The Bill referred to has previously been a proposed member’s Bill in the name of David Seymour, although was never drawn from the ballot. ([constitution-enabling-a-4-year-term-amendment-bill.pdf](#) ([www.parliament.nz](http://www.parliament.nz)))

<sup>9</sup> Coalition Agreement between the National Party and the New Zealand First Party, 24 November 2023.

<sup>10</sup> Cabinet Office circular (24) 2 [National, ACT and New Zealand First Coalition Government: Consultation and Operating Arrangements](#), provides guidance for consultation and operating arrangements, in-line with the two coalition agreements and Cabinet Manual, endorsed by Cabinet on 28 November 2023.



- Option 3A: A variable term of Parliament, with an Order in Council mechanism to extend the term.
- Option 3B: A variable term of Parliament, with a House resolution mechanism to extend the term.

Given the limited evidence and mixed views, the assessment of Options 1 and 2 are relatively similar.

Option 3 has been assessed as being much worse than the status quo because features of the Bill are constitutionally and practically problematic:

- Prior to each general election there would be uncertainty about the length of the upcoming parliamentary term. The maximum term could fluctuate from election to election. This uncertainty would undermine democratic accountability and risks undermining the legitimacy of Parliament and its exercise of public decision-making powers.
- Some settings are out of step with other long-standing legal and constitutional principles, including that it appears to encroach on the House of Representatives right to control its own operations.
- A variable term of Parliament could create practical complexities, for example if the local and parliamentary elections coincide.

While some concerns with Option 3 are mitigated under Option 3B compared to Option 3A, based on the mechanism that would be used to extend the term of Parliament, there are still significant concerns with Option 3B.

The Ministry of Justice does not have a formal position on whether the term of Parliament should be three or four years. The Ministry considers that, given its constitutional importance, and in line with earlier precedents (see paragraph 17), any change to the term of Parliament should be determined via a referendum. In relation to the main options assessed in the context of coalition agreement commitments, and including what should be considered at a referendum, the Ministry that considers any such referendum should consider a four-year term (Option 2) as an option alongside the status quo.

The Cabinet paper recommends Option 3B, to progress to introduction the *Constitution (Enabling a 4-Year Term) Amendment Bill*, as reflected in the coalition agreement with the ACT Party, subject to the key amendment to the mechanism used to extend the term and other specific policy clarifications.

## Limitations and Constraints on Analysis

### Narrow scope:

- Both coalition agreements include commitments to progress work relating to a four-year term of Parliament, subject to a referendum. Officials were directed to progress the *Constitution (Enabling a 4-Year Term) Amendment Bill* under which the standard term of Parliament would still be three years, with the potential to extend the term of Parliament to four years at the start of each parliamentary term, if the membership of select committees is proportionate to non-Executive party membership. Our options and analysis have therefore focused on considering the status quo, the key policy proposal in the Bill and one further option, rather than considering a wider range of options such as alternative term lengths.

### Other limitations to options considered:

- Option 3B has been considered late in the development of this analysis. This means that there has been limited analysis of this specific option. There may be unforeseen implications, costs or benefits that have not been surfaced in the time available.

### Limited evidence/research:

- There is limited evidence/research generally on how the maximum length of the term of Parliament impacts on decision-making and legislation, public engagement, parliamentary scrutiny, longer-term planning, and economic costs. Nor is there evidence of the efficacy and contribution to parliamentary scrutiny of other potential additional Executive scrutiny mechanisms. Cost/benefit information is therefore very limited with a low confidence factor, although some election costs may be quantifiable.



- It is also difficult to make international comparisons given the broad range of political arrangements and constitutional processes that may be in place. Finally, for those who support a longer term, there is an underlying assumption that this would create better policy work and consultation processes, however it is difficult to predict behaviours and this outcome is uncertain.

#### Limited consultation:

- The timing of progressing work in-line with coalition commitments did not allow for public consultation on the specific policy proposal reflected in the *Constitution (Enabling a 4-Year Term) Amendment Bill* at this stage of the work. The idea of a longer term of Parliament (of four-years) has been canvassed in various fora over several decades. More generally, we have drawn on feedback from previous public engagement on electoral and constitutional matters, including most recently the Independent Electoral Review (Final Report November 2023). However, that review covered an extensive range of electoral matters, and did not include in-depth engagement specifically on the term of Parliament, nor with Māori as Tiriti/Treaty partners, so we have limited views from Māori stakeholders.
- The proposal that membership of select committees should be proportionate to non-Executive party membership was proposed by Hon David Seymour in 2020 to the Business Committee at the start of that parliamentary term.<sup>11</sup> It was then considered in the recent Review of Standing Orders and we have been able to draw on the submissions and commentary to that Standing Orders Review in considering that aspect of the *Constitution (Enabling a 4-Year Term) Amendment Bill*.<sup>12</sup> In neither instance was the proposal linked directly to the term of Parliament.

#### Responsible Manager (completed by relevant manager)

Rajesh Chhana

Deputy Secretary, Policy, Ministry of Justice



25 September 2024

#### Quality Assurance (completed by QA panel)

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|-----------------------------|---|
| Reviewing Agencies:         | Ministry of Justice and the Department of Internal Affairs  |
| Panel Assessment & Comment: | <p>A Quality Assurance panel with representatives from the Ministry of Justice and the Department of Internal Affairs has reviewed the Regulatory Impact Statement <i>Enabling a four-year term of Parliament</i> and considers that the RIS <b>partially meets</b> the Quality Assurance criteria.</p> <p>The analysis in the RIS is clear and comprehensive with a range of options analysed consistently against criteria. The RIS appropriately notes limitations and constraints on the analysis and draws on extensive consultation by the Constitutional Advisory Panel and Independent Electoral Review. The main constraint on the analysis is that, despite the parliamentary term's constitutional significance and the complexity of option 3, direct consultation on a variable term length has been limited to government agencies, with no broader consultation undertaken. The panel considers that the analysis can be relied on by Ministers to support their decision-making, noting that the public will have the opportunity to take part in the select committee process and (if passed) the proposed referendum.</p> |

<sup>11</sup> 23 November 2020. David Seymour, ACT Party Leader, Submission to Business Committee.

<sup>12</sup> Review of Standing Orders 2023, p 20. ([83f25e93-d8e7-4e0d-398b-08dba8db7c53](https://selectcommittees.parliament.nz/83f25e93-d8e7-4e0d-398b-08dba8db7c53))

## Section 1: Diagnosing the policy problem

**What is the context behind the policy problem and how is the status quo expected to develop?**

**What are the key features of New Zealand's system of government, and the role of Parliament within this?**

1. New Zealand's system of government is a representative democracy, with a Parliament consisting of members who represent the voters who elected them. New Zealand's parliamentary system is largely modelled on the Westminster system (the United Kingdom's parliamentary system).
2. The primary purpose of elections is to decide through voting which individuals and political parties enter Parliament and exercise public decision-making powers on behalf of society. Under a representative democracy, voters periodically exercise their democratic right by voting for the people who will make up Parliament. Members of Parliament (MPs) are elected in accordance with the Electoral Act 1993. Since 1996, New Zealand has used a Mixed Member Proportional (MMP) voting system.
3. The Constitution Act 1986 is the piece of key legislation setting out New Zealand's constitutional arrangements. The Act sets out the three branches of government: the legislature, the executive, and the judiciary.<sup>13</sup> The concept of 'separation of powers' distributes power across the three branches, intended to prevent abuses of power, as each branch provides 'checks and balances' on each other.
4. Parliament (the legislature) consists of the Sovereign and the House of Representatives. Key roles of the House of Representatives include making new laws and updating old ones by considering Bills; representing New Zealanders by giving a voice to different ideas from people and organisations; and checking the actions of the Executive (who are also provided from amongst its members).
5. A long-standing feature of our constitutional arrangements is that Parliament determines Parliamentary procedures and practices. Standing Orders set out the rules of procedure for the House and its committees.<sup>14</sup> Changes to Standing Orders are managed through the Standing Orders Committee, which has been empowered to review the Standing Orders, procedures and practices of the House.<sup>15</sup> This can include consideration of select committee arrangements as was done in 2023.<sup>16</sup>

**What are the current laws regulating the term of Parliament?**

6. Under current law, Parliament can run no longer than three years after the date fixed for the return of the writ for the preceding general election and a general election must be held once the term has ended.<sup>17</sup>
7. At the end of this three-year period, unless it has already been dissolved, Parliament expires. This provision sets a maximum length for the parliamentary term. There is no

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<sup>13</sup> [On the Constitution of New Zealand: An Introduction to the Foundations of the Current Form of Government | Department of the Prime Minister and Cabinet \(DPMC\)](#) The Rt Hon Sir Kenneth Keith, 1990. Updated 2008, 2017, and 2023.

<sup>14</sup> [Standing Orders - New Zealand Parliament \(www.parliament.nz\)](#), published with the authority of the House of Representatives 2017 and last updated 2023.

<sup>15</sup> The Standing Orders Committee typically carries out a review every three years (at the end of a Parliamentary term) but is able to initiate reform at any time.

<sup>16</sup> The Office of the Clerk provided advice to the Standing Orders Committee about a new select committee arrangement where each subject select committee would have a corresponding 'scrutiny' select committee to consider annual reviews, estimates and so on. 16 June 2023. Office of the Clerk. Report to the Standing Orders Committee. Review of Standing Orders 2023: Advice paper – paired select committees. ([06e8a139fd318ce73c9fc7490e6a4e7316fe4946 \(www.parliament.nz\)](#))

<sup>17</sup> Constitution Act 1986, section 17(1), and Electoral Act 1993, section 125.



minimum length. The Governor-General, on the advice of the Prime Minister, can dissolve Parliament at any time before the three-year term finishes.<sup>18</sup>

8. The term of Parliament is constitutionally significant, evidenced by it being one of the few entrenched provisions in our statute book.<sup>19</sup> This means it cannot be changed without the support of 75 percent of MPs (a “supermajority” or “qualified majority”) in Parliament or a nationwide referendum.<sup>20</sup>
9. Entrenchment is used for matters of a significantly constitutional nature, in particular, those things that relate to the legitimacy of the government. This recognises the need for long-term certainty, and fewer opportunities for the Government of the day to change electoral laws in their interest.

*What is the purpose of a limited term of Parliament?*

10. The purpose of a limited term of Parliament is to ensure that voters have regular opportunity to elect their representatives. Regular elections are one of the main mechanisms the public has for democratic participation and holding government and Members of Parliament to account. Governments must regularly renew the mandate voters have given them.
11. However, voters also need government and Parliament to operate effectively while maintaining trust in public institutions and upholding the legitimacy of the democratic system. This requires sufficient time for governments to put in place cohesive policies and for Parliament, including select committees and opposition parties, to consider legislation and hold the Executive to account. There are differing views, depending on the particular context, about how long may be considered sufficient.
12. This democratic ‘check’ on government power is, some argue, especially important in New Zealand because many of the constitutional features that apply in other western democracies to restrain the powers of government are not present in New Zealand’s constitutional arrangements.<sup>21</sup> New Zealand has a non-federal government and a unicameral Parliament. It does not have a written constitution or the power for the courts to strike down Acts of Parliament.

### How is the status quo expected to develop if no action is taken?

13. Parliament will continue to run for a maximum of three years, with voters being able to vote in a general election once the term has ended. Identified problems with a three-year parliamentary term, such as some cost inefficiencies, opportunity costs of time spent campaigning then government formation over day-to-day executive and parliamentary action, and policy “short-termism”, would continue (see paragraphs 34-58 below).

### How does New Zealand’s term of Parliament compare internationally?

14. New Zealand’s three-year parliamentary term is rare internationally. In 183 countries with elected lower houses or unicameral parliaments, only eight<sup>22</sup> have a term of three years or less, 72 have a four-year term, 99 have a five-year term and four have a six-year term.<sup>23</sup> In general, parliaments (whether unicameral or bicameral) have a four-year

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<sup>18</sup> Constitution Act 1986, section 18; Cabinet Manual (2023) at [2.6].

<sup>19</sup> The passing of the Electoral Act 1956 entrenched several aspects of New Zealand’s electoral system.

<sup>20</sup> Constitution Act section 17(2), Electoral Act 1993, section 268(1)(a).

<sup>21</sup> Dr Edward Willis, [Government terms: three years or four?](#), 3 November 2020. Newsroom.

<sup>22</sup> Other than New Zealand, these are: Australia (Federal House of Representatives), El Salvador, Mexico, Federated States of Micronesia (Congress 2 years), Nauru, Philippines, USA (House of Representatives 2 years).

<sup>23</sup> [Compare data on Parliaments | IPU Parline: global data on national parliaments](#) as at 02/09/2024. Search terms used: ‘Parliamentary term (years). Any Region. Lower chambers and unicameral Parliaments. Excludes suspended Parliaments.’

or five-year term including both the United Kingdom (with Westminster-style of Parliament and Executive, headed by a sovereign) and Germany (with an MMP electoral system) from which New Zealand's system is based.

## Historical developments

15. The parliamentary term in New Zealand was originally five years, reflecting the arrangements in Britain. It was reduced to three years in 1879. This change was a result of the abolition of provincial governments in 1876, which increased the importance of central government and its law-making abilities. There was a general concern that this new power needed to be restrained and therefore the term was reduced to increase the frequency of how often elections were held.<sup>24</sup>
16. New Zealand's parliaments have almost always continued for a full three-year term. Since 1879, there have only been a few occasions where the parliamentary term has differed from the three-year limit:
  - the first and second world wars (delayed elections and formation of Parliament)
  - 1935 (four-year term following an extension legislated by the Forbes Coalition<sup>25</sup>).

## Previous consideration of the term of Parliament

17. There have been two previous referendums on the length of the parliamentary term, one in 1967 and the other in 1990 (both were non-binding).<sup>26</sup> Both referendums saw large majorities opposed to extending the term to four years.
18. In its 1986 report, the Royal Commission on the Electoral System considered whether the term of Parliament should be extended. It made no recommendation for a change but recommended that a referendum should be held no later than December 1993 to determine whether the term should be extended to four years.<sup>27</sup> This referendum was subsequently held in 1990.
19. There is some indication that public opinion has shifted over the past three decades, for example, as signalled by feedback received by the 2013 Constitutional Advisory Panel, and the 2023 Independent Electoral Review panel (more detail on feedback and recommendations is set out below).
20. Circumstances have also changed since the last referendum on the parliamentary term, the most significant of which was the introduction of the MMP voting system in 1993. The MMP voting system, with its change to proportional representation, had an effect on government accountability and resulted in a more shared approach to executive government power, allowing a stronger voice to smaller parties, and changing how the legislative process works. MMP typically results in multiple parties working together as the government and this can also mean decision-making takes more time.
21. While MMP has arguably resulted in a more robust system of governance, there are still concerns about a potential loss of accountability if the term of Parliament is extended. In 2013 the length of the parliamentary term was considered by the Constitutional Advisory Panel appointed by the Government to:

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<sup>24</sup> New Zealand Royal Commission on the Electoral System, *Towards a Better Democracy* (1986), p 155; P. Joseph, "The Future of Electoral Law," in C. Morris et. al. (eds), *Reconstituting the Constitution* (New York: Springer, 2011), p 238.

<sup>25</sup> The 24<sup>th</sup> Parliament was extended by the Coalition Government for one year with the election held in 1935 rather than 1934. This was a legislated change to a four-year term under the Electoral Amendment Act 1934 but, due to public opposition, the term then reverted back to three years a short time later in the Electoral Amendment Act 1937 (s2).

<sup>26</sup> 'Electoral referendums – Non-binding referendums'. [Chapter 40 Referendums - New Zealand Parliament \(www.parliament.nz\)](https://www.parliament.nz/), originally published 2017.

<sup>27</sup> Royal Commission on the Electoral System (1986) at 6.32.

- stimulate public debate and awareness of the current constitutional arrangements; and
  - provide Ministers with an understanding of New Zealanders' perspectives on those arrangements.
22. The Constitutional Advisory Panel's report noted a reasonable proportion of the people who commented on this topic supported a longer term and recommended that the Government set up a process, with wider public consultation and participation, to explore what additional checks and balances might be desirable if a longer term is implemented.<sup>28</sup>
23. The Constitutional Advisory Panel's report found that the section of the public who had an appetite for extending the term of Parliament considered that any extension 'would need to be counter-balanced by mechanisms to improve law-making and accountability. The report noted several suggestions from the public including the increased use of referenda or deliberative processes, better scrutiny of legislation with human rights impacts, more reliable exploration of long-term economic and environmental implications of policies' and the introduction of an upper house.<sup>29</sup> The report noted a change to a longer term should be accomplished by referendum.<sup>30</sup>
24. The most recent consideration of the length of the parliamentary term was by the Independent Electoral Review (IER) panel. The IER panel, set up in 2022, led a wide-ranging review of New Zealand's electoral law, with the aim to make election rules clearer and fairer, to build more trust in the system and better support people to exercise their democratic right to vote. The term of Parliament was one of a number of topics considered by the IER panel. As part of the review, two phases of public consultation were held. The IER panel provided their final report to the Minister of Justice on 30 November 2023.
25. Feedback to the IER panel on the term of Parliament was mixed, and the panel indicated that the arguments between a three- or four-year term were finely balanced:<sup>31</sup>
- The IER panel heard concerns about whether the current three-year term is enough time for government, Parliament, and MPs to be effective. The IER panel considered that the arguments in favour of a four-year term – that it would improve the ability of Parliament to scrutinise the government, produce better laws and more effective governments – were strong arguments, in line with their objectives.
  - On the other hand, the IER panel also heard that there was no certainty that a four-year term would deliver the promised benefits when compared to a three-year term. A longer term would allow more time to develop and make new laws but might not improve the law-making process. The IER panel also heard that, in the absence of greater checks on how governments exercise power, more frequent elections help voters hold governments to account.
  - Many submitters supported a referendum on the term of Parliament, indicating that it should be a decision for voters. The IER panel therefore recommended that there be a "referendum on the parliamentary term, supported by a well-resourced information campaign (including dedicated engagement with Māori as Tiriti o Waitangi/Treaty of Waitangi partners)".

<sup>28</sup> New Zealand's Constitution: A report on a Conversation: He Kōtuinga Kōrero mō Te Kaupapa Ture o Aotearoa (Constitutional Advisory Panel Report), November 2013 at 61.

<sup>29</sup> Constitutional Advisory Panel Report at 62.

<sup>30</sup> Constitutional Advisory Panel Report at 61.

<sup>31</sup> R11, Final Report of the Independent Electoral Review, Ch 5 pgs 135 – 142.



### *Suggestions for additional checks and balances alongside the term of Parliament*

26. Alongside discussions of the term of Parliament, a variety of additional, potential checks and balances to Executive power have been raised over the years. Some of these are set out below:
- **Written Constitution** – A written constitution could, in theory, give the judiciary the power to strike down legislation, which, in effect, would remove parliamentary sovereignty. This could help allay fears relating to a lack of accountability that comes with a longer term. Some argue enacting a written constitution could also help protect long-term interests that people feel are in jeopardy during a four-year term.<sup>32</sup>
  - **Entrench the New Zealand Bill of Rights Act 1990 (NZBORA)** – NZBORA focuses on the individual and does not explicitly contain any restrictions on the exercise of the Executive's power. Entrenching the NZBORA, to make it more difficult to amend or remove individual rights, could help protect long-term interests that people feel are in jeopardy during a four-year term.<sup>33</sup>
  - **Upper House** – The Government of the day has the support of, and general control over, the House of Representatives. A second chamber could act as a restraint on the powers of Parliament.<sup>34</sup>
27. Other ideas have included reviewing the official information regime to consider whether it could be more effective as well as enable increased transparency and scrutiny of executive action.<sup>35</sup>

### **What is the policy problem or opportunity?**

28. The maximum term of Parliament in New Zealand has been set at three years since 1879. Since 1956, the maximum term of Parliament has also been entrenched, as a way of signalling the moral force of the maximum term as a 'broadly accepted democratic rule'.<sup>36</sup>
29. The question of whether the maximum term of Parliament should be increased has been raised a number of times, in various fora. Two referendums were held on a proposed extension to a four-year term of Parliament, in 1967 and 1990; both of these referendums occurred prior to the introduction of the Mixed Member Proportional (MMP) voting system. Wider societal changes have influenced how people engage with the democratic process since the topic was last put to referendum in 1990, including the extent to which digital technology has changed how people access information and engage with decision makers.
30. As outlined above, both the 2013 Constitutional Advisory Panel and the 2023 Independent Electoral Review (IER) considered the length of the term of Parliament, with the IER noting arguments between three and four years were finely balanced. In its final report, the IER panel recommended a referendum on the topic.<sup>37</sup>

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<sup>32</sup> Jonathan Boston, David Bagnall and Anna Barry, Foresight, insight and oversight: Enhancing long-term governance through better parliamentary scrutiny – Institute for Governance and Policy Studies – VUW, 2019 at p182, Willis, Government terms: three years or four?, Newsroom, and Sir Geoffrey Palmer and Andrew Butler, Towards Democratic Renewal: Ideas for Constitutional Change in New Zealand, (2018, VUP) at chapter 2.

<sup>33</sup> Boston, Bagnall, and Barry at p182, Willis, Government terms: three years or four? Newsroom, and Palmer and Butler at chapter 12.

<sup>34</sup> Constitutional Advisory Panel Report at ps 60, 62, 68 and 72; and Willis, Government terms: three years or four? Newsroom.

<sup>35</sup> Willis, Government terms: three years or four?, Newsroom.

<sup>36</sup> McGee and Wilson, Parliamentary Practice in New Zealand, Fifth Edition, Chapter 14.2.6.

<sup>37</sup> R11, Final Report of the Independent Electoral Review, Ch 5 pgs 135 – 142.

31. Both coalition agreements between the National and the ACT and New Zealand First Parties include commitments relating to extending the term of Parliament, subject to a referendum.<sup>38</sup>
32. Given the constitutional significance of the term of Parliament, this is a matter that voters should have a direct opportunity to vote on periodically. The current coalition agreements provide an opportunity to hold a referendum for the public to decide whether the current three-year term strikes the right balance between providing voters with regular accountability, and allowing sufficient time for the Government and Parliament to operate effectively and deliver on their elected mandate. A referendum should be accompanied by an effective and accessible public information campaign, to enable voters to make an informed choice on the subject matter, and to support the legitimacy of the outcome.
33. Overall, the Ministry of Justice does not have a formal position on whether the term of Parliament should be three or four years. The following sections set out some of the main arguments that have been put forward for and against a four-year term

### A shorter period between elections may impose disproportionate costs

34. A shorter parliamentary term may be inefficient because elections impose:
  - recurring **direct costs** on the Crown of running an election, and to political parties of running a campaign;
  - the significant **opportunity cost** of the time spent prioritising campaigning and then government formation over day-to-day executive and parliamentary action; and
  - **indirect economic costs** (uncertainty and delayed investment).
35. Inefficiency here includes the higher level of “churn” of Ministers and Members of Parliament with a three-year term. Less frequent elections could mean Ministers and Members of Parliament would remain in post longer, reducing the costs associated with their training and development. Ministers would have more time to become acquainted with the requirements of their roles and the workings of departments. Members of Parliament may also have more time to build good working relationships with various sectional interests in the community and to become familiar with their electorate.<sup>39</sup>
36. However, any increase in efficiency from reduced costs needs to be offset against the potential costs to the health of New Zealand’s democracy that may result from the reduction in accountability to voters by less frequent elections.
37. Some indicate that there may be indirect economic costs in the form of a drop in business confidence and an increase in business uncertainty incurred before every election.<sup>40</sup> The relatively short three-year term may reduce business confidence due to uncertainty over the extent to which policies will change post-election and impose compliance costs on business.<sup>41</sup> A longer election cycle could bring greater business confidence and stability.
38. Less frequent elections are likely to reduce the direct cost to taxpayers and political parties.<sup>42</sup> For example, in a twelve-year period there might be three general elections, rather than four. The Electoral Commission presently estimates that delivering a similar election to the 2023 General Election would cost \$288m over the three-year period to

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<sup>38</sup> Coalition Agreement between the National Party and the ACT Party, 24 November 2023, and Coalition Agreement between the National Party and the New Zealand First Party, 24 November 2023.

<sup>39</sup> Royal Commission on the Electoral System report (1986) at 6.16.

<sup>40</sup> For example, see the New Zealand Institute for Economic Research (NZIER), (e.g. [NZIER's QSBO shows pre-election business confidence jitters, Quarterly Survey of Business Opinion - October 2017](#))

<sup>41</sup> Constitutional Advisory Panel report at 62.

<sup>42</sup> Royal Commission on the Electoral Commission report (1986) at 6.17.



2026, and a four-year election cycle is estimated to cost \$328m,<sup>43</sup> allowing for an additional year of fixed costs for the Electoral Commission. Over twelve years, if all election cycles were of a four-year period, this equates to an uninflated saving per year of \$14 million.

39. Some of these savings, however, are likely to be offset by other additional costs associated with less frequent elections, for example, ensuring the maintenance of electoral rolls from a lower base if enrolment rates drop between parliamentary elections.<sup>44</sup> It is also possible there could be more by-elections with one additional year in a term of Parliament compared to the current three-year term. For the previous four parliamentary terms there have been two by-elections on average. Although given the variety of reasons for by-elections it is not possible to estimate with any certainty if, or how many, additional by-elections there might be. The most recent by-election, at the end of 2023, cost \$1.553m.<sup>45</sup>

**Table 1: Summary of By-Elections over the last four parliamentary terms**

| Parliamentary term                        | Number of by-elections | Reasons for by-election  |
|---|------------------------|--|
| 50 <sup>th</sup> Parliament (2011 – 2014) | 2                      | Resignation (new job) and Death  |
| 51 <sup>st</sup> Parliament (2014 – 2017) | 3                      | Resignations (2 new jobs, 1 allegation misconduct)                       |
| 52 <sup>nd</sup> Parliament (2017 – 2020) | 1                      | Resignation (new job)  |
| 53 <sup>rd</sup> Parliament (2020 – 2023) | 2                      | Resignations (1 expulsion from caucus and 1 for personal/family reasons) |
| <b>Average by-election per term</b>       | <b>2</b>               |  |

### Inadequate time for governments and parliaments to fulfil their duties

40. Some consider that a three-year parliamentary term constrains time available for:
- **a government** to develop, consult on, and implement robust, well-tested policy;
  - **a parliament** to scrutinise executive action and examine legislation;
  - **the public** to understand and assess the performance of the government and Members of Parliament.
41. However, there is limited research data or evidence that can be used to assess whether longer parliamentary terms do objectively deliver the potential benefits of better decision making and legislation, greater public engagement, parliamentary scrutiny, and enhanced longer-term planning.
42. New Zealand governments operate with a working period in office that is, in practice, shorter than a full three-year parliamentary term because New Zealand does not have a fixed, minimum, term length. In part this is due to constitutional restraints on decision-making before (the pre-election period) and after (aspects of the caretaker convention) the election that reduce the time available to implement policies.<sup>46</sup> Political constraints

<sup>43</sup> There would be some minor risks around increased costs as the decoupling of the General Election cycle from the local body election cycle may result in increased costs due to a reduction in efficiencies and increased staff being required to manage both activities at the same time when the events coincide. Costings sourced from the Electoral Commission.

<sup>44</sup> Electoral Commission feedback, Independent Electoral Review Final Report, November 2023, page 140.

<sup>45</sup> Costing sourced from the Electoral Commission. By-election due to the death of a candidate at the General Election.

<sup>46</sup> Cabinet Manual 2023 at [6.5] – [6.40]

associated with campaigning and elections also reduce the working period a government has in office.

43. Some commentators suggest that with a three-year parliamentary term there is, in practice, only “one effective year” for governments to formulate and implement policy.<sup>47</sup> It has been suggested that politicians—and Ministers in particular—spend the first year of their term learning the ropes and settling in; the second “getting things done” and the third campaigning for re-election.<sup>48</sup> The short “working” period is not seen as long enough for the government to be effective and develop and implement robust policy informed by effective consultation.
44. There are various examples across the public service of required minimum timeframes for consultation, drafting, and so on. For example, the Standing Orders Committee has specified that select committees should generally allow a minimum of six weeks when setting a closing date for submissions.<sup>49</sup> This is in line with guidance for effective public consultation by public sector agencies on policy proposals. More complex topics may require longer consultation periods or multiple consultation rounds, all of which take significant time.
45. The identified time constraints still apply where a government is elected for a second term, as is often the case in New Zealand, because there are usually ministerial portfolio reshuffles and new coalition or confidence and supply agreements between terms.<sup>50</sup>
46. In the context of their Constitution Aotearoa project, Sir Geoffrey Palmer and Dr Andrew Butler argued that big, important Bills containing significant new laws are often hurried into force without proper planning or development and the lack of time means insufficient effort is made to get the underlying policies or the legislation itself right.<sup>51</sup>
47. Some people consider that extending the term of Parliament would, by extending the “working period”, offer the opportunity for government to take more time to develop and implement policy, potentially resulting in better outcomes.<sup>52</sup> It would give governments more time to consider their policies and test whether they are fit for purpose. Some consider that even a modest extension would enhance the capacity for governments to undertake thorough policy reforms in a more careful, considered, evidence-informed manner.<sup>53</sup> This could ensure better decision-making because there would be more time to get policy right.
48. An extended working period also allows more time for meaningful public consultation and engagement by government, including with its Tiriti/Treaty partners. People affected by proposed policies could have more opportunity to influence government policy.
49. There would also be the potential for longer consideration of proposed legislation by select committees and opposition parties in Parliament, with greater opportunities for public input. Some have also considered potential changes to enhance parliamentary scrutiny of long-term governance via changes to Standing Orders. For example, some consider that potential changes would enable select committees to undertake more

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<sup>47</sup> For example, see Joseph at 237 and New Zealand Royal Commission on the Electoral System at 159.

<sup>48</sup> P. Joseph, “The Future of Electoral Law,” in C. Morris et. al. (eds), *Reconstituting the Constitution* (New York: Springer, 2011), p 237.

<sup>49</sup> Standing Orders Committee, Review of Standing Orders (2017), p. 28. [213a415c-3fc0-4d85-9224-defd0aa37805 \(selectcommittees.parliament.nz\)](https://selectcommittees.parliament.nz/defd0aa37805)

<sup>50</sup> P. Joseph, “The Future of Electoral Law,” in C. Morris et. al. (eds), *Reconstituting the Constitution* (New York: Springer, 2011), p 237.

<sup>51</sup> Sir Geoffrey Palmer and Andrew Butler, *Towards Democratic Renewal: Ideas for Constitutional Change in New Zealand*, (2018, VUP)

<sup>52</sup> For example, see Joseph at 237 and Royal Commission on the Electoral System at 159.

<sup>53</sup> Jonathan Boston, David Bagnall and Anna Barry, *Foresight, insight and oversight: Enhancing long-term governance through better parliamentary scrutiny* – Institute for Governance and Policy Studies – VUW, 2019, p 183.



thorough and detailed investigations of important issues and governmental performance.<sup>54</sup>

50. Some measures have also already been taken to improve accountability checks and balances in New Zealand. This includes the introduction of long-term insights briefing requirements, parliamentary scrutiny weeks, and the Declaration-of-Inconsistency process. More time for these activities (including greater public participation) could provide the public with better information so they could understand the intent of a policy, weigh the pros and cons, and see the results.<sup>55</sup> Extending the term could therefore give voters more time to assess the performance of the government and Parliament.
51. This assumes that more time for these activities would result in better developed policy and legislation that is more likely to efficiently achieve its objectives. However, this is speculative because more time will not necessarily result in better policy processes. There could be no increase in engagement by government with its Tiriti/Treaty partners or increased public consultation. It may just result in more policy and legislation being pushed through.

### **Shorter electoral cycles pose a barrier to implementing major structural reforms for longer term benefits**

52. Shorter parliamentary terms can encourage governments to focus on shorter-term wins at the expense of longer-term issues. With a three-year term the undesirable influences of an approaching election are in play for a greater portion of the term. These inhibit governments (especially in the year before an election) from taking actions that may be unpopular in the short-term but have longer term benefits. An approaching election may influence a government to make decisions for short-term political gains.<sup>56</sup>
53. Shorter parliamentary terms can be a barrier to major structural reforms that bring long-term benefits. Research shows there are electoral costs for an incumbent government pursuing major reform later in the term (resulting in a reduced chance of an incumbent leader being re-elected by about 17 percent).<sup>57</sup> These costs would still apply to the later part of a longer term but that would be for a smaller portion of the whole period.
54. This political constraint is exacerbated because the economic or societal benefits of structural reforms often only materialise over the medium-to-long term and are generally dispersed across a population. In contrast, the costs are often concentrated and immediate. Together, this can result in policy capture and rent-seeking that has shown to have “pervasive negative impacts on the economy and society” including perpetuating social and economic inequalities, threats to public health, the environment, and security.<sup>58</sup>
55. All else being equal, a shorter term may disincentivise governments to pursue structural reform despite its potential for long-term benefits to society, in areas such as climate change, housing and social inequities. Extending the term to remove this barrier could provide more opportunity to address major, long-term issues.
56. While a longer term does not of itself overcome the problem of political short-termism, it does increase the prospects of decision-making taking account of longer-term impacts and implications.<sup>59</sup>

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<sup>54</sup> Boston, Bagnall and Barry, at 183.

<sup>55</sup> Constitutional Advisory Panel report at 62.

<sup>56</sup> Boston, Bagnall and Barry, at 183.

<sup>57</sup> Gabriele Ciminelli, Davide Furceri, Jun Ge, Jonathan D. Ostry, and Chris Papageorgiou. The Political Costs of Reforms: Fear or Reality?; IMF Staff Discussion Note 19/08; October 2019, at 17.

<sup>58</sup> OECD (2017), *Preventing Policy Capture: Integrity in Public Decision Making*, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/9789264065239-en>, ps 9 and 25-27

<sup>59</sup> Boston, Bagnall and Barry at 183.

## A three-year parliamentary term supports accountability

57. A three-year term of Parliament may support better accountability due to more frequent elections. This democratic 'check' on government power is, some argue, especially important in New Zealand because many of the constitutional features that apply in other western democracies to restrain the powers of government are not present in New Zealand's constitutional arrangements.<sup>60</sup> New Zealand has a non-federal government and a unicameral Parliament. It does not have a written constitution or the power for the courts to strike down Acts of Parliament.
58. In addition, some also consider that more frequent elections support better accountability due to the political pressure imposed by a concern for re-election throughout the parliamentary term. While it is difficult to remove someone from office during an electoral term, a three-year term constrains the ability for any government to have a long-lasting negative impact on the country.

## What do stakeholders think about the problem?

59. The term of Parliament directly affects all New Zealand citizens and permanent residents because it determines the frequency with which people participate in our democracy by voting. Various stakeholders have provided their views over the years, including as part of, for example, the Independent Electoral Review and each Justice inquiry into the General Election.

### Voters views

60. Views of voters are likely to be mixed. As noted earlier, two referendums have been held: one in 1967 and the other in 1990. The results of both referendums overwhelmingly favoured keeping the three-year term. In 1967, 68.1 percent and in 1990, 69.3 percent of voters rejected extending the term.
61. In November 2020, a Research New Zealand survey found that 61 percent of people wanted the parliamentary term to be increased from three to four years. Twenty-five percent were against a four-year term and the rest were undecided. Similarly, a December 2020 ONE NEWS Colmar Brunton poll also found that 60 percent of people supported extending the term to four years, with 36 percent saying no and the rest declining to answer.
62. The Constitutional Advisory Panel considered that voter support for a longer parliamentary term is more likely if additional checks and balances are put in place.<sup>61</sup>
63. Feedback from the IER's public engagement in 2022 and 2023 was mixed, and the arguments between a three- or four-year term were seen as finely balanced.<sup>62</sup>
64. Based on the results of these previous referendums and opinion polls, as well as feedback to the Constitutional Advisory Panel and most recently the IER panel, it may be that voters are unlikely to consider the current term a significant problem that needs addressing. Many appear to consider that three yearly elections do not produce excessive discontinuities in the process of government.

### Māori views

65. At this stage, there is no information that suggests that extending the parliamentary term is an issue identified by Māori as needing reform.

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<sup>60</sup> Dr Edward Willis, [Government terms: three years or four?](#), Newsroom.

<sup>61</sup> Constitutional Advisory Panel report at p 62.

<sup>62</sup> R11, Final Report of the Independent Electoral Review, Ch 5 pgs 135 – 142.



66. The IER panel indicated that engaging Māori as Tiriti/Treaty partners is especially pertinent given the constitutional impact of changing the term of Parliament and strongly emphasised the importance of considering this for any referendum information campaign.
67. Limited feedback about the potential implications of and impact for Māori from the term of Parliament provided during consultation for the IER indicated that views were mixed on the benefits of a longer parliamentary term versus a shorter term.<sup>63</sup>
- Changing the length of the parliamentary term from three years to four years would reduce the frequency of opportunities for Māori to hold the Government to account through elections.
  - Three-year terms can require a more frequent reset of the Crown-Māori relationship, which can make sustained relationships more difficult.
  - Nonetheless, given the constitutional significance of the change, the Crown would need to effectively involve Māori as Tiriti/Treaty partners. The IER panel recommended holding a referendum on the parliamentary term, supported by a well resourced information campaign including dedicated engagement with Māori as Treaty partners.

### Local government views

68. The Review into the Future for Local Government recommended enhancing local democracy, in order to increase access and representation by providing for a four-year electoral term.<sup>64</sup>
69. Local Government New Zealand supports four-year terms for councils<sup>65</sup> and has previously noted that it could be a good test for Parliament but raises concerns with the potential for local and parliamentary elections to occur within the same year.
70. Local council elections are held every three years, as required by legislation. If both local and parliamentary elections move to four-year terms then the risk of both elections occurring in the same year does not arise. However, this would not apply under a variable term of Parliament where it could happen but it would be harder to predict.

### Academics and other commentators' views

71. There is no consensus of views. Some academics have expressed strong support for an extension to four years.<sup>66</sup> Professor Joseph, for example, has stated that “extending the term of Parliament from three to four years would be an obvious and warranted reform”.<sup>67</sup> Others have only expressed support on the basis an extension would be accompanied by a commensurate change imposing other checks and balances to maintain or enhance government accountability.<sup>68</sup>
72. Some do not consider the three-year term to be too short and are not supportive of an extension.<sup>69</sup> Many consider other constitutional issues to be more important at present<sup>70</sup>

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<sup>63</sup> R11, Final Report of the Independent Electoral Review, Ch 5 pgs 135 – 142.

<sup>64</sup> Review into the Future for Local Government (2023) He piki tūanga, he piki kōtuku, Wellington: New Zealand. [He piki tūanga, he piki kōtuku – The future for local government \(dia.govt.nz\)](https://dia.govt.nz/he-piki-tuanga-he-piki-kotuku-the-future-for-local-government)

<sup>65</sup> 23 August 2024. Support for council four-year term. Local Government New Zealand (LGNZ) Media Release. [Support for council four-year-term - LGNZ](https://lgnz.govt.nz/support-for-council-four-year-term)

<sup>66</sup> For example, Joseph at 237 and Palmer and Butler at 94

<sup>67</sup> Joseph at 237.

<sup>68</sup> For example, the McGuinness Institute submission to the Independent Electoral Review. July 2023. [Archived Page: Submissions | Independent Electoral Review \(natlib.govt.nz\)](https://natlib.govt.nz/submissions/institute)

<sup>69</sup> For example, Jack Vowles and Graeme Edgeler (Stage 1 Engagement Submissions). [Archived Page: Submissions | Independent Electoral Review \(natlib.govt.nz\)](https://natlib.govt.nz/submissions/engagem)

<sup>70</sup> Ibid above.

73. Civil society have also commented on the term of Parliament, for example, the New Zealand Council of Civil Liberties discusses strengthening Parliament in other ways, including increasing the number of MPs, before a longer term is considered.<sup>71</sup>

## Are there any special factors involved in the problem?

### Te Tiriti o Waitangi/Treaty of Waitangi considerations

74. Regular elections provide an important opportunity for voters including Māori to hold the government to account. Having a limit on the length of the parliamentary term provide a democratic check on the Crown's exercise of kāwanatanga under Article 1 of te Tiriti/the Treaty. This in turn supports the right of Māori to participate in elections as guaranteed by Article 3, as full citizenship rights include those of political participation and representation.
75. The relevant Principles and Articles of te Tiriti/the Treaty are:
- Partnership: To exercise kāwanatanga responsibly and to protect Māori rights, the Crown's decision making on matters affecting Māori should be informed by an assessment of Māori interests and te Tiriti/the Treaty.
  - Active protection: In its decision in Wai 413, the Tribunal found that the Crown is under a Tiriti/Treaty obligation to actively protect Māori citizenship rights and rights to political representation conferred under the Electoral Act 1993.<sup>72</sup> Participation in elections is a right guaranteed by Article 3 which granted full citizenship rights, including those of political representation.
  - Equity: The Waitangi Tribunal has said that as part of the rights of citizenship actively protected by the Crown, Māori must have equal rights of participation with other Māori and non-Māori citizens during democratic election processes.<sup>73</sup>
76. Given this, consultation with Māori as Tiriti/Treaty partners on a potential change to the term of Parliament is important as part of the policy and legislative development, where possible, and as part of any referendum information campaign. It will be important to consider how a referendum public information campaign could include specific information to best ensure full participation by Māori in the subject-matter. The campaign will also need to ensure that both Māori and non-Māori voters have sufficient information to enable them to consider te Tiriti/the Treaty implications of any extension to the term of Parliament, given it is a founding document of New Zealand.

### What objectives are sought in relation to the policy problem?

77. Key overarching objectives include:
- supporting democratic participation, and
  - upholding the legitimacy of the democratic system.
78. Holding a referendum on the length of the term of Parliament will provide voters the opportunity to have a direct say on the length of the term, which is intended to enhance democratic participation.
79. The specific matter considered at a referendum should support upholding the legitimacy of the democratic system.

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<sup>71</sup> New Zealand Council for Civil Liberties. Submission: Independent Electoral Review. 14 November 2022. [Archived Page: Submissions | Independent Electoral Review \(natlib.govt.nz\)](#)

<sup>72</sup> Māori Electoral Option report Wai 413 report at [3.8].

<sup>73</sup> Prisoner Voting report Wai 2870 at 13.



## Section 2: Deciding upon an option to address the policy problem

### What scope will options be considered within?

80. Officials have been directed to progress the ACT Party's draft *Constitution (Enabling a 4-Year Term) Amendment Bill* (with certain clarifications) in accordance with the National-ACT Party coalition agreement. Therefore, the scope of options considered take this into account.
81. The intent of the ACT Party's proposed Bill is to improve law making, while improving the checks and balances on Executive government by improving Parliamentary oversight. Under the proposed Bill the standard term of Parliament would still be three years, with potential to extend the term of Parliament to four years if the membership of select committees is proportionate to non-Executive party membership.
82. Any other term length, such as a five-year parliamentary term, has not been considered due to Ministerial direction and coalition commitments. All options below are being assessed for consideration at a binding referendum, given both coalition agreements indicate any change to a four-year term would be subject to a binding referendum. The Ministry of Justice agrees that any changes to the term of Parliament should be subject to a referendum.

### Options considered but discounted

#### Legislative changes

83. As noted earlier in paragraphs 26 and 27, a variety of potential checks and balances have been raised, including in academic and media discourse, over the years.
84. These options would require significant constitutional and operational change within New Zealand. The Government has not indicated an interest in broader, significant, constitutional change in these areas at this point in time. These options are considered out of scope.

#### Non-legislative changes

85. 'Business as usual' improvements to policy-making processes can continue to be considered, but alone these would be unlikely to be a sufficient check and balance on executive power alongside a longer parliamentary term.

### What criteria will be used to compare options to the status quo?

86. The following criteria have been selected for analysing policy options:
  - (a) **democratic accountability** – the electoral system enables voters to hold governments to account, and encourages this accountability between Members of Parliament and their voters;
  - (b) **consistency with other legal and constitutional principles** – upholds and supports the fundamental legal and constitutional principles underpinning New Zealand's system of government including separation of powers, parliamentary sovereignty, and te Tiriti o Waitangi/the Treaty of Waitangi;
  - (c) **effective government and Parliament** – governments have time to effectively implement their policy platforms and Parliaments can exercise their functions as effectively as possible (e.g. enacting legislation, authorising the raising of taxes and the expenditure of public money and scrutinising the Executive);
  - (d) **practicable and cost effective** – the costs to participants and regulators are proportionate to the benefits and objectives.
87. These criteria are weighted so that democratic accountability is of most importance, and all other criteria are weighted the same.

## What options are being considered?

88. Three overall options for consideration at referendum have been identified:

- **Option 1:** Status Quo: Three-year term of Parliament
- **Option 2:** Hold a referendum on a four-year term of Parliament
- **Option 3:** Hold a referendum on a variable term of Parliament (the Bill option):
  - Option 3A: A variable term of Parliament, with an Order in Council mechanism to extend the term.
  - Option 3B: A variable term of Parliament, with a House Resolution mechanism to extend the term.

### Option 1 – Status Quo: Three-year term of Parliament

89. Under current law, Parliament can run no longer than three years after the date fixed for the return of the writ for the preceding general election and a general election must be held once the term has ended.<sup>74</sup> At the end of this three-year period unless it has already been dissolved, Parliament expires.

### Option 2 – Hold a referendum on a four-year term of Parliament

90. Under this option, a referendum would be held to consider changing the maximum term of Parliament to four years. Some wider settings could require consequential amendment to account for the additional year of the parliamentary term. There would be no legislative changes to any wider 'checks and balances'.

91. Parliament may choose to update its procedures and practices in-line with a four-year term. For example, the Office of the Clerk has suggested a possible process, under which the House could develop a package of procedural changes to accompany a bill for a four-year term. The Office has noted that developing procedural changes in tandem with a bill is an established process, as was recently demonstrated during the House's consideration of the New Zealand Bill of Rights (Declarations of Inconsistency) Amendment Bill and associated sessional order. The specific details of any review, and any recommended changes, would be led by the Standing Orders Committee.

### Option 3 – Hold a referendum on a variable term of Parliament (the Bill option)

92. Under this option a referendum would be held to consider changing to a variable term of Parliament. This option reflects the policy set out in the proposed *Constitution (Enabling a 4-Year Term) Amendment Bill* (as per coalition agreement with the ACT Party), subject to some policy and drafting clarifications.

93. The explanatory note indicates that the Bill's purpose is to improve law making, while also improving the checks and balances on Executive government by improving Parliamentary oversight.

94. Under the proposed Bill the standard term of Parliament would still be three years, with potential to extend the term of Parliament to four years if the membership of select committees is proportionate to non-Executive party membership.

95. There are two sub-options within Option 3. The following policy clarifications would apply to both options 3A and 3B:

- (a) Even if the select committee proportionality pre-condition is met there is discretion on whether to extend the maximum term of Parliament.
- (b) If the term of Parliament has been extended to four years but select committee proportionality later changes during that term of Parliament, the term would stay at four years (i.e. it would not revert back to three years).

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<sup>74</sup> Constitution Act 1986, section 17(1), and Electoral Act 1993, section 125.



- (c) Under a variable term of Parliament, the maximum term of Parliament would be four years, but there would be no minimum term of Parliament (in line with the current three-year term, the Prime Minister can call an early election).

96. The main difference between the two sub-options is the mechanism used to extend the term of Parliament:

- Option 3A: A variable term of Parliament, with an Order in Council mechanism to extend the term.
- Option 3B: A variable term of Parliament, with a House Resolution mechanism to extend the term.

#### *Option 3A*

97. Option 3A follows the Act Party's current draft Bill more closely. The Bill provides that, if the select committee proportionality pre-condition is met within a specified period of time after the first meeting of Parliament following a general election, the Governor-General may, by an Order in Council, on the advice of the Prime Minister, extend the term of Parliament.

98. Clarifications of detailed settings under Option 3A include:

- (a) The Prime Minister will be required to consult with the following people prior to providing advice to the Governor-General: the Speaker, the Leader of the Opposition, the leader of every party represented in Parliament, and any independent MPs.
- (b) The time period within which an Order in Council to extend the term of Parliament can be made is within 10 sitting weeks of the first meeting of Parliament after a general election.
- (c) Key settings that enable a four-year term will be entrenched, alongside the existing provision that currently entrenches the three-year term of Parliament. This includes:
  - That the term of Parliament may be extended to four years, by the Governor-General via Order in Council, on the advice of the Prime Minister.
  - Prior to the step above, that the Prime Minister must be satisfied that the permanent membership of select committees is proportionate to the non-Executive parliamentary party membership.

#### *Option 3B*

99. Under option 3B the mechanism used to extend the term of Parliament is a House Resolution, rather than an Order in Council. Under this option, high-level settings would be included within legislation but matters relating to House procedures (including detailed Select Committee arrangements and House motions) would be left for Standing Orders. This mechanism would also include a Proclamation by the Governor-General, similar to the process set out in section 18 of the Constitution Act 1986.<sup>75</sup>

100. The House resolution process would need to occur within three months of the first meeting of Parliament after a general election.

101. Key settings that enable a four-year term will be entrenched, alongside the existing provision that currently entrenches the three-year term of Parliament. This includes:

- the select committee pre-condition, and
- that the term of Parliament may be extended to four years by resolution of the House.

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<sup>75</sup> See section 18 *Summoning, proroguing, and dissolution of Parliament*, Constitution Act 1986.



| How do the options compare to the status quo?   | Option 1<br>Three-year term<br>(Status Quo) | Option 2<br>Hold a referendum on a four-year term of<br>Parliament   | Option 3A<br>Hold a referendum on a variable term of<br>Parliament (with Order in Council mechanism)<br>(the Bill option)   | Option 3B<br>Hold a referendum on a variable term of<br>Parliament (with House resolution mechanism)<br>(amended Bill option)   |
|---|---|--|---|---|
| a. <b>democratic accountability</b> – the system enables voters to hold governments to account  | 0   | - While there would still be regular opportunities for voters to hold governments to account, as it would be less frequent, this option has been assessed as slightly weaker than the status quo.<br>+ Taking a straightforward topic to a referendum.   | - - A variable term would result in significant uncertainty as to when voters can hold government to account, and risks undermining the legitimacy of Parliament.<br>0 Taking a complex topic to a referendum.  | - - A variable term would result in significant uncertainty as to when voters can hold government to account, and risks undermining the legitimacy of Parliament.<br>0 Taking a complex topic to a referendum.  |
| b. <b>consistency with other legal and constitutional principles</b> including the Treaty of Waitangi   | 0   | 0  | - - Several settings within the proposal are not consistent with key constitutional settings, including:<br>• Given the constitutional significance of the term of Parliament, a variable term would introduce significant uncertainty.<br>• Prescribing Select Committee arrangements in legislation would interfere with ability of the House to control its own procedure.<br>- - Order in Council mechanism out of step with legal and constitutional principles, including that:<br>• the Executive would have the power to determine the length of the term,<br>• S9(2)(g)(i) | - Several settings within the proposal are not consistent with key constitutional settings, including:<br>• Given the constitutional significance of the term of Parliament, a variable term would introduce significant uncertainty.<br>• Still significant potential for proposal to interfere with the ability of the House to control its own procedure given legislation would directly link an extension of the term to select committee arrangements.<br><br>- House resolution mechanism better overall than Order in Council mechanism under Option 3A, given the House would consider and agree the matter, rather than the Executive. S9(2)(g)(i)<br><br>However, overall, extending the term in this manner is highly unusual constitutionally. |
| c. <b>effective government and Parliament</b> – governments have time to effectively meet their responsibilities and Parliaments can exercise their functions as effectively as possible  | 0   | 0 A four-year term would allow more time, but there is no guarantee this would result in improvements to policy and law making, or that similar improvements couldn't be achieved in other ways while retaining a three-year term (such as changes to policy making processes, oversight and scrutiny provisions) so assessed as about the same as the status quo. | - Variability could create inefficiencies as agencies operationalise changes or have increased uncertainty.<br>0 If term sometimes extended to four years, it would allow more time on occasion, but no guarantee this would result in improvements to policy and law making, so assessed as about the same as the status quo.<br>+ Opposition-majority select committees may improve executive scrutiny.<br>- However, opposition-majority select committees may also result in perverse incentives (e.g. by-passing or reducing select committee consideration of legislation).   | - Variability could create inefficiencies as agencies operationalise changes or have increased uncertainty.<br>0 If term sometimes extended to four years, it would allow more time on occasion, but no guarantee this would result in improvements to policy and law making, so assessed as about the same as the status quo.<br>+ Opposition-majority select committees may improve executive scrutiny.<br>- However, opposition-majority select committees may also result in perverse incentives (e.g. by-passing or reducing select committee consideration of legislation).   |
| d. <b>practicable and cost effective</b> – the costs to participants and regulators are proportionate to the benefits and objectives  | 0   | 0 Potential increased efficiencies across the public service, but as with (c) above, no guarantee that a longer term, in itself, would result in improvements; overall assessed as about the same as the status quo.   | - - Practical complexities when elections could be every three or four years, including for the Electoral Commission to deliver elections, especially if general and local elections occasionally coincide, as well for a range of other participants.  | - - Practical complexities when elections could be every three or four years, including for the Electoral Commission to deliver elections, especially if general and local elections occasionally coincide, as well for a range of other participants.  |
| <b>Overall assessment</b>   | 0   | 0  | - -   | - -   |
| <b>Key for options analysis qualitative judgements</b><br>++ much better than doing nothing/the status quo, + better than doing nothing/the status quo, 0 about the same as doing nothing/the status quo,<br>- worse than doing nothing/the status quo, - - much worse than doing nothing/the status quo<br><b>NOTE – Criteria 'a' is weighted stronger, all other criteria are then weighted the same.</b> |   |  |   |   |



## What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

102. The Ministry of Justice does not have a formal position on whether the term of Parliament should be three or four years. The Ministry considers that there is merit in considering a potential change to the term of Parliament, but that any change should be considered by the public via a referendum.
103. Of the main options assessed in the context of coalition agreement commitments (and what should be considered at a referendum), the Ministry considers that a referendum should consider a four-year term (Option 2) as an option alongside the status quo (Option 1). The Ministry has significant concerns with holding a referendum on a variable term of Parliament proposal (Options 3A and 3B).

### Overall comments

104. Given the limited evidence and mixed views, the assessment of Options 1 (status quo) and 2 (Holding a referendum on a four-year term of Parliament) are relatively similar.
- While there is general agreement about the overall objectives of a limited term of Parliament, there are varying views on whether the current three-year term already achieves the right balance between the two main objectives of a limited term of Parliament, or whether an extension would be desirable. In addition, some stakeholders who support a change to a four-year term, consider that there should also be some additional checks and balances alongside a four-year term to enhance government accountability.
  - Reducing the frequency of elections may reduce the costs associated with elections, although some of these costs may be offset, to an extent, by other additional costs associated with less frequent elections (for example, the potential for more by-elections). Holding elections less frequently may be more efficient, but only if the reduction in costs is greater than the reduction in democratic benefits (i.e. a more regular opportunity for the public to hold their leaders accountable).
  - Overall, there is little research, data, or evidence that can be used to assess whether longer parliamentary terms do objectively deliver the potential benefits of better decision-making and legislation, greater public engagement, parliamentary scrutiny, and enhanced longer-term planning. However, a straightforward extension to a four-year parliamentary term has valid arguments for and against that the public should be able to share their views upon at referendum. This is illustrated by the recommendation of the IER panel.
105. Options 3A and 3B (Holding a referendum on a variable term of Parliament / the Bill) has been assessed as being worse or much worse than Option 1 (status quo) on most criteria and therefore, overall, significantly worse given the constitutional and practical complexities with the option. While some concerns with Option 3 are mitigated under Option 3B compared to Option 3A, based on the mechanism that would be used to extend the term of Parliament, there are still significant concerns with Option 3B.

### Key constitutional and practical concerns with Option 3

*A variable term of Parliament would undermine democratic accountability and risks undermining the legitimacy of Parliament and its exercise of public decision-making powers*

106. The term of Parliament is constitutionally significant and is entrenched. Entrenchment is typically limited to significant matters, including those that relate to the legitimacy of the government, and recognises the need for long-term certainty.
107. However, under a variable term of Parliament, the maximum term could fluctuate from election to election. Voters will not have long-term certainty about how often they will be able to hold the government to account. Moreover, prior to each general election there would be uncertainty about the length of the upcoming parliamentary term. Voters

may therefore struggle to make an informed choice at general elections. People could also become less engaged in the democratic process.

108. A variable term of Parliament would also risk:

- creating uncertainty for the public, local government, businesses and communities in terms of how frequently there may be changes to government policy.
- complicating processes that may be connected to the parliamentary term:
  - Some wider public sector processes currently occur at least once every 3-year period, so may be intended to occur once per term of Parliament (for example, departments must provide information on its strategic intentions<sup>76</sup> and crown entities must provide a statement of intent<sup>77</sup> at least once in every 3-year period). There may be uncertainties about the required frequency of such activities.
  - Local government elections are currently fixed at every three years but there could be significant practical challenges if sometimes local government elections coincided with the general election.

109. Under either sub-option, an agreed clarification is that once a mechanism has been used to extend the term of Parliament, it will not be possible for the term to change back to a three-year parliamentary term even if select committee proportionality changes. Overall, this is intended to mitigate the significant uncertainty of what would happen if select committee proportionality changed during a term of Parliament that has been extended to four years.

110. This creates a risk the term of Parliament could remain extended without retaining the additional scrutiny expected, which would defeat the purpose of the condition. However, the alternative would require the statute to provide that, if the maximum term of Parliament is extended, select committee membership must remain in line with the proportionality pre-condition. This would significantly intrude into the ability of the House to control its own procedure.

*A variable term of Parliament could create significant practical challenges*

111. A variable parliamentary term could create practical challenges. The general election is an operationally complex event and requires significant lead-in time for the Electoral Commission to prepare. There would especially be practical challenges if the general election and local government elections coincide.

112. Local government election dates are currently fixed in legislation every three years and are intended to never coincide with the general election, although it is possible if an early parliamentary election were called. Under a variable term of Parliament, general and local elections would occasionally fall within the same year.

*A variable term of Parliament, and the specific settings to enable a four-year term of Parliament, are inconsistent with other legal and constitutional principles*

113. Some settings within the Bill under Option 3 are out of step with long-standing constitutional principles. Given the constitutional significance of the term of Parliament, a variable term would introduce significant uncertainty and unnecessary complexity to a fundamental setting for which it is essential there is long-term certainty. A variable term of Parliament could also risk politicising the parliamentary term and process to extend it, which is out of step historically with the approach to amending the term of Parliament.

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<sup>76</sup> Public Finance Act 1989, section 38.

<sup>77</sup> Crown Entities Act 2004, section 139.



114. Linking select committee arrangements to the term of Parliament in primary legislation would encroach on the right of the House of Representatives to control its own operations and the separation of powers.
115. Both sub-options either would, or would have significant potential to, encroach into House procedures. In particular, settings relating to select committee arrangements:
- A long-standing feature of our constitutional arrangements is that Parliament determines Parliamentary procedures and practices. Standing Orders set out the rules of procedure for the House and its committees.<sup>78</sup>
  - Changes to Standing Orders are managed through the Standing Orders Committee, which has been empowered to review the Standing Orders, procedures and practices of the House.<sup>79</sup>
  - The settings under option 3A include specifying detailed matters relating to select committee arrangements in primary legislation. This directly encroaches into House matters.
  - The detailed settings for option 3B will need to be carefully considered during the drafting process to minimise as far as possible the inclusion of House procedures and processes in primary legislation. Overall, however, directly linking an extension to the term of Parliament to select committee proportionality in primary legislation in and of itself could be considered to already intrude on House processes.
116. Some aspects of Option 3 are out of step with the separation of powers, including the separation between the legislature and the judiciary. More details on this are set out under each specific option below, as the two potential mechanisms used to extend the term of Parliament have different implications in terms of the extent to which the principle may be infringed.

*Option 3A: Order in Council mechanism*

117. A key concern with this Option is that the Bill uses an Order in Council mechanism to extend the term. This is constitutionally problematic, as in effect it is giving the Executive the power to determine the maximum term of Parliament.
118. Policy clarifications proposing to entrench wider provisions (as set out above) mitigate one of the key concerns with the Order in Council mechanism. However, more generally, having the ability to use an Order in Council mechanism to change a setting for which there needs to be long-term certainty still has the potential to undermine the legitimacy of Parliament (as outlined above).
119. Another key concern with the Order in Council mechanism is that **S9(2)(g)(i)**

This can be considered particularly problematic given the constitutional significance of the term of Parliament and the need for certainty.

*Option 3B: House resolution mechanism*

120. Overall, having a process to extend the term of Parliament at the start of each term of Parliament is a highly unusual process. However, using a House resolution mechanism to do this mitigates, to an extent, some of the key concerns with the Order in Council mechanism outlined under Option 3A.
121. In particular, the mechanism used under Option 3B would ensure that the House has considered and agreed to the matter, which would be preferable in light of the select

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<sup>78</sup> [Standing Orders - New Zealand Parliament \(www.parliament.nz\)](https://www.parliament.nz), published with the authority of the House of Representatives 2017 and last updated 2023.

<sup>79</sup> The Standing Orders Committee typically carries out a review every three years (at the end of a Parliamentary term) but is able to initiate reform at any time.

committee proportionality precondition and the relationship to House practice and procedure. S9(2)(g)(i)

### What are the marginal costs and benefits of the options?

122. There is generally limited evidence or research to assess whether longer terms of Parliament do deliver the potential benefits of better decision-making and legislation, greater public engagement, parliamentary scrutiny, enhanced longer-term planning, and lower economic costs. Nor is there evidence of the benefits of potential additional Executive scrutiny mechanisms. Finally, it is also difficult to predict behaviours and outcomes are uncertain.
123. Cost/benefit information is therefore very limited with a low confidence factor, although some election costs may be quantifiable. The table below has considered the relative costs/benefits of both Option 2 and Option 3B compared to the status quo, with a focus on costs/benefits over the long-term. The costs and benefits set out below are therefore based on a 12-year timeframe.

| Option 2 (Ministry of Justice preferred option for consideration at referendum) |  |   |  |
|---|--|---|--|
| Affected groups (identify)  | Comment<br><i>nature of cost or benefit (e.g. ongoing, one-off), evidence and assumption (e.g. compliance rates), risks.</i>   | Impact<br><i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts.</i> | Evidence Certainty<br><i>High, medium, or low, and explain reasoning in comment column.</i>  |
| Additional costs of proposed approach compared to taking no action              |  |   |  |
| Political parties   | There may be some additional costs associated with one less election over a 12-year period, for example to maintain party membership.  | Low Non-monetised   | Low – Unclear in practice what potential additional costs there may be.  |
| Electoral Commission  | Additional costs might include<br>- more by-elections e.g. in a 12-year period there could be an estimated additional 3 by-elections (the cost of a by-election in 2023 was \$1.553m <sup>80</sup> )<br>- additional processes to keep electoral rolls up to-date if main update processes occur every four years rather than every three years. | Medium Some monetised estimates, and some non-monetised   | Medium – While some additional costs are likely, it is not clear at this stage how much these might be for specific additional costs (e.g. difficult to estimate how many more by-elections there might be), and in total. |
| Wider government  | There may be some costs for government agencies if some 'business-as-usual' processes occurring once a term, occurred less frequently.   | Low Non-monetised   | Low - Unclear in practice what potential additional costs there may be.  |
| Total monetised costs   | No monetised costs (limited estimates only).   | Unknown   | N/A  |
| Non-monetised costs   | Some long-term non-monetised costs.  | Low   | Low  |
| Additional benefits of proposed approach compared to taking no action           |  |   |  |

<sup>80</sup> Sourced from the Electoral Commission.



|  |  |  |   |
|--|--|--|---|
| Political parties  | Potentially some cost savings from less frequent elections (e.g. less frequent election campaigning), if one fewer election in a 12-year period.   | Medium Non-monetised   | Low – Unclear in practice what potential cost-savings there may be.   |
| Electoral Commission   | <p>Potentially some cost savings from less frequent elections. (e.g. in a 12-year period there might be three general elections, rather than four).</p> <p>The Electoral Commission presently estimates that delivering a similar election to the 2023 General Election would cost \$288m over the three-year period to 2026, and a four-year election cycle is estimated to cost \$328m,<sup>81</sup> allowing for an additional year of fixed costs for the Electoral Commission.</p> <p>Over 12 years if all election cycles were of a four-year period, this equates to an uninflated saving per year of \$14 million.</p> | Low Some monetised, some non-monetised   | Medium – Unclear what other additional costs may evaluate in practice and therefore how much any potential savings could be offset.             |
| Public/voters  | <p>Potentially some benefits from improved policy and law making.</p> <p>Potentially some reduction of barriers to major structural reform that bring long-term benefits to society.</p>   | Medium Non-monetised   | Low – Unclear in practice if these processes would improve, nor whether would result in more major structural reform that would bring benefits. |
| Businesses   | Potentially some benefits from less frequent elections (i.e. three over twelve years, not four). For example, more certainty when less frequent change in government policy.   | Medium Non-monetised   | Low – Unclear in practice how much this might impact businesses.  |
| <b>Total monetised benefits</b>  | No monetised benefits (limited estimates only).  | Unknown  | N/A   |
| <b>Non-monetised benefits</b>  | Some non monetised benefits over the longer term.  | Medium   | Medium  |
| <b>Option 3B (Minister preferred option for consideration at referendum)</b> |  |  |   |
| <b>Affected groups (identify)</b>  | <b>Comment</b><br><i>nature of cost or benefit (e.g. ongoing, one-off), evidence and assumption (e.g. compliance rates), risks.</i>  | <b>Impact</b><br><i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts.</i> | <b>Evidence Certainty</b><br><i>High, medium, or low, and explain reasoning in comment column.</i>  |
| <b>Additional costs of proposed approach compared to taking no action</b>    |  |  |   |
| Political parties  | There may be some additional costs associated with less frequent elections, for example, to maintain party membership, if on occasion there is a four-year term.   | Low Non-monetised  | Low – Unclear how often elections would be and therefore whether any additional costs.  |

<sup>81</sup> There would be some minor risks around increased costs as the decoupling of the General Election cycle from the local body election cycle may result in increased costs due to a reduction in efficiencies and increased staff being required to manage both activities at the same time when the events coincide.



|  |   |   |  |
|--|---|---|--|
| Electoral Commission   | <p>If sometimes a general election occurred every four-years rather than every three years, there may be some additional costs but it is not possible to know over a 12-year period how often there may be a three-year or a four-year term and therefore if there would actually be any additional costs.</p> <p>For any term of Parliament that was extended to four-years additional costs might include:</p> <ul style="list-style-type: none"> <li>more by-elections e.g. an estimated one additional by-election that term (the cost of a by-election in 2023 was \$1.553m)<sup>82</sup></li> <li>additional processes to keep electoral roll updated.</li> </ul> | Medium- Some monetised and some non-monetised | Low – While some additional costs are likely if there was, on occasion, a four-year term, it is unknown how often this might be and therefore how often any additional costs may even uate. Even when there s a four-year term it is not clear how much this might be for specific additional costs (e.g. difficult to estimate how many by-elections there might be), and cumulatively. |
| Wider government   | There may be some additional costs for government agencies to adapt 'business-as-usual' processes to function under a variable election cycle.  | Low Non-monetised                             | Low - Unclear in practice what potential additional costs there may be.  |
| Businesses   | There may be some costs for businesses resulting from the uncertainty of how frequently an election might be and therefore potential for change of government policy.   | Medium Non-monetised                          | Low - Difficult to estimate impact on businesses from the potential uncertainty.   |
| <b>Total monetised costs</b>   | No monetised costs.   | Unknown                                       | Low  |
| <b>Non-monetised costs</b>   | Potentially some non-monetised costs over the long term.  | Medium  | Low  |
| <b>Additional benefits of proposed approach compared to taking no action</b> |   |   |  |
| Political parties  | There may be some benefits of potentially having the costs of an election campaign less frequently.   | Low Non-monetised                             | Low - Unclear how often elections would be every three years or every four years and therefore whether any additional benefits.  |
| Electoral Commission   | Potentially some cost savings from less frequent elections sometimes, but under the proposal it is not possible to know over a 12-year period how often there may be a three-year or a four-year term.  | Low - Some monetised and some non-monetised   | Low – Unclear how often there would be a four-year term or a three-year term, therefore whether any cost savings would occur.  |
| Public/voters  | <p>There is potential for some benefits if sometimes there was a four-year term, for example:</p> <ul style="list-style-type: none"> <li>some benefits from improved policy and law making,</li> </ul>  | Low Non-monetised                             | Low – Unclear how often there would be a four-year term and in practice if these processes would   |

<sup>82</sup> Sourced from the Electoral Commission.



|                                 |  |                   |   |
|---------------------------------|--|-------------------|---|
|                                 | <ul style="list-style-type: none"> <li>potentially reduce some barriers to major structural reform that bring long-term benefits to society.</li> </ul> <p>However, overall given the uncertainty of a variable term of Parliament, and that it could vary from term to term, these benefits may be limited.</p>   |                   | improve, nor whether would result in more major structural reform that would bring long-term benefits.          |
| Businesses                      | <p>Potentially some benefits from less frequent elections (for example, more certainty when potential for less frequent change in government policy).</p> <p>However, overall given the uncertainty of a variable term of Parliament, and that it could vary from term to term, these benefits may be limited.</p> | Low Non-monetised | Low – Unclear how often there would be a four-year term, and in practice how much this might impact businesses. |
| <b>Total monetised benefits</b> | No monetised benefits.   | Unknown           | Low   |
| <b>Non-monetised benefits</b>   | Limited non-monetised benefits over the long term.   | Low               | Low   |

## Section 3: Delivering an option

### How will the new arrangements be implemented?

124. A change to a maximum four-year term of Parliament (Option 2) or a variable term of Parliament (Option 3) would come into effect if the option were successful at referendum. The specific details of any referendum (if held) are still to be worked through, but at this stage key indicative timeframes could be:
  - a) A binding referendum held alongside a general election, for example the next election likely in 2026.
  - b) If successful, the four year term of Parliament or a variable term of Parliament would come into effect approximately three years after the referendum – i.e. from the start of the Parliament after the next General Election (likely to be in 2029).
125. Implementation from the start of the Parliament after the 2029 General Election allows for appropriate implementation processes and protects the integrity of the democratic process. It would not be considered appropriate for the change to be implemented from 2026 as voters at the 2026 General Election would not know at that time how long the next term would be.
126. Under any option, the outcome of the referendum would be communicated to the public following the relevant General Election. The Electoral Commission would then play an important role, including by communicating with the public about the timing and ways to enrol to vote and update their enrolment details under any new parliamentary term.

### Change after a referendum on a four-year term of Parliament (Option 2)

127. If Option 2 were taken to referendum, alongside the status quo, and were successful, then a change to a maximum four-year term of Parliament would need to be implemented.
128. The Electoral Commission would need to update its processes and procedures to move from delivering a general election every three years to every four years. For example, in theory, if the term of Parliament was extended following the 2029 General Election, the next General Election would be in 2033. Noting that there would still be the potential for an 'early' election to be held sooner than the new four-year frequency.

129. Parliament would be responsible for updating any processes and procedures that relate to the term of Parliament, including where relevant any Standing Orders, in time for the relevant Parliament (e.g. the one that starts after the 2029 General Election).
130. Other stakeholders, including political parties, would also need to adapt their processes and procedures to a four-year electoral cycle, rather than the current three-year cycle.
131. Other matters that have some connection to the current three-year term of Parliament would need to be considered for any potential implications flowing from a four-year term of Parliament, and whether changes might be appropriate to align with this.
132. Local government elections are not in scope of this proposal and any changes to them would need to be considered separately. Currently, local government elections are legislated to occur every three years. If the local government term were to remain at three years, while the parliamentary term was extended, there may be occasions where both parliamentary and local government elections occur in the same year. This would cause operational complexities as well as potentially confuse voters.

### **Change after a referendum on a variable term of Parliament (Option 3)**

133. If Option 3 were taken to referendum, alongside the status quo and were successful, then a change to a variable term of Parliament would need to be implemented with the possibility of a four-year term if the relevant conditions are later met.
134. Many of the implementation matters outlined above would also be relevant under a variable term of Parliament. However, they would apply differently depending on whether the term of Parliament had been extended to a four-year term of Parliament at the beginning of a new parliamentary term following each General Election. Parliament would be responsible for updating any relevant processes and procedures, including any changes to Standing Orders resulting from Option 3, as appropriate, and may do so only after the Bill had been enacted.
135. The proposed Bill specifies the time period within which a decision needs to be made at the start of a new term of Parliament, so the term length would be known relatively soon after an election.
136. In practice there might sometimes be a three-year term and at other times a four-year term. Overall, the Electoral Commission would need to be able to plan to deliver a general election under either option, i.e. every three years or four years. The Electoral Commission would likely therefore need to have processes in place whereby the default continues to be that it runs a general election every three years, but with the potential for up to one additional year before delivering the next general election.
137. Under current settings, the Electoral Commission needs to be in a position to deliver a general election at essentially any time, if the Prime Minister advises the Governor-General to call an “early” election. It is unknown how often early elections may be called under a variable term of Parliament.
138. Other stakeholders, such as political parties and public sector agencies, would also need to consider how to adapt any processes and procedures so they can function under a variable term of Parliament (i.e. if the term is extended to four-years after a general election).
139. Similar concerns raised above about local government elections would also occur under this option. However, it could be impossible to ever protect against both local and parliamentary elections occurring in the same year if one term length was fixed and the other variable. This would create significant operational complexities and ongoing uncertainty for voters about the overlap of local and parliamentary elections.

## How will the new arrangements be monitored, evaluated, and reviewed?

### Change after a referendum on a four-year term of Parliament (Option 2)

140. Relevant public sector agencies and select committees will be responsible for monitoring and reviewing specific aspects of a change to a four-year term of Parliament as appropriate, if a referendum is held on this option and is successful.
141. This includes, for example, that:
- (a) the Electoral Commission carries out regular reviews after every general election, so it is expected any regular review following the relevant general election (e.g. 2033, based on timing noted above) would take into account any relevant matters pertaining to a shift from delivering a general election every three years to every four years.
  - (b) the Justice Committee also conducts regular inquiries following each general election and, as part of an inquiry into the conduct of the relevant general election, it may wish to consider any matters relevant to elections being held every four years rather than every three years.
  - (c) the Standing Orders Committee regularly review Standing Orders, so it is expected it would review any Standing Orders in light of any change to a four-year term of Parliament when it sees fit.

### Change after a referendum on a variable term of Parliament (Option 3)

142. The above monitoring and review mechanisms would also be relevant under a variable term of Parliament, if a referendum is held on this option and is successful. However, it is expected that the relevant agencies and select committees would only be likely to specifically review matters relating to the term of Parliament if it has actually been extended to four years.

### Overall regulatory stewardship

143. The implementation of a shift to a maximum four-year term of Parliament or a variable term of Parliament is some time away, given:
- (a) Any change is dependent on the outcome of a referendum;
  - (b) If a referendum is successful, the earliest any change to the term of Parliament might start is following the next relevant general election (i.e. likely 2029).
144. Assessing the impacts of a change to a four-year term of Parliament would likely take some time following this to allow for processes to bed-in and, under a variable term, for the potential mechanisms to be used.
145. While no specific post-implementation reviews are planned at this stage, the Ministry of Justice, as the agency responsible for administering the Constitution Act 1986, will continue to monitor the implementation of any change as part of its regulatory stewardship role.
146. In addition, given the constitutional significance of the term of Parliament, it is expected that there will be ongoing interest in the topic from a range of stakeholders, including the media and academics.