Chapter 3

Discussion on a plebiscite

Introduction

3.1 This chapter sets out a more detailed discussion on a plebiscite on the issue of marriage, with specific reference to the Marriage Equality Plebiscite Bill 2015 (bill), including:

- options for the framework for the conduct of a plebiscite;
- content and implications of a question to be put to electors;
- the cost of a plebiscite; and
- the timing of a plebiscite.

Conduct of a plebiscite

3.2 At the public hearing Mr Tom Rogers, the Australian Electoral Commissioner, advised that in the case of a plebiscite, the legislative framework for the vote would be determined by the Parliament in the enabling legislation for the specific ballot.[1] Mr Rogers continued:

> [We] notice with the bill before us that it speaks of the plebiscite being conducted as a referendum. One would make some assumptions about that therefore looking like a referendum. It would look like an electoral event, with the same sorts of provisions and offences that would apply at an electoral event.[2]

3.3 Mr Paul Pirani, Chief Legal Officer, Australian Electoral Commission (AEC), confirmed that it is possible for a plebiscite to be held without the Parliament passing enabling legislation. Mr Pirani explained that the plebiscite would be conducted as a fee-for-service election pursuant to section 7A of the *Commonwealth Electoral Act 1918* (Electoral Act).[3]

3.4 Were a plebiscite to be held as a fee-for-service election, Mr Rogers informed the committee:

> I would presume that those provisions that we have been talking about in the [enabling] legislation would be outlined in a memorandum of understanding between [the AEC] and the department that is paying for the plebiscite, and we would follow the guidelines that are in that memorandum

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1 *Committee Hansard*, 10 September 2015, p. 39.

2 *Committee Hansard*, 10 September 2015, p. 39.

3 *Committee Hansard*, 10 September 2015, p. 42. The AEC has conducted a fee-for-service election in the form of a plebiscite in 2007 in Queensland for the purposes of council amalgamations. The plebiscite used a voluntary postal vote methodology, see AEC, *Submission 26*, p. 6.

> of understanding. It is essentially a commercial election for [the AEC] if it is run on that basis.[4]

Framework in the Marriage Equality Plebiscite Bill 2015

3.5 In its submission, the AEC commented on the application of the *Referendum (Machinery Provisions) Act 1984* (Referendum Act) to the conduct of the plebiscite proposed in the bill:

> Clause 8 of the Bill states that the provisions of the Referendum Act would apply "to the submission of the question…and the scrutiny of the result of the plebiscite with such modifications as are necessary to allow the submission of the question and scrutiny of the result on the same basis as a referendum under that Act". As there are a range of specific provisions in the Referendum Act that regulate the conduct of a referendum, it is not clear from the terms of the Bill whether this clause has the legal effect of requiring the operation of all the necessary Referendum Act requirements.[5]

3.6 The AEC recommended that any bill proposing a plebiscite should specify which, if any provisions of the Referendum Act and the Electoral Act are to apply.[6]

Compulsory voting

3.7 A note to clause 8 of the bill, which applies the provisions of the Referendum Act to the conduct of the plebiscite proposed in the bill, states that voting is compulsory under the Referendum Act.

3.8 A number of submissions and witnesses supported compulsory voting if a plebiscite was held on the issue of marriage.[7] Australian Marriage Equality outlined the following concerns in relation to a plebiscite with non-compulsory voting:

> This will means fewer voters than usual will engage and the result may not accurately represent the sentiment of the Australian voting population. For example, many younger voters have never experienced a plebiscite and may not understand its significance. Many voters will also be conflicted or unhappy about voting on marriage equality if they believe parliament should resolve the matter, and/or if they know the non-binding nature of a

4 *Committee Hansard*, 10 September 2015, p. 42.

5 *Submission 26*, p. 5.

6 *Submission 26*, p. 5.

7 See for example, Australian Catholic Bishops Conference, *Submission 24*, p. 7; NSW Parliamentary Working Group on Marriage Equality, *Submission 27*, p. 12; Australian Marriage Equality, *Submission 17*, p. 12; Victorian Gay & Lesbian Rights Lobby, *Submission 29*, p. 8; Mr Rocco Mimmo, Founder and Chairman, Ambrose Centre for Religious Liberty, *Committee Hansard*, 10 September 2015, p. 2; Mr Lyle Shelton, Managing Director, Australian Christian Lobby, *Committee Hansard*, 10 September 2015, p. 9; Ms Toni Kelleher, Victorian President, Australian Family Association, *Committee Hansard*, 10 September 2015, p. 10.

> plebiscite means the matter ultimately be resolved by parliament regardless of how they vote.[8]

Content and implication of a question to be put to electors

3.9 A number of submissions expressed a preference for consultation on the framing of the question. For example, the Gilbert+Tobin Centre for Public Law noted that '[a]s a matter of good practice, the wording of the question should be tested for clarity and fairness through public research'.[9]

3.10 Professor Geoffrey Lindell AM indicated he supported a process of having the form of the question for a plebiscite agreed to by the Parliament:

> This would help to minimise the chances of the wording being distorted by one or other sides to the debate on the issue in the hope of unfairly influencing the result of the popular vote.[10]

3.11 Professor Anne Twomey agreed that the question should be approved by the Parliament, but also that it should be first tested by an independent body to ensure that it does not give rise to ambiguity or confusion.[11]

3.12 The New South Wales Parliamentary Working Group on Marriage Equality (NSW Parliamentary Working Group) supported a question 'in simple plain English'.[12] Further:

> The question should also be respectful and inclusive of all people, regardless of their sex or gender identity. It should ensure that a 'yes' vote is supportive of marriage equality, and not set up different categories or requirements for marriage.[13]

The question in the bill

3.13 As discussed in Chapter 1, the bill proposes that the question to be put to electors at the plebiscite be:

> Do you support Australia allowing marriage between 2 people regardless of their gender?[14]

3.14 The NSW Parliamentary Working Group considered the use of the term 'gender' in the bill anomalous;

> [T]he question posed in the Bill, may, in the Working Group's view, raise unnecessary confusion through the use of the term "gender" as opposed to "sex".

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8 *Submission 17*, p. 7.

9 *Submission 11*, p. 2.

10 *Submission 4*, p. 5.

11 *Submission 6*, p. 4.

12 *Submission 27*, p. 15.

13 *Submission 27*, p. 15.

14 Clause 6 of the Marriage Equality Plebiscite Bill 2015.

…

> [T]he definition introduced into the [*Marriage Act 1961*] in 2004 sought to codify the then existing expectation, that being that two people of differing, or opposite, sex were entitled to marry. The amendment that is now sought to be made to the Marriage Act 1961 is one that addresses the sex of the parties to the marriage, not their gender.[15]

3.15 The NSW Parliamentary Working Group indicated a preference for the following question:

> Do you agree that Australia should allow marriage between two adult people regardless of their sex?[16]

3.16 Professor Lindell stated his preference for a different question:

> Do you approve of an alteration to the law for the purpose of recognising marriages between two persons of the same-sex whether entered into in Australia or elsewhere?[17]

3.17 Professor Lindell noted that putting this question would make more explicit the recognition of same-sex marriages entered into both in Australia and overseas.[18]

3.18 Mr Christopher Puplick AM and Mr Larry Galbraith noted:

> A critical issue for many people who would nominally support marriage equality is that such legislation should provide for protection for people or organisations who have genuine religious or doctrinal objections. Almost all supporters of marriage equality support this proposition which should be reflected in the question.[19]

3.19 Mr Puplick and Mr Galbraith put forward the following alternative to the question in the bill:

> The question should be for the simple approval/rejection (yes/no vote) of a specific piece of legislation passed by the Parliament which has already dealt with all matters of definition and religious exemptions.[20]

3.20 In contrast to other proposals, Salt Shakers were of the view that the question to be put to the people should affirm the status quo and should not propose the acceptance of same-sex marriage. Salt Shakers suggested the following wording:

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15 *Submission 27*, pp 14-15. The submission by the NSW Parliamentary Working Group explained: 'sex' refers to biological differences; chromosomes, hormonal profiles, internal and external sex organs; 'gender' describes the characteristics that a society or culture delineates as masculine or feminine, see *Submission 27*, p. 14. See also Mr Christopher Puplick AM and Mr Larry Galbraith, *Submission 10*, p. 6.

16 *Submission 27*, p. 15.

17 *Submission 4*, p. 5.

18 *Submission 4*, p. 5.

19 *Submission 10*, p. 7.

20 *Submission 10*, p. 7.

> Do you agree/believe that Australia's Marriage Act should continue to define marriage as between "one man and one woman"?[21]

Implications of a popular vote

3.21 As noted in Chapter 2, one of the key concerns in relation to a plebiscite, was that it was non-binding. Mr Puplick and Mr Galbraith commented specifically on subclause 3(2) of the bill, which provides that 'Parliament will pass any legislation necessary to allow marriage between 2 people regardless of their gender':

> This is to all intents and purposes meaningless since it invokes or establishes no recognised mechanism for giving it effect. In the first instance Parliament could in effect just ignore the provisions and there is no means of enforcing the Parliament to act; or the Parliament could pass an Act to repeal the provisions. No sanctions are provided for non-compliance nor are there any constitutionally available.
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> …
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> The term "any" legislation is equally meaningless since it implies, for instance, that this could be subject to all sorts of qualifications – for example, that both parties be over the age of 50; that neither having ever been married previously; that both be Australian citizens. Such qualifications would meet the requirement of "marriage between two people regardless of their gender" and would be "any" legislation as envisaged by the terms of the Bill.[22]

3.22 In its submission, the Gilbert+Tobin Centre of Public Law agreed that the bill had no legal implications:

> [P]lebiscites "are in effect giant opinion polls to test the public mood on an issue". Consistently with this, no legal implications whatsoever follow from the proposal, enshrined in this Bill, to put this question to electors.
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> The only legal implications of the Bill are procedural and concern the obligations placed upon the Electoral Commissioner and the Minister by [clause] 7 [which deals with the Minister informing Parliament of the results of the plebiscite].[23]

3.23 Both Professor Anne Twomey and Professor George Williams suggested a mechanism by which a successful plebiscite may automatically amend the Marriage Act. As Professor Twomey explained in her submission:

> It would be possible, however, for Parliament to pass a law in advance that would give effect to a successful outcome of the plebiscite (eg to enact a law authorising same-sex marriage), but to place as a condition of the commencement of that Act that it is approved by the people in a plebiscite within six months. This would mean that the passage of the plebiscite

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21 *Submission 15*, p. 2.

22 *Submission 10*, pp 5-6.

23 *Submission 11*, pp 1-2.

> would have the effect of causing the commencement of a change to the law. Failure of the plebiscite would mean the Act would not commence.[24]

Cost of a plebiscite

3.24 In its submission, the AEC stated that it estimated that if a plebiscite were to be conducted as if it were a referendum alongside the next general federal election, the additional cost would be $44.0 million.[25] The AEC indicated that the major items contributing to that additional cost would be:

> i. additional temporary staff to manage the throughput of electors in polling places, noting the extra time required for an additional ballot paper (three instead of two) to be issued and completed;
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> ii. additional paper and storage requirements to manage an additional ballot paper;
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> iii. the design, production and delivery to households of a pamphlet containing arguments for and against;
>
> iv. education and promotion materials to inform electors in regard to the plebiscite.[26]

3.25 If a plebiscite were conducted as a referendum and as a stand-alone event, that is, not in conjunction with an election, the AEC estimated that the total cost would be $158.4 million.[27]

3.26 At the public hearing, Mr Rogers, the Australian Electoral Commissioner summarised:

> The costs of a stand-alone event are very comparable to a normal federal election. We have made some assumptions there that it would be a compulsory voting event. That would mean we would have run a similar number of polling places and similar processes, so it would be a similar cost involved in that event. If we were running a plebiscite, referendum or a plebiscite that looks like a referendum at the time of an election, we would still have to do additional things. There would have to be additional staff to assist us with the increased load. Clearly, there are more printing costs and there are a range of other factors that would make a standard election more expensive.[28]

3.27 However, Mr Rogers cautioned that the costs outlined by the AEC were only indicative:

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24 *Submission 6*, pp 1-2. See also Professor George Williams, *Committee Hansard*, 10 September 2015, p. 33.

25 *Submission 26*, p. 10.

26 *Submission 26*, p. 10.

27 *Submission 26*, p. 10.

28 *Committee Hansard*, 10 September 2015, p. 38.

> Actual cost and other matters would need to be confirmed once the specific parameters of any ballot were finalised.[29]

3.28 Professor Twomey suggested the possibility of reducing the cost of the plebiscite through the use of postal or electronic voting:

> It would be appropriate to consider whether or not the vote could be held as a postal vote, as was the vote for candidates to the 1998 Constitutional Convention, so as to exclude the cost of hiring polling booths and staff for the day. New Zealand currently proposes to hold two plebiscites in December 2015 and April 2016 in relation to a choice of a new flag, both of which will be postal votes run over a three week period.
>
> It could also be used as a trial for electronic voting, given that New South Wales has already undertaken significant work in this area at the most recent NSW State election where 283,669 people voted using 'iVote'. People could be given the choice between a postal vote and an electronic vote. Any postal ballots could be marked in a machine-readable form (rather than hand-writing Yes or No), so that the ballots could be counted efficiently and accurately.[30]

3.29 On the issue of postal votes, Mr Rogers noted that the AEC had deliberately not provided costings on a postal vote as this was not an option that was canvassed in the bill. Mr Rogers indicated that there were many variables in the conduct of an election using a postal vote methodology, and referred to previous postal vote elections to illustrate this point:

> [T]here are many variables in a postal vote. With the [election of delegates to the] Constitutional Convention [in 1997], for example, I think…the return rate on the postal vote was something like 47 per cent, and that is a factor in the cost itself. The legislation determines whether it is compulsory or non-compulsory and how much those costs would be.
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> With the plebiscite in Queensland [for the council amalgamations] I think we had a 57 per cent return rate, for example. I also point out to the committee that only recently Australia Post have announced an increase in costs…So even the size of the yes/no booklet will be a factor in itself on the cost.[31]

3.30 However, Mr Pirani confirmed:

> If parliament were to enact legislation for it to be done as a postal vote it could be conducted as a postal vote.[32]

3.31 In respect of the use of electronic voting for a plebiscite, Mr Rogers noted the Joint Standing Committee on Electoral Matters, *Second interim report on the inquiry*

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29 *Committee Hansard*, 10 September 2015, p. 38.

30 *Submission 6*, p. 3.

31 *Committee Hansard*, 10 September 2015, p. 43.

32 *Committee Hansard*, 10 September 2015, p. 39.

into the conduct of the 2013 federal election: An assessment of electronic voting options, which made the following assessment in respect of electronic voting:

> The report concludes, irrespective of one's philosophical view about electronic voting, that there can be no widespread introduction of electronic voting in the near term without massive costs and unacceptable security risks.[33]

3.32 Mr Rogers emphasised:

> [Electronic voting] is a huge project.
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> I would also point out…that if we were actually talking electronic voting for, essentially, 15 million voters, it might be the largest-ever electronic vote ever conducted. We are talking about a few months to prepare for this. It is not a simple matter of turning on a computer and running an electronic vote; we are talking about a detailed implementation of a very complex issue.[34]

Commonwealth funding to the 'yes' and 'no' campaigns

3.33 At the public hearing, Mr Rogers confirmed that the AEC's costings only included the conduct of the vote and not for any public funding of the 'yes' and 'no' campaigns.[35]

3.34 The committee received a broad range of responses in relation to the issue of Commonwealth funding for the 'yes' and 'no' campaigns. For example, Mr Puplick and Mr Galbraith, while making a joint submission, noted that the issue of Commonwealth expenditure on the 'yes' and 'no' campaigns of a popular vote was one issue on which they held different opinions:

> Mr Puplick is opposed to any Commonwealth expenditure other than that provided for in section 11 of the *Referendum (Machinery Provisions) Act 1984*, namely the printing and distribution of the yes and no cases. Mr Galbraith is open to additional public funding being available to ensure equal opportunities for the presentation of "yes" and "no" cases but acknowledges that further detailed consideration is [required of] the mechanism for determining and providing such funding.[36]

3.35 The Gilbert+Tobin Centre of Public Law contended the Commonwealth should fund 'yes' and 'no' campaign committees:

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33 *Committee Hansard*, 10 September 2015, p. 39, quoting from the Joint Standing Committee on Electoral Matters, *Second interim report on the inquiry into the conduct of the 2013 federal election: An assessment of electronic voting options*, November 2014, p. 2.

34 *Committee Hansard*, 10 September 2015, p. 39. In a supplementary submission the AEC noted that section 11(4) of the Referendum Act provides for the preparation and distribution of a pamphlet containing arguments for and against the proposed law. The preparation and distribution of this pamphlet was included in the AEC's discussion of costs in the AEC's submission, see *Supplementary Submission 26*, pp 3-4.

35 *Committee Hansard*, 10 September 2015, p. 40.

36 *Submission 10*, pp 1-2.

> This would enable partisans on both sides of the debate to promote their arguments to the community, and would be an effective way of raising public awareness about the cases for and against change. It would also follow the precedent set by the Howard government in the lead-up to the 1999 republic referendum, whereby it allocated $7.5m each to the Yes and No campaign committees.[37]

3.36 However, the Gilbert+Tobin Centre of Public Law noted that section 11(4) of the Referendum Act, which would apply to the funding of campaigns under the bill, prohibits Commonwealth funding of partisan campaign committees:

> Section 11(4) of the Referendum Act provides that the Commonwealth "shall not expend money in respect of the presentation of the argument in favour of, or the argument against , a proposed law" unless that spending is in relation to the production and distribution of the official "Yes/No" information pamphlet, or ancillary activities. This provision therefore stands in the way of any federal government that wishes to fund Yes and No committees. It also prevents the Commonwealth from spending money to promote referendum arguments via mass media outlets such as television, radio and newspapers, even if it wishes to do so in an even-handed manner. The expenditure limits further pose a barrier to government spending on education campaigns, as such spending will be vulnerable to challenge where any information materials produced could be perceived as crossing the fine line between neutral information and "argument".[38]

3.37 The Gilbert+Tobin Centre of Public Law argued that the restrictions in section 11(4) of the Referendum Act, which would apply to a plebiscite conducted pursuant to the bill, are 'unsuited to a modern-day campaign environment':

> This is demonstrated by the fact that, both in 1999 and 2013, the Parliament passed legislation to suspend the operation of section 11(4) [of the Referendum Act] for the duration of the referendum campaign…
>
> Rather than apply the Referendum Act's overly strict expenditure limits to a future popular vote on same-sex marriage, the [bill] should set down rules that provide the Commonwealth with a greater degree of spending freedom, as is appropriate in today's campaign environment.[39]

3.38 The Gilbert + Tobin Centre of Public Law provided some comparative figures from other campaigns. At the last referendum in 1999 on the issue of a republic, $15 million was provided in funding for the 'yes' and 'no' campaigns. A further $4.5 million was expended on a 'neutral education campaign'. In 2013 for the proposed, and subsequently abandoned, referendum on local government recognition, the government had allocated $11.6 million for a civics education campaign and a further $10.5 million for 'yes' and 'no' campaigns.[40]

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37 *Submission 11*, pp 2-3.

38 *Submission 11*, p. 3.

39 *Submission 11*, p. 3.

40 *Submission 11*, p. 2.

3.39 Australian Marriage Equality indicated that they did not support the level of funding for the 'yes' and 'no' campaigns that had been provided in the 1999 referendum:

> Marriage equality has been debated in Australia for over a decade. There is already a significant amount of quality information available to the public. The cases for and against can be prepared and distributed for less than the amount spent in 1999.[41]

3.40 A number of submissions and witnesses expressed the view that there should be equal funding for the 'yes' and 'no' campaigns.[42]

3.41 Professor Anne Twomey referred to concerns that she has about yes/no campaigns during referenda and suggested it may be possible to conduct a plebiscite without a yes/no campaign:

> For some time I have been disturbed by yes/no cases in referenda because I think, for the most part, they are misleading, emotive and unhelpful. I would be quite happy, personally, if there was no yes/no case in relation to a plebiscite. I do not think it is necessary. Because it is not concerning detailed constitutional technical issues that do need an explanation, I think most people can understand the question of whether you want same-sex marriage or not. I really do not think it is a matter that you ought to have a yes/no case.[43]

3.42 Professor Twomey also expressed reservation about the Commonwealth funding of yes/no campaigns:

> I am also not even sure that we should have funding at the Commonwealth level for it. I suspect that, again, these are issues that people have their own personal views about and you do not need to have massive campaigns to convince people one way or another.[44]

3.43 The Human Rights Law Centre, noting its concerns that a sustained public debate on the issue of marriage 'may risk the promotion of views that invite hatred and discrimination towards [lesbian, gay, bisexual, transgender and intersex (LGBTI)] people', proposed that recipients of public money for a yes/no campaign should be required to comply with a code of conduct.[45] At the public hearing, Ms Anna Brown, Director of the Human Rights Law Centre, explained further:

> We saw that there was a need to have some regulation of the conduct, particularly if there was to be a publicly funded yes and no campaign. Our suggestion was that anyone in receipt of government funds, and potentially

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41 *Submission 17*, p. 12.

42 See for example Australian Marriage Equality, *Submission 17*, p. 12. See also Mr Lyle Shelton, Managing Director, Australian Christian Lobby, *Committee Hansard*, 10 September 2015, p. 9. Dr David Phillips, FamilyVoice Australia, *Committee Hansard*, 10 September 2015, p. 11.

43 *Committee Hansard*, 10 September 2015, p. 36.

44 *Committee Hansard*, 10 September 2015, p. 36.

45 *Submission 33*, p. 2.

> any parties involved in public debate on the plebiscite issue, should subscribe to a code of conduct and, ideally, as part of that code of conduct, speech that vilifies or incites hatred or violence should be prohibited. Of course, there are already protections in some states and territories against vilification, but it think it is really important that the parties that are actually signing up to run the yes and no sides of the debate make sure that they make a commitment to do so on a respectful basis.[46]

3.44 Several submissions also raised concerns about the funding of campaigns outside of any Commonwealth funds which might be provided. For example, Mr Lyle Shelton, Managing Director of the Australian Christian Lobby, argued that there should be a prohibition on money from overseas to fund campaigns.[47]

Timing of a plebiscite

3.45 In the event that a plebiscite was to be held, many submissions supported the vote occurring in conjunction with the next federal election, as is proposed in the bill. For example, Australian Marriage Equality argued:

> To ensure the least delay and the least cost to taxpayers, a plebiscite should be held at the next federal election. Again, this will provide whichever government is elected at the election with a stronger mandate to act.[48]

3.46 However, a number of submissions also supported a popular vote, in whatever form, being held separately to an election. For example, Lawyers for the Preservation of the Definition of Marriage argued it would be unwise to include the issue of marriage as part of a general election campaign:

> The matter is of such import, that electors deserve the opportunity to consider it as a stand-alone proposal rather than have to consider it with all the "noise" of a general election.[49]

3.47 At the public hearing, Mr Sean Mulcahy, Co-convenor of the Victorian Gay and Lesbian Rights Lobby, outlined why that organisation does not support a plebiscite until after the next election:

> [W]e do need to weigh up the overwhelming view of the LGBTI community, and I think the community at large, that this issue should be resolved as soon as possible against the strong view of the LGBTI community that a plebiscite or a referendum is not an appropriate mechanism for resolving this dispute, most especially because of the potential harms that it could cause to young and/or vulnerable LGBTIQ people. Both the [NSW and Victorian Gay and Lesbian Rights] lobby

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46 *Committee Hansard*, 10 September 2015, p. 4.

47 *Committee Hansard*, 10 September 2015, p. 9. See also Australian Catholic Bishops Conference, *Submission 24*, p. 8;

48 *Submission 17*, p. 12. See also Professor Geoffrey Lindell, *Submission 4*, p. 5; Gilbert+Tobin Centre of Public Law, *Submission 11*, p. 3;

49 *Submission 20*, p. 6. See also FamilyVoice Australia, *Submission 23*, p. 5; Australian Catholic Bishops Conference, *Submission 24*, p. 7.

> groups took this feedback on board and considered it deeply. Our considered view is that the best way of resolving this issue is in fact through a parliamentary vote, but if there is to be a plebiscite it should be held after the next election.
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> There are three main reasons for that. Firstly, it would give the voters the opportunity to consider each party's position on the issue of a public vote at the next election. I understand there are differences across the parties on this position. Secondly, it would ensure that the vote on this issue would be set aside from the general election, so voters could concentrate their minds purely on the question at hand. Finally, it would allow for a fixed date to be set rather than a floating date of an election and ensure that appropriate protections and guidelines can be put in place. In summary, our strong view is that there should be a parliamentary vote on this. If there is to be a plebiscite, there is a strong argument that it should be held after the next election[.][50]

3.48 Mr Puplick and Mr Galbraith expressed concern that if a popular vote on marriage did not occur at the next election, then it would be delayed until 2018:

> [The holding of any plebiscite in conjunction with a general election is desirable as] this would allow the speedy resolution of a matter which, unless dealt with in the next year will undoubtedly not be submitted to the public until at least 2018. We base this on the Prime Minister's reported opposition to holding such a vote in conjunction with the proposed referendum on Indigenous recognition which is unlikely to take place before 2017.[51]

3.49 The AEC noted that it required sufficient time to prepare for any additional electoral event:

> The AEC would require adequate lead time [to] procure materials, and to make any required operational or technical adjustments in preparation for an additional electoral event (be it stand-alone, joint or postal). In terms of the preparation of a referendum advertising campaign, a truncated or minimum timeframe carries certain risks. These include insufficient or no market testing to confirm the objectivity and effectiveness of materials (which in turn could impact formality levels), escalation of costs relating to the development and market testing, and impacts on preparations.[52]

3.50 At the public hearing, Mr Rogers stated that it was difficult to provide an accurate timeframe without knowing the parameters of the enabling legislation. By way of comparison, Mr Rogers provided the following information on timeframes from the 2013 proposed referendum on the recognition of local government:

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50 *Committee Hansard*, 10 September 2015, p. 21. See also Dr Justin Koonin, Convenor of the NSW Gay and Lesbian Rights Lobby, *Committee Hansard*, 10 September 2015, p. 21.

51 *Submission 10*, p. 2. See also The Hon Trevor Khan, MLC, NSW Parliamentary Working Group on Marriage Equality, *Committee Hansard*, 10 September 2015, p. 23.

52 *Submission 26*, p. 11.

> [The AEC] said then that we would need something like about three months' notice to source raw materials like paper and other things that we need to conduct an electoral event.[53]

3.51 However, Mr Rogers did provide the following commitment:

> [The AEC is] here to serve the parliament and if parliament gives us direction to run an event, we will run an event in the time frame that we are given for it.[54]

53 *Committee Hansard*, 10 September 2015, p. 38.

54 *Committee Hansard*, 10 September 2015, p. 38.