# INFOPAGE

City of Joondalup DQCUMENT REGISTRATION

Reference # : 03011 29068

Letter # : 820484

Action Officer : DGS CC: CEO MINO1 MMCCS

Date Received : 16/06/2008

Action Required: NOTE

To:

Chief Executive Officer

From:

Tony Brown, Executive Manager

Governance & Strategy

Organisation:

**All Councils** 

Date:

13 Jüne 2008

Reference:

05-034-01-0013

Subject:

Compulsory Voting in Local Government Elections

Priority:

High

#### IN BRIEF

Operational Area:	Governance
Key Issues:	Discussion paper on compulsory voting in Local Government elections prepared
	<ul> <li>Survey of Council support / opposition to compulsory voting in Local Government elections</li> </ul>
Action Required:	For Council consideration – feedback sought by 25 July 2008

Please consider the attached discussion paper on compulsory voting in Local Government elections.

The issue of compulsory voting in Local Government elections has come to the fore following recent changes to the electoral provisions in the *Local Government Act 1995* and associated regulations introduced for the 2007 Local Government Elections. Significantly, the first-past-the-post system of voting was changed to preferential voting and proportional preferential voting (PPV).

Prior to the change to PPV, State Council's position was to support the continuation of voluntary voting. During Local Government's campaign against the introduction of PPV, State Council's position changed to support compulsory voting under the new system.

Now that PPV has been introduced to the Local Government electoral system, State Council has requested that the issue of compulsory voting be considered afresh.

To facilitate consideration of compulsory voting in Local Government elections, the attached discussion paper has been prepared, which examines the following themes:

- · Current electoral arrangements and the situation in other States of Australia
- The possibility of Optional Preferential Voting being introduced
- Arguments in favour of compulsory voting
- · Arguments against compulsory voting; and,
- Practical considerations

WALGA is seeking responses from all Local Governments on this issue. Once responses have been received, an agenda item will be prepared for Zone consideration during September prior to a final position being reached at the October State Council meeting.

A number of survey questions have been prepared overleaf to facilitate Council responses. These survey questions can be used as a template to guide responses to be submitted to WALGA. Please submit responses to WALGA by 25 July 2008.

Local Government House 15 Altona Street West Perth WA 6005 PO Box 1544 West Perth WA 6872 Facslmile (08) 9322 2611 Telephone (08) 9321 5055 Email Into@walga.asn.au Website www.walga.asn.au For Further information please contact

Tim Lane, Governance Policy Officer 9213 2029 or tlane@walga.asn.au

The Voice of Local Government



# INFOPAGE



The following survey questions can be used to respond to WALGA on the issues of compulsory voting in Local Government elections. Please provide responses to WALGA by 25 July 2008 via email to <a href="mailto:tlane@walga.asn.au">tlane@walga.asn.au</a> or fax (Attention Tim Lane) to 9322 2611.

The following survey questions have been constructed with the attached discussion paper in mind. It is important to review the discussion paper prior to addressing the following questions.

Yes	No
Why / W	hy not? Any other comment?
Does Co	ouncil support the introduction of compulsory voting in Local Government elections under current electonents?
Yes	No
Why / Wi	hy not? Any other comment?
If Counci	
electoral	il supports the introduction of compulsory voting under current electoral arrangements, what changes to a arrangements would see Council withdraw their support?
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The Voice of Local Government





# Compulsory Voting in Local Government Elections

Discussion Paper

Tim Lane
Policy Officer
Governance

**WALGA** 

June 2008

## i Background

Following the 2007 Local Government elections and the recent changes to the electoral provisions in the *Local Government Act 1995* and associated regulations, the electoral system to elect Councils in Western Australia has come into focus once again.

There was an increased level of interest in the 2007 Local Government elections from within the Local Government sector. This interest stemmed from the 2006 Local Government Advisory Board report – Local Government Structural and Electoral Reform in WA: Ensuring the sustainability of communities – and was sparked by the introduction of preferential voting and proportional preferential voting (PPV) for the 2007 Local Government elections. In its report, the Local Government Advisory Board recommended that the first-past-the-post (FPTP) system of voting be retained as the introduction of PPV could see party politics, factions among candidates and other forms of overt politicking become prevalent at the local level. Feedback received by WALGA also indicated overwhelming Local Government support for the retention of FPTP.

The Local Government industry campaigned against the introduction of PPV on the basis that its introduction could see more overt politicking than previously occurred under first-past-the-post. Despite the strong industry preference for first-past-the-post, PPV was introduced for the 2007 Local Government elections for multi-member vacancies and full preferential voting was used in single-member vacancies where there were more than two candidates.

There is some anecdotal evidence from the 2007 Local Government elections that organised groups became involved in some areas. There were also reports following the elections that 'dummy candidates' were run and tickets, factions and alliances were formed among candidates. This sort of activity can be damaging to Councils, and if left unchecked, could begin to undermine the intention of the *Local Government Act 1995*, "...to provide for the good government of persons in its district."<sup>2</sup>

It is against this backdrop that the issue of compulsory voting for Local Government elections needs to be considered. Under the previous first-past-the-post system, WALGA's position was that voluntary voting should be maintained. Now that Local Government elections have moved to preferential and proportional preferential voting, State Council has requested the issue of compulsory voting to be considered again. This is particularly pertinent as the Australian Labor Party (ALP) have

<sup>&</sup>lt;sup>1</sup> Local Government Advisory Board, Local Government Structural and Electoral Reform in WA: Ensuring the future sustainability of communities, 2006, p166
<sup>2</sup> Local Government Act 1995, (WA) s 3.1 (1)

documented a commitment to compulsory voting in Local Government elections in their 2007 Platform.<sup>3</sup>

In considering compulsory voting, this discussion paper distinguishes practical issues from the principle of compulsory voting. This is because it may be possible to support the principle of compulsory voting while having concerns regarding its practical implementation.

The principle of compulsory voting as an electoral mechanism, including the situation in other states, optional preferential voting as an alternative electoral system and arguments for and against compulsory voting, are discussed in Sections II to V. Practical considerations are examined in Section VI. The application of compulsory voting, which ties together the two themes, is taken up in Section VII.

<sup>&</sup>lt;sup>3</sup> Australian Labor Party WA Branch, *Platform*, 2007, p143

# II Current Arrangements & Other States

The electoral system that operates in Western Australian Local Government elections is currently full preferential voting for single member vacancies and proportional preferential voting for multi-member vacancies. It is important to consider compulsory voting in conjunction with the electoral system in place. The possibility for optional preferential voting to be introduced as an alternative to first-past-the-post and proportional preferential voting is discussed in Section III.

Compulsory voting is rare across the developed world but forms a key plank of Australian democracy, where it is widely used and generally accepted.<sup>4</sup> Voting in Western Australian Local Government elections, by comparison, has always been voluntary. Western Australia joins South Australia and Tasmania as the only states without some form of compulsion to vote in Local Government elections.<sup>5</sup>

As a consequence, the participation rates in Local Government elections in these states is much lower than the participation rates in states where voting in Local Government elections is compulsory and for compulsory state and federal elections. Political scientists argue that compulsory voting is the *only* institutional mechanism that can achieve turnout rates above 90 percent.<sup>6</sup> The state-wide average turnout for the 2007 Western Australian Local Government elections was 33.8 percent.<sup>7</sup>

Participation rates are not uniform across all Local Governments and are generally higher outside metropolitan Perth.<sup>8</sup> For all Councils, participation rates are generally higher where postal voting is used, rather than in-person voting.<sup>9</sup> Participation rates also vary dramatically depending on local issues and local candidates.

In Western Australia, residents, as well as non-resident property owners, are entitled to vote. If a property is owned by a corporation, the corporation is able to delegate voting entitlements to two people. This means non-resident property owners may have the opportunity to vote in multiple ward or Local Government elections. In Victoria and New South Wales it is compulsory for residents to vote but voting is voluntary for non-resident property owners. Whether property owners should be compelled to vote is discussed with other practical considerations in Section VI.

<sup>&</sup>lt;sup>4</sup> Bennett, S., Compulsory Voting in Australian National Elections, Parliamentary Library, Parliament of Australia, 2005

<sup>&</sup>lt;sup>5</sup> Wagstaff, M., Independent Review of Local Government Elections, South Australia: Interim Report, South Australian Government and Local Government Association of South Australia, 2007, p46, available from <a href="www.localgovt.sa.gov.au/electionsreview">www.localgovt.sa.gov.au/electionsreview</a>

<sup>&</sup>lt;sup>6</sup> Lijphart, A., "Compulsory voting is the best way to keep democracy strong', in *Points of View,* eds R. DiClerico & A. Hammock, McGraw-Hill, New York, 2001

<sup>&</sup>lt;sup>7</sup> Department of Local Government and Regional Development, *Update*, Issue 64, December 2007, available from <a href="https://www.dlgrd.wa.gov.au">www.dlgrd.wa.gov.au</a>
<sup>8</sup> Ibid.

Western Australian Electoral Commission, Local Government Election Report 2005, 2005 pp30-32, available from <a href="https://www.waec.wa.gov.au/download/LocalGovElectionReport2005.pdf">www.waec.wa.gov.au/download/LocalGovElectionReport2005.pdf</a>
Wagstaff, Op. cit., 2007, p46

# III Optional Preferential Voting

This section discusses the possibility of optional preferential voting being introduced to Western Australian Local Government elections. This is worth exploring since some form of optional preferential voting is used in Local Government elections in all other states except South Australia. Further, the Australian Labor Party have indicated a commitment to a combination of optional preferential voting and proportional representation in their 2007 platform. 12

Optional preferential voting is similar to the current system of full preferential voting but allows the voter more choice in casting a formal vote. The elector is able to mark the ballot in the following ways:

- 1. Allocate a single first preference only
- 2. Allocate a partial distribution of preferences
- 3. Allocate a full distribution of preferences (as is currently required) 13

In multi-member vacancies, voters can be required to allocate at least as many preferences as there are vacancies.<sup>14</sup> This is sometimes referred to as limited optional preferential voting or partial preferential voting.

The main argument in support of optional preferential voting is that it allows voters the opportunity to vote for candidates they support without being forced to allocate preferences to candidates they do not support or do not know. Optional preferential voting also allows voters greater choice than full preferential voting, means fewer votes are wasted than would be using first-past-the-post and reduces the incidence of informal ballots due to accidental misnumbering.<sup>15</sup>

Some argue against optional preferential voting on the basis that it can become a de facto first-past-the-post system if sufficient voters only indicate a first preference. 16

## Voluntary Voting - Compulsory Preferences

Another argument in support of optional preferential voting is it would remove what could be seen as an anomaly of the current system: that allocating preferences is compulsory whereas voting itself is voluntary.

12 Australian Labor Party WA Branch, Op. cit., p143

<sup>11</sup> Wagstaff, Op. cit., 2007, p46,

State Electoral Office South Australia, Report on Optional Preferential Voting 2003-2004, 2004, p2
 Bennett, S. & Lundie, R., Australian Electoral Systems, Parliamentary Library, Parliament of Australia, 2007, pp10-12
 Ibid., p20

<sup>&</sup>lt;sup>16</sup> Orr, G., Australian Electoral Systems: How well do they serve political equality? Report No. 2, Law Faculty, Griffith University, Brisbane, 2004, p20

Election analyst, Antony Green explains the requirement to allocate preferences to unknown or unwanted candidates in a submission regarding the 2004 Federal Election. He argues that compulsory preferences are the third compulsion in Australian Federal Elections as voters are compelled to do the following in order to cast a valid vote:

- 1. Enrol to vote
- 2. Attend a polling place to cast a vote
- 3. Complete the ballot by numbering all boxes in order (by allocating preferences)<sup>17</sup>

In contrast, in Local Government elections in Western Australia, voters are generally enrolled to vote (1), voters then have the option to vote (2), but must then complete the ballot by allocating a full set of preferences (3) to cast a valid vote.

Antony Green describes the requirement to successfully allocate preferences:

"Voters either carefully transcribe how-to-vote material on to the ballot paper, or are forced to randomly allocate preferences to unknown and unwanted candidates just so their ballot paper can pass the formality requirements and register a vote for the candidates they do want." 18

In comparison to Federal elections, the problem of allocating preferences in Western Australian Local Government elections can be even more pronounced where any number of the candidates may be unknown to voters.

Since optional preferential voting is used in most other jurisdictions in Australia and forms part of the Australian Labor Party's platform, this mechanism could become a feature of future Local Government electoral reform in Western Australia.

It is important to consider the current electoral arrangements as well as the possibility of further Local Government electoral reform when considering compulsory voting.

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Green, A., The Conduct of the 2004 Commonwealth Election, Submission to the Joint Standing Committee on Electoral Matters, Parliament of Australia, 2005

# IV Arguments in Favour of Compulsory Voting

Arguments in favour of compulsory voting typically focus on the following:

- Increased participation
- · Consideration of the full electorate
- Improved legitimacy
- · Consistency with other spheres of government

## Increased Participation

Since 2003, participation in Western Australian Local Government elections has hovered around 35 percent. <sup>19</sup> If voting in Local Government elections were compulsory, the participation rate would increase significantly. With compulsory voting, the Queensland Local Government elections held in March 2004 achieved a participation rate of 90 percent. <sup>20</sup>

Proponents of compulsory voting argue that democracy suffers when participation rates are low. If only a small proportion of the community votes and a candidate requires 50 percent plus one of votes to be elected, then candidates can be elected with a relatively small proportion of the electorate's support. This provides opportunities for single issue candidates with a narrow support base to be elected to Council. If voting were compulsory, it is argued that candidates would need to appeal to a broader section of the community to be elected.

A common counter argument to compulsory voting is that compelling the electorate to vote will not necessarily engage voters with the political process. Voters may cast uninformed votes merely to avoid paying a fine. This claim is based on a 'chicken or the egg' argument. Does an interest in politics and political decisions lead to a desire to vote — or does voting lead to an interest in politics and political decisions? It is likely that the answer is a mixture of both.

Followers of the Council and the Council's decisions are very likely to vote at Local Government elections. For others though, being compelled to vote is likely to raise an awareness of the Council prior to an upcoming election and is likely to increase interest in the performance of the Council following an election. An elector – who voted – is justified in asking, "What are the people I voted for doing for me and my community?" This argument is often countered with the claim that a low participation rate may indicate ambivalence, which could be taken as implicit support for the direction and decisions of the Council.<sup>21</sup>

Review of Public Affairs, Vol. 6, No. 1, 2005, p34

Department of Local Government and Regional Development, Op. cit.

Russell, B., Voter Obligation and Voter Turnout, Discussion paper for the Local Government Association of South Australia, 2004, p5, available from <a href="https://www.lga.sa.gov.au/">www.lga.sa.gov.au/</a>
Louth, J. & Hill, L. "Compulsory voting in Australia: Turnout with and without it", in Australian

#### Consideration of the Full Electorate

Another claim often made in favour of compulsory voting is that electors (those that vote) are not necessarily representative of the electorate (those that are eligible to vote). For instance, older residents are typically more likely to vote in voluntary Local Government elections than younger members of the community.<sup>22</sup>

This can lead to a narrow reflection of the community's needs and interests. Compulsory voting is claimed to take into consideration views from the entire electorate, rather than a narrow range of views from those who vote, or are most likely to vote.<sup>23</sup> Proponents of compulsory voting claim that the community will be better represented if the full electorate votes to elect the Council, Further, once elected. Councillors will be accountable to the full electorate rather than a potentially unrepresentative segment of the electorate.

#### Improved Legitimacy

Another argument in favour of compulsory voting is that the Council's legitimacy will be increased in virtue of receiving the support of the majority of the entire electorate.24 When making decisions, the Council will have the confidence that they have been elected by the majority of the community and may be able to use their improved legitimacy - or 'mandate' - to disarm opponents. Further, the community will be more aware of their civic obligation to keep the Council accountable for their decisions at subsequent elections.

#### Consistency with Other Spheres of Government

Another argument in favour of compulsory voting is that Local Government should seek consistency with other spheres of government. Voting is compulsory in State and Federal elections but remains voluntary in Local Government elections.

The Local Government sector continually argues for similar recognition and treatment as other spheres of government and compulsory voting would be another step in this direction. The State Government partly justified the switch from first-pastthe-post to proportional preferential voting for the 2007 Local Government elections on the basis that the electoral system should be consistent across the three spheres of government. This consistency does not currently extend to compulsory voting.

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<sup>&</sup>lt;sup>22</sup> Western Australian Electoral Commission, Op. cit., pp25-26,

<sup>&</sup>lt;sup>23</sup> Joint Standing Committee on Electoral Matters, The 2004 Federal Election: Report of the inquiry into the conduct of the 2004 Federal Election and matters relating thereto, Parliament of Australia, 2005, p189 <sup>24</sup> Bennett, *Op. cit.,* p10

# **Arguments against Compulsory Voting**

Arguments against compulsory voting typically focus on the following:

- Lack of community support for compulsory voting
- The democratic right not to vote
- Uninformed and informal votes
- Cost and enforcement of non-voters

## Lack of Community Support for Compulsory Voting

One of the key arguments against the introduction of compulsory voting at Local Government elections is the perceived lack of community support for such a measure. There is widespread community support for compulsory voting in Federal elections but it is unclear whether this support transcends to the local level. 25

A review of South Australian Local Government elections (which have similar electoral provisions to Western Australia) has recently been completed by the South Australian Government and the Local Government Association of South Australia. As part of the review, the issue of compulsory voting in Local Government elections was considered and a clear majority (66 percent) of respondents indicated opposition to the introduction of compulsory voting.26

It is likely that there would be initial community opposition to the introduction of compulsory voting in Local Government elections in Western Australia. However, this opposition may subside as voters become accustomed to voting in Local Government elections as is currently the case for State and Federal elections.

## The Democratic Right Not to Vote

A more philosophical argument against compulsory voting is that it is undemocratic to compel people to vote; that forcing people to participate in the political process infringes their liberty to abstain.27 Put another way, citizens have the right to participate in the political process how they see fit, including the right not to participate.

A related argument, unique to Local Government, is that residents do not need to vote to be involved in the affairs of the Council. This is contrasted with State and Federal elections where voting is often the only political involvement that citizens are

<sup>&</sup>lt;sup>25</sup> Bennett, S., Op. cit., p22

Wagstaff, M., Independent Review of Local Government Elections, South Australia: Final Report, South Australian Government and Local Government Association of South Australia, 2008, p28, available from <u>www.localgovt.sa.gov.au/electionsreview</u> 27 Russell, *Op. cit.*, p9

afforded. Residents can be involved in the governance of the community by attending Council meetings and asking questions, making a submission or becoming a member of a committee. These opportunities are uncommon at the State and Federal level. The unique nature of Local Government may render compulsory voting unnecessary, as opting not to vote does not prevent participation in the governance and decisions of the district.

The objection to compulsory voting based on the right not to vote and the unique nature of Local Government must be balanced with the potential practical benefits of compulsory voting, including increased community participation.

#### Uninformed or Informal Votes

A common argument in favour of maintaining a system of voluntary voting is the notion that compelling the electorate to vote does not necessarily generate interest in the political process. That is, that some voters would cast uninformed (or donkey) votes.

This argument relates to the issue of increased participation (discussed in Section IV). It is true that uninformed or informal votes may have an impact on the election, particularly if some voters become hostile to the Council as a result of being compelled to vote. However, proponents of compulsory voting argue that there is a much greater bias under a voluntary voting system where 60 percent of the community does not have their say.<sup>28</sup>

#### Cost and Enforcement of Non-Voters

Another objection to compulsory voting in Local Government elections is the potential for elections to cost more for Local Governments to hold. Associated with this is the cost connected with pursuing non-voters. Proponents of compulsory voting may respond that cost should not prohibit achieving the best democratic outcome for the district. This issue is discussed further in Section VI.

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<sup>&</sup>lt;sup>28</sup> Evans, T., Compulsory Voting in Australia, Australian Electoral Commission, 2006, available from <a href="https://www.aec.gov.au/pdf/voting/compulsory-voting.pdf">www.aec.gov.au/pdf/voting/compulsory-voting.pdf</a>

# VI Practical Considerations

This paper has so far dealt with the *principle* of compulsory voting. This section discusses some *practical* issues that would need to be overcome if compulsory voting were to be introduced to Local Government elections in Western Australia.

It is important, when considering the issue of compulsory voting, that the principle of compulsory voting is considered in isolation of practical matters. The question could be asked:

With all things being equal, do I support the principle of compulsory voting in Western Australian Local Government elections?

## Cost and Enforcement of Non-Voters

An argument commonly used to argue against compulsory voting is that the cost of holding an election will increase as there will be an increase in voters. Further, there may be an associated cost to pursue non-voters.

If voting were to be compulsory, an appropriate enforcement regime would need to be introduced. In other states, failure to vote tends to result in a letter seeking an explanation which may be followed by a small fine of around \$50.<sup>29</sup>

The issue of which agency should pursue non-voters would also need to be addressed. In Western Australia, this could be the Western Australian Electoral Commission, individual Local Governments or some other body. Further, if the fines paid did not match the cost of administering the collection of fines, which agency should receive the revenue or fund the shortfall?

When discussing the cost of holding larger elections, the debate in Western Australia has historically focussed on the terms of Councillors. If Elected Members' terms expired concurrently, instead of half of the Council every two years as is currently the case, the frequency of elections could be halved which would partly or completely offset the cost of larger elections.

#### **Terms**

The issue of the timing of Councillors' terms needs to be considered in the context of the compulsory voting debate. In Western Australia, Councillors serve four year terms and each standard Local Government election (every two years) is to elect

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<sup>29</sup> Russell, Op. cit., p5

half of the Council. This is similar to the Australian Senate, where Senators serve six year terms and half of the senate is elected every three years.

If compulsory voting in Local Government elections were to be introduced, the frequency of elections would need to be considered. Would it be reasonable to compel the electorate to vote every two years to elect half of the Council or should all positions on Council be voted on every four years? Voters may suffer 'election fatique' if required to vote in Local Government elections every two years as well as Federal elections every three years and State elections every four years.

Supporters of the current half Council elections argue that the Council is more stable if at least half of the Council continues after each election.

Detractors to the current arrangements argue that the entire Council should be held accountable at the same time.

## The Property Franchise and Compulsion

Another issue with compulsory voting is whether property owners should be compelled to vote. In Victoria and New South Wales, only residents are required to vote while voting for property owners remains voluntary. 30 If compulsory voting were introduced in Western Australian Local Government elections, it would be sensible for voting for property owners to remain voluntary. This is because a voter may otherwise be required to vote in a large number of elections across many Local Governments.

#### Compulsion and Postal Voting

Some in the Local Government sector are cautious about embracing compulsory voting on the basis of its compatibility with postal voting. In Victoria there have been no compatibility issues between postal voting and compulsion in terms of the administration of elections and enforcement of non-voters following an election.31 In fact, experience from Victoria has illustrated that postal voting provides a clear link between the voter and the electoral authority and allows the obligation to vote, and the consequences for not voting, to be clearly communicated. 32

There may be difficulties in Western Australia due to the hybrid model, where Local Governments can choose between postal and in-person elections. This could create difficulties in administering the election and enforcing voting following the election from a state-wide perspective. However, it is likely that these difficulties could be overcome.

<sup>32</sup> *Ibid.*, p4

<sup>30</sup> Wagstaff, Op. cit., p46

<sup>31</sup> Russell, Op. cit., p4

## VII Conclusion

This discussion paper has discussed the principles of compulsory voting including arguments for and against its introduction along with some practical issues that would need to be addressed if compulsory voting were to be introduced. This paper has made reference to the current Local Government electoral arrangements in Western Australia and electoral arrangements in other states. The paper has also examined the anomaly of voluntary voting with compulsory preferences going to unknown or unwanted candidates and discussed the possibility of optional preferential voting being introduced.

The major arguments in support of compulsory voting are:

- · Increased participation
- Consideration of the full electorate
- Improved legitimacy
- · Consistency with other spheres of government

The main arguments against compulsory voting are:

- · Lack of community support for compulsory voting
- · The democratic right not to vote
- Uninformed and informal votes
- · Cost and enforcement of non-voters

The arguments for and against compulsory voting can guide a position on whether compulsory voting for Local Government elections is supported in principle. From there, the following practical issues will need to be addressed for compulsory voting to be introduced:

- Cost of holding larger elections
- System of enforcement for non-voters
- · Administration and cost of enforcement
- Terms of Elected Members
- Whether compulsion should be applied to property owners
- Compatibility of compulsion and postal voting

The issues above can be overcome but must be addressed before compulsory voting can be successfully introduced to Western Australian Local Government elections.

This paper is intended to assist in the discussion of compulsory voting in Western Australian Local Government elections. It is not intended to pre-empt a particular point of view in any way

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