

POLICY

Policy Name	Supplementary Elections Policy
Policy Category	Governance
Department / Officer	Governance/Chief Executive Officer
Date Adopted	14 May 2001
Date/s Reviewed	December 2009 – update to reflect legislative amendment; 17 December 2012; 26 October 2015; 26 April 2016; 24 June 2019; 24 April 2023
Review Frequency	Within 12 months of a Council Election
Strategic Plan Reference	Aspiration 6 – We are a financially sustainable and well-governed organisation. Strategy – Manage council’s finances and resources sustainably.
Attachments	Nil

1. Purpose

This Policy sets out Council’s position in relation to holding a supplementary election where a casual vacancy exists under the provisions of the *Local Government Act 1999*.

2. Scope

This Policy applies when **one** casual vacancy occurs and the provisions under Section 6(2) of the *Local Government (Elections) Act 1999* are applicable.

This Policy does not apply to a vacancy of the Mayor.

3. Policy Statement (Summary)

In addition to complying with the legislative requirements for conducting a Supplementary Election, Council is committed to ensuring the efficient allocation of its resources in the event of a casual vacancy occurring.

4. Legislation and Compliance

Section 6 of the Local Government (Elections) Act 1999 relates to supplementary elections:

(1) *Subject to this section, if*

- (a) *an election (other than a supplementary election) wholly or partially fails or is declared void; or*

(b) a casual vacancy occurs in the office of a member of a council,
a supplementary election will be held to fill the office or offices not filled by the election,
or the office that has become vacant.

(2) A supplementary election, will not be held to fill a casual vacancy if –

- a) The vacancy occurs within 12 months before polling day for -
 - (i) A periodic election; or
 - (ii) A general election (other than a periodic election) if the date of that polling day is known at the time of the occurrence of the vacancy; or
- b) -
 - (i) the vacancy is for an office other than mayor; and
 - (ii) the area of the council is not divided into wards; and
 - (iii) –
 - (A) If the council has 9 or more offices (excluding the office of Mayor) – there is no more than 1 other vacancy in the office of a member of the council; or
 - (B) In any other case – there is no other vacancy in the office of a member of the council; and
 - (iv) It is a policy of the council at the time the vacancy occurs that it will not fill such a casual vacancy or vacancies until the next general election; or
- c) the vacancy;
 - i) is for an office of a member of the council, other than
 - (A) mayor; or
 - (B) a member who was declared elected under section 25(1); and
 - ii) Occurs - ,
 - (A) Within 12 months after the conclusion of a periodic election or a designated supplementary election; or
 - (B) After the close of nominations for a designated supplementary election and before the conclusion of that election,
(and can be filled in accordance with Section 6A) (the subsequent vacancy)

(3) However, If–

- a) 1 or more vacancies have not been filled due to the operation of subsection (2)(b); and
- b) Another vacancy occurs in the office of a member; and),
- c) The other vacancy has not occurred within 12 months before polling day for -
 - (i) A periodic election; or
 - (ii) A general election (other than a periodic election) if the date of that polling day is known at the time of the occurrence of the vacancy,
 Then a supplementary election must be held to fill the vacant offices.

(4) If –

- (a) A casual vacancy has occurred; and
- (b) A supplementary election is not to be held by virtue of the operation of subsection (2)(b),

Any subsequent revocation or alteration of a policy of the council in force for the purposes of subsection (2)(b) cannot have effect so as to require the casual vacancy to be filled before the next general election.

Section 54 of the Local Government Act 1999 prescribes the circumstances under which the office of a Member of the Council becomes vacant.

5. Definitions

Casual Vacancy means the office of an Council Member becomes vacant in accordance with the circumstances as detailed under *Section 54 of the Local Government Act 1999*.

General Election, in relation to a Council, means a general election of members of the Council whether held under Section 5 of the *Local Government (Elections) Act 1999* or pursuant to a proclamation or notice under the *Local Government Act 1999*.

Periodic Election, means an election to determine the membership of each council must be held in accordance with the Local Government (Elections) Act 1999 at intervals of four years on the basis that voting at the elections will close at 5pm on the second to last business day before the second of Saturday of November in 2026.

6. Policy Content

Council recognises that during the four-year term of Council, a single causal vacancy may occur.

Pursuant to *Section 6(2)(b)(iv) of the Local Government (Elections) Act 1999*, the Council resolves that supplementary elections will not be conducted if a single casual vacancy occurs in the office of Council until the next general election.

7. Risk Management

The adoption of this policy supports the Council's commitment to ensure that Council's resources are used fairly, effectively and efficiently.

8. Implementation/Delegations

The Chief Executive Officer is the delegated authority to implement this, Policy.

9. Related Documents

Caretaker Policy

10. Availability of Policy

This policy is available on Council's website at www.victor.sa.gov.au.