

THE BAROSSA COUNCIL

SUPPLEMENTARY ELECTIONS POLICY



1.	Purpose
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- 1.1. To establish The Barossa Council's position in dealing with a Casual Vacancy in the office of an Elected Member (not being the office of Mayor) in accordance with Section 6(2)(b) of the *Local Government (Elections) Act 1999* [the Act].

2.	Scope
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- 2.1. This Policy applies to Members of Council (excluding the Office of Mayor) and the Chief Executive Officer (or Acting Chief Executive Officer).

3.	Policy Statement
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- 3.1. Council's Policy seeks to ensure the efficient allocation of Council resources in the event of a Casual Vacancy occurring. Accordingly, unless required under the Act, a Casual Vacancy for the office of Elected Member, other than Mayor, will remain vacant until the next General Election. A Supplementary Election will not be held to fill that Casual Vacancy.
- 3.2. Further, and pursuant to the Act, a Supplementary Election will not be held if:
- 3.2.1. the Casual Vacancy occurs:
- i. on or after 1 January of a year in which a Periodic Election is due to be held and before the date on which nominations for that Periodic Election are invited under the Act; or
 - ii. within a period of 7 months before Polling Day for a General Election (that is not a Periodic Election), and the date of that Polling Day is known at the time the Casual Vacancy occurred; or
- 3.2.2. the Casual Vacancy is:
- i. for the office of an Elected Member other than Mayor; and
 - ii. the area of the Council is not divided into wards; and
 - iii. there is no other vacancy in the office of an Elected Member of Council (disregarding the office of Mayor); and
 - iv. Council's Policy not to fill such a Casual Vacancy remains in operation.
- 3.3. However, a Supplementary Election will be held if:
- 3.3.1. A Casual Vacancy has occurred, but the vacancy has not been filled due to the operation of sub-clause 3.2.2; and
- 3.3.2. An additional Casual Vacancy for the office of an Elected Member (other than the Mayor) has occurred (ie: in addition to the vacancy described in 3.3.1); and
- 3.3.3. The Casual Vacancy has not occurred:

- between 1 January of a year in which a Periodic Election is expected, and the date on which nominations for that Periodic Election are open for that Periodic Election, in accordance with the Act; or
 - within a period of 7 months before Polling Day for a General Election (that is not a Periodic Election), and the date of that Polling Day is known at the time the Casual Vacancy occurred.
- 3.4. Pursuant to Section 6(4) of the Act, if a Casual Vacancy has occurred and a Supplementary Election is not held due to the operation of sub-clause 3.2.2, this Policy cannot be altered or revoked to effectively require that the Casual Vacancy be filled before the next General Election.
- 3.5. Where a vacancy occurs within the first 12 months of an election, either Periodic or Supplementary, the vacancy will be filled in line with Section 6A or Section 55A depending on circumstances:
- 3.6. Section 6A within the first 12 months following an election, either Periodic or Supplementary, the Returning Officer will determine the most suitable candidate from the most recent election for the relevant office. The vacancy will be filled by a *successful candidate* who is still interested and eligible.
- 3.7. Section 55A in the event a successful candidate, at an election either Periodic or Supplementary, dies between the close of voting and the first meeting of the Council for that election, the Returning Officer will determine the most suitable candidate from the most recent election for the relevant office. The vacancy will be filled by a *successful candidate* who is still interested and eligible.
- 3.8. In the event that the Act requires a Supplementary Election to be held, the Supplementary Election will be held as soon as possible after the requirement arises.

4. Supporting Processes and Documents

Nil

5. Related Policies

Nil

6. Legislation and References

Local Government Act 1999, sections 51-57, and 86

Local Government (Elections) Act 1999, sections 6 and 55A

7. Review

This Policy shall be reviewed by Director, Corporate and Community Services, in consultation with the relevant stakeholders, within 2 years of the new Council following a Periodic Election or more frequently if legislation or Council needs change.

8. Further Information

- 8.1. This Policy is available on Council's website at www.barossa.sa.gov.au. It can also be viewed electronically at Council's principal office at 43-51 Tanunda Road, Nuriootpa and all Council branches, during ordinary business hours. A copy of this Policy can be obtained at those venues upon payment of a fixed fee.
- 8.2. Complaints regarding this Policy or its application can be made to the Customer Service team on 8563 8444 or barossa@barossa.sa.gov.au at first instance, who will refer you to the most appropriate officer according to Council's *Customer Service Policy* (see clause 8.1 above for availability).

9. Document Control

Corporate Plan Link:		6.2 Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements	
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Version history			
Version No.	Date	Description of Change	
4.0	28/11/2022	Policy Reviewed following Periodic Election	
3.0	26/11/2018	Policy Reviewed following Periodic Election	
2.0	18/11/2014	Policy Reviewed following Periodic Election	
1.0	20/11/2012	New Policy	

10. Definitions

Act	<i>Local Government (Elections) Act 1999</i>
Casual Vacancy	The Office of an Elected Member becomes vacant in accordance with the circumstances detailed in Section 54 of <i>Local Government Act 1999</i>
Elected Member	Elected Members of the Barossa Council
General Election	Where there is a casual vacancy pursuant to a proclamation or notice under the <i>Local Government Act 1999</i> .
Periodic Election	A general election of members of the council, whether a Periodic Election held under Section 5 of the <i>Act</i> or
Polling Day	- For Period Elections the day on which voting at the election closes under Section 5 of the <i>Act</i> - For a General Election as per proclamation
Returning Officer	The Electoral Commissioner is the Returning Officer for each area, as per Section 10 of the <i>Act</i>
Supplementary Election	An election subject to Section 6 of the <i>Act</i> if: - An election (other than a supplementary election) wholly or partially fails or is declared void; or - A casual vacancy occurs in the office of a member of council,