

4.5 Councillor casual vacancies within 18 months of the election

REPORT BY THE GOVERNANCE COORDINATOR
TO 12 JANUARY 2022 EXTRAORDINARY MEETING
GOV400098, GOV400015, GOV400098

RECOMMENDATION

That Council:

1. receive the report by the Governance Coordinator on the matter of Councillor casual vacancies within 18 months of the election;
2. in accordance with section 291A of the Local Government Act 1993 declare that casual vacancies occurring in the office of a councillor within 18 months of the election are to be filled by a countback of votes cast at the election or;
3. in accordance with section 291 of the Local Government Act 1993 a casual vacancy occurs in a civic office, the office is to be filled by a by-election.

The resolution should select either 2 or 3

Executive summary

The legislative provision of s 291A if adopted must be resolved at the first meeting of the new Council.

Disclosure of Interest

Nil

Detailed report

The Office of Local Government circular 21-42 dated 24th December 2021 is attached confirming the actions required by Council at their first meeting. This report addresses the need for council to resolve to fill casual vacancies that arise with 18 months of the election using a count back if they want to fill casual vacancies by these means.

Community Plan implications

Theme	Good Governance
Goal	Strong civic leadership
Strategy	Provide strong representation for the community at Regional, State and Federal levels

Strategic implications

Council Strategies

Not Applicable

Council Policies

Not Applicable

Legislation

Not Applicable

Financial implications

Council currently has a budget reserve balance for councillor election of \$300k. The cost of the 12 Dec 2021 election has not been billed by the Electoral Commission, it is estimated as being \$225K. The cost of a By-Election is estimated as being \$225K.

Associated Risks

There is a low public reputation risk that Council will consider in making this decision.

TIM JOHNSTON
GOVERNANCE COORDINATOR

SIMON JONES
DIRECTOR COMMUNITY

15 December 2021

Attachments: 1. OLG Circular 21-42 - Casual Vacancies.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



Office of
Local Government

Circular to Councils

Circular Details	21-42 / 24 December 2021 / A798531
Previous Circular	<i>21-30 Post-Election Guide on key decisions and activities for councils, county councils and joint organisations following the local government elections</i>
Who should read this	Councillors / General Managers / Council Governance Staff
Contact	Council Governance Team / 02 4428 4100 / olg@olg.nsw.gov.au
Action required	Council to Implement

Reminder to councils: decisions on countbacks, administration of the oath or affirmation of office and the delivery of councillor induction and refresher training after the election

What's new or changing

- Councils are reminded that at their first meeting following the ordinary election, they will be required to decide whether to fill casual vacancies using a countback and to administer an oath or affirmation of office for councillors.
- Councils are also reminded that they will need to provide induction training for newly elected mayors and councillors and refresher training for returning mayors and councillors within six months of the election.

What this will mean for your council

- At their first meeting after the ordinary election, councils are required to resolve to fill casual vacancies occurring in the first 18 months after the election using a countback if they want to fill casual vacancies by these means. If councils do not resolve to fill casual vacancies using a countback at their first meeting after the election, by-elections will need to be held to fill vacancies.
- At or before the first meeting after the election, the mayor and councillors are required to take an oath or make an affirmation of office. A councillor who fails, without a reasonable excuse, to take the oath or make an affirmation of office, will not be entitled to attend council meetings until they do so and will be taken to be absent without leave.
- Councils must provide induction training for newly elected mayors and councillors and refresher training for returning mayors and councillors within six months of the election. Councils are required to report on the mayor's and councillors' participation in induction or refresher training in their annual reports. Guidance on developing and delivering induction and refresher training is provided in the Office of Local Government's *Councillor Induction and Professional Development Guidelines* which are available [here](#).

Where to go for further information

- Further guidance on these and other requirements is provided in the *Post-Election Guide for Councils, County Councils and Joint Organisations*. The Guide is available [here](#).

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- For further information, contact the Council Governance Team on 4428 4100 or olg@olg.nsw.gov.au.

 23 December 2021

Brett Whitworth
Group Deputy Secretary, Planning Delivery and Local Government