

1. POLICY CERTIFICATION

Policy title:	Council Vacancy Policy
Policy number:	CL008
Category:	Policy
Classification:	Council
Status:	Approved

2. PURPOSE

The purpose of this policy is to provide for an accountable and transparent process for the filling of Council vacancies which occur during a term of office.

3. ORGANISATIONAL SCOPE

The Council Vacancy Policy applies to all Roper Gulf Regional Council Elected Members.

4. POLICY STATEMENT

In accordance with the *Local Government Act section 39* when the seat of a member of Council becomes vacant during the term of office, Council may fill a vacancy by appointing a person who has consented to accept the office if appointed, or requiring that a By-election be held to fill a vacancy in accordance with the *Local Government Act section 39 (5) (b)*.

This policy will provide for a clear, accountable and transparent process for filling vacancies on Council.

5. DEFINITIONS

Act	Local Government Act and associated Regulations and Guidelines
Appointment	The appointment of a qualified individual, by majority vote of Council, to fill a vacancy on Council for the remainder of the current Council term.
By-election	An election, other than a regular election, held to fill a vacancy on Council and that is conducted in accordance with Part 8.2 of the <i>Local Government Act</i> , as amended.
CEO	Chief Executive Officer
Council	Roper Gulf Regional Council
Deputy Principal Member	Deputy Mayor
Member	A member of the Council
Principal Member	Mayor
RGRC	Roper Gulf Regional Council
Vacancy	When a seat on Council has become vacant in a manner described in section 39 of the Act.

6. PRINCIPLES

6.1 Basic Term of Office

Under the *Local Government Act section 38* a Council member is elected or appointed for a term of office ending at the conclusion of the next general election following the member's election or appointment.

6.2 Composition of Council

Under the *Local Government Act section 33* a Council consists of the members elected or appointed to the Council from time to time under the Act.

Under the *Local Government Act section 34* if there is a vacancy in Council of a member, the validity of a decision or act of a Council is unaffected.

6.3 Role of Members

As described in the *Local Government Act section 35*, the role of a member of a Council is:

- to represent the interests of all residents and ratepayers of the Council area; and
- to provide leadership and guidance; and
- to facilitate communication between the members of the Council's constituency and the Council; and
- to participate in the deliberations of the Council and its community activities; and
- to ensure, as far as practicable, that the Council acts honestly, efficiently and appropriately in carrying out its statutory responsibilities.

An Elected Member of the Council has no power to direct or control staff, or to interfere with the management of staff as per Council's Members Code of Conduct Policy (CL001) 6.4.

A member of the Council has a duty to act, at all times, in what the member genuinely believes to be the best interests of the Council's constituency as per Council's Members Code of Conduct Policy (CL001).

6.4 Council Vacancy

Under the *Local Government Act section 39 (1)* a member of Council ceases to hold office if the person:

- (a) dies; or
- (b) is disqualified from office as a member of the Council; or
- (c) ceases to be enrolled as an elector in respect of a place of residence within the area; or
- (d) is absent, without permission of the Council, from 2 consecutive ordinary meetings of the Council; or
- (e) resigns by written notice of resignation given to the CEO; or
- (f) is removed from office by the Minister under Part 7.5

6.5 Eligibility Requirements

Local Government Act section 36

A person is, unless disqualified, eligible for election or appointment as a member of a Council if enrolled as an elector in respect of a place of residence within the Council's area.

6.6 Filling a Vacancy of Council

Under the *Local Government Act section 39 (5)*, Council may appoint a person to fill a vacancy of Council if a casual vacancy occurs within 18 months or less before the next general

CL008 – Council Vacancy Policy

election. If a vacancy of Council occurs more than 18 months before the next general election, a By-election is to be held to fill the vacancy.

However, under the *Local Government Act section 39 (6)* if a member resigns in order to stand as a candidate for election to the Legislative Assembly or the Commonwealth House of Representatives or the Senate; and the resignation takes effect not more than 28 days before the close of nominations for the relevant election; and the former member is not elected, and applies to the CEO to be reinstated as a member of the Council within 7 days after the result of the election is known; the former member is reinstated as a member of the Council in the position they held before resignation in this circumstance.

6.7 Vacancy less than 18 months before Election

Filling Vacancies by Appointment

Under the *Local Government Act section 39 (5) (a)* Council may (in accordance with its policy) co-opt a person to fill the vacancy until the next general election.

The following processes shall be followed when filling a vacancy of Council:

1. Vacancy in the Council of the Mayor

If a vacancy in the Council of Mayor is to be filled, Council may choose to fill the vacancy by appointing a current Member of Council by:

- a) At the next Ordinary Meeting of Council,
- b) Nominations of Elected Members,
- c) Voting of the nominations by Council.

2. Vacancy in the Council of the Deputy Mayor

If a vacancy in the Council of the Deputy Mayor is to be filled, Council may choose to fill the vacancy by appointing a current Member of Council by:

- a) At the next Ordinary Meeting of Council,
- b) Nominations of Elected Members,
- c) Voting of the nominations by Council.

3. Vacancy in the Council of a Ward Councillor

If a vacancy in the Council of a Ward Councillor is to be filled, Council may choose to fill the vacancy by appointing:

a) The relevant Local Authority to:

- i. Nominate any eligible person (Local Authority or any other persons other Ward region) by completing the Council Vacancy Nomination Form
- ii. The Nomination Forms are to be submitted to the Governance Unit within 14 days or in the specified time frame given by Council, of the request being made;
- iii. Council will notify all Local Authority Members of the Request for Nominations within a reasonable timeframe of a Ward Councillor vacancy.
- iv. Council will decide successful nominee by resolution at the next Ordinary Meeting of Council.

6.8 Alternate Appointment to Council

In accordance with clause 6(c)(i) of Guideline 2, if a vacancy occurs in the office of the Mayor, the Deputy Mayor carries out the functions of the Mayor as under section 43 (2) of the Act.

If the Mayor is absent from official duties on leave or for some other reason, and the Deputy Mayor is not available to act in the principal member's position, the Council may, by resolution, appoint some other member of the Council to act in the principal member's position for a

CL008 – Council Vacancy Policy

specified period or until the principal member resumes official duties (*Local Government Act section 43 (3)*).

While a member of Council is acting as the principal member, that member will be entitled to be paid the Acting Principal Member daily rate in accordance with clause 6(c)(ii) of Guideline 2. The maximum number of days that the member may be paid as the acting principal member is 90 days in a financial year (clause 6(c)(iv) of Guideline 2).

6.9 Vacancy more than 18 months from Election

Filling Vacancies by By-election

If a vacancy is to be filled by a By-election it shall be held in accordance with the *Local Government Act*, as amended.

7. REFERENCES

Acknowledgements (original author/source documents)	
Related Policies	<ul style="list-style-type: none"> ▪ CL001 – Members Code of Conduct ▪ CL002 – Members Disciplinary Policy ▪ CL005 – Meeting Procedures Policy ▪ CL006 - Elected Member Allowances Policy ▪ CL007 – Caretaker Policy
Related Publications	<i>Local Government Act</i> <i>Local Government Electoral Regulations</i>
Related Forms	<ul style="list-style-type: none"> ▪ <i>Councillor Vacancy Nomination Form</i>

8. DOCUMENT CONTROL

Policy number	CL008
Policy Owner	Manager Governance and Corporate Planning
InfoXpert ID	670899
Endorsed by	
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Amendments	
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9. CONTACT PERSON

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