

# SCS-045 Councillors as Candidates in State or Federal Elections Policy

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**Responsible Officer:** Manager Integrity and Governance

## Purpose

This policy defines a Councillor's obligations when standing as a candidate in State or Federal elections. It ensures good governance is practised by all Councillors and officers.

## Policy Principles

This policy assists Councillors who are candidates for state and federal elections by providing guidance that ensures the separation of the dual roles of Councillor and candidate to prevent improper use of the Councillor's position or Council resources to support the candidacy.

## Scope

This policy applies to Councillors who are candidates in State or Federal elections, all other Councillors and officers of Surf Coast Shire Council.

## Policy

Councillors who are prospective candidates or nominated candidates for State or Federal elections are required to ensure that their dual roles of candidate and Councillor are maintained separately, and there is no improper use of the Councillor's position or Council resources to support their candidacy.

Councillors are elected to perform their duties in a lawful manner and must comply with relevant provisions of the *Local Government Act 2020* (the Act) including the standards of councillor conduct which are prescribed in regulation 12 of the *Local Government (Governance and Integrity) Regulations 2020*. When considering standing for Federal or State Parliament, Councillors should consider these duties and requirements under the Act, including standards of conduct and potential conflicts of interest.

As a prospective or nominated candidate, a Councillor needs to ensure they continue to act with integrity, avoid potential conflicts of interest, and ensure that they do not misuse their position and Council resources.

If a Councillor intends to nominate for election to Federal or State Parliament, it is recommended that they seek independent legal advice regarding any issues which may arise in association with being a candidate whilst still a Councillor.

### 1. Councillor to Declare Candidacy in an Election

As soon as practicable after becoming an endorsed candidate of a registered political party, or publicly expressing an intention to run as an independent candidate in an election (a prospective candidate), a Councillor should advise the CEO in writing. The CEO will advise all Councillors in writing as soon as practicable. Additionally, a Councillor should declare their intended candidacy for a State or Federal election at a meeting of the Council as soon as practicable after notifying the CEO in accordance with this policy.

2. **Council Resources – Use by Councillors**

Council resources, including officers and support staff, hospitality services, equipment (eg mobile telephones and computers), stationery, and photographs taken at or for official Council business, must be used exclusively for normal Council business at all times and must not be used in connection with an election campaign.

During a period of leave leading up to a State or Federal election, Councillor candidates must return Council-issued items such as computers and mobile phones. These will be returned if the Councillor is not elected and continues to hold office as a Councillor.

3. **Improper Use of Position by Councillors**

Sections 123, 125, and 126-131 of the Act prohibit Councillors from misusing or inappropriately making use of their position. A breach of sections 123 and 125 attract serious penalties, including possible imprisonment in the case of section 123.

4. **Conflicting Roles**

Prospective candidates and nominated candidates must ensure they do not act in matters where they have a conflict of roles due to being both a Councillor and a candidate, and must continue to adhere to the Councillors' Code of Conduct. In order to allow transparency and achieve clear separation in roles, Councillors who have nominated as candidates for State and Federal elections should take a leave of absence. This leave of absence should commence no later than the date of their nomination as a candidate with the relevant electoral commission for the election (nomination date), and conclude no earlier than when the election outcome is declared. During this period, a Councillor who is on a leave of absence should not attend meetings of the Council or otherwise act as a Councillor.

Where the Mayor is a prospective or nominated candidate in a State or Federal Election, they should take a leave of absence in accordance with this section and the Deputy Mayor will perform the functions of the Mayor as prescribed in the Act, including being the principal spokesperson for Council.

A Councillor who is a prospective candidate or a nominated candidate should not use Council activities, including Council meetings, events and Council related external activities in relation to their candidacy.

5. **Social Media**

Councillors who are candidates in State or Federal elections will need to maintain separate social media accounts and ensure it is clear whether comments are being made as a Councillor or prospective candidate/nominated candidate. In all cases, Councillors should avoid making comments that could damage relationships between Council and other levels of government/groups or organisations.

6. **Media Advice and Releases**

No media advice or assistance will be provided in relation to election issues or in regard to publicity that involves Councillors standing as candidates.

Media releases will not refer to specific Councillors in their capacity as prospective candidates or nominated candidates. During this time, the Mayor will not delegate to any Councillor who is a prospective or nominated candidate any responsibility to represent them.

Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of an election campaign for a Councillor who is standing for election.

Photos of and references to Councillors standing as candidates will only feature in Council's publications where this is related to usual Council business, functions or events.

7. **Councillor Candidates Commenting on Council Issues**

Where a Councillor comments on Council issues as a candidate in an election, the Councillor should clearly identify this fact. Councillors should seek independent advice relating to any legal implications which may arise as a result of such comments.

8. **Advocacy by Council**

It is recognised that the community expects that Council will advocate prior to a State or Federal election for actions and projects for the benefit of the Surf Coast Shire community.

In undertaking advocacy, Council will avoid “party political” positions and will instead advocate in an apolitical manner, for the benefit of the Surf Coast Shire community.

9. **Councillor/Officer Protocols**

Established communication protocols will apply. Where required, the CEO will review if any additional provisions are required.

10. **Successful election**

Candidates are required to resign from Council if they are successfully elected into State or Federal parliament in accordance with section 34(2)(a) of the *Local Government Act 2020*. This requirement occurs immediately following the announcement of the election result, at which point they become a member of parliament and are therefore incapable of continuing as a Councillor. Penalties for non-compliance apply where a successful Councillor candidate does not resign upon becoming a member of parliament.

**Local Government Act 2020 Principles**

Principles	Applicable to policy	If yes, provide details
<b>Governance Principles</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes	<i>Of particular relevance is 9(2)(b) which states that priority is to be given to achieving the best outcomes of the municipal community, including future generations. This is supported by having a policy which clearly defines roles and provides a framework to facilitate community representation without conflict of interest or misuse of position due to State or Federal election candidacy.</i>
<b>Community Engagement</b> (Consideration of Community Engagement Principles under s.56 LGA 2020)	No	
<b>Public Transparency</b> (Consideration of Public Transparency Principles under s.58 of LGA 2020)	No	
<b>Strategies and Plans</b> (Consideration of Strategic Planning Principles under s.89 of LGA 2020)	No	
<b>Financial Management</b> (Consideration of Financial Management Principles under s.101 of LGA 2020)	No	
<b>Service Performance</b> (Consideration of Service Performance Principles under s.106 of LGA 2020)	No	

## Definitions

<b>Election</b>	the Federal or State election, or a by-election for either parliament.
<b>Formal Nomination Date</b>	the date set by the relevant electoral commission on which nominations to be a candidate in the election close.
<b>Nominated Candidate</b>	a Councillor who has taken the steps required to nominate as a candidate for election. Typically, nomination takes place three to six weeks prior to the relevant election date.
<b>Prospective Candidate</b>	a Councillor who either: <ul style="list-style-type: none"><li>a) Nominates for pre-selection as a candidate for election by a political party;</li><li>b) Is endorsed as a candidate for election by a political party; or</li><li>c) Who, if not a member of a political party, has announced their intention to nominate as a candidate in an election.</li></ul>

## Related Procedure

Nil.

## References

1. Local Government Act 2020
2. SCS-041 Councillor Media Policy
3. SCS-001 Councillor Entitlements, Expenses and Facilities Policy
4. Councillor Code of Conduct
5. Surf Coast Shire Council Governance Rules (including Election Period Policy)
6. [MAV Guidelines – Councillors Standing for State or Federal Elections](#)
- 7.

## Document History

Version	Document History	Approved by – Date
1		Council Resolution – 10 December 2019