

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

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Responsible Officer: General Manager Governance & Infrastructure

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 candidates or endorsed candidates for state or federal elections are expected 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 standing as candidates for state and federal elections must ensure that they continue to comply with the requirements of the Local Government Act 1989 (Act) during the election period. Sections 76B and 76BA of the Act, in addition to the Councillor Code of Conduct, provide guiding principles for Councillors' conduct at all times. Specifically, under s.76B, Councillors must continue to:

- (a) act with integrity; and
- (b) impartially exercise his or her responsibilities in the interests of the local community; and
- (c) not improperly seek to confer an advantage or disadvantage on any person.

In addition, under s.67BA, Councillors must:

- (a) avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- (b) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- (c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;
- (d) exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- (e) endeavour to ensure that public resources are used prudently and solely in the public interest;
- (f) act lawfully and in accordance with the trust placed in him or her as an elected representative;
- (g) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

These principles require Councillors to put their Councillor duties – acting in the interest of their local municipal community – ahead of their private interests, including those as a candidate. These principles imply that Councillors should be taking all necessary steps to avoid any reasonably perceived or actual conflicts between their public interests and duties as a Councillor and their private interests and duties as a candidate. Specifically:

1. Councillor to Declare Candidacy in an Election

A Councillor who becomes an endorsed candidate prior to an election should inform the CEO in writing as soon as practicable. The CEO will advise all Councillors in writing.

As soon as practicable after nominating as a candidate in an election, a Councillor should advise the CEO in writing. The CEO will advise all Councillors in writing as soon as practicable. Additionally, a Councillor who has nominated as a candidate for a state or federal election should declare this at a meeting of the Council as soon as practicable after the formal nomination date.

2. Council Resources – Use by Councillors

Council resources, including officers and support staff, hospitality services, equipment (eg mobile telephones, smart phones and computers), photographs taken at or for official Council business and stationery, 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 are requested to return Council-issued items such as tablets and mobile phones. These will be returned if the Councillor is not elected.

3. Improper Use of Position by Councillors

Sections 76D and 76E of the Local Government Act 1989 (the Act) prohibit Councillors from misusing or inappropriately making use of their position. A breach of section 76D attracts serious penalties, including possible imprisonment.

4. Conflicting Roles

Candidates and endorsed 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 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 are encouraged to take a leave of absence during the election period.

5. Functions and Events

Councillors, including those standing as candidates and endorsed candidates, may continue to attend functions and events.

Speeches will continue to be prepared for the Mayor's official functions and, if requested, speeches will be distributed to the media at the discretion of the CEO. During this time Councillors who are candidates will not be allocated roles that could conflict with their candidacy for example the Mayor will not delegate any responsibility to represent him or her to any Councillor who is standing as a candidate.

Ward forums will not be held across the municipality within six weeks of state and federal elections in instances where a Councillor candidate is running.

6. 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 candidate/endorsed candidate. In all cases Councillors should avoid making comments that could damage relationships between Council and other levels of government/groups or organisations.

7. 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 candidates or endorsed candidates. Councillors standing as candidates are not eligible to be Council's official spokesperson on Council's advocacy priorities. Council will nominate an alternative Councillor to be Council's advocacy spokesperson where required.

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.

8. 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.

9. 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.

Refer to 5.6 for advice on advocacy spokespeople.

10. Councillor/Officer Protocols

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

11. Mayor's Candidacy

The Mayor is encouraged to temporarily relinquish their position as Mayor for the duration of any state or federal election period in which they are a candidate.

Where the Mayor stands down in this way, Council will appoint a temporary Acting Mayor in accordance with Local Law No.2 – Council Meeting Procedures and Common Seal until the Mayor returns from the leave of absence or resigns as a Councillor due to being successfully elected.

Where the Mayor does not stand down or take a leave of absence, they must take additional care to maintain a clear distinction between the roles of Mayor and candidate, preserve the independence of the Mayoral role and ensure it is not politicised. In such circumstances it will be necessary to consider the Mayor's public profile, particularly in relation to communication and publicity, to keep this to a minimum during any such election period.

12. Other Council Policies

Council policies must be clearly understood and adhered to by Councillors who are candidates.

13. Successful election

Candidates are required to resign from Council if they are successfully elected into state or federal parliament in accordance with section 28A of the Local Government Act 1989. 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.

Definitions

Endorsed Candidate	a Councillor who has been endorsed or pre-selected as a candidate by a political party or who, if not a member of a political party, has announced their intention to nominate as a candidate in a future State or Federal election.
Candidate	a Councillor who has nominated to run in a State or Federal election.
Election	the Federal or State election, or a by-election for either parliament.
Formal nomination date	the date set by the relevant electoral commission on which nominations to be a candidate in the election close.

Related Procedure

Nil.

References

1. Local Government Act 1989
2. Councillor Media Policy
3. Councillor Entitlements Policy
4. Councillor Code of Conduct
5. Election Period (Caretaker) Policy
6. Local Law No. 2 – Council Meeting Procedures and Common Seal
7. [MAV - Candidature of Councillors State or Federal Elections](#)
8. [VLGA - Councillors as Candidates in State or Federal Elections](#)
9. [LGV - Circular No. 13/2014](#)
10. [LGV - 'Guide for Councillor Candidates for State and Federal Parliament'](#)

Document History

Version	Document History	Approved by – Date
1		<i>Council Resolution – 10 December 2019</i>