

SOUTH GIPPSLAND SHIRE COUNCIL

COUNCIL POLICY



South Gippsland
Shire Council

COUNCILLOR STANDING AS A STATE OR FEDERAL CANDIDATE

Policy No.	C74	Council Meeting Adoption Date:	19 December 2018
Agenda Item No.	5.3	Revision Date:	December 2022
Corporate and Community Services		Council Business Team	

1. Purpose

The principles of conduct require Councillors to act honestly and to exercise reasonable care and diligence in performing their role. It is an offence for a Councillor to make improper use of their position. The purpose of this Policy is to provide guidance to Councillors standing as candidates in State or Federal elections to ensure they act with due diligence by separating their role as Councillor from their personal pursuits.

2. Scope

This Policy applies to prospective and nominated Councillors running for office in State or Federal Parliament. It also applies to other Councillors and Council staff to ensure that the requirements of the Policy are followed.

3. Principles of Conduct for Councillors as Candidates (Prospective and/or Nominated) in State or Federal Elections.

3.1 Compliance with Legislation and Council Policies

Councillors are bound by the Local Government Act 1989, the Councillor Code of Conduct and other Council policies. It is the responsibility of Councillors as Prospective and/or Nominated Candidates at a State or Federal election to act in accordance with these laws and policies. Requirements that will assist Councillors include:

3.3.1 Advice to Chief Executive Officer In Writing

A Councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as an independent candidate for a state or federal election (a Prospective Candidate), should provide written advice to the CEO, as soon as practicable, who should then advise all councillors.

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3.3.2 Declaration to Council

A councillor who is a Prospective Candidate, should declare his/her intended candidacy at a meeting of the council as soon as practicable after notifying the CEO pursuant to 3.3.1.

3.3.3 Leave of Absence Requested

A Councillor who nominates as a candidate for a state or federal election (a Nominated Candidate), should apply for leave of absence from the Council and 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 the close of voting for the election. 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.

3.3.4 Councillor / Staff Relationship Protocols Observed

Any councillor/staff relationship policies and protocol which the Council has in place should be observed by a Nominated Candidate and this should apply from their Nomination Date until the close of voting for the election.

3.3.5 Council to Approve Leave Application

The Council, upon receiving an application for a leave of absence from a Councillor who is a Nominated Candidate or who intends to become a Nominated Candidate, should approve that application.

3.3.6 Differentiate Role of Councillor from Role as Candidate when making Public Comments

A Councillor who is a Prospective Candidate or a Nominated Candidate, should take care to differentiate between his/her role as a state or federal election candidate and role as a Councillor when making public comment.

3.3.7 Differentiate Role of Councillor from Role as Candidate

A Councillor who is a Prospective Candidate or a Nominated Candidate, should not use Council activities, including committee

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meetings and council-related external activities in relation to his/her candidacy.

3.3.8 Resignation from Council if Successfully Elected

A Councillor must resign immediately if they are successfully in a state or federal election, as commonwealth and state constitutions disqualify a person from holding office who is profiting from the crown or the state.

3.3.9 Legal Advice is at the Discretion of the Councillor.

It may be prudent for a Councillor to seek their own legal advice, at their cost, in regard to the various issues associated with running as a candidate whilst still a Councillor.

3.4 Avoidance of Conflict of Interests

To avoid an actual, or perceived Conflict of Interest, a candidate needs to be mindful to declare conflicts of interest that may pertain to their conflicting role as a candidate.

3.4.1 Take Leave of Absence Immediately after Nominating

A Councillor, having nominated, is to immediately commence their leave of absence as a Councillor and not act in their role as a Councillor until the end of the election.

3.4.2 Return Council Resources and Vehicles upon Nomination

A Councillor, having nominated, is to immediately return Council resources and vehicles to the Council Business Team the following:

- a. Council vehicles, Information Technology equipment, mobile phone, stationery, Council letterheads, business cards and any other associated resources.

3.5 Prevention of Misuse of Position and/or Resources

Councillors will ensure due propriety is observed to ensure Council resources are not used or construed as being related to a candidate's election campaign. If in doubt advice is to be sought from the CEO as to the nature of the usage.

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- 3.5.1 Council resources, including vehicles, offices, support staff, hospitality services, equipment and stationery will be used exclusively for normal Council business and will not be used in connection with any election matter. Similarly, Council funded telephones and e-mail addresses are not to be used by Councillors as contact points in their election campaign material.
- 3.5.2 Reimbursement of Councillors' out-of-pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal (required) Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.
- 3.5.3 No Council logos, letterheads, or other South Gippsland Shire Council branding will be used for, or linked in any way to, a candidate's election campaign.
- 3.5.4 Media attention or marketing campaign opportunities are not to be sought through participation in Council activities, events or network meetings, in support of an election campaign.

4. RISK ASSESSMENT

This Policy enables:

- 4.1 Council, Councillors, Candidates and Council Staff to understand the requirements and obligations of a Councillor running as a candidate in State or Federal elections.
- 4.2 Council to demonstrate its commitment to openness and transparency by articulating requirements expected of Councillors running as candidates for other levels of government.
- 4.3 Community confidence and public trust in Council to be maintained or improved.
- 4.4 Council to address matters that are not explicitly captured in the *Local Government Act, 1989* and, when followed will mitigate the likelihood of any breaches of the *Local Government Act, 1989*.

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5. ROLES AND RESPONSIBILITIES STATEMENT

It is a Councillor's responsibility to ensure they do not misuse their position as a Councillor in regard to conflicting roles and personal interests, including running as a candidate in a State or Federal election. Sections 76D and 76E of the LGA prohibit Councillors from misusing or making inappropriate use of their position. A breach of Section 76D attracts serious penalties, including possible imprisonment.

SUPPORTING INFORMATION			
Legislative Provisions	Local Government Act 1989		
Council Supporting Documents	Councillor Code of Conduct (C14) Councillor Support and Expenditure Policy (C51) Election Period Policy (C30)		
Related Documents	MAV Policy Position – Candidature of Councillors State or Federal Elections. VLGA Councillor Development Series – Councillors as Candidates in State or Federal Elections		
File Number	D8787418		
DEFINITIONS and ACRONYMS			
Prospective Candidate	A Councillor who has not yet nominated to be a candidate for a State or Federal election, but who for all intents and purposes is planning to become a nominated candidate		
Nominated Candidate	A Councillor who has officially nominated to run in a State or Federal election, once nominations commence a few weeks prior to the election.		
REVISION HISTORY			
Version	Approved	Approval Date Range	Sections Modified
1.0	Ordinary Council Meeting	19 December 2018	New Policy