



# Good Governance Grab

## Councillors as State or Federal candidates – a conflict?

In Victoria, we are going to experience a State and a Federal election in the next six months. If we forget this for a minute, the headlines of the (serious) dailies invariably bring it back to our attention.

Local governments' minds are also focussing on the forthcoming elections. The VLGA is busy developing strategies to assist local governments to be heard in the pre-election clamour. Many vital interests of our communities are at stake.

However the elections also impact on local government in another way. The VLGA has recently received a significant number of enquiries from and about councillors who are also endorsed candidates at either the State or Federal level. The focus of these enquiries has been on whether being a candidate and a councillor creates a conflict of interest and under what circumstances.

Recent changes to the Local Government Act expressly forbid a person being a councillor and a member of the State or Federal parliament at the same time. However, the Act does not address the issue of a person being a candidate and a councillor.

The comprehensive conflict of interest provisions do not address this situation directly either. On our reading of the Act, **being a councillor and a candidate does not create a conflict of interest in itself**. Even when the issue at hand refers to another level of government (advocating, criticising, praising, seeking funding etc), a conflict of interest situation is not created merely by a councillor being a candidate for that level of government.

All possible conflict of interest situations still need to be assessed against the specific provisions of the Act. Does the councillor or a member of his/her family or household have a financial interest? Does the issue impact on their residential amenity? Do the conflicting duties provisions apply? And so on.

However, this is not the entire issue. From a governance point of view, a councillor who is also a candidate is constantly susceptible to at the very least, perceptions of competing interests. During the period of his/her candidacy, s/he will always be at risk of being perceived having more than one hat and speculation as to which hat is s/he wearing at any point in time.

If a councillor who is a candidate stands up in the chamber and criticises or praises the State Government, it is legitimate for the observer to question whether the councillor is doing so as a councillor or a candidate (who wants to either join the current government or replace it).

How can a councillor/ candidate deal with this situation? The VLGA's view is that s/he needs to be acutely sensitive to the situation s/he is in and ensure that in their own mind, they are clear that when fulfilling their role as a councillor, they are doing so as a councillor with the best interests of their community



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from the activities of the Council or the councillor. If this does not happen, the councillor is at the very least, in breach of the oath s/he swore.

Councillors who are also candidates need to be transparent about their situation – acknowledging it and making the effort to explain and demonstrate how they are fulfilling their role as a councillor.

There is a general point underpinning all this. While many councillors are members of political parties and participate in these parties' processes, the Council chamber is not the place for party politicking, factional battles and political paybacks about issues arising in other arenas. This is bad governance, probably in breach of the Act and maybe most importantly, discredits local government in the eyes of our communities.

Councillors have a responsibility to consider issues on their merits and act only in the interests of their communities – however they perceive these. Settling scores, opposing or supporting just because someone else supports or opposes or because of their party or factional adherences is not good local governance.

So, while there is not an inherent conflict of interest in being a councillor and a candidate, those in that situation need to be extremely mindful of the perceptions and actualities of wearing two hats and ensure that they are always wearing their councillor hat when doing council business.

**If you would like to discuss this or any other governance issue with us, please contact Ron Exiner (0417-392-078) or Darren Ray (03 9349-7902) at the VLGA.**