Introduction

This procedure outlines Council’s position on staff who wish to secure and perform employment outside of their Council related employment (Secondary Employment). Section 353 of the Local Government Act 1993 (the Act) specifies the necessary requirements that elected officials and staff must abide by when it comes to obtaining and maintaining employment with an agency, organisation or enterprise in addition to their position with Council.

The Section 353 of the Act states:

- The General Manager must not engage, for remuneration, in private employment or contract work outside his or her service of the Council without the approval of the Council.
- A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the council that relates to the business of the council or that might conflict with the individual’s council duties unless he or she has notified the General Manager in writing of the employment or work.
- The General Manager may prohibit a member of staff from engaging, for remuneration, in private employment or contract work outside the service of the council that relates to the business of the council or that might conflict with the members’ council duties.
- A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the council if prohibited from doing so under any of the points made above.

Definitions

**Secondary employment**
is any employment with an organisation other than the Council and includes self-employment, independent contracting, consulting, or employment by a family company.

**Employment Status**
means secondary employment which includes; casual, part-time and full-time work, and shift work. All such forms of employment constitute secondary employment regardless of the duration of employment. Secondary employment also includes positions already held by an individual prior to commencing employment with Council.

Scope

This procedure applies to all staff employed by Bega Valley Shire Council, including the General Manager, Group/Executive Managers, service managers, and all other staff, whether they be permanent, part-time or casual. This procedure also covers individuals engaged in employment with Council on a contractual basis.

Employee Responsibility

If you are employed in a permanent position or through a temporary arrangement including the casual employment pool, you must seek written approval from the General Manager prior to engaging in any secondary employment.
You can only commence the private or secondary employment once you have received written approval from the General Manager. A copy of the request for secondary employment and subsequent response from the General Manager will be filed on the individual staff person’s personnel file in TRIM.

If the secondary employment is ongoing, it is the responsibility of the individual employee to seek approval from the General Manager to continue this work. **This re-approval process must be completed each year** and will be included in Council’s Employee Knowledge and Skills (EKaS) annual feedback system.

It is the employee’s responsibility to seek re-approval for their outside employment as outlined in this procedure. Failure to comply with this condition may result in the suspension or removal of approval for secondary employment and/or commencement of a disciplinary process as per the Local Government (State) Award 2014.

**Manager responsibilities**

The General Manager is ultimately responsible for making decisions to or not to approve requests for secondary employment.

Group/Executive Manager and service managers are responsible for providing advice to employees in relation to the provisions of this procedure, as well as all other procedures pertaining to an individual’s Conditions of Employment. Group/Executive Managers may also provide recommendations to the General Manager concerning declarations of secondary employment.

Coordinators/supervisors are required to report to the relevant Group/Executive Manager all cases of secondary employment, whether disclosed by the employee or not.

**Executive Manager | Organisational Development & Governance (ODG)**

The Executive Manager (ODG) will keep a register of secondary employment for record keeping purposes. Details of this register will be updated in each calendar year in accordance with Council’s Employee Knowledge and Skills (EKaS) annual feedback system. This information will be reported to the General Manager as required.

**Why do we need to apply?**

**Potential conflict of interest**

Engaging in secondary employment can sometimes be perceived as contrary to the best interests of Council and described as a conflict of interest. Conflicts of interest are a major issue for Local Government employees. A conflict of interest occurs when:

- **a.** Secondary employment is performed at the same time that a staff person is being engaged to deliver council related services.
- **b.** The demands of the secondary position compromise an individual’s ability to undertake and deliver their duties or to meet their Workplace Health and Safety (WHS) obligations within council.
- **c.** Secondary employment may lead to the individual using council facilities, equipment or resources such as IT software, plant equipment and/or vehicles.
- **d.** Secondary employment may lead to the individual making use of, or receives benefit from, commercial or other information which is accessible by the staff person or elected official during the course of their day-to-day employment.
- **e.** Secondary employment is with an agency, organisation or enterprise which supplies council with equipment, services, or staff.
- **f.** Secondary employment is with an agency, organisation or enterprise which is a customer of council.
Health and safety of workers

Employees must not engage in any outside employment where the hours worked or the nature of their duties is such that their personal health or efficiency could be impaired. All employees must adhere to the provisions included in Procedure 5.05.1 Work Health & Safety Management System Framework.

Leave

Sick leave will not be approved as a consequence of outside or secondary employment.

How to apply

1. All requests for approval of secondary employment must be in writing. Requests will not be considered for approval unless submitted in writing to the relevant Group/Executive Manager.
2. Requests should be submitted to the relevant Group/Executive Manager using the “Request for Secondary Employment” template. This template can be found by clicking File > New > My Templates > HR.
3. Requests can be submitted to the relevant Group/Executive Manager in the following ways:
   - By email
   - Hand delivered (hard copy)
   - Via the post (hard copy)
4. The details of your request will include:
   - Basis of secondary employment
   - The nature of the role you will fulfil
   - Proposed amount of hours
   - The name of the employer
   - Details of any potential conflict of interest
5. All requests for secondary employment will be considered by the Group/Executive Manager, who will make necessary recommendations to the General Manager prior approval being granted.
6. Response to staff requests for secondary employment will be provided by the respective Group/Executive Manager.

Volunteer and Community Organisations

Employees are encouraged to contribute to the community through their involvement in various community organisations. Staff may participate in voluntary community organisations, charities and/or professional associations so long as their activity is in accordance with this procedure as well as Procedure 5.02.1(a) Model Code of Conduct. Participation in volunteer or community organisations must be completed in the staff person’s own time unless agreed.

Breaches of this procedure

Any member of the community can lodge a complaint with council over any issue of concern regarding an individual’s secondary employment. Any such complaint will be investigated and assessed against the standards outlined within the document, but also according to procedure 5.02.5 Compliments and Complaints including Unreasonable Correspondent/Complainant Conduct (UCCC).

Any failure by an individual staff member to seek approval for secondary employment will be corrected immediately by the submission of a request in writing to the General Manager.

Any failure to seek approval for secondary employment from the General Manager which involves a significant conflict of interest or significant undisclosed use of council resources shall make the individual staff person liable to an allegation of misconduct.
Breaches of this procedure will be managed in accordance with various other council procedures including, but not limited to:

- 5.02.1(a) Model Code of Conduct
- 5.02.1(b) Administration of the Model Code of Conduct
- 5.02.5 Compliments and Complaints including unreasonable correspondent/complainant conduct
- 5.02.7 Public Interest Disclosure (PID) – internal reporting system
- 5.04.8 Grievances and Disputes
- 5.04.10 Disciplinary Action
- 5.05.1 Work Health & Safety management system framework

An example of secondary employment

**Scenario**

‘In addition to working on a full-time basis for Council; Joseph works from 6pm until 3am as a bar attendant for the local pub. He works this shift three nights a week. Joseph has not written to the Group/Executive Manager requesting approval to undertake his secondary role. Last week, his supervisor at Council (Maree) witnessed Joseph sleeping at various times during the day - outside of his designated meal break. Joseph explained to Maree that he was going through some financial difficulties at the current time and needed the additional hours of work for extra income.’

**Solution**

Both Joseph and Maree discussed the situation and made an agreement that he would only work shifts at the bar on Friday and Saturday nights, so that he did not need to attend work the very next morning. Joseph wrote to the relevant Group/Executive Manager with the necessary details, and approval was given based on the fact he would only work in his second job on Friday and Saturday nights’.

This initial situation above may be considered inappropriate secondary employment because of the WHS predicaments it might be leaving both Joseph and Council as his employer. According to the National Employment Standards (NES) set out in various Awards, a person must have at least an eight hour break in between shifts. Failure to have an adequate break in between shifts can be detrimental to the health and safety of the individual and his or her colleagues.
Request for Secondary Employment

[Insert Date]

[Insert Name of Relevant Group/Executive Manager]
Bega Valley Shire Council
PO Box 492
Bega NSW 2550
[insert email of relevant manager]

Dear [Insert name]

Request to undertake secondary employment

I, [Insert your name], of, [Insert address] - request to undertake employment in addition to my position with Bega Valley Shire Council. Details of my secondary employment are provided below:

<table>
<thead>
<tr>
<th>Item</th>
<th>Details</th>
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<tbody>
<tr>
<td>Basis of employment</td>
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<tr>
<td>Nature of role you will have</td>
<td></td>
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<td>Proposed number of hours</td>
<td></td>
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<tr>
<td>Name of employer</td>
<td></td>
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<td>Start date</td>
<td></td>
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<tr>
<td>Possible conflicts of interest</td>
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</tbody>
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Whilst performing my duties during my secondary employment, I agree to abide by the requirements set out to me in the Local Government Act 1993, as well as all council policies and procedures, particularly Procedure 5.02.1(a) Model Code of Conduct.

____________________________________  ______________________
Employee Signature                      Date:

______________________________  ______________________
General Manager Approval (Signature)               Date: