

Control of Election signs Policy



Record number	D19/81894
Responsible Manager	Manager Community Safety
Other key internal stakeholders	Director Community & Cultural Development
Last reviewed	19 August 2020
Adoption reference	Policy and Strategic Development Committee
Resolution number	81
Previous review dates	29/08/17, 12/08/14, 08/04/14, 09/10/12, 12/08/08, 08/04/08, 23/01/07, 25/07/06, 30/05/06, 25/02/03, 13/03/01
Legal requirement	NA
Due date next review	2023

The electronic version of this document is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

PURPOSE

The purpose of this policy is to state Council's position in regard to the placement of election Signs within the City. The existence of this policy will assist to minimise any negative impact on the overall amenity and atmosphere of the City, by ensuring that election Signs are appropriate, of good quality and placed in the correct manner.

The requirements established in this policy will be applied consistently and equitably to all political parties and candidates.

This policy does not apply to free standing moveable Signs that are placed on a Road since such Signs may be placed without authorisation.

POLICY

Election Signs on SA Power Networks (SAPN) or Department for Infrastructure and Transport (DIT) equipment or infrastructure

SAPN and DIT (the Relevant Authorities) own the relevant infrastructure installed on Roads (ie light poles, stobie poles) and permission of the Relevant Authorities is required to display a moveable sign on their infrastructure. The Relevant Authorities have, by way of adopting Instruments of General Approval, granted their permission for Signs to be affixed to their equipment or infrastructure subject to various conditions. The 'Guidelines & General Approval for the Placement or Affixation of Election Signs – For Federal, State and Local Government Elections Referenda and Polls' operate to provide a General Approval to authorise the placement or affixation of Signs, advertising candidates for election, on a Road or onto infrastructure on a Road owned by the Relevant Authorities.

Provided that the requirements of these Guidelines are fully complied with, it is not necessary to make application to the Council or Relevant Authorities for permission to display election Signs.

Election Signs on Council equipment or infrastructure

Council consent is required before an election sign may be displayed on land, a structure or infrastructure that is either owned or under the care and control of Council. Where Council consent is given for Signs in Elections, the following terms and conditions must be complied with.

Signs must:

1. Not be more than one (1) square metre in area
2. Places designated as polling booths/places for Australian and State Elections and Referenda will not be subject to this requirement on polling day only
3. Only be displayed, in the case of State and Australian Elections during the period commencing at 5.00pm on the day before the issue of the writ or writs for the election and ending at the close of polls on polling day. Should they not be removed within two days (48 hours of the close of voting) they will be considered illegal Signs/posters and Council will implement the provisions of this policy (refer to section "Illegal Signs")
4. Only be displayed, in the case of local government Elections, during the period commencing four (4) weeks immediately before the date set for polling day and ending at the close of voting on polling day. Signs are to be removed within two (2) days (48 hours of the close of voting)

otherwise they will be considered illegal Signs/posters and Council will implement the provisions of this Policy (refer to section “Illegal Signs”)

5. Comply with all legislative requirements relating to the publication of ‘electoral material’ as defined in the relevant legislation
6. Be securely fixed or posted and maintained in good repair and condition at all times
7. Be designed, made, and presented in a quality manner (the intent is that Signs will remain intact and not become a danger to Road users or end up as litter)
8. Contain clear and legible writing or symbols. An authorised officer will determine whether a sign is clear and legible for these purposes
9. Contain on the face of the Sign, the name, phone/email and address of both the person authorising the electoral material and the printer of it, along with a phone contact number of the authorising person or party
10. Be fastened securely so that they cannot become detached in high winds and endanger Council property or equipment or pose a danger to the safety of the public
11. Be installed, maintained and removed in a safe manner without endangering personal and community safety.

Signs must not:

1. Be located on a fence adjoining Local Government land that is owned by Council or under Council’s care, control and management (other than Roads). This includes property being leased from Council
2. Be illuminated (internally or indirectly), move, flash, rotate, or reflect so as to be an undue distraction to drivers
3. Be self-adhesive. All individual promotional material affixed under the terms of this consent may only be affixed by non-invasive means that do not cause damage of any type to the structure to which the material is affixed. If a paste is to be used, it must be of a water based/wallpaper type (or similar)
4. Be affixed under any circumstances to trees, shrubs, or other plants or at any location that may cause damage to Council property
5. Be placed on a carriageway, dividing strip (median), traffic island, roundabout, or within 50 metres of a signalised intersection, roundabout or pedestrian activated crossing
6. Be placed within 6 metres of an intersection or junction, or in any other location that may pose a hazard to pedestrians or Road users
7. Be attached to any traffic control device, street name, traffic direction or parking sign or to the associated pole
8. Be placed so as to cover any Council Signs or markings
9. Be placed in a location on a pole or fence so as to aid the climbing of the pole or fence
10. Be placed so as to restrict the sight distance for Road users and pedestrians crossing the Road
11. Compete with or reduce the effectiveness of other Signs and traffic control devices
12. Resemble a traffic control device, or reasonably be capable of being mistaken as a traffic control device
13. Advertise any organisation other than a registered political party or candidate.

Other:

1. Where Signs are fixed or posted on poles adjacent to footpaths or Roadways such Signs must not be lower than two metres and a maximum height of three metres from the ground with nothing above the sign to affix it or anything else to the pole. For safety reasons, there is a total prohibition to any point higher than three metres from the ground
2. The person or party responsible for the sign must maintain the sign. The person or party is also responsible for ensuring that safety is maintained (and the Australian Road Rules complied with) whilst the sign is being installed, maintained or removed and no traffic disruption is to occur during the installation, maintenance or removal process
3. Where properties of Council are managed by others, Council may delegate to the Management Committee of that body the right to determine its own policy for election advertising, subject to relevant legislation. In such cases, written consent of that body is to be obtained. Upon request by the Council, the applicant must produce such written consent
4. The person(s) to whom consent is granted and any persons acting on their behalf, including by way of causing the sign to be displayed:
 - 4.1 Accept(s) and agrees that the display of Signs must be in accordance with this Policy
 - 4.2 Accept(s) full responsibility for any personal injury, property damage or other loss in any way arising out of or consequent upon the erection, removal or display of election material and acknowledge(s) that the Council have no liability or responsibility in relation to such matters whatsoever
 - 4.3 Such person(s) agree(s) to indemnify the Council against any such personal injury or property damage or other loss incurred by the Council and against any third party claims arising out of or consequent upon the erection, removal or display of Signs
5. It is a condition of consent that if any breach occurs which results in action by or on behalf of the Council to enforce the conditions of this policy and thereby results in costs and expenses for the Council, then such costs and expenses will be recovered by the Council from the person(s) responsible. These costs will include removal and/or destruction of the offending material by an officer or agent of the Council
6. The person or party responsible for the sign must remove all parts of the sign and fixtures from the site when required to do so in complying with this policy
7. Installing, maintaining and removing Signs must not be carried out between 7am and 10am or between 3pm and 7pm Monday to Friday on a peak flow traffic lane
8. In relation to Council ward Elections, election signage may only be permitted within the relevant ward or either side of a ward boundary Road.

Election Signs on Private or Third Party Property:

1. Signs on private fences, including those adjoining Council land, will have a total advertisement area of not more than two (2) square metres and be limited to one sign per candidate/party per site/location
2. Should the applicant propose to use property belonging to any party (other than Council) they should firstly obtain the written consent of the owner of that property. Upon request by the Council, the applicant must produce such written consent. In cases where there is property involved belonging to any other party, Council approval will be subject to all of the relevant matters contained in this policy

Illegal Signs

Council is totally opposed to illegal Signs as a form of advertising.

A breach of, or non-compliance with, any of the conditions of the policy will invalidate the consent and may result in the removal of the Sign, and a report being prepared for consideration by Council with a view to prosecuting the offender.

If Signs are creating a public safety concern, have been affixed or displayed contrary to consent or without Council consent, or they remain in place after the deadline for removal, the following procedure will be followed by Council employees:

1. The relevant officer is to notify the organisation/persons by phone/e-mail, requesting removal of the Signs within 24 hours
2. If the Signs are not removed within 24 hours, instructions will be given to immediately remove or paint over the offending Signs, dispose of the sign as it sees fit, and Council will charge the resultant cost to the parties responsible
3. If evidence can be obtained of persons affixing the offending sign, this information will be referred to the relevant person for possible legal proceedings
4. If urgent action is required to avoid a risk to public safety, Council may remove the offending election sign without first requesting its removal.

Application for Council Consent

Any person wishing to make application for the consent of the Council to allow electoral Signs to be posted, affixed or erected on property under the care and control of Council should contact Council's Community Safety Department for an application form on 8397 7313 or fax 8397 7400 or email: customerservice@cttg.sa.gov.au.

A copy of this Policy will be provided to each approved applicant.

Alterations

The CEO may authorise minor variations to this policy during the election process in order to enhance or clarify any part of the policy.

Grievances

Any grievances in relation to this Policy should be forwarded in writing addressed to the CEO.

Promotion

The requirements within this Policy will be promoted within the community and to candidates and political parties.

Compliance with the Policy

Subject to the availability of employee resources, Council will monitor the Signs during an Election Period to ensure compliance.

Whenever Council receives a complaint in regards to a particular Sign or group of Signs the relevant employees will promptly investigate the complaint and take any necessary action.

Where breaches of the policy occur, candidates will be given no more than 24 hours' notice to rectify the breach.

LEGISLATIVE FRAMEWORK

There is no legislative requirement for Council to have a policy relating to this area.

The following legislation applies to this Policy:

Local Government Act 1999

Section 209(1) - All fixtures and equipment installed in, on, across, under or over a public Road by the provider of public infrastructure are owned by the provider of that infrastructure, not by the Council.

Section 221(2)(b) & (2)(d) - It is an offence to interfere with any structure on a public Road or to erect or install a structure ("structure" includes pipes, poles, fixtures, fittings or other objects) in, on, across, over or under a public Road without authorisation from Council.

Section 226 - A moveable sign must not unreasonably restrict the use of the Road or endanger the safety of the public. A person may place and maintain a moveable sign on a Road without authorisation provided the design and structure, the positioning of the sign and any other relevant requirements of the by-law are complied with. These provisions do not apply if the sign is related to a State or Australian election and is displayed during the period.

Section 227 - If an election sign unreasonably restricts the use of the Road or endangers the safety of members of the public, a person authorised by Council may order the owner of the sign to remove the sign, or if the owner is unknown or fails to comply immediately with the order, may remove and dispose of the sign.

Section 234 - A Council may remove and dispose of any object (which includes an election sign) that has been erected, placed or deposited on a public Road without authorisation or permit or contrary to the conditions of any authorisation, permit or by-law and recover the cost of doing so from the person who erected, placed or deposited the structure or object.

Section 235 - A person who deposits rubbish (which includes litter) on a public Road without authorisation or permit commits an offence.

Section 239 - A Council can make a by-law to regulate moveable Signs (defined in the Act as a moveable advertisement or sign).

Section 240 - Council has the power to make by-laws prohibiting the posting of bills, advertisements or other papers or items on a building or structure on a Road, other Local Government land or other public place, without the permission of the Council.

Local Government (Elections) Act 1999

Applicable to Local Government Elections only.

Section 27 - A person who publishes electoral material must include the name and address of the person who authorises the publication and in the case of printed material, the name and address of the printer or other person responsible for its production.

Section 28 - It is an offence to publish electoral material that purports to be a statement of fact and yet is inaccurate and misleading to a material extent.

Development Act 1993

Section 74 - If an advertisement or hoarding disfigures the natural beauty of a locality, detracts from the amenity of a locality or is contrary to the character desired from the locality under the Development Plan, the Council may serve notice on the owner or occupier of the land (on which it is located) to remove or obliterate it unless it is authorised under the Local Government Act 1999, the Electoral Act 1985 or the Local Government (Elections) Act 1999.

Development Regulations 2008

Schedule 3, Regulation 1 - Advertising displays - Provides that an advertisement in relation to an election/referendum is excluded from being defined as "development" (and hence does not require authorisation under the Development Act 1993) if the total area on one building or site is not more than two square metres and the display does not move, flash, reflect light so as to cause undue distraction to motorists nor is internally illuminated.

Electoral Act 1985

Councils do not have the power to regulate the content of electoral Signs.

Queries in relation to the provisions of the Electoral Act 1985 should be directed to the Electoral Commission of South Australia.

Commonwealth Electoral Act 1918 (Cth)

Queries in relation to the provisions of the Commonwealth Electoral Act should be directed to Australian Electoral Commission.

Criminal Law Consolidation Act 1935

It is an offence under this Act to steal or deface an electoral sign or poster. Any alleged offence will be referred to the SAPOL for their attention.

Road Traffic Act 1961

Section 31(2) - Despite any other law, the Road authority in which the care, control or management of a Road is vested may remove from the Road and dispose of any false traffic control device, structure or thing that the Road authority is satisfied might constitute a hazard to traffic.

Summary Offences Act 1953

It is an offence under section 33(2)(c) and (d) of this Act to:

- a. Exhibit indecent or offensive material in a public place or so as to be visible from a public place
- b. Deposit indecent or offensive material in a public place.

An alleged offence will be referred to SAPOL for their attention.

Other references

Council’s document including:

- a. Fees and Charges Register

External document including:

- a. Guidelines & General Approval for the Placement or Affixation of Election Signs – For Federal, State and Local Government Elections Referenda and Polls

STRATEGIC PLAN/POLICY

Strategic Plan

The following strategic objectives in Council’s Strategic Plan 2025 are the most relevant to this report:

Objective	Comments
Leadership	
<i>Leadership and advocacy is focused on the long term interests of the community</i>	
<i>Customer service provides a positive experience for people and is based on honesty and transparency</i>	
<i>Planning considers current and future community needs</i>	
<i>Delivery of services is sustainable and adaptable</i>	
<i>Decision making is informed, based on evidence and is consistent</i>	This policy provides clear guidelines for staff and in management of election signage issues. The policy also informs members of the public of the processes that Council staff will undertake in relation to any questions or concerns that they have in relation to election signage.
<i>Major strategic decisions are made after considering the views of the community</i>	

Organisation Plan

Within this policy we define the roles, powers and responsibilities within the organisation and strive to be a leader of good governance in local government. We work proactively to meet our legislative and governance obligations and the practice of good governance.

DEFINITIONS

For the purposes of this policy the following definitions apply:

CEO

Refers to the Chief Executive Officer (including their delegate) of the City of Tea Tree Gully.

DTI

Department for Infrastructure and Transport.

Election Period

Commencing on the issue of the formal written order for the election and ending at the close of polls on polling day. If it is related to a Local Government election it is during the period commencing at the close of nominations and ending at the close of voting on polling day (for election Signs only, as the Caretaker Policy is from the start of nominations).

Elections

Includes periodic and general Elections, by-elections and supplementary Elections, referenda and polls, and applies to Australian, State and Local Government Elections.

Road

Has the same meaning as Road under the Local Government Act 1999 and for the purposes of clarification extends from property boundary to property boundary.

SAPN

SA Power Networks.

SAPOL

South Australia Police.

Signs

Includes moveable Signs where appropriate and also includes posters that comprise an advertisement for a candidate or party in the election, or for a referendum or poll whether held for Australian, State or Local Government purposes.

POLICY IMPLEMENTATION

This Policy will be implemented by the Chief Executive Officer or relevant portfolio director and managed in accordance with Council's scheme of delegations.

ACCESSIBILITY

This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: www.cttg.sa.gov.au

Hard copies, for a fee, can be provided in accordance with Council's Fees and Charges Register at Council's Civic Centre at 571 Montague Road, Modbury SA 5092.