



Election Signs Policy

Reference Number:	2.11
Type:	Council Policy
Category:	Corporate Governance
Relevant Community Plan Outcome:	<ul style="list-style-type: none"> • Provide accessible social infrastructure and services that engage our diverse community. • Capitalise on partnerships, build community resilience and sense of belonging. • Create opportunities for community leadership and civic participation. • Be bold and innovative in our practices, leadership and decision making.
Responsible Officer(s):	Manager Public Health & Safety
First Issued/Approved:	February 1998
Minutes Reference:	CoS 6/11/2017, Item 3.51
Last Reviewed:	November 2017
Next Review Due:	November 2019
Applicable Legislation:	Local Government Act 1999 Local Government (Elections) Act 1999 (for Local Government Elections only) Development Act 1993 Electoral Act 1985 Commonwealth Electoral Act 1918 Criminal Law Consolidation Act 1935 Australian Road Rules
Related Policies:	By-Laws Register
Related Procedures:	None

1. Purpose

The City of Charles Sturt recognises the importance of free speech and political campaigning (as supported by the Electoral Act 1985). The purpose of this policy is to:

- Achieve clarity of the position and consistency of approach within the Council area;
- Enable the issue to be applied consistently and equitably to all political parties and candidates;
- Minimise any threat to public safety from the placement of the signs;
- Recognise SA Power Networks and the Department of Planning, Transport and Infrastructure (DPTI) as they relate to their respective interests, thereby enabling a single approval (from Council) covering the interests of all three parties;
- Incorporate the legislative requirements relating to Election Signs.

2. Scope

This policy covers the control and placement of Election Signs as they relate to Local Government, State Government and Commonwealth Government elections. Councils do not have the power to regulate the content of electoral signs.

3. Policy Statement

Council acknowledges the desire for political campaigning, including the placement of electioneering signage, and therefore allows for signage to be posted, affixed or erected on property under the care and control of Council, SA Power Networks or Transport Services Division of the Department of Planning, Transport and Infrastructure (DPTI) for the purposes of candidate promotion in Federal, State or Local Government elections, as long as it is undertaken in line with Council's Election Signs Policy.

Summary

A person may place and maintain free-standing moveable signs (such as a-frames, sandwich boards, etc) on footpaths and road reserves within public roads (i.e. on the ground, and not attached to, or leaning against, any object in the road) without requiring prior authorisation from the Council, provided:

- the sign is related to a State or Commonwealth election and is displayed during the period commencing with the issuing of the writ(s) for the election and ending at the close of polls on polling day, or
- the sign is related to a Local Government election and is displayed during the period commencing 4 weeks before the date set for polling day and ending at the close of voting on polling day, or
- the design and structure, the positioning of the sign and any other relevant requirements of the Development Act and any applicable Council by-law are complied with.

A person may place or affix a moveable sign, or place it against, any infrastructure (including poles, light poles, traffic signs, traffic lights, trees, fences, bridges etc), whether the infrastructure is owned or under the care, control and management of the Council, DPTI or SA Power Networks, where that infrastructure is located on, in or across public roads or public places.

Council is, pursuant to the relevant Instruments of Authorisation and General Approval, permitted by SA Power Networks and DPTI to grant approval for the placement or affixation of moveable signs on or leaning against infrastructure that those entities own or that is under their care, control and management.

3.1 Election Signs in Public Places

Prior to any signs (that are not freestanding moveable signs placed on a road) being posted, affixed or erected on infrastructure on a road that is under the care and control of Council, SA Power Networks or DPTI for the purposes of candidate promotion in Federal, State or Local Government elections. Candidates should familiarise themselves with Council's Election Sign Policy to ensure any signage placed out in the local community is done so safely and orderly.

3.1.1 Election Signs must:

- (a) not be more than 1 square metre in area and be limited to one sign per site/pole. A back to back sign facing two directions is considered to be one sign for this purpose. Size requirements of electoral advertisements are also specified in section 115 of the Electoral Act 1985. (For private fences a larger area is permissible – please refer to 3.1.4 below);

Please note: Places designated as polling booths/places for Federal and State Elections and Referenda will not be subject to this requirement on polling day only.

- (b) only be displayed, in the case of State and Commonwealth elections, during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day. Should the signs 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 (please refer below to 3.2: Illegal signs);
- (c) only be displayed, in the case of local government elections, during the period commencing 4 weeks immediately before the date set for polling day and ending at the close of voting on polling day. Should they not be removed within 2 days (48 hours of the close of voting) they will be considered illegal signs/posters and Council will implement the provisions of this Policy, (please refer below to 3.2: Illegal Signs). In the event that the nominated candidates are declared elected unopposed, all of their election signs/posters must be removed within 48 hours of such declaration and notice. Should the signs not be removed within 48 hours they will be considered illegal signs/posters and Council will implement the provisions of this policy (please refer below to 3.2: Illegal Signs);
- (d) comply with all legislative requirement relating to the publication of ‘electoral material’ as defined in relevant legislation;
- (e) be securely fixed or posted and maintained in good repair and condition at all times;
- (f) be designed, made, and presented in a quality manner (the intent is that signs must not tear apart and become a danger to road users and end up as litter);
- (g) contain clear and legible writing or symbols;
- (h) contain on the face of the sign, the name, phone/email and address of both the person authorising the promotional material (publisher) and the printer of it;
- (i) be fastened securely so that they cannot become detached in high winds and endanger Council, SA Power Networks or DPTI property or equipment or pose a danger to the public.
- (j) be installed, maintained and removed in a safe manner without endangering personal and community safety.

3.1.2 Election Signs must not:

- (a) be illuminated (internally or indirectly), move, flash, rotate, or reflect so as to be an undue distraction to drivers;
- (b) be self-adhesive or taped on. 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);

- (c) be affixed under any circumstances to trees, shrubs, or other plants or at any location that may cause damage to Council, SA Power Networks or DPTI property;
- (d) be placed on a carriageway, dividing strip (median), traffic island, roundabout, or within 50 metres of a signalised intersection, level crossing, roundabout or pedestrian activated crossing;
- (e) 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;
- (f) be attached to any traffic control device, street name, traffic direction or parking sign or to the associated pole;
- (g) be erected on poles or towers carrying electricity transmission lines (these are generally lines utilising greater span lengths with significantly taller poles or towers supporting electrical wires);
- (h) be attached to SA Power Networks pad mounted transformers or switching cubicles;
- (i) be attached to the fence or other enclosure of any sub-station of SA Power Networks;
- (j) be placed so as to cover any Council, SA Power Networks or DPTI signs or markings;
- (k) be placed on DPTI structures with the exception of "gooseneck" light poles belonging to DPTI. Structures which belong to DPTI, include road bridges on arterial roads, traffic control boxes, traffic signal poles, signal boxes, traffic signs and other traffic control devices, guide posts and pedestrian fences located within the road reserve;
- (l) be placed in a location on a pole or fence so as to aid the climbing of the pole or fence;
- (m) be placed so as to restrict the sight distance for road users and pedestrians crossing the road;
- (n) compete with or reduce the effectiveness of other signs and traffic control devices;
- (o) resemble a traffic control device, or reasonably be capable of being mistaken by road users as a traffic control device;
- (p) advertise any organisation other than a registered political party or candidate;

3.1.3 Where signs are fixed or posted on poles adjacent to footpaths or roadways such signs must not be lower than 2 metres and a maximum height of 3 metres from the ground with nothing above the sign to affix it or anything else to the pole. Signs must have a minimum clearance of 3 metres from any overhead mains. There is a total prohibition on any part of the sign being higher than 3 metres from the ground.

3.1.4 Signs on private fences, including those adjoining Council land, shall have a total advertisement area of not more than 2 square metres and be limited to one sign per candidate/party per site/location.

- 3.1.5** 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 or removed and no traffic disruption is to occur during the installation or removal process.
- 3.1.6** This authority does not cover railway or tramline structures such as level or pedestrian crossings, bridges, stations, signalling equipment or fences adjacent to railway and tram lines. In this regard, information on the various rules and if appropriate, permission to enter or erect signs in these areas must be obtained from the relevant rail authority.
- 3.1.7** 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.
- 3.1.8** The person(s) to whom consent is granted and any persons acting on their behalf, accept full responsibility for any personal injury, damage or loss in any way arising out of or consequent upon the display of election material and acknowledge(s) that the Council, SA Power Networks or DPTI have no liability or responsibility in relation to such matters whatsoever and such person(s) agree(s) to indemnify Council, SA Power Networks and DPTI against any such personal injury or property damage or other loss incurred by the Council, SA Power Networks or DPTI and against any third party claims arising out of or consequent upon the erection, removal or display of signs.
- 3.1.9** SA Power Networks may direct the immediate removal of, any signs or remove or cause to be removed any signs without notice from any poles or structures and owned or managed by SA Power Networks notwithstanding that consent to erection of such signs may have been previously given by Council.
- 3.1.10** If SA Power Networks removes any signs under any condition of these Guidelines, SA Power Networks may dispose of the sign as it sees fit and may recover any costs of removal and/or disposal from the person or party responsible for the signs.
- 3.1.11** It is a condition to the granting 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.
- 3.1.12** Should the applicant propose to use property belonging to any party - other than Council, SA Power Networks or DPTI - they must firstly obtain the written consent of that third party. 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.
- 3.1.13** The person or party responsible for the sign must remove all parts of the sign and fixtures from the site when removing the sign and within 48 hours from the close of voting in the relevant election.

- 3.1.14** Installing, maintaining and removing sign must not be carried out between 7:00am and 10:00am or between 3:00pm and 7:00pm Monday to Friday on a peak flow traffic lane.
A breach of, or non-compliance with, any of the conditions of this Policy will invalidate the consent and may result in a report being prepared for consideration by Council with a view to prosecuting the offender.

3.1.15 Moveable Signs

Section 226 of the Local Government Act 1999 specifies the legal requirements for moveable signs. Council's by-law for regulating moveable signs (By-Law No. 2 – Moveable signs) does not apply to election signs where it relates to:

- a State or Commonwealth Government election and is displayed during the period commencing on the issue of writ or writs for the election and ending at the close of polls on polling day; or
- an election held under the Local Government Act 1999 or the Local Government (Elections) Act 1999 and is displayed during the period commencing 4 weeks immediately before the date that has been set (either by or under either Act) for polling day.

Where an election sign does not come under these provisions, the requirements specified in By-Law No. 2 for moveable signs will apply. A person authorised by Council may order the owner 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 (refer Section 227 of the Local Government Act 1999).

3.1.16 Development Act 1993

Signs may be "development" requiring approval under the *Development Act*. Signs will not be development if they fall within one of the exceptions to the definition of "development" contained in Schedule 2 or Schedule 3 of the *Development Regulations 2008*.

- signs which are "moveable signs" as defined in the Local Government Act are not development if they are placed on a public street, road or footpath.
- other signs, including moveable signs which are not placed on a public street, road or footpath (called "advertisements" and "advertising displays" in the Regulations) are not development if:
 1. they are displayed on a building or building in separate occupation (other than the side or rear walls of a building) used primarily for retail, commercial, office or business purposes, subject to the following conditions:
 - that the advertisement is not displayed or erected above any verandah or the fascia of a verandah or, in a case where there is no verandah, that no part of the advertisement is more than 3.7 metres above ground level; and
 - that the advertising display:
 - does not move; and
 - does not flash; and
 - does not reflect light so as to be undue distraction to motorists; and
 - is not internally illuminated;

2. for signs not displayed on commercial, office or business purpose buildings:
 - the total advertisement area of all advertisements of the same kind displayed on one building or site is not more than 2 square metres; and
 - that the advertising display:
 - does not move; and
 - does not flash; and
 - does not reflect light so as to be undue distraction to motorists; and
 - is not internally illuminated;

All signs which do not fit within these exemptions must be approved under the Development Act before they are placed on roads or affixed to buildings or structures.

Further, where advertisements are not authorised under the Local Government Act, or the Local Government (Elections) Act, Council has the power to serve a notice on the owner or occupier or land on which an sign is located directing that person to remove or obliterate the sign where the 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 Council's Development Plan.

3.1.17 Council Owned Land / Private Land

No Election Signs may be placed on Council-owned land or infrastructure or on private land or infrastructure without the permission of the Council or the private land owner, as the case may be.

3.2 Illegal Signs

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

If advice is received that signs have been affixed that restrict the use of a road, or endanger the safety of the public or have been affixed or displayed contrary to the requirements in this policy or remain in place after the deadline for removal, the following procedure will be followed by Council staff:

- 3.2.1** An officer of Council will notify the organisation/persons by phone, facsimile, email or letter, requesting removal of the signs within 48 hours.
- 3.2.2** If the signs are not removed within 48 hours, Council will arrange for immediate removal or paint over the offending signs and Council will charge the resultant cost to the parties responsible.
- 3.2.3** If evidence can be obtained of persons affixing the offending sign, this information will be referred to the relevant officer for possible legal proceedings.

3.3 Enforcement

3.3.1 Non-Compliance with Policy and Legislation

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

In accordance with Section 234 of the Local Government Act 1999, Council may remove and dispose of any object (which includes an election sign) which has been placed on a public road in an unsafe manner, and recover the cost of doing so.

Penalties apply for non-compliance with legislation or by-laws relating to publishing and distribution of election material and election sign placement. Refer to City of Charles Sturt Fees and Charges Register for the cost of removal relating to illegal election signs. Specific penalties also exist under legislation relating to election signage and material.

A person who deposits rubbish (which includes litter) on a public road without authorisation or permit commits an offence. Penalties and expiation fees apply (refer Section 235 of the Local Government Act 1999).

3.3.2 Interference with Election Signs

It is an offence under the Criminal Law Consolidation Act to steal or deface an electoral sign or poster. Any alleged offence will be referred to the SA Police for their attention.

3.3.3 Misleading or Inaccurate content of Electoral material

In accordance with Section 28 of the Local Government (Elections) Act 1999 and Section 113 of the Electoral Act 1985, 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. Any complaints made in relation to content of electoral signs for Local Government (Elections) Act 1999 will be referred to the Electoral Commission SA or the Electoral Commissioner for investigation.

3.4 Commonwealth Elections

The Commonwealth Electoral Act 1918 specifies the requirements for electoral signage as it relates to Commonwealth elections (refer Australian Electoral Commission website at www.aec.gov.au).

4. Definitions

Key Term – Acronym	Definition
Elections	to be interpreted to include Periodic and General Elections, By-elections and Supplementary Elections, Referenda and Polls.
Road	to be interpreted within the definition of road under the Local Government Act 1999 and for the purposes of clarification extends from property boundary to property boundary.
Signs	to be interpreted as a poster/sign that comprises an advertisement for a candidate or party in the election, or for a referendum or poll whether held for Federal, State or local government purposes. For the purposes of this policy the definition does not include movable signs.