

	Guidelines for the Control of Election Signs For Federal, State and Local Government Elections Referenda and Polls	Version No:	1.1
		Issued:	October 2015
		Next Review:	July 2019

1. OBJECTIVES

The objectives of these guidelines are to:

- a. Achieve clarity of the policy position and approach of Council, and to incorporate issues of SA Power Networks and Transport Services Division of the Department for Transport, Energy and Infrastructure (DTEI) as they relate to their respective interest, thereby enabling a single approval (from Council) covering the interests of all three parties;
- b. Establish a policy which is to be applied consistently and equitably to all political parties and candidates;
- c. Achieve consistency of approach within a Council area whilst recognising that some variation will occur from one Council area to another;
- d. Provide a summary of the legal position;
- e. Provide information on whom to contact within Council;
- f. Provide information on how to make application to council; and
- g. Minimise any threat to public safety from the placement of signs.

2. INTERPRETATION

References in this document to:

“Elections” is to be interpreted to include periodic and general elections, by-elections and supplementary elections, referenda and polls.

“Public Place” is to be interpreted within the definition of public place under the Local Government Act 1999.

“Road” is 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” 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 Federal, state and Local Government purposes.

3. SUMMARY OF LEGAL POSITION RELATING TO ELECTION SIGNS

3.1 LOCAL GOVERNMENT ACT 1999

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 (Sect. 221 (2) (b) and (2) (d)). A maximum penalty of \$5,000 applies.

A Council may remove and dispose of any structure or object (which includes an election sign) which has been erected, placed or deposited on a public road without authorisation, and recover the cost of doing so from the person who erected, placed or deposited the structure or object (Sect. 234).

A Council can make a by-law to regulate moveable signs (defined in the Act as a moveable advertisement or sign and is sufficiently broad to include an election sign). A person may place and maintain a moveable sign on a road without authorisation 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

 <p>DISTRICT COUNCIL OF FRANKLIN HARBOUR</p> <p>COWELL</p>	<h2>Guidelines for the Control of Election Signs For Federal, State and Local Government Elections Referenda and Polls</h2>	Version No: 1.1 Issued: October 2015 Next Review: July 2019

- 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 position of the sign and any other relevant requirements of the by-law are complied with.

A moveable sign must not unreasonably restrict the use of the road or endanger the safety of the public (Sect. 226). Where a moveable sign fails to satisfy these requirements, 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 (Sect. 227).

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 (Sect. 240). By-laws which implement controls for signs other than moveable signs on roads ordinarily provide exemptions for election signs authorised by a candidate during a Commonwealth, State or Local Government election and when a referendum is being held.

A person who deposits rubbish (which includes litter) on a public road without authorisation or permit commits an offence. An expiation fee applies, with a maximum fine of \$5,000 (Sect. 235).

3.2 LOCAL GOVERNMENT (ELECTIONS) ACT 1999 (Applicable to Council elections only)

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. A maximum fine of \$2,500 applies (Sect. 27).

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. A maximum fine of \$5,000 applies (Sect. 28)

3.3 DEVELOPMENT ACT 1993

The Development Regulations provide that an advertisement in relation to an election/referendum is excluded from the definition of "development" (and hence does not require authorisation under the Development Act) 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.

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

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		Next Review:	July 2019

Electoral Act 1985 or the Local Government (Elections) Act 1999 (Sect. 74 of the Development Act 1993).

3.4 ELECTORAL ACT 1985 (STATE)

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, telephone (08) 7424 7400.

3.5 COMMONWEALTH ELECTORAL ACT

Queries in relation to the provisions of the Commonwealth Electoral Act should be directed to the Australian Electoral Commission, telephone (08) 8237 6555.

3.6 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 SA Police for their attention.

4. COUNCIL POLICY

4.1 ELECTION SIGNS IN PUBLIC PLACES

Subject to the limited exemptions (as set out above) for moveable election signs placed on a road, the Council Policy is that prior to any signs being posted, affixed or erected on property under the care and control of Council, SA Power Networks, or DTEI for the purposes of candidate promotion in Federal, State or Local Government elections, Council consent must be obtained.

Where Council consent is given, the following terms and conditions for signs must be complied with:

4.1.1 Signs must:

- not be more than 1 (one) 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. (For private fences a larger area is permissible – refer to point 4 below).

(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.)

- 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 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 below to 5. ILLEGAL SIGNS)
- be securely fixed or posted and maintained in good repair and condition at all times;



Guidelines for the Control of Election Signs For Federal, State and Local Government Elections Referenda and Polls

Version No:	1.1
Issued:	October 2015
Next Review:	July 2019

- 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)
- contain clear and legible writing or symbols;
- contain the name and address of both the person authorising the promotional material (the publisher) and the printer of it, along with a phone contact number of the publisher; and
- be fastened securely so that they cannot become detached in high winds and endanger Council, SA Power Networks or DTEI property or equipment or pose a danger to the public.

4.1.2 Signs must not:

- be illuminated (internally or indirectly), move, flash, rotate, or reflect so as to be an undue distraction to drivers;
- 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);
- 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 DTEI property;
- be placed on a carriageway, dividing strip (median), traffic island, roundabout;
- be placed within six (6) metres of an intersection or junction, or in any other location that may pose a hazard to pedestrians or road users;
- be attached to any street name, traffic direction or parking sign or to the associated pole;
- be erected on poles or towers carrying electricity transmission lines (these can generally be identified as all poles, which are taller than 11 metres);
- be attached to SA Power Networks pad mounted transformers or switching cubicles;
- be attached to the fence or other enclosure of any sub-station of SA Power Networks;
- be placed so as to cover any Council SA Power Networks or DTEI signs or markings;
- be placed on DTEI structures with the exception of "gooseneck" light poles belonging to DTEI. Structures which belong to DTEI, include road bridges on arterial roads, traffic control boxes, traffic signal poles, signal boxes, traffic signs, directional and information signs, and other traffic control devices, guide posts, traffic barriers and pedestrian fences located within the road reserve;



Guidelines for the Control of Election Signs For Federal, State and Local Government Elections Referenda and Polls

Version No:	1.1
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Next Review:	July 2019

- be placed in a location on a pole or fence so as to aid the climbing of the pole or fence;
 - be placed so as to restrict the sight distance for road users and pedestrians crossing the road;
 - compete with or reduce the effectiveness of other signs and traffic control devices;
 - resemble a traffic control device, or reasonably be capable of being mistaken as a traffic control device (must not be affixed on the diagonal); or;
 - advertise any organisation other than a registered political party or candidate.
- 4.1.3 Where signs are fixed or posted on poles adjacent to footpaths or roadways such signs shall only be between a height of 2 to 3 metres from the ground with nothing above the sign to affix it or anything else to the pole. There is a total prohibition on any part of the sign being higher than 3 metres from the ground.
- 4.1.4 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.
- 4.1.5 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, maintained or removed and no traffic disruption is to occur during the installation, maintenance or removal process.
- 4.1.6 It is a condition precedent 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.
- 4.1.7 Should the applicant propose to use property belonging to any party – other than Council, SA Power Networks, or DTEI – 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.
- 4.1.8 The person or party responsible for the sign must remove all parts of the sign and fixtures from the site in complying with 1.2 or 1.3 of this Part D.
- 4.1.9 Installing, maintaining and removing signs must not be carried out between 7.00am and 9.00am or between 4.00pm and 6.00pm Monday to Friday on a peak flow traffic lane.

	Guidelines for the Control of Election Signs For Federal, State and Local Government Elections Referenda and Polls	Version No:	1.1
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		Next Review:	July 2019

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.

5. 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 without Council consent or remain in place after the deadline for removal, the following procedure will be followed by Council staff:

- a. The relevant officer will notify the organisation/persons by phone/facsimile, requesting removal of the signs within 24 hours.
- b. If the signs are not removed within 24 hours, instructions will be given to immediately remove or paint over the offending signs and Council will charge the resultant cost to the parties responsible.
- c. If evidence can be obtained of persons affixing the offending sign, this information will be referred to the relevant officer for possible legal proceedings.

6. 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, SA Power Networks or DTEI should:

Contact the Council contact officer (see below) for an application form.

INFORMATION – COUNCIL CONTACT DETAILS

The contact officer of Council for information in relation to these guidelines is Compliance Officer who can be contacted by telephone on 08 8629 2019 fax 08 8629 2152 or e-mail council@franklinharbour.sa.gov.au

Whilst it should not be necessary under the terms of these guidelines to make contact with agencies other than the Council, contact with either Transport Services Division of the Department of Transport, Energy and Infrastructure (DTEI) or SA Power Networks may be made as follows:

DTEI	Contact Person	Senior Consultant, Road Corridor Management
	Phone no	8343 2073
	Fax no	8343 2725
	Email	peter.cops@sa.gov.au

SA Power Networks	Contact person Phone No.	General Enquiries 131261
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7. GRIEVANCES

Any grievances in relation to these guidelines should be forwarded in writing addressed to the Chief Executive Officer of Council, P.O. Box 71, COWELL SA 5602.

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8. PROMOTION

The availability of these guidelines will be actively promoted within the community and to candidates and political parties.

Adopted by Council	July 2013
Review and Updated	14 October 2015

 SIGNED: Responsible Officer Date: 15 December 2015

	Guidelines for the Control of Election Signs For Federal, State and Local Government Elections Referenda and Polls	Version No:	1.1
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APPLICATION TO PLACE ELECTORAL SIGNS WITHIN THE DISTRICT COUNCIL OF FRANKLIN HARBOUR

I/We
(name).....

Address.....PostCode.....

Contact
(Home).....(Work).....(Mobile).....No:

Fax
No.....Email.....

Hereby make application for consent to erect Election Signs within the area of the District Council of Franklin Harbour.

I/We, the undersigned, have read the guidelines and policy document attached to this application. I/We hereby acknowledge and agree that by signing this Application and returning it to Council, I/we will abide by the terms of the policy consent (if granted) for the erection of Election Signs within the District Council of Franklin Harbour.

I/We 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 hereby release the Council, SA Power Networks and/or DTEI from all responsibilities and liabilities whatsoever.

I/We acknowledge and agree 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.

Signature of
Applicant.....Date.....

For Council Use only

Consent approved/not approved

Council Officer:.....**Date:**.....

Variations to conditions of consent (if any)

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