

	Guidelines and General Approval for the Placement or Affixation of Election Signs	Version No:	2.1
		Issued:	17 May 2016
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Applicable Legislation:	Local Government Act 1999 (as amended) Wudinna District Council By-Law No. 2 (2016) – Moveable Signs Local Nuisance and Litter Control Act 2016 Local Government (Elections Act) 1999 Development Regulations 2008 Development Act 1993 Planning Development and Infrastructure Act 2016 (as amended) Planning Development and Infrastructure (General) Regulations 2017 (as amended) Summary Offences Act 1953 Road Traffic Act 1961
Related Policies:	Wudinna District Council By-Law No 2 (2016)– Moveable Signs
Related Procedures:	N/A
Related Guidelines	SA Local Government Association – Election Signs – General Approval Guidelines April 2019

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1. INTRODUCTION AND PURPOSE

These Guidelines operate to provide a General Approval to authorise the placement or affixation of moveable 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 the Relevant Authorities for permission to display moveable election signs in this manner.

Note: 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 209 (1) of the Local Government Act 1999

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2. OBJECTIVES AND SCOPE

SA Power Networks (SAPN) and the Department of Planning, Transport and Infrastructure (DPTI) (the Relevant Authorities) own the relevant infrastructure installed on roads (i.e. light poles, stobie poles). This means that, as above, the 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, determined to grant their permission for moveable signs to be affixed to their infrastructure subject to various conditions. The Relevant Authorities have authorised SA Councils to regulate the display of moveable signs on their infrastructure (including by way of enforcing compliance with these conditions).

The objectives of these Guidelines are to:

- provide clarity regarding the legal position with respect to the placement of election signs on roads and road-related infrastructure in the Council's area and to provide a General Approval for the placement of election signs on roads and road infrastructure during an election period, provided the signs comply fully with all conditions;
- establish, with the relevant consents of SA Power Networks and Transport Services Division of the Department of Planning, Transport and Infrastructure (DPTI) conditions of General Approval for the display of such election signs on infrastructure on a road (provided that the conditions are fully met);
- ensure a consistent and equitable approach to the management of election signs for all parties and candidates in an election irrespective of political persuasion or other platform; and
- minimise any threat to public safety from the placement of the election signs.

3 THE LAWFUL DISPLAY OF SIGNS & THE OPERATION OF THE GUIDELINES

A **moveable sign** may be placed on a road at any time without the permission of the council provided that it complies with the Council's By-Laws (Section 226 (1) of the Local Government Act 1999).

Signs such as corflutes that are advertising candidates for election and which do not comply with Council's By-Laws, may be placed on a road without the Council's permission provided that:

- the sign is related to a State or Commonwealth election and is displayed 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; or
- the moveable sign is related to an election held under this Act or the Local Government (Elections) Act 1999 and is displayed during the period commencing four (4) weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day
 - and, the moveable sign does not unreasonably:
 - restrict the use of the road; or
 - endanger the safety of members of the public.

(This is consistent with Sections 226 (3) and 227 (1) of the Local Government Act 1999)

If a moveable sign displayed on a road does not satisfy the above requirements, an authorised person of the 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.

An election sign **cannot** lawfully be placed on, or affixed to, infrastructure on a road without the permission of the owner of that infrastructure.

In general terms, a person does not have the right to interfere with another person's property. This extends to a person interfering with infrastructure (i.e. such as by affixing an election sign to it) that is owned by another person.

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4. DATE FOR THE ERECTION OF ELECTION SIGNS FOR GOVERNMENT ELECTIONS

For the 2018 Local Government periodic election, the polling day (being the day of close of voting) was Friday 9 November 2018. Election signs may be erected during the period commencing four (4) weeks immediately before polling day.

This means that elections signs could be erected at or after 12 October 2018.

For the 2019 federal election, issue of the writ was on 11 April 2019.

This means election signs could be erected at or after 5pm on 10 April 2019

5. THE GENERAL APPROVAL FOR DISPLAY OF SIGNS ON ROAD INFRASTRUCTURE

This **General Approval** is given for election signs to be posted, affixed to or erected on infrastructure that is owned by SAPN or DPTI and installed on a road owned by the Relevant Authorities; subject to compliance with the following conditions:

Election Signs must:

1. be no more than 1 square metre in area. A back-to-back sign facing two directions is considered to be one sign for this purpose.
 - a. *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;*
2. 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;
3. 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. Should they not be removed within two (2) days (48 hours of the close of voting) they will be considered illegal signs/posters;
4. comply with all legislative requirements relating to the publication of 'electoral material' as defined in relevant legislation;
5. be securely fixed or posted and maintained in good repair and condition at all times;
6. 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);
7. contain clear and legible writing or symbols. An authorised officer will determine whether a sign is clear and legible for these purposes;
8. contain on the face of the sign the name, phone/email and address of both the person authorising the promotional material (the publisher) and the printer of it; and
9. be fastened securely so that they cannot become detached in high winds and endanger Council, SAPN or DPTI property or equipment or pose a danger to the public.
10. be installed, maintained and removed in a safe manner without endangering personal and community safety.

Election Signs must not:

1. be illuminated (internally or indirectly), move, flash, rotate, or reflect so as to be an undue distraction to drivers;

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2. 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);
3. be affixed under any circumstances to trees, shrubs, or other plants or at any location that may cause damage to Council, SAPN or DPTI property;
4. 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;
5. 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;
6. be attached to any traffic control device, street name, traffic direction or parking sign or to the associated pole;
7. 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);
8. be attached to SAPN pad-mounted transformers or switching cubicles;
9. be attached to the fences of any fenced SAPN equipment including substations, transformer stations and regulator stations;
10. be placed so as to cover any Council, SAPN or DPTI numbering, signs or other markings;
11. 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, directional and information signs, and other traffic control devices, guide posts, traffic barriers and pedestrian fences located within the road reserve;
12. be placed in a location on a pole or fence so as to aid the climbing of the pole or fence;
13. be placed so as to restrict the sight distance for road users and pedestrians crossing the road;
14. compete with or reduce the effectiveness of other signs and traffic control devices;
15. 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
16. advertise any organisation other than a registered political party or candidate.

Where signs are fixed or posted on poles adjacent to footpaths or roadways such signs must not be lower than two (2) metres and a maximum height of three (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 three (3) metres from any overhead mains. There is a total prohibition on any part of the sign being higher than three (3) metres from the ground.

The person (including, as necessary, the relevant political party) responsible for the sign must maintain the sign. The person or political 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.

This general approval does not extend to railway 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. On the Eyre Peninsula in Regional South Australia, this is Genesee & Wyoming Inc.

The person(s) responsible for the sign and/or any persons acting on their behalf, including by way of causing the sign to be displayed:

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- a. accepts(s) that the display of the election sign must be in accordance with this General Approval and by displaying the sign, agrees to comply with the terms of this General Approval;
- b. 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 signs; and
- c. acknowledge(s) that the Council, SA Power Networks or DPTI have no liability or responsibility in relation to such matters whatsoever; and
- d. such person(s) agree(s) to indemnify the Council, SAPN 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.

SAPN may direct the immediate removal of any signs or remove or cause to be removed any signs without notice from any poles or structures owned or managed by SAPN.

DPTI may direct the immediate removal of any signs or remove or cause to be removed any signs without notice from any poles or structures owned or managed by DPTI.

If SAPN or DPTI removes any signs under the General Approval, SAPN and DPTI may dispose of the sign as it sees fit.

The person or party responsible for the sign must remove all parts of the sign and fixtures from the site within 48 hours from the close of voting in the relevant election;

Installing, maintaining and removing signs 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; and

A breach of, or non-compliance with, any of the conditions of the General Approval will invalidate the General Approval and will result in the removal of the sign.

6. 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.

7. ILLEGAL SIGNS

Under section 23 of the Local Nuisance and Litter Control Act 2016, which commenced operation on 1 July 2017, it is an offence to 'post a bill' (erect an election sign) on property without the consent of the owner or occupier of the property. This offence applies to all election signs that are erected on roads or road infrastructure outside of the election period.

The 'consent of the owner' (i.e. Councils, DPTI, SAPN), under this General Approval, is limited to the period prescribed in section 226(3) of the Local Government Act 2016. Election signs erected outside of that period will be deemed to have been erected without the consent of the owner. Maximum penalty – \$10,000, expiation fee \$315.

If an election sign is erected outside the election period provided for in section 226(3) of the Local Government Act, a person who distributed or authorised the distribution of the bill for posting is guilty of an offence. Maximum penalty – \$20,000 for a body corporate, \$10,000 for an individual.

If the Council determines or suspects that an election sign:

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- a. has been affixed or displayed in a manner that restricts the use of a road or endangers the safety of the public; or
- b. has been affixed or displayed contrary to the General Approval or otherwise without the Council's, DPTI's or SAPN's consent

Council authorised employees may:

- e. Notify the organisation/persons responsible for the election sign by phone/facsimile and request the removal of the sign within 24 hours.
- f. If the election sign is not removed within 24 hours, cause the offending sign to be removed. If urgent action is required to avoid a risk to public safety the Council may remove the offending election sign without first requesting its removal.
- g. Under section 23 of the Local Nuisance and Litter Control Act, issue an expiation notice to any person who has erected an election sign without the permission of the owner.
- h. Prosecute any person who has distributed or authorised the distribution of the bill (election sign) for posting.

The Relevant Road Authority (DPTI, Commissioner for Highways, Council) may:

- a. remove any sign that constitutes a hazard; and
- b. dispose of the sign. (See section 31(2) of *Road Traffic Act* and section 227 of the *Local Government Act*).

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ANNEXURE A

DICTIONARY

For the purposes of these Guidelines, the following definitions apply:

1. **Act** means the *Local Government Act 1999*;
2. **Election** means any elections, referenda and/or polls as they relate to Federal, State or Local Governments;
3. **Election sign includes a moveable sign as defined below and any other** election sign (whether moveable or not) that is intended to affect the result of an election referendum or poll;
4. **General Approval** means the approval or permission of the Relevant Authority that operates these Guidelines to allow moveable signs to be affixed to infrastructure installed on a road subject to the conditions stated therein.
5. **Infrastructure** means fixtures and equipment installed on roads and includes, without limitation, poles, light poles, traffic signs, traffic lights, traffic control boxes, and other traffic control devices, transformer boxes, trees, fences, bridges, whether owned or under the care, control or management of SA Power Networks, DPTI or the Council;
6. **Moveable sign** means a moveable election advertisement, notice or election sign which is intended to affect the result of an election or poll and which can be moved or removed without causing any damage to the infrastructure or land upon which it is placed or to which it is attached, whether free-standing or not;
7. **Pole** means a stobie pole or a light pole for the purposes of these Guidelines, whether owned or under the care, control or management of SA Power Networks or DPTI;
8. **Relevant Authority** means SA Power Networks (SAPN) or Department of Planning, Transport and Infrastructure (DPTI) or Commissioner for Highways;
9. **Road** has the same meaning as under the Act – being:
a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes:
 - *a bridge, viaduct or subway; or*
 - *an alley, laneway or walkway;*
 - *and for the purposes of clarification extends from property boundary to property boundary*

Note that this definition encompasses footpath areas.

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ANNEXURE B

APPLICATION FOR CONSENT TO PLACE ELECTORAL SIGNS ON COUNCIL OWNED LANDS WITHIN THE WUDINNA DISTRICT COUNCIL

To: **Wudinna District Council**
SA Power Networks (SAPN) & Transport Services Division & Dept for Transport Energy and Infrastructure
(DPTI)

I/We (name) _____

Address: _____ Postcode: _____

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

Fax No: _____ E-mail: _____

hereby make application for consent to erect Election Signs within the Wudinna District Council on Council infrastructure or Relevant Authorities in other than a road reserve.

Specific location(s) _____.

I/We, the undersigned, have read the guidelines attached to this application. I/We hereby acknowledge and agree that by signing this Application and returning it to Council I/we will, if consent is granted, abide by the terms of such guidelines and policy document as if all contents therein were included in this Application.

Without limiting the above and by way of example only, the person(s) to whom consent is granted and any persons acting on their behalf, accept full responsibility for any personal injury or property damage or other loss in any way arising out of or consequent upon the erection, removal or display of signs and acknowledge(s) that the Council, SA Power Networks (SAPN) 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 (SAPN) or DPTI against any such personal injury or property damage or other loss incurred by the Council, SA Power Networks (SAPN) or DPTI and against any third party claims arising out of or consequent upon the erection, removal or display of signs.

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, SA Power Networks (SAPN) or DPTI then such costs and expenses may be recovered by the Council, SA Power Networks (SAPN) or DPTI (as the case may be) 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, SA Power Networks (SAPN) or DPTI.

Executed as a deed.

Signature of applicant: _____ Date: _____

Witness: _____ Name and address of Witness (please print): _____

For Council Use Only

Consent approved / not approved.

Council Officer: _____ Date: _____

Variations to conditions of consent (if any): _____