



District Council of Cooper Pedy

**Guidelines &
General Approval for the
Placement or Affixation of Election
Signs**

**For Federal, State and Local
Government Elections
Referenda and Polls**

The *Model Guidelines for the Control of Election Signs* has been prepared by the Local Government Association of SA (LGA) in consultation with ECSA, DPTI for the guidance of and use by member Councils. The LGA is the statutory peak body for Local Government in South Australia, representing all 68 Councils in the State. The Model Guidelines were first issued in 2009 and have been revised or updated:

- July 2010 – following Ministerial advice concerning infrastructure on a road
- July 2013 – minor machinery changes and renewal of agreements with Department of Planning Transport and Infrastructure.
- July 2014 - the Guidelines were substantially revised to include the General Approval

Enquiries regarding this publication should be directed to the LGA on 08 8224 2000.

GENERAL APPROVAL TO PLACE ELECTION SIGNS ON ROADS AND ROAD INFRASTRUCTURE

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.¹

OBJECTIVES & SCOPE

District Council of Coober Pedy (DCCP) and the Department of Planning, Transport and Infrastructure (DPTI) (the Relevant Authorities) own the relevant infrastructure installed on roads (ie 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 Council 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 District Council of Coober Pedy 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.

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 209(1) of the Local Government Act 1999).

THE LAWFUL DISPLAY OF SIGNS & THE OPERATION OF THE GUIDELINES

A **moveable sign** advertising candidates for election may be placed on a road **without** the Council's permission provided that:

- the moveable sign is related to a State or Commonwealth election and is displayed 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; 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 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.²

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.

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 DCCP or DPTI and installed on a road owned by the Council; 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.

² This is consistent with sections 226(3) and 227(1)(d) of the Local Government Act 1999.

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 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;
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 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;
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 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 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 DCCP pad-mounted transformers or switching cubicles;
9. be attached to the fences of any fenced DCCP equipment including substations, transformer stations and regulator stations;
10. be placed so as to cover any Council 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 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.

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.

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:

- 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;
- 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
- acknowledge(s) that the Council or DPTI have no liability or responsibility in relation to such matters whatsoever; and
- such person(s) agree(s) to indemnify the Council and DPTI against any such personal injury or property damage or other loss incurred by the Council or DPTI and against any third party claims arising out of or consequent upon the erection, removal or display of signs.

DCCP 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 DCCP.

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 DCCP or DPTI removes any signs under the General Approval, DCCP 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;

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.

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.

ILLEGAL SIGNS

If the Council determines or suspects that an election sign:

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

Council authorised employees may:

- notify the organisation/persons responsible for the election sign by phone/facsimile and request the removal of the sign within 24 hours.
- 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.

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

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

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 District Council of Coober Pedy (DCCP) 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.

RELEVANT LEGISLATION

1. LEGAL POSITION RELATING TO ELECTION SIGNS

1.1 LOCAL GOVERNMENT ACT 1999

All public roads within the Council's area are vested in the Council.³ All trees on public roads and signs and other objects put in or on roads by the Council belong to the Council, but only where the Council is the owner of the infrastructure.

All fixtures and equipment installed in, on, across, under or over a public road by the provider of public infrastructure remain the property of the provider of that infrastructure⁴. This means the provider of the infrastructure may not be Council. Some fixtures and equipment installed in, on, across, under or over a public road may be owned by the Council (or a third party), but may be under the care, control and management of DPTI (through the Commissioner of Highways).

All fixtures and equipment installed in, on, across, under or over a public road under an authorisation or permit from the Council remain, subject to the conditions of the authorisation or permit, the property of the holder of the authorisation or permit.⁵

1.1.1 Permanent (i.e. non-moveable) signs

It is an offence to erect or install a structure ("structure" includes pipes, poles, fixtures, fitting or other objects) in, on, across, over or under a public road without authorisation from Council.⁶ 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.⁷

³ *Local Government Act 1999* s 208

⁴ *Local Government Act 1999* s 209(1)

⁵ *Local Government Act 1999*

⁶ *Local Government Act 1999* s 221(d)

⁷ *Local Government Act 1999* s 234

1.1.2 Moveable signs

A Council can make a by-law to regulate moveable signs. This is a separate power that Councils can exercise subject to the adoption of the appropriate by-law. Such by-laws may prohibit 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.⁸

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.

It is an offence to interfere with any structure on a public road ("structure" includes pipes, poles, fixtures, fitting or other objects),⁹ without approval from the Council.

However, a person may place and maintain a free-standing, moveable election 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
- 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.

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.¹⁰

Council is also authorised by DPTI to regulate the placement of signs on infrastructure which is owned by, or under the care, control and management of DPTI.

1.2 **LOCAL GOVERNMENT (ELECTIONS) ACT 1999 (Applicable to Local Government 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.¹¹

⁸ *Local Government Act 1999* s 240

⁹ *Local Government Act 1999* s 221(b)

¹⁰ *Local Government Act 1999* s227

¹¹ *Local Government (Elections) Act 1999* s 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.¹²

1.3 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*.

Outside the City of Adelaide:

- 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.¹³
- 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 veranda or the fascia of a veranda or, in a case where there is no veranda, 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;¹⁴
 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;¹⁵

¹² *Local Government (Elections) Act 1999* s 28

¹³ *Development Regulations 2008* schedule 3, clause 1(h)

¹⁴ *Development Regulations 2008* schedule 3 clause 1(e)

¹⁵ *Development Regulations 2008* schedule 3, clause 1(f)

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.¹⁶

Development Regulations 2008 - Schedule 3 -

Acts and Activities that are not development

1—Advertising displays

The commencement of an advertising display containing an advertisement—

...

- (f) that announces a local event of a religious, educational, cultural, social or recreational character, or that relates to an event of a political character, subject to the following conditions:
 - (i) that the total advertisement area of all advertisements of that kind displayed on 1 building or site is not more than 2 square metres; and
 - (ii) except for an advertisement that relates to a federal, State or local government election, that the advertisement is displayed for a period not exceeding 1 month prior to the event and 1 week after the conclusion of the event; and
 - (iii) that the advertising display—
 - (A) does not move; and
 - (B) does not flash; and
 - (C) does not reflect light so as to be an undue distraction to motorists; and
 - (D) is not internally illuminated.

1.4 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.

¹⁶ *Development Act 1993 s 74*

1.5 COMMONWEALTH ELECTORAL ACT 1918

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

1.6 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.

1.7 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 or any device, structure or thing that the road authority is satisfied might constitute a hazard to traffic.

1.8 SUMMARY OFFENCES ACT 1953

It is an offence under this Act to:

- exhibit indecent or offensive material in a public place or so as to be visible from a public place; or
- deposit indecent or offensive material in a public place.¹⁷

Any alleged offence will be referred to the SA Police for their attention.

¹⁷ *Summary Offences Act 1953* s33(2)(c) and (d)