

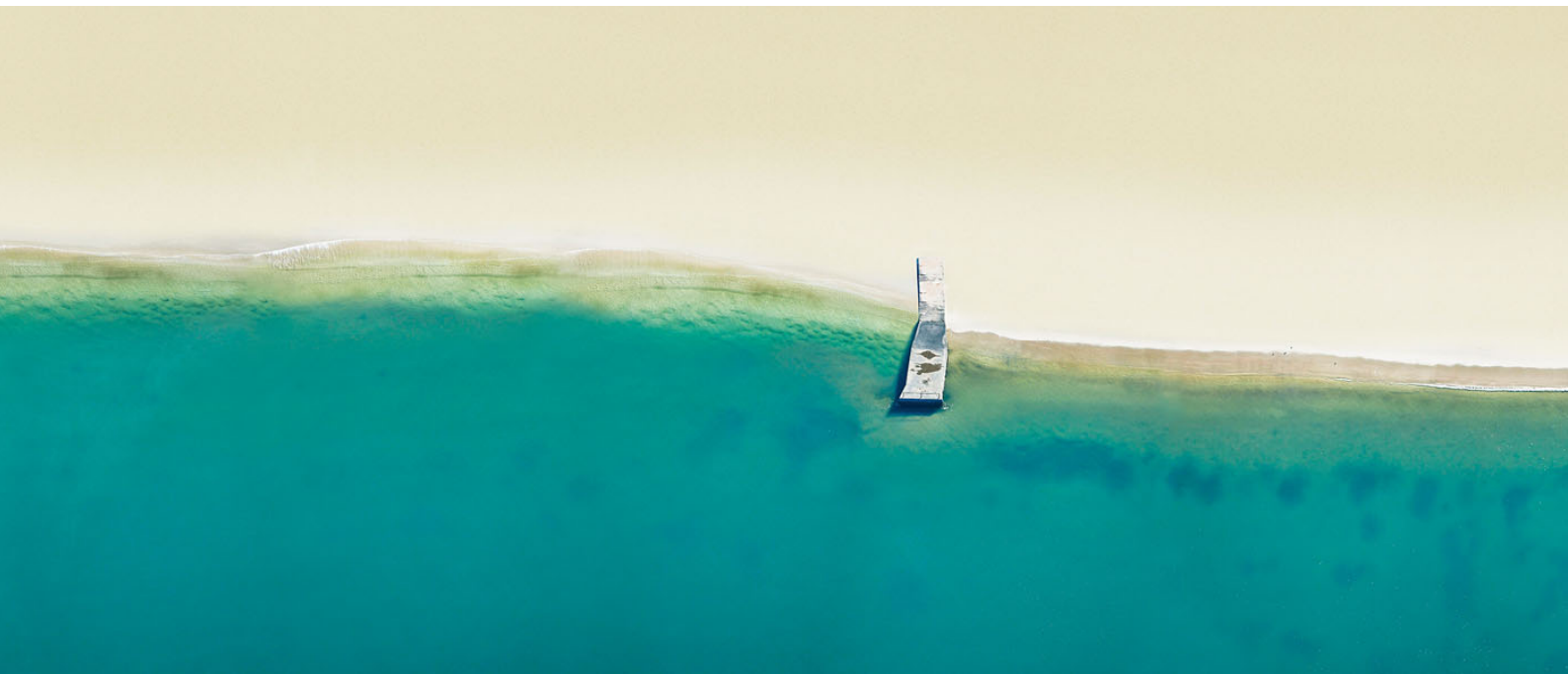


Bayside Council

Serving Our Community

Election Material Policy

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Election Material Policy

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1 Introduction

1.1 Background

The purpose of this policy is to outline the regime for managing the display of election material in public places during an election period of the three tiers of government.

Electoral signage requires development consent unless it meets the requirements for exempt development specified in the NSW State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 - Division 2 – Advertising and Signage Exempt Development Code – (Subdivision 13 -Election signs).

The typical AO poster signs erected on private land and fences do not require approval.

1.2 Definitions

The definitions of certain terms are:

Electoral material

- a Any matter that is intended, calculated or likely to affect, or is capable of affecting, the result of an election or that is intended, calculated or likely to influence, or is capable of influencing, an elector in relation to the casting of the elector's vote at an election, or
- b the name of a candidate at an election, the name of the party of a candidate and a picture of a candidate, including a photograph of the candidate and a drawing or printed matter that purports to depict the candidate or to be a likeness or representation of the candidate.
- c A **sign** includes a poster, banner, placard and other similar material.

Election

An official election for local, state or federal government under the relevant legislation.

Candidate

A person registered under the relevant state or federal legislation standing for election to local, state or federal government.

1.3 Policy statement

Council supports the reasonable promotion of candidates for government elections. Such promotion, including advertising signs and other electoral material is to comply with legislation and Council policies, including this policy.

1.4 Scope of policy

This policy applies to all election material used in the promotion of candidates (registered under the various state and federal legislation) for local, state, and federal elections.

2 Requirements

The display and use of electoral material is to comply with the relevant election legislation for local, state, and federal government elections, as well as the various statutory planning instruments.

All political advertising on private property (including telegraph poles) will need to have the consent in writing of the property owner. Councils' role is limited to dealing with approvals or breaches under the relevant legislation.

Proposed 'street stalls' require approval from Council under the Local Government Act 1993 and/or the Road Act 1993.

3 Enforcement

The enforcement approach during election periods of all three tiers of government will be:

- Enforcement of the relevant election legislation is a matter for the respective state / federal electoral agencies and/or the Police in specific instances.
- Election material must not be displayed on or within Council (owned or controlled) buildings/premises.
- Otherwise, Council will not direct resources to the removal of election signage from eight (8) weeks immediately preceding election day (or the issue of the writ if earlier) and up to seven (7) days immediately following the election day, provided that any such signage:
 - supports a candidate or a party registered contesting election to Bayside Council or an electoral district within the Bayside local government area.
 - is no larger than 0.8m².
 - is not on Council's Open Space (such as parks, reserves) and/or Crown Land; and
 - is fixed or located in a manner that is not likely to endanger the general public or impede the general flow of pedestrian traffic.

Council officers are authorised to remove any posters not meeting the above conditions and/or which are displayed outside the eight (8) week (or the issue of the writs whichever is the greater) and 7-day periods mentioned above. Such posters will be made available to the candidate or political party upon payment of a release fee as per Council's adopted Fees and Charges.

Any poster affixed to a permanent structure by such means that removal of the poster/s cannot be undertaken without causing considerable damage to the poster, will be suitably disposed of by Council without reference back to the relevant candidate or political party.

Outside the election period, Council may issue a Penalty Infringement Notice under the provisions of the Local Government Act 1993 for exposing an article without approval "in/on/over a road". Council may also invoice the candidate for the cost of the removal of unauthorised signage as per Council's adopted Fees and Charges.

Council will dispose of all confiscated material 14 days after a candidate is notified of the removal and confiscation.

4 Policy implementation

4.1 Policy responsibilities

The General Manager is responsible for this policy.

The Manager Certification and Compliance is responsible for the implementation of this Policy, including monitoring its effectiveness.

4.2 Procedures

Administrative procedures that support this Policy, may be approved from time-to-time by the General Manager and/or the relevant Director or Manager providing:

- detailed responsibilities; and
- practical enforcement details.

5 Document control

5.1 Review

This policy is to be reviewed at least during the term of a Council and amendments to this policy are to be submitted to Council for approval.,.

The Manager Governance & Risk may approve non-significant and/or minor editorial amendments and the republication of reviewed policies and procedures that do not change the policy substance.

5.2 Related documents

Relevant legislation associated with this Policy are:

- Local Government Act 1993
- Roads Act 1993
- Commonwealth Electoral Act 1918
- Electoral Act 2017 –
- Parliamentary Electorates and Elections Act 1912
- State Environment Planning Policy (Exempt and Complying Development Codes) 2008
- Council's Footway Trading Policy and associated Guidelines

5.3 Version history

Version	Release Date	Author	Reason for Change
1.0	14/06/2017	Warren Park	Harmonised document
2.0	26/06/2024 (Council) 05/06/2024 (CP Comm)	Manager Governance & Risk	Review and update

Appendix – Background to statutory requirements

The current requirements relating to the display of election material in public places are numerous and a brief outline follows.

Note: Applicants are required to research and comply with all legislative requirements as this list is not exhaustive.

Council Planning Provisions and Policies

. Advertising signage is governed by the following planning instruments:

- Bayside Local Environment Plans;
- Bayside Development Control Plans;
- State Environment Planning Policy (Advertising and Signage);
- State Environment Planning Policy (Exempt and Complying Development Codes)

Since the establishment of the State Environment Planning Policy (Exempt and Complying Development Codes), most of the details previously outlined for advertising and signage in DCPs and LEPs have been removed and have been standardised at a State level through the SEPP.

Council also has a formal Footway Trading Policy and associated Footway Trading Guidelines that provide the conditions for Footway advertising and signage in the Bayside LGA. Council approvals under Footway Trading Policy are made under the Roads Act.

Legislative Requirements

In addition to any specific Council requirements, all candidates for local, state and federal government elections and political parties are required to comply with advertising requirements in state and federal legislation.

Federal elections, the Commonwealth Electoral Act 1918 sets various milestones in an election timetable. The election period is determined by two key dates being the issue of the writs by the Governor General directing that an election be held and the date of the poll (ie election day). The minimum campaign period for an Australian Federal election is 33 days, meaning the writs are normally issued on the Monday after the weekend five weeks before polling day. Election material needs to be authorised by the Australian Electoral Commission.

NSW elections, these are held on the last Saturday in March every 4 years. An NSW election is held following the issue of the writs by the Governor which directs the NSW Electoral Commissioner to conduct the election according to the procedure set down in the Parliamentary Electorates and Elections Act 1912. Writs are required to be issued 4 clear days from the expiry of Parliament which must be at least the Friday before the first Saturday in March four years after the previous Assembly was elected. Following the issue of the writs all election advertising (including posters) must be in accordance with the statutory requirements and enforced by the NSW Electoral Commission.

NSW local government, council elections are generally held on the second Saturday in September every 4 years. Relevant to council elections is the regulated election period, which commences 40 days before election day and ends at 6.00pm on election day. In this period all election advertising (including posters) must be in accordance with the statutory requirements and enforced by the NSW Electoral Commission (or the Returning Officer).

It should be noted that all breaches of election requirements are enforceable by the relevant State or Federal Electoral Commission (and the Police in specific instances) and not Council. Council is the enforcement authority for breaches of the Local Government Act and Roads Act.
