

Bayside Council

Serving Our Community

Election Material Policy

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Election Material Policy

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Contents

1	Introduction	4
1.1	Background.....	4
1.2	Definitions	4
1.3	Policy statement	4
1.4	Scope of policy	4
2	Requirements	4
3	Enforcement	4
4	Policy implementation.....	5
4.1	Policy responsibilities.....	5
4.2	Procedures	5
5	Document control	5
5.1	Review	5
5.2	Related documents.....	6
5.3	Version history	6
	Appendix – Background to statutory requirements	7

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.

1.2 Definitions

The definitions of certain terms are:

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 concurrence of the property owner. Council's role is generally limited to dealing with any planning issues.

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

3 Enforcement

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

- Enforcement of the relevant election legislation is a matter for the respective state / federal electoral agencies and/or the Police in specific instances.
- Council will not direct resources to the removal of election signage from 40 days before 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 8,000sq centimetres;
 - 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 40 day (or the issue of the writs whichever is the greater) and 7 day periods. 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.

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.

4 Policy implementation

4.1 Policy responsibilities

The General Manager is responsible for this policy overall.

The Manager 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:

- Detailed responsibilities
- Practical enforcement details.

5 Document control

5.1 Review

This policy is to be reviewed at least every term of a Council. Amendments to this policy are to be submitted to Council for approval, apart from non-significant and/or editorial amendments, which can be approved by the General Manager.

5.2 Related documents

Relevant legislation associated with this Policy are:-

- Local Government Act 1993
- Roads Act 1993
- Commonwealth Electoral Act 1918
- Parliamentary Electorates and Elections Act 1912
- State Environment Planning Policy
- Footway Trading Policy and associated Guidelines
- Other relevant legislation, planning instruments, Council policies or Council reports.

5.3 Version history

This policy was based on a former Rockdale City Council policy last approved on 15 October 2014.

Version	Release Date	Author	Reason for Change
1.0	14/06/2017	Warren Park	Harmonised document

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

Bayside Council operates under the planning documents and guidelines of the former Rockdale City and Botany Bay Councils which govern and detail the regulations and enforcement provisions for this activity. Advertising signage is governed by the following planning instruments:

- Relevant Local Environment Plans;
- Relevant 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.

In terms of 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.

In terms of NSW elections, these are held on the last Saturday in March every 4 years. A 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.

In terms of 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.
