



27 June 2024

Dear Candidate

**New South Wales Local Government Election 2024 - Placement of Election Signage – Cessnock Local Government Area**

In preparation for the 2024 Local Government Election, Council is writing to all political parties and candidates informing them of their legislative obligations concerning election matter. Election matter is defined below in the FAQ's.

The placement of posters and signs associated with elections causes concern for Council and our community. The placement of electoral matter is in contravention to legislative requirements, and responding to complaints about these materials, becomes a resourcing issue and diverts Council officers from normal duties unnecessarily.

Election posters and signs during election periods are regulated under the *Electoral Act 2017* (Cth) (**Electoral Act**) and the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (NSW) (**SEPP 2008**).

The Electoral Act (section 184) states that a person **must not**, during the regulated period, publicly display or permit or cause to be publicly displayed, a poster containing or consisting of electoral material on or within land or buildings occupied, used by, or under the control or management of the Crown, NSW Government agencies, or a Council.

In Layman's terms you cannot place, attach or erect any electoral material, including election signage or posters, on any Crown or Public Land or property.

Candidates are also reminded that advertising on private land or buildings can only be undertaken with the written consent of the owner, or the property is owned or jointly owned by the candidate.

However, the Act allows for signs to be displayed:

- a) on the outer wall, fence or other boundary of the grounds of an enclosure in which a building used for voting is situated, or
- b) within the grounds of an enclosure in which a building used for voting is situated, or
- c) on a vehicle on a road or road related area (within the meaning of section 4 (1) of the Road Transport Act 2013), or
- d) fixed or attached to a table or stall on a footpath or other public place at any time on the day of voting for an election.

Since the display of election posters also constitutes development for the purposes of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**), subdivision 13 (Election Signs) of Division 2 of Part 2 of the SEPP 2008 will be the applicable legislative

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instrument governing the erection of election posters within the Cessnock Local Government Area.

Subdivision 13 (Election signs) of Division 2 of Part 2 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* establishes the following development standards for election signs that if complied with, no Council approval is required in order for them to be erected:

**Clause 2.107**

The development must—

(a) not be more than the following in area -

(i) for a sign on land in a rural zone - 3.75m<sup>2</sup>,

(ii) otherwise - 0.8m<sup>2</sup>, and

(b) if on the site of a heritage item or draft heritage item - not be attached to a building, and

(c) be displayed by or on behalf of a candidate at an election referred to in clause 2.106 or the party (if any) of any such candidate, and

(d) be displayed in accordance with any relevant requirements of the Act under which the election is held, and

(e) be displayed only during the following periods -

(i) 8 weeks immediately preceding the day on which the election is held,

(ii) the day on which the election is held,

(iii) 1 week immediately following the day on which the election is held.

Consequently, election posters **cannot** be erected/placed:

- On Council land, buildings, fences and bridges,
- On any other Council asset, facility or property
- On a structure, pole or post within the road reserve

Penalties for non-compliance with the SEPP 2008 development standards exceed **\$6,000** for Corporations and **\$3,000** for individuals. If Council is required to take possession of offending election signs, further penalties may apply under the *Public Spaces (Unattended Property) Act 2021* (NSW).

# ELECTORAL MATTER PLACEMENT- FAQ

## What is electoral matter?

- any matter that is intended or calculated or likely to affect or is capable of affecting the result of any election held or to be held or that is intended or calculated or likely to influence or is capable of influencing an elector in relation to the casting of his or her vote at any election, or
- the name of a candidate at any election, the name of the party of any such candidate, the name or address of the headquarters or campaign office of any such candidate or party, the photograph of any such candidate, and any drawing or printed matter that purports to depict any such candidate or to be a likeness or representation of any such candidate
- Electoral material includes, signs, posters and other like paraphernalia used to promote a political party, candidate or candidates.

## Can I place election signs on public land?

- No, election signs including posters and signage is not allowed to be place on public land, buildings or assets.

Note: Public land is land that is not privately owned by an individual. It is any land that is owned by Council, e.g. Roads, road reserve, street, naturestrips and footpaths. This also includes Council's assets such as fencing and Parks and Reserves.

## Can I place election signs on Crown Land?

- No, election material including posters and signage is not allowed to be place on Crown land, buildings or assets.

Note: Crown land is land held by the NSW Government on behalf of the public.

## What is the penalty if my election sign is placed where it is not permitted?

- The penalty for a corporation is \$6,000 and \$3,000 for individuals.

## Can I place election signs on private property?

- Yes, as long as you have the owners written permission and the sizing of the sign complies as per below:
  - In a rural zoned area your sign may be up to 3.75m<sup>2</sup> in size
  - In non rural zoned area your sign can be up to 0.8m<sup>2</sup>
- If on the site of a heritage item or draft heritage item, signs are not be attached to the building.

## When can I place election signs up?

- Election signs can be put up from 20 July 2024 (8 weeks immediately prior to the day the election is held) in accordance with the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (SEPP).
- Candidates must register electoral material (such as flyers, how-to-vote cards etc.) with the NSW Electoral Commission. Refer to the
- Electoral materials must only be displayed within the regulated period. The regulated period for electoral material is from 5 August 2024 until 6pm, 14 September 2024.
- Council is responsible for regulation of election signs, including the size and placement of signs in accordance with the SEPP.
- The NSW Electoral Commission oversees electoral material (how to vote material). The legislation provides requirements in relation to the content, type, placement and distribution of electoral material during the regulated period.
- Election signs may be displayed up to the day on which the election is held, 14 September 2024 and must be taken down by 21 September 2024.

#### Where can I get more information?

- Election signs during election periods are regulated under the Electoral Act 2017 and the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (NSW) (SEPP 2008).
- You can find more information on elections on Council's website, or the NSW Electoral Commission's website.

<https://www.cessnock.nsw.gov.au/Council/2024-Local-Government-Elections>

<https://elections.nsw.gov.au/elections/local-government-elections/2024-nsw-local-government-elections>