

## 11.2 Policy Review - Electoral Matter in Public Places

REPORT BY THE MANAGER, CUSTOMER SERVICES & GOVERNANCE  
TO 16 NOVEMBER 2022 ORDINARY MEETING  
GOV400098, GOV400047

### RECOMMENDATION

#### That Council:

1. **receive the report by the Manager, Customer Services & Governance on the Policy Review - Electoral Matter in Public Places;**
2. **place the Electoral Matter in Public Places Policy on exhibition for 28 days to seek feedback from the community; and**
3. **adopt the Electoral Matter in Public Places Policy if no submissions are received during the exhibition period.**

---

### Executive summary

This report seeks Council endorsement of the revised Electoral Matter in Public Places Policy which was last reviewed in April 2019.

### Disclosure of Interest

Nil

### Detailed report

Council first developed this policy following the 2016 Council election when complaints were received from residents relating to damage to trees within road reserves and concerns of inhibited road user view.

During the 2022 Federal Election, Council Law Enforcement Officers removed 160+ signs across the LGA. Letters were issued to the political parties in advance warning of the action however it was given little attention. We also advised we had signs in our possession awaiting their collection. Only 1 political party collected their signs, all the others were disposed of. Note whilst we made some suggestion that penalties could be enforced, none were, as we were not confident at the time under which legislation this would fall under.

Advice was sought from Local Government NSW Legal Officer, Liz Hayes, who advised that Council have the power under the Impounding Act to remove and impound signage. Authorised officers can also issue penalty notices under the Impounding Act.

The Impounding Act also provides for fees that can be imposed in respect of the impounding, holding and disposing of items whether or not a decision is made to prosecute an offender. Council's fees and charges has an Impounding Officer Travel fee of \$0.85 per km as well as an Impounding Officer Labour fee of \$61 per hour.

Adoption of this policy will reinforce Council's position to taking action when unlawful electoral matter requires action.

## Community Plan implications

<b>Theme</b>	<b>Good Government</b>
Goal	Good communications and engagement
Strategy	Improve communications between Council and the community and create awareness of Council's roles and responsibilities

## Strategic implications

### Council Strategies

Not Applicable

### Council Policies

Local Environment Plan 2012  
Development Control Plan 2013  
Compliance and Enforcement Policy

### Legislation

State Environment Planning Policy 2008  
State Environment Planning Policy No 64  
Commonwealth Electoral Act 1918  
Parliamentary Electorates and Elections Act 1912  
NSW Electoral Act 2017  
Local Government Act 1993  
Impounding Act 1993

## Financial implications

Not Applicable

## Associated Risks

Risks of negative Council reputation may arise from improper law enforcement actions. The adoption and compliance with this policy will mitigate those risks.

RICHARD CUSHWAY  
MANAGER, CUSTOMER SERVICES &  
GOVERNANCE

SIMON JONES  
DIRECTOR COMMUNITY

24 October 2022

*Attachments:* 1. Electoral Matter In Public Places Policy Draft.

### APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER



## POLICY

### Electoral Matter in Public Places

*A prosperous  
and progressive  
community.*

ADOPTED	VERSION NO
COUNCIL MEETING MIN NO	REVIEW DATE
DATE:	FILE NUMBER <b>GOV400047</b>

## Objective

To clarify for both candidates of Elections and residents of the Mid-Western Regional Council limitations and enforcement powers that apply to election material (posters) being displayed in public places within the Local Government Area.

## Legislative requirements

- Commonwealth Electoral Act 1918
- Parliamentary Electorates and Elections Act 1912
- NSW Electoral Act 2017
- Local Government Act 1993
- Public Spaces (Unattended Property) Act 2021

## Related policies and plans

- State Environment Planning Policy 2008
- State Environment Planning Policy No 64
- Local Environment Plan 2012
- Development Control Plan 2013

## Policy

Both State and Federal laws for the conduct of elections lays down the requirements of registering and identifying electoral matter. Candidates of elections are informed of these requirements when enrolling as a candidate. The laws also provide for the display of electoral matter in public places 5 weeks immediately preceding the day on which the election is held and at polling places on the day of polling.

The control and management of electoral posters in public places other than at polling places on polling day, Councils in NSW are the responsible local authority for compliance.

It is unlawful for a person to post up, permit, or cause to be posted up, electoral matter on any premises under the control or management of a local authority (Council).

**POLICY: ELECTORAL MATTER IN PUBLIC PLACES | GOV400047**

### Election Signage – Polling Place

The display of an election poster is lawful in relation to posters being posted up at polling places, in the grounds of polling places and on the boundaries of polling places 5 weeks preceding the day on which the election is held only.

### Election Signage – On or within any Local Authority Managed Premises

A person must not post up, or permit or cause to be posted up a poster on or within any premises under the control or management of any local authority. The definition of premises under NSW legislation includes any structure, building, vehicle or vessel or any place, whether built on or not, and any part thereof. Posters are not permitted to be posted up within a road reserve or any public space including; being fixed to trees, fixed to power or telegraph poles, fixed road signage or attached to approved advertising signage erected within road reserves.

### Election Signage – Posters displayed on trailers

State Environmental Planning Policy number 64 makes it unlawful to advertise on trailers parked on (or visible from) roads or road related areas.

### Election Signage – Notification of Council requirements

Council will notify election candidates in writing of this policy. Breaches of this policy will be rectified by council staff removing the offending electoral material and notifying the candidate.. Breaches may result in a fee being charged and penalty infringement notices being issued. Council also have the right to dispose of posters if not collected within 28 days.

### Penalty

Under NSW legislation noncompliance may incur a penalty not exceeding 5 penalty units per offence. Council also have the right to charge a fee for the impounding, holding and disposing of posters.