



**Moreton Bay Regional Council
Local Law No. 8 (Election Signs) 2019**

Moreton Bay Regional Council

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Chapter 1 Preliminary

Part 1 Introductory provisions

1 Short title

This Local Law may be cited as *Moreton Bay Regional Council Local Law No. 8 (Election Signs) 2019*.

Part 2 Object and achievement of Local Law

2 Object

The object of this Local Law is to—

- (a) permit candidates for a government election to communicate to voters, or potential voters, by way of election signs;
- (b) permit political communication by way of election signs in relation to other electoral events, namely state and federal referenda;
- (c) treat candidates for election equally as between each other;
- (d) protect the visual and public amenity of the local government area;
- (e) minimise risks to public safety; and
- (f) respect the views of the local government's community obtained through consultation.

3 How object of Local Law is to be achieved

The object of this Local law is to be achieved by—

- (a) permitting election signs to be displayed up to 6 weeks prior to the polling day for a government election and 1 week afterwards;
- (b) providing limits on the number, size and display location of election signs; and
- (c) permitting candidates and others to apply for a relaxation of the requirements in this Local Law for exceptional circumstances only.

Part 3 Interpretation

Division 1 Dictionary

4 Definitions—dictionary

The dictionary in Schedule 1 defines particular words used in this Local Law.

Division 2 Key concepts

5 Election sign

An *election sign* is a sign or poster that is able, or is intended, to-

- (a) influence a person about voting at any government election; or
- (b) affect the result of any government election.

6 Government election

A *government election* is:

- (a) an election for local, State or Commonwealth government; or
- (b) a referendum for which a writ has been issued under referendum legislation.

7 Device restriction area

A *device restriction area* is an area prescribed in a subordinate local law as a device restriction area.

8 Clear zone

Where an election sign is displayed on a nature strip, the *clear zone* is a setback area from the road edge, of:

- (a) if the adjacent road has a speed limit of 80km/h or less - 3 metres; and
- (b) if the adjacent road has a speed limit of more than 80km/h - 6 metres.

9 Exceptional circumstance

An *exceptional circumstance* is a circumstance justifying the display of an election sign in a manner which does not comply with a Chapter 2 requirement.

Examples—

- *a prospective political candidate, or incumbent politician, has organised a meeting to discuss political matters with members of the community (outside of the period referred to in section 13) and election signs will signpost the meeting location; or*
- *a person wishes to display an election sign during an authorised public assembly under the Peaceful Assembly Act 1992 (Qld); or*

- *a plebiscite regarding a political matter is being held.*

Part 4 Operation of Local Law

10 Relationship with other Acts

- (1) This Local Law is in addition to, and does not derogate from—
 - (a) an electoral law; or
 - (b) laws regulating land use planning and development assessment.
- (2) The administration Local Law does not apply to this Local Law.

11 Effect of Local Law on other rights

- (1) Nothing in this Local Law affects a person's ability to communicate about political matters:
 - (a) on a permanent advertising device for which all relevant development approvals are obtained;
 - (b) on a motor vehicle advertisement which complies with all relevant requirements under *Subordinate Local Law No. 1*;
 - (c) on how-to-vote cards;
 - (d) in newspapers or online;
 - (e) on clothing, badges, stationery, information leaflets, letters, business cards or car bumper stickers;
 - (f) at any place which is not visible from roads or public land; or
 - (g) outside of the local government area.

Chapter 2 Displaying election signs

Part 1 What this chapter is about

12 Overview

This chapter describes the requirements for displaying election signs in the local government area.

Part 2 Requirements for displaying election signs

Division 1 Time, size and number

13 Time for display

- (1) An election sign may only be displayed:
 - (a) up to 6 weeks before the polling day for a government election; and
 - (b) up to 1 week after the polling day for a government election.

14 Size for display

- (1) On public land, an election sign must be:
 - (a) 600mm x 900mm.
- (2) On private land, an election sign must be:
 - (a) 600mm x 900mm; or
 - (b) 900mm x 1200mm.

15 Number for display

The maximum number of election signs that may be displayed at any one time are:

- (a) for signs promoting a Division 1-10 candidate— 60;
- (b) for signs promoting a Division 11-12 candidate— 120;
- (c) for signs promoting a State candidate— 120;
- (d) for signs promoting a Federal candidate— 200;
- (e) for signs promoting a Mayoral candidate— 300;
- (f) for signs promoting a referendum outcome— 300.

Division 2 Display location

16 Device restriction areas

Election signs must be displayed outside of a device restriction area.

17 Clear zones

Election signs must be displayed outside of a clear zone.

Division 3 Specific display requirements

18 Division does not apply to polling booths

This division does not apply to election signs displayed at polling booths, or on

nature strips adjacent to polling booths.

19 Private land—specific requirements

- (1) On private land, an election sign may only be displayed if:
 - (a) the sign is no higher than 2.5-metres above ground level;
 - (b) no more than 2 election signs will be displayed on that land;
 - (c) the sign will be displayed at least 2-metres from any other election sign; and
 - (d) the owner or occupier of the land consents to that display.
- (2) For the purposes of section 19(1)(b), a double-sided sign which is not an A-frame will constitute 2 election signs.

20 Public land—specific requirements

- (1) On public land, an election sign may only be displayed if:
 - (a) the sign is displayed in an A-frame;
 - (b) the sign is placed at least 3-metres from any other election sign;
 - (c) no more than 3 election signs will be displayed within a 9-metre radius;
 - (d) the sign is perpendicular to any adjacent road;
 - (e) the sign is not obstructing pedestrian traffic; and
 - (f) a person aged 17 or over is supervising the sign.
- (2) For the purposes of section 20(1)(f), a person may supervise a maximum of 3 election signs.

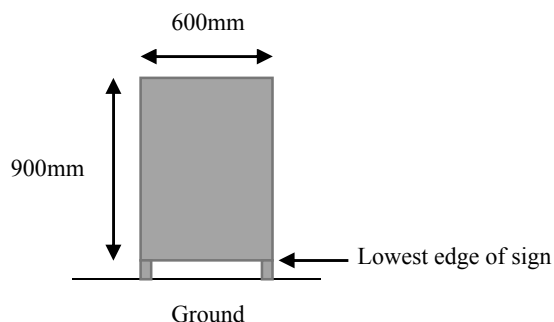
Division 4 General display requirements

21 General requirements for display

- (1) An election sign may only be displayed if it is:
 - (a) made of corrugated plastic;
 - (b) at least 3mm thick;
 - (c) not illuminated or reflective;
 - (d) not made up of any electronic or moving parts;
 - (e) maintained in a good state of repair at all times;
 - (f) covered by a public liability insurance policy for an amount not less than \$20,000,000 per occurrence; and
 - (g) rectangular, with its lowest-edge parallel to the ground.

Example for section 21(1)(g)—

- *If a person wishes to display an election sign on public land which is 900mm(h) x 600mm(w), they would need to display the sign as follows:*



Part 3 Polling booth requirements

Division 1 Introduction

22 What this part is about

This part contains specific requirements which apply to the display of election signs at polling booths, or nature strips adjacent to polling booths.

Division 2 Regulation of election signs at polling booths

23 Polling booths on private land—specific requirements

- (1) This section applies to polling booths on private land.
- (2) An election sign may only be displayed at the polling booth if—
 - (a) the sign is placed so as to not obstruct the view of an election sign that has already been placed at the polling booth;
 - (b) the sign is no higher than 2.5-metres above ground level; and
 - (c) the owner or occupier of the land consents to the display.

24 Polling booths on public land—specific requirements

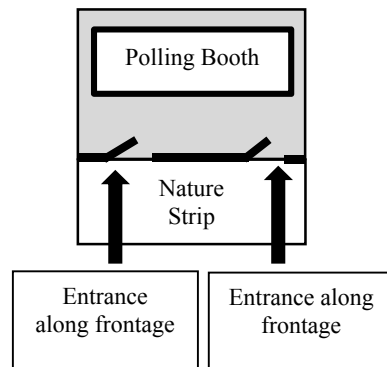
- (1) This section applies to polling booths on public land.
- (2) An election sign may only be displayed at the polling booth if—
 - (a) the sign is placed so as to not obstruct the view of an election sign that has already been placed at the polling booth; and
 - (b) the sign is no higher than 2.5-metres above ground level.

25 Nature strips adjacent to polling booths—specific requirements

- (1) This section applies to nature strips adjacent to polling booths.
- (2) An election sign may only be displayed on the nature strip, if—
 - (a) the sign is displayed in an A-frame;
 - (b) the sign is placed so as to not obstruct the view of an election sign that has already been placed on the nature strip;
 - (c) no more than 3 election signs supporting a particular candidate are displayed:
 - (i) per frontage of a polling booth; or
 - (ii) (if there are multiple entrances along the frontage of a polling booth) per entrance;
 - (d) the sign is not obstructing pedestrian traffic; and
 - (e) a person aged 17 or over is supervising the sign.

Example for section 25(2)(c)(ii)—

- 6 election signs supporting a particular candidate may be displayed on the nature strip in the below diagram because there are 2 entrances along the frontage of the polling booth.



Part 4 Other provisions

26 A-frames constitute 1 election sign

For the purposes of this Local Law, election signs displayed on both sides of an A-frame will constitute 1 election sign only.

Chapter 3 Exceptional circumstances

Part 1 What this chapter is about

27 Overview

This chapter describes the process for obtaining an approval to display an election sign in a manner which does not comply with a Chapter 2 requirement, which will be granted in exceptional circumstances only.

Part 2 Exceptional circumstances applications

Division 1 Application process

28 Right to make exceptional circumstances application

A person may make an exceptional circumstances application.

29 Making exceptional circumstances application

- (1) An exceptional circumstances application must be—
 - (a) made in the prescribed form to the local government;
 - (b) accompanied by—
 - (i) the documents required under the form to be attached to, or given with, the application; and
 - (ii) the prescribed fee for the application (if any).
- (2) If the exceptional circumstances application relates to private land, the application must be accompanied by the written consent of the owner of the premises, to the extent that the applicant is not the owner.
- (3) An authorised person—
 - (a) must accept an application that the authorised person is satisfied complies with subsections (1) and (2); and
 - (b) must not accept an application unless the authorised person is satisfied the application complies with subsection (2); and
 - (c) may accept an application that does not comply with subsection (1).

Division 2 Timeframes for deciding applications

30 Timeframe for deciding applications when no further information needed

- (1) This section applies if an authorised person—
 - (a) receives a properly made application; and
 - (b) does not require any further information in relation to the application.
- (2) The authorised person must decide the application within 5 business days of receiving it, or a further period agreed to with the applicant.

31 Timeframe for deciding applications when further information is needed

- (1) This section applies if an authorised person—
 - (a) receives a properly made application; and
 - (b) requires further information in relation to the application.
- (2) The authorised person must make an information request to the applicant within 5 business days of receiving the application.
- (3) An applicant must respond to an information request within 10 business days of receiving it, or a further period agreed to with the authorised person (*information request response period*).
- (4) The authorised person must decide the application within 5 business days of the earlier of—
 - (a) an information request response being received; or
 - (b) the information request response period ending.

32 Timeframe for dealing with applications that are not properly made

- (1) If an authorised person receives an exceptional circumstances application which is not a properly made application, the authorised person must—
 - (a) provide the applicant with written notice to that effect within 5 business days of receiving the application; and
 - (b) take no further action in relation to the application.

Division 3 Deciding an application

33 Deciding exceptional circumstances applications

- (1) An authorised person, after carrying out an assessment of a properly made application, must decide to—
 - (a) approve the application;
 - (b) approve the application, but impose conditions on the approval; or
 - (c) refuse the application.
- (2) The authorised person must approve a properly made application if they consider that an exceptional circumstance exists.
- (3) The authorised person must refuse a properly made application if they do not consider that an exceptional circumstance exists.

34 Effect of failure to decide application on time

An authorised person is taken to have refused an application if the authorised person fails to decide a properly made application in accordance with—

- (a) section 30(2); or

- (b) section 31(4).

Division 4 Conditions

35 Permitted conditions

- (1) Any condition imposed on an exceptional circumstances approval must relate to—
 - (a) protecting the visual and public amenity of the local government area; or
 - (b) minimising risks to public safety.

Division 5 Notice of a Decision

36 Requirement to give a decision notice

- (1) A decision notice about a properly made application must be given to the applicant.
- (2) The notice must state—
 - (a) whether the application is approved, approved subject to conditions or refused;
 - (b) if conditions are imposed— the conditions;
 - (c) if the application is refused— the reasons for the refusal;
 - (d) the day the decision was made; and
 - (e) the applicant’s review rights under this Local Law.

Division 6 Reviewing decisions

37 Application for review

- (1) A person who is given a decision notice may apply to the local government for a review of the decision (a *review application*).
- (2) The review application must be made within 10 business days of—
 - (a) if the person is given a decision notice—the day the person receives the notice; or
 - (b) if subparagraph (a) does not apply—the day the person otherwise becomes aware of the decision in relation to their properly made application.
- (3) The review application must be in writing and accompanied by a statement of the grounds on which the applicant seeks the review of the decision.

38 Review decision

- (1) An authorised person must review the original decision (the *reviewing officer*) within 10 business days of receiving a review application and make a decision (the *review decision*) to—
 - (a) confirm the original decision;
 - (b) amend the original decision; or
 - (c) substitute another decision for the original decision.
- (2) The application must not be dealt with by—
 - (a) The authorised person who made the original decision; or
 - (b) An authorised person in a less senior office than the person who made the original decision unless that person was the chief executive officer.
- (3) The reviewing officer must, within 5 days of the review decision being made, give the applicant notice of the decision (the *review notice*).
- (4) If the review decision is not the decision sought by the applicant, the review notice must also state the reasons for the review decision.
- (5) If the reviewing officer does not give the review notice within the 5 days, the review decision is taken to confirm the original decision.

39 Stay of operation of original decision

A review application does not stay the original decision that is the subject of the application.

Chapter 4 Offences and enforcement

Part 1 What this chapter is about

40 Overview

This chapter is about offences under this Local Law and ways to prevent or remedy the effect of those offences.

Part 2 Offences

41 Displaying election signs contrary to Local Law requirements

- (1) A person must not display an election sign in a manner which does not comply with a Chapter 2 requirement.
Maximum Penalty—20 penalty units
- (2) A person displays an election sign in a manner which does not comply with a

Chapter 2 requirement if the person:

- (a) is supervising an election sign on public land and the election sign does not comply with a Chapter 2 requirement;
 - (b) is the owner or occupier of private land on which an election sign is being displayed and the election sign does not comply with a Chapter 2 requirement; or
 - (c) is the person being promoted on an election sign and the election sign does not comply with a Chapter 2 requirement.
- (3) It is not an offence against subsection (1) for a person to do an act mentioned in that subsection in accordance with the conditions of an exceptional circumstances approval.

42 Failure to comply with conditions of exceptional circumstances approval

A person must not contravene an exceptional circumstances approval.

Maximum Penalty—20 penalty units

43 Waving objects at traffic etc.

- (1) A person supervising the display of an election sign, or in the vicinity of an election sign, must not—
- (a) wave an object, including an election sign, at vehicles; or
 - (b) do anything on a footpath or nature strip which may reasonably cause a distraction to a motorist.

Maximum Penalty —20 penalty units

- (2) It is not an offence against subsection (1)(b) for a person to be seated near an election sign which a person which is supervising in accordance with this Local Law.

44 Threatening etc an authorised person

A person must not—

- (a) threaten, insult or use abusive language to an authorised person; or
- (b) give false or misleading information to an authorised person in response to a request that an authorised person is entitled to make under the Act.

Maximum Penalty —20 penalty units

Note—

- *An authorised person may require a person to state their name and address under section 127 of the Act in certain circumstances (including where the authorised person reasonably suspects that the person just committed an offence under this Local Law).*
- *It is an offence under the Act to fail to comply with certain requests made by authorised persons without a reasonable excuse—see section 127(6) of the Act.*

45 Providing false or misleading information

A person must not provide information in or in connection with an exceptional circumstances application that is false or misleading.

Maximum Penalty —20 penalty units

Part 3 Offence proceedings in Magistrates Court

46 Proceedings for offences

Proceedings (*offence proceedings*) for an offence against this Local Law—

- (a) must be taken in a summary way; and
- (b) must start—
 - (i) within 1 year after the offence is committed; or
 - (ii) within 1 year after the offence comes to the complainant's knowledge but within 2 years after the offence is committed.

Note—

The local government may start offence proceedings in accordance with section 237 of the Act.

47 Enforcement orders

- (1) After hearing offence proceedings, a Magistrates Court may make an order (an *enforcement order*) for the defendant to take stated action within a stated period.

Examples of action that an order may require—

- *to remove signs*
 - *to stop displaying signs*
 - *to do, or not do, another act to ensure compliance with an exceptional circumstances approval.*
- (2) The enforcement order may be in terms the Court considers appropriate to secure compliance with this Local Law.
 - (3) An enforcement order must state the period within which the defendant must comply with the order.
 - (4) An enforcement order may be made under this section in addition to the imposition of a penalty.

48 When fine is payable to local government

- (1) This section applies if a local government, or a local government employee who is a public officer within the meaning of the Justices Act, is the complainant in offence proceedings.

- (2) Any fine ordered in offence proceedings must be paid to the local government.

49 Joint and several liability

- (1) Where this Local Law imposes a liability on an owner or occupier of a property, and 2 or more persons are the owners or occupiers of the relevant property, the liability is joint and several.
- (2) This section applies both to civil liability and liabilities enforced by summary proceedings under the Justices Act.

Part 4 Defences

50 Defence for s 41

For section 41(1), it is a defence for an owner or occupier of private land, or a person being promoted by an election sign, to prove that—

- (a) the offence occurred without their knowledge or consent;
- (b) they could not, by reasonable diligence, have prevented the offence; and
- (c) as soon as possible after becoming aware of the offence, they stopped the offence occurring.

Part 5 Other remedies

51 Power to seize and impound non-conforming election signs

- (1) This section applies if—
 - (a) an election sign is being displayed on public land; and
 - (b) the election sign is displayed in a manner which does not comply with a Chapter 2 requirement (a *non-conforming election sign*).
- (2) An authorised person may seize (by dismantling if necessary) and impound a non-conforming election sign.
- (3) A person may reclaim an impounded non-conforming election sign if—
 - (a) written application is made to the chief executive officer; and
 - (b) the applicant pays the prescribed fee to release the sign (if any).
- (4) If an impounded non-conforming election sign is not reclaimed within 15 business days of the date of impounding, the sign is forfeited to the local government and may be disposed of as the chief executive officer directs.
- (5) An authorised person may seize and impound a non-conforming election sign under this section in addition to any other action which the local government is authorised to take.

Chapter 5 Miscellaneous

52 Subordinate local laws

The local government may make a subordinate local law which prescribes:

- (a) driver decision areas; and
- (b) device restriction areas.

53 Extrinsic material

- (1) The local government may make an explanatory note to assist in the interpretation of this Local Law.
- (2) The local government makes an explanatory note by:
 - (a) passing a resolution to make the explanatory note; and
 - (b) publishing the explanatory note on the local government's website.
- (3) An explanatory note made in accordance with this section is declared to be a relevant document for the purposes of section 14B of the *Acts Interpretation Act 1954* (as modified by s 15 of the *Statutory Instruments Act 1992* (Qld)).

Note—

Pursuant to Part 4, Division 1 of the Statutory Instruments Act 1992 (Qld), the Acts Interpretation Act 1954 (AIA) is modified so that a document declared by a local law to be a "relevant document" for the purposes of section 14B of the AIA is extrinsic material which may assist in the interpretation of a provision of the local law.

Schedule 1 Dictionary

A-frame means a portable A-frame structure no more than 1-metre high, placed on the ground.

Example:



Act means the *Local Government Act 2009 (Qld)*.

administration local law means *MBRC Local Law No. 1 (Administration) 2011*.

authorised person means a person—

- (a) appointed by the chief executive officer as an authorised person under section 202 of the Act; and
- (b) whose instrument of appointment provides that they are an authorised person for this Local Law.

Chapter 2 requirement means a requirement set out in Chapter 2, Part 2 or Chapter 2, Part 3 of this Local Law.

chief executive officer means the chief executive officer of the local government.

clear zone see section 8.

decision notice means a notice given under section 36.

device restriction area see section 7.

Division 1-10 candidate means a candidate for divisions 1-10 in a local government election.

Division 11-12 candidate means a candidate for divisions 11-12 in a local government election.

driver decision area means an area prescribed in a subordinate local law as a driver decision area.

electoral laws means the—

- (a) *Local Government Electoral Act 2011 (Qld)*;

(b) *Electoral Act 1992 (Qld)*; or

(c) *Commonwealth Electoral Act 1918 (Cth)*.

election sign see section 5.

enforcement order see section 47.

exceptional circumstance see section 9.

exceptional circumstances application means an application to display an election sign in an exceptional circumstance.

exceptional circumstances approval means an approval to display an election sign in an exceptional circumstance.

Federal candidate means a candidate for a Federal government election.

footpath means a paved area developed for use, or mainly used, by pedestrian traffic.

government election see section 6.

information request means a notice to the applicant requiring them to provide further information in relation to their exceptional circumstances application.

information request response means a response to an information request.

information request response period see section 31(3).

Justices Act means the *Justices Act 1886 (Qld)*.

local government means Moreton Bay Regional Council.

local government area means the area of Moreton Bay Regional Council.

Mayoral candidate means a candidate for the position of Mayor in a local government election.

nature strip means the area between—

(a) a road; and

(b) adjacent property,

and includes any footpath within that area.

non-conforming election sign see section 51.

offence proceedings see section 46.

polling booth means a polling place or booth, including a pre-polling booth, which is established, declared or arranged under an electoral law.

prescribed fee means a fee fixed by the local government under the Act, section 97.

prescribed form means a document which the local government makes available at its administration centres or on its website for the purposes of making an exceptional circumstances application.

private land means land that is not:

- (a) public land; or
- (b) a road.

properly made application means an exceptional circumstances application which complies with section 29(1) and 29(2), or that is accepted under section 29(3)(c).

public land means:

- (a) a nature strip; and
- (b) land that is reserved and set apart or held in trust by the local government for a public purpose.

Example—

- *for subparagraph (b)— local government-controlled parks.*

referendum legislation means the:

- (a) *Referendums Act 1997 (Qld)*; or
- (b) *Referendum (Machinery Provisions) Act 1984 (Cth)*.

review application see section 37.

review decision see section 38.

reviewing officer see section 38.

road has the meaning given to that term in the Act, section 59(2)(a), (b), (d) and 59(3).

State candidate means a candidate for a State government election.

Subordinate Local Law No. 1 means *Moreton Bay Regional Council Subordinate Local Law No. 1 (Administration) 2011*.

supervise, an election sign, means keeping the election sign under observation whilst being no further than 10-metres from the sign.