

	<h2 style="margin: 0;">Council use of Surveillance Systems Policy</h2>
File Number:	18.8.11
Date Adopted:	09 July 2014
Minute Reference:	10.7
Next Review date:	June 2021 and every 2 years thereafter.
Responsible Manager/s or Department:	Executive Officer: Governance Officer Development & Environmental Services
Related Policies / Codes:	<i>Local Government Act</i> s188, s192 & s196 (1999) <i>State Records Act</i> (1997) (SA) <i>Freedom of Information Act</i> (1991) <i>Geographic Names Act</i> (1996) <i>Privacy Amendment Act</i> (2012) <i>Surveillance Devices Act</i> (2016) (SA)
Related Procedure(s):	<i>Privacy Committee of South Australia Procedures</i> (2009)
Related Document(s):	AS 1742: Manual of Uniform Traffic Control Devices Part-5; Street Name and Community Facility name signs. Rural and Urban Addressing Standard – AS/NZS 4819

1. Introduction

Council has developed this Policy to provide information and direction in relation to the use of Surveillance Systems in the workplace and to facilitate compliance with legislation including the *Surveillance Devices Act 2016* (SA).

The primary purposes for utilising Surveillance Systems are to:

- ensure the health and safety of Council's Employees, Customers, Councillors, the Community and visitors to the Island;
- to discourage and/or detect unlawful behaviour in and around Council owned or maintained property (including, where the context so requires, property under the care, control and management Council) thereby enhancing the safety and security of all people and property;
- other applications and benefits of surveillance systems may include traffic management and assisting property access control.

The anticipated benefits include the:

- protection and safety of Council's Employees, Customers, Councillors, the Community and visitors to the Island;
- protection and safety of Council's physical assets from theft and damage generally; and
- discouraging the occurrence of unlawful activity and increasing the chances of apprehending offenders.

2. Scope

This policy applies to all Council employees, contractors, agency personnel, volunteers and work experience placements who are performing duties/tasks on behalf of the Council.

This policy does not, however, affect the ability of any person to exercise powers vested in them by legislation in relation to recordings (whether visual, audio or both) in connection with investigation or enforcement action. There are numerous relevant Acts: an example is the *Dog and Cat Management Act 1995*.

3. Definitions

- **CEO** means the Council's Chief Executive Officer;
- **Communication** means all forms of communication with another person(s) and includes, any verbal, written, recorded image and physical forms of communication (e.g., via video recording, telephone, radio, letter, memo, email, social-media or in person);
- **Confidential information** includes:
 - any images recorded, stored and reproduced by the SSP;
 - decision, document or discussion regarding those recorded images;
 - any matter deemed as confidential by the Management Team; and
 - any information which would breach a person's right to the protection of their personal information, property and/or image.
- **Council** means the Kangaroo Island Council;
- **DRO** means Delegated Responsible Officer;
- **Employee** and **Employees** of Council including managers, staff, contractors, agency personnel, volunteers and work experience placements who are performing duties/tasks on behalf of the Council;
- **EM** means all Elected Members of the Council, including the Mayor;
- **GI** means the General Inspector/s;
- **IRE** means the Image Recording Equipment, being the Surveillance Systems and the computer designated to receive, store and reproduce (as appropriate) those images;
- **Iron Ranger** means unmanned, secure devices, such as parking meters, ticket vending machines, etc., designed for the collection of fees related to the use of Council facilities;
- **ISP** means the Image Storage Point; being the secure area within Council premises where the IRE computer is located;
- **ME** means the Monitoring Equipment, including the computer, from which the captured images can be viewed;
- **Media** means all forms of public media and press including social-media, television, radio, newspapers and other publications;
- **Resources** means all property of the Council including buildings, land, consumables, plant (e.g., vehicles), equipment (e.g., Surveillance Systems, computers, photocopiers), Intellectual Property (documents, guidelines, regulations, Policies and Procedures, etc., that are not open to the public) and facilities (e.g., telephones, internet access).
- **SAPOL** means the South Australian Police (those serving Kangaroo Island in particular)
- **Surveillance Systems** means mobile and fixed electronic image capturing equipment such as Closed Circuit Television (**CCTV**) and Surveillance Cameras and may include listening devices

- **Surveillance System Program [SSP]** means the equipment and Council Employees trained and authorised to use that equipment which is implemented to provide security for Council property and infrastructure and safety for Council Employees and Community members.

4. **Surveillance Devices Act 2016 (SA)**

- 4.1 The *Surveillance Devices Act 2016 (SA)* (**SD Act**) restricts the installation, use and maintenance of surveillance devices and the communication of information or material from these devices,
- 4.2 The SD Act differentiates between a listening device and an optical surveillance device.
- 4.3 A listening device is a device capable of being used to listen to or record a private conversation or words spoken to or by any person in private conversation (whether or not the device is also capable of operating as some other kind of surveillance device) and associated equipment (if any).
- 4.4 An optical surveillance device is a device capable of being used to observe or record visually (whether for still or moving pictures) a person, place or activity and associated equipment (if any).
- 4.3 The SD Act prohibits the installation, use or maintenance of a listening device to overhear, record, monitor or listen to a private conversation. Exclusions apply where:
- The parties to a conversation consent to the use of a listening device;
 - A listening device is needed to protect the lawful interests of a person;
 - The use of the device is in the public interest.
- 4.4 The SD Act prohibits the installation, use or maintenance of an optical surveillance device to overhear, record, monitor or listen to a private activity. Exclusions apply where:
- The parties to a conversation consent to the use of an optical surveillance device;
 - A listening device is needed to protect the lawful interests of a person;
 - The use of the device is in the public interest.
- 4.5 Unless lawful interest or public interest exclusions apply, surveillance by Council may only occur with the consent of surveillance subjects. Consent may be express (verbal or written agreement) or implied (where the surveillance subject has been made aware of surveillance, i.e. by signage).
- 4.6 The SD Act prohibits the use of information or material derived from surveillance devices, except where it is used to protect the lawful interests of a person or the use is in the public interest. Employees must not use, communicate or publish information or material from a Surveillance Device in breach of the SD Act.
- 4.7 Whether the SD Act applies to any given situation will depend on the circumstances. All persons to whom this policy applies must nevertheless be mindful that Parliament has regulated the recording of private conversations and it cannot be automatically assumed that it is lawful to make a recording and/or make use of a recording once it has been made. All personnel should seek further information from their supervisor or manager if they have any doubts.

5. Management and Maintenance

The Surveillance Systems, which will be operated by Council's General Inspectors and Delegated Responsible Officers, will be portable to enable them to be moved between the many Council managed sites across the Island. The sites that will be targeted for optical surveillance monitoring will have permanent signage advising the public that they may be under video surveillance and will be fined or subject to legal process if found to be committing any offence.

General Inspectors and Delegated Responsible Officers may wear body-mounted surveillance cameras in the process of engagement with members of the public. Where body-mounted surveillance is worn, General Inspectors and Delegated Responsible Officers must seek consent from a person who is part of a conversation or activity under surveillance. Surveillance video and audio gathered may form part of the case evidence.

Whilst Council acknowledges the basic rights of its residents and visitors to enjoy the Council facilities free from unwarranted surveillance, it is recognised that there are particular circumstances when the oversight of those facilities is justified. In those circumstances, Council opts, in the interests of public safety and the protection of its facilities, to utilise surveillance systems as one of the means to provide that safety and protection. The use of Surveillance Systems will form part of wider safety and protection strategies employed by Council that, will focus on key facilities such as boat ramps and camping grounds with the option to expand the Surveillance Systems Program (SSP) to other sites as appropriate.

6. Aims of the SSP

In implementing the SSP, Council Aims to:

- 6.1 mitigate fee evasion, littering, graffiti, vandalism, crime and other unlawful behaviour on and in Councils land and facilities;
- 6.2 enhance the security and protection of Council Employees, residents, visitors and Council's assets and facilities;
- 6.3 facilitate a timely response to public safety issues within the Council area;
- 6.4 record evidence to support expiation proceedings by Council General Inspectors and DROs and support investigations and prosecutions by SAPOL in relation to offences on Council Employees, land and facilities; and
- 6.5 assist with the management and maintenance of Council's land and facilities.

7. Relationship between Council and SAPOL

7.1 Role of SAPOL

SAPOL (Kangaroo Island) will work closely with Council in the operation of the SSP by:

- advising, if necessary, Council General Inspectors and DROs in the secure handling of surveillance images;
- responding to requests by Council General Inspectors and DROs to view, and where necessary, act upon footage showing persons engaged in unlawful activities; or
- under South Australian law) SAPOL may, at any time, request a viewing and copy of any of Council's surveillance footage during the process of investigating alleged illegal activity.

7.2 Role of Council

Council will manage and maintain the SSP, inclusive of the placement of permanent surveillance notification signs, the rotational siting of the surveillance equipment, the retrieval and secure storage of the surveillance imagery, the review of the surveillance images and the expiation of fines for offences such as fee evasions, littering, etc. Council will immediately notify SAPOL if there is evidence of criminal activities and provide them with a copy of the surveillance footage.

8. Council's Approach

Sentient security surveillance equipment, applications and monitoring specifications, which are included in the Council's approved security SSP, will only be applied to Council owned, managed or occupied property.

Body- mounted mobile surveillance equipment will only be worn and activated by authorised users in undertaking their delegated roles and responsibilities.

Appropriate operating procedures will be applied to all security surveillance applications to ensure effective and ethical management of equipment and that the recorded information is appropriately maintained by authorised users, which includes SAPOL officers. All security surveillance systems installed will comply with the following:

- All surveillance controls and recorders must be located in a secure area.
- Access to surveillance controllers and recorders will be limited to authorised user(s).
- All security surveillance equipment will be integrated into the Council's wider current and future electronic security network to enable effective monitoring by Council, and SAPOL where agreed.

9. Obligations

Subject to the applicable law and noted *Acts*; Council undertakes to do all things reasonably necessary to manage the efficient operation of the SSP, including:

- 9.1 acquisition and installation of the necessary surveillance system equipment;
- 9.2 acquisition and installation of surveillance notification signage, in line with Council's Policies and State Legislation, at all sites where the surveillance system equipment may be sited;
- 9.3 liaising with SAPOL (Kangaroo Island) regarding surveillance equipment siting, recording, viewing and any actions where a possible unlawful activity has been captured on the surveillance footage;
- 9.4 the scheduled and non-scheduled maintenance of the surveillance systems, including the supply of recording materials and consumables; and
- 9.5 monitoring, evaluating, assessing and responding to the risk management issues involved with the SSP [including a bi-annual process and data security audit].

10. Security of Information

Council will:

- 10.1 ensure appropriate security measures are in place to protect any confidential information from unauthorised use, access, modification or disclosure;
- 10.2 ensure that any Employees authorised and/or delegated to access confidential information gathered via the SSP will not record, disclose or communicate such information to any third party except in the performance of their official functions; and

- 10.3** ensure any and all information gathered by the SSP eventuating in an expiation notice or criminal proceedings will be stored in Council's Records Department secured safe and only available to persons other than the delegated Council Employees and SAPOL through *Freedom of Information Act* (1991) processes, or as directed by a legal authority.

11. **State Records Act (1997) (SA)**

Whilst the primary purpose of surveillance monitoring is outlined in this Policy it should also be noted that the captured video footage is also classed as an official Council record under the *State Records Act* (1997) (SA), which defines a record as 'a written, graphic or pictorial matter, or a disk, film, tape or any other object that contains information or from which information may be reproduced.'

Section 23 of the *State Records Act* (1997) prohibits the Council from disposing of an official record except in accordance with the General Disposal Schedule 20 (GDS 20). Item 14.76.2 of GDS 20 specifically provides that 'video surveillance recordings' are temporary records which currently may be only be destroyed six months after the last action taken in relation to them.

This Policy recognises those points and objectives by supporting the *State Records Act* (1997) (SA), *Local Government Act* s196 in providing Council with a key monitoring tool to provide sentient oversight, as-well-as assisting the efficient maintenance and operations, of Council's recreational facilities.

12. **Access to Surveillance Footage**

12.1 By Members of the Public:

Members of the public can apply under the *Freedom of Information Act* (1991) (SA) [FOI Act] to view any official records kept by Council.

Any application received under the FOI Act must be determined by an accredited Freedom of Information Officer. If the application is approved, a member of the public may then view the footage at the Council office or obtain a copy of the requested footage within a timeframe that is both reasonable and appropriate. If viewing at the Council office, an accredited FOI Officer or a staff member delegated by the CEO will be present at all times to operate the viewing equipment.

12.2 By the Media

The Kangaroo Island Council views the rights of the media to gain access to footage to be the same as for a member of the public. That is, an application will need to be made under the FOI Act and the provisions of that Act will apply.

12.3 By Elected Members

Section 61(1) of the *Local Government Act* (1999) provides that 'a member of Council is entitled, at any reasonable time, in the connection with the performance or discharge of the functions or duties of the member (whether under this or another Act), without charge to have access to any relevant Council document'.

Section 61(2) of this Act requires any request for access to be directed to the Chief Executive Officer of the Council or such other delegated officers as the Chief Executive Officer (CEO) has specified – provided that:

- (a) the Elected Member makes the necessary request in writing to view or obtain a copy of the footage to the CEO of the Council; and

- (b) the CEO is satisfied that access to the information is relevant to the performance or discharge of the functions or duties of that Elected Member; or
- (c) it does not contain confidential information that the Elected Member requesting access would not normally be allowed (e.g. excluded due to conflict of interest, building and/or staff security or as may be directed by SAPOL or other law enforcement agency).

If the application is approved, the Elected Member may then view the footage at the Council office or obtain a copy of the requested footage within a timeframe that is both reasonable and appropriate. If viewing at the Council office, an accredited FOI Officer or a staff member delegated by the Chief Executive Officer will be present at all times to operate the viewing equipment.

13. Privacy & Accountability

Council recognises that in using SSP equipment to undertake surveillance operations it must ensure that the principles stipulated in state legislation be upheld. As such, Council will not tolerate any Employee or EM breaching the confidentiality of any person or persons recorded by the CCTVP, whether those persons were conducting themselves lawfully or if their actions warrant the consideration of SAPOL and due legal process.

If an Employee or EM is found to have breached confidentiality, they will be found accountable to their respective Codes of Conduct and be investigated as outlined within those Codes of Conduct.

14. Complaints

Complaints regarding the SSP and its operation must be made in writing in accordance with Kangaroo Island Council's Grievance Policy.

15. Measures

- Reduction in Fee Evasion, vandalism, dumping and other unlawful activity.
- Council's success in meeting the aims of this Policy.
- No formal complaints being received.

16. Availability of the Policy

This Policy will be available for inspection at the Council's Offices 43 Dauncey Street, Kingscote during ordinary business hours and via the Council's website: www.kangarooisland.sa.gov.au

Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

SIGNED:



Chief Executive Officer

Being a Policy adopted by Council

Date: 11 August 2020

KANGAROO ISLAND COUNCIL GOVERNANCE MANAGEMENT SYSTEM

History:		
Date Reviewed:	Version:	Reason for Amendment:
9 July 2014	Version 1	New Policy
24 July 2015	Version 2	Council Logo change only
13 June 2017	Version 3	Periodic Review Ref# C184:2017
12 November 2019	Version 4	Periodic Review post-Election. Minute C494:2019
11 August 2020	Version 5	Inclusion of reference to the Surveillance Devices Act 2016 (SA) Minute C443:2020