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GUIDELINE

# UTILISING SURVEILLANCE CAMERAS

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**HCCREMS**  
HUNTER & CENTRAL COAST REGIONAL  
ENVIRONMENTAL MANAGEMENT STRATEGY

A project delivered by the Hunter and Central Coast Regional Environmental Management Strategy (HCCREMS): a program of the Environment Division of Hunter Councils Inc.



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### Disclaimer

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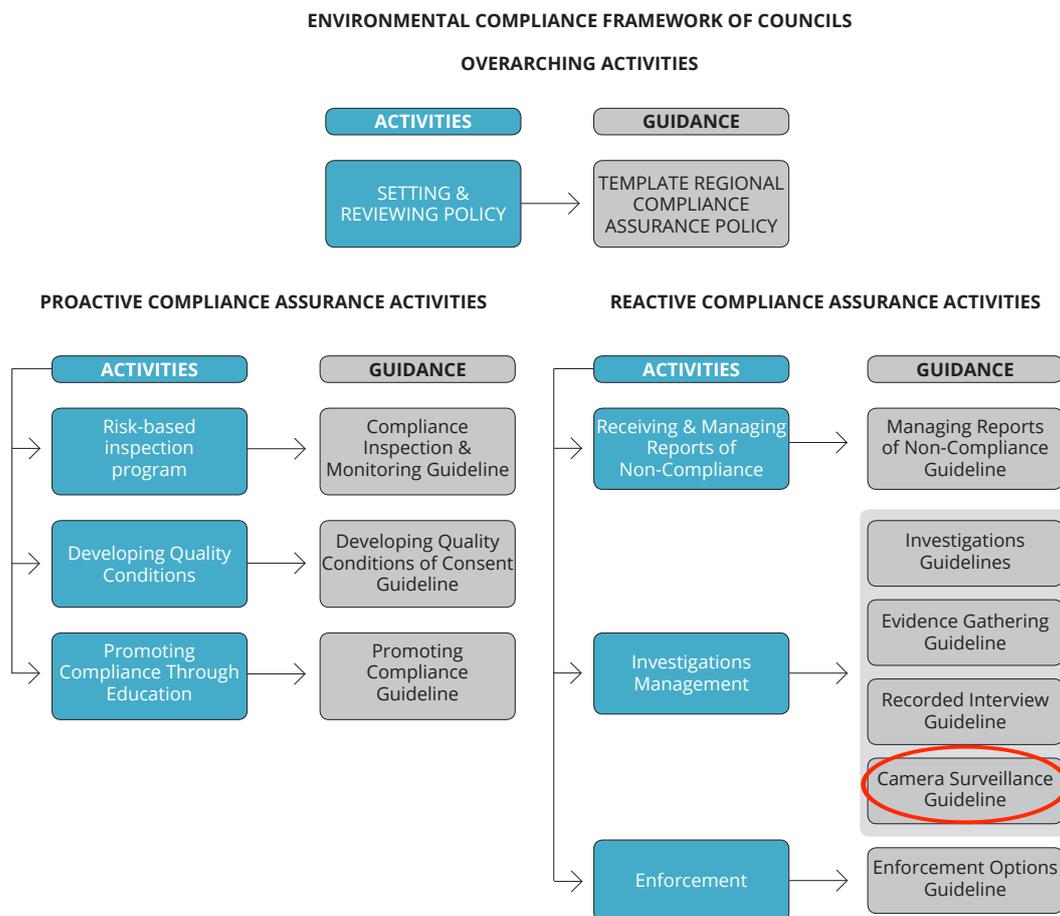
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# FOREWORD

The Camera Surveillance Guideline is provided as supporting guidance to the HCCREMS model Compliance Assurance Policy and is designed to provide a consistent approach to the environmental regulatory framework implemented throughout the fourteen member councils of HCCREMS.

The model Compliance Assurance Policy provides councils with a position on the use of both proactive and reactive compliance assurance activities to manage compliance of the regulated community. **Figure 1** (below) displays the relationship of this guideline to the Regional Compliance Assurance Policy and other guidance documents.



**Figure 1:**  
Regional Compliance Assurance Framework

# 1. INTRODUCTION

The use of camera surveillance to detect illegal activity, and identify offenders has been used successfully by law enforcement agencies for many years. In the past 10 years, local councils have started utilising this technology for similar purposes, such as the monitoring and detection of illegal dumping offences.

The use of surveillance cameras requires councils to implement a number of systems to ensure they only employ the cameras as legally entitled. This guideline and supplementary documentation are provided to assist councils in the effective, efficient and appropriate use of surveillance cameras.

Legislation relevant to councils' use of surveillance cameras include:

- Surveillance Devices Act 2007 (SD).
- Workplace Surveillance Act 2005 (WSA).
- Protection of the Environment Operations Act 1997 (PEEO).
- Local Government Act 1993 (LG).
- Privacy and Personal Information Protections Act 1998 (PPIP).
- Crimes Act 1990 (CA).
- Electronic Transactions Act 2000 (ET).
- Evidence Act 1995 (EA).

It is recommended this guideline be utilised in conjunction with the Evidence Gathering Guideline to ensure all activities undertaken meet the minimum requirements of the law, and be sufficient to be used in court proceedings.

Surveillance cameras are a useful tool to collect evidence of illegal activity. Prior to utilising surveillance cameras, careful consideration of the systems to be employed is required to ensure the legal application of cameras and their efficient use. This guideline draws from legal advice, and knowledge and experience of officers in the HCCREMS region, to advise on the use of surveillance cameras. The information provided in this guideline should not be construed as legal advice within itself. It is provided in good faith but no liability will be accepted for error or omission. Councils are advised to seek professional advice to ensure compliance with relevant legislation.

## 2. DEVELOPING AND IMPLEMENTING A CAMERA SURVEILLANCE PROGRAM

Advice provided by Baker & Mackenzie identified a number of items that councils are advised to include in any camera surveillance program. These are discussed in the following section.

Key requirements for any camera surveillance program include:

1. Ensure sufficient and appropriate staff delegations are in place - The POEO Act requires an Authorised Officer to "take photographs". It is recommended that an Authorised Officer be the officer in charge of the placement and management of any image capturing device, to ensure the images are admissible in court.
2. Ensure appropriate notification of the use of surveillance cameras is provided – The PIPP Act requires councils to take such steps as reasonable in the circumstances to ensure that, before the information is collected or as soon as possible after, the individual is notified that certain information has been collected about them. Legal advice indicates the effective use of signage notifying of the use of cameras may address this responsibility.
3. Ensure appropriate notification to staff where cameras will be utilised in Council workplaces – Councils have a specific obligation to inform staff of any filming occurring in an areas that can be classed as a "workplace".
4. Determine the appropriate placement of surveillance cameras – considering the ownership of the land that the cameras are placed on, the ownership of the land being filmed, to ensure all images are obtained legally. Consider also any requirements of the camera itself to ensure clear images are captured.
5. Develop and implement appropriate camera and data management systems – the extent to which camera equipment and data management systems are maintained may be a factor in court proceedings, as such it is important that the officer responsible for the surveillance camera program has a good knowledge of the camera operations and councils data management system.

**Attachment 1** provides an example record keeping system Councils may like to modify and adopt, that addresses the considerations identified in the legal advice.

### 3. LEGAL ISSUES RELATED TO THE USE OF CAMERA SURVEILLANCE

PROVIDED BY BAKER & MCKENZIE

In the current litigious environment, councils are advised to fully consider the legislative requirements placed on the use of cameras for the purpose of legislative enforcement. HCCREMS has commissioned professional legal advice to more clearly identify risk areas and specific responsibilities of councils. **Attachment 2** provides a comprehensive assessment of the various legislative instruments triggered by councils use of surveillance cameras. In addition, a number of questions relating to the use of surveillance cameras were posed to HCCREMS Legal Advisers, Baker & McKenzie. Legal advice received relates to Councils' use of surveillance cameras on:

- land owned by the State Government that is managed by the Council;
- land owned and managed by the Council; or
- other land, such as State Forest land or Aboriginal Land Council land, which the Council has written permission to enter for the purpose of installing surveillance cameras.

The advice does not relate to Councils' use of surveillance cameras on private land. Baker & McKenzie recommend that Councils that wish to install surveillance cameras on land they do not own and/or manage must take steps to ensure they have written permission from the owner of that land to enter the land for the purpose of installing, using and maintaining the cameras. The specific advice (following) addresses a number of questions related to:

- The use of surveillance cameras – which legislative instruments are relevant? What is a “workplace”? Are images enough to issue infringements? Processes for managing evidence? What delegations are required? etc.

- The need for signage – Is signage necessary? What should signage state? etc.
- The use of lapel cameras – what are appropriate cautions? etc.

#### LEGAL ADVICE – USE OF SURVEILLANCE CAMERAS

#### WHICH LEGISLATIVE INSTRUMENTS MAY BE TRIGGERED THROUGH THE USE OF CAMERAS? WHICH PROVISIONS ARE TRIGGERED IN EACH ACT?

The following legislation is applicable to use of surveillance cameras by Councils.

**Surveillance Devices Act 2007 (NSW) (SD Act)**  
Pursuant to the SD Act:

- A camera (an optical surveillance device) cannot be installed, used or maintained on or within premises to record or observe the carrying on of an activity if it involves entry onto premises without the consent of the owner (s 8).
- So long as a Council has the consent of the land owner to enter the land to install, use and maintain a camera on their premises, there is no restriction in the SD Act on a Council's ability to install cameras and use camera footage.
- To the extent that a camera is also a listening device (if it is capable of recording or listening to a person's words or conversation), a Council must not record or listen to a private conversation unless:
  1. *it has the consent of every person to that conversation; or*
  2. *the recording (or listening) is reasonably necessary for the protection of lawful interests of one of the parties to the conversation (s7).*

A private conversation means a conversation in circumstances that may reasonably be taken to indicate that any of the parties to the conversation desired to be listened to only by the parties to the conversation.

- There is no restriction on using a listening device to record a conversation that is not a private conversation.
- The SD Act limits how a Council can use a record of a private conversation obtained using either an optical surveillance device or a listening device that was recorded in contravention of the SD Act (s 10). It does not otherwise restrict how a Council can use any other record made using an optical surveillance device or listening device.

### **Protection of the Environment Operations Act 1997 (NSW) (POEO Act)**

Pursuant to the POEO Act:

- An authorised officer (see our answer to question 8 below in respect of who is an “authorised officer” for the purpose of the POEO Act) has broad powers to enter premises in certain circumstances (s 196) and to do anything necessary to be done for the purpose of the POEO Act, including take photographs, films, audio, video and other records as he/she considers necessary (s 198). There are no notice requirements relating to taking such photographs, films, audio, video or other records.
- An authorised officer may require a person, whom the officer suspects on reasonable grounds to have knowledge of matters in respect of which information is reasonably required for the purposes of this Act, to answer questions in relation to those matters (s 203).
- An authorised officer may cause any such questions and answers to be recorded if the officer has informed the person who is to be questioned that the record is to be made. A copy of such record must be provided to the person who is questioned as soon as practicable after it is made (s 203A).

### **Privacy and Personal Information Protections Act 1998 (NSW) (PIIP Act)**

Local government authorities in New South Wales, including all local and county Councils, are subject to the PIIP Act.

Pursuant to the PIIP Act:

- Camera footage of a person (containing images of a person or a voice recording that identifies the person) is likely to be “personal information” under the PIIP

Act because this is information about an individual whose identity is apparent or can be reasonably ascertained from the information or opinion (s 4). The Office of the NSW Privacy Commissioner’s view is that a photograph or image of a person is personal information;

- If a Council obtains camera footage of a person for the purpose of investigating possible illegal dumping activity (e.g. in contravention of the POEO Act or LG Act) the Council must collect, use and disclose any “personal information” contained in the footage in accordance with the Act. This includes:
  1. *the information must be collected for a lawful purpose that is directly related to a function or activity of the Council, and that is reasonably necessary for that purpose. This collection must not be by unlawful means (s 8). This requirement is likely to be satisfied since Councils are collecting the information for the purpose of investigating potential illegal activity;*
  2. *the information must be collected directly from the individual (s 9). This requirement is likely to be satisfied since Councils take camera footage directly of individuals;*
  3. *the Council must take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as possible after, the individual is notified of certain information (e.g. the fact that the information is collected, the purposes it is collected for, and the intended recipients of the information etc). This does not apply if the information is collected for law enforcement purposes (see our note below regarding what is likely to constitute “law enforcement purposes”) (ss 10, 23). It is possible that the Council’s obligation to “take such steps as are reasonable in the circumstances” does not require it to take steps to notify people who are potentially committing unlawful activity of the required information in circumstances where the Council has reasonable grounds for suspecting that unlawful activity. We discuss this further below;*
  4. *the Council must only use the information for the purposes for which it was collected or a directly related purpose, except if it is used for law enforcement purposes (ss 17, 23). This requirement is likely to be satisfied because Councils collect the information for the purpose of investigating potential illegal activity;*

We note that the term “law enforcement purposes” is not defined in the PPIP Act. However, “law enforcement agency” is defined to mean the NSW police, NSW Crime Commission, Australian Federal Police and other similar bodies. Based on this definition, it is likely that “law enforcement purposes” means investigations or proceedings instigated by a law enforcement agency and not by Councils. Based on the above, the main issue Councils are likely to face under the PPIP Act is whether they can satisfy the obligation to take steps to notify individuals of certain information before or as soon as possible after they collect personal information from individuals. As noted above, in our view, as the Council is only required to “take such steps as are reasonable in the circumstances”, a Council may not be required to take any steps in these circumstances, or may be able to satisfy the requirement by taking steps such as:

1. *including the relevant information in its website privacy policy; and*
2. *posting signs/notices on land on which cameras are installed to notify individuals that the Council may collect images of them for the purpose of investigating potential illegal activity.*

There are no provisions in the Local Government Act 1993 (NSW) (LG Act) relating to Councils’ use of cameras. Pursuant to the Workplace Surveillance Act 2005 (NSW) there are additional obligations Councils must comply with when using cameras on land that is a workplace. We discuss these obligations in answer to question 2 below.

There are no other specific legislative provisions relating to Councils’ use of surveillance cameras in New South Wales. As noted below in answer to question 9, Councils may be affected by laws that relate to what a person can photograph/film, but these laws are unlikely to apply in the circumstances.

**WHAT ISSUES SHOULD COUNCILS BE AWARE OF WHEN USING CAMERAS ON LAND THAT IS DEEMED TO BE A “WORKPLACE”? WHAT MEASURES AND CONTROLS SHOULD BE PUT IN PLACE TO ADDRESS THESE ISSUES TO MAKE THE USE OF CAMERAS A LEGAL ACTIVITY?**

Councils must comply with the Workplace Surveillance Act 2005 (NSW) (WS Act). This restricts an employer’s (the Council’s) right to use cameras (and other surveillance devices) in the workplace.

### **When does it apply?**

The WS Act relates to Councils’ use of surveillance cameras in respect of their own employees as their usual workplace. We discuss further below what a “workplace” is. If a Council places a camera on land that is a “workplace” of another employer (e.g. the Aboriginal Land Council), the Council does not have to comply with the WS Act in respect of those other employer’s employees. (This is because the WS Act only imposes obligations on the Council in respect of its own employees. Similarly, that other employer (e.g. the Aboriginal Land Council) would not have to comply with the WS Act in respect of the Council’s employees. However, the other employer may be required to take steps to comply with the WS Act in respect of its own employees.)

Further, if the Council engages any of its own employees at the workplace of another employer where the Council has installed cameras, the Council does not need to comply with the notification requirements below to the extent that the other employer’s workplace is not the usual workplace of the Council’s employees (s 10(6)).

The concept of a “usual workplace” is not defined in the WS Act or at common law or at common law. “Workplace” means the premises, or any other place, where employees work, or any part of such premises or place (s 3). Based on the ordinary meaning of the term “usual”, it is likely that areas of Council-owned land that Council employees are required to enter from time-to-time for the purpose of installing surveillance cameras (such as large bushland reserves) will not be the “usual workplace” of those employees.

### **Who is an employee?**

For the purpose of the WS Act, an “employee” has a broad meaning and includes not only persons engaged in paid work for an employer, but also persons performing voluntary work (i.e. persons performing work without remuneration, reward or obligation). This generally means that, even in circumstances where a Council has volunteers conducting work at Council premises or at any other place on behalf of the Council, the Council must comply with the WS Act in relation to camera surveillance.

### What is a workplace?

In respect of what is a “workplace”, an employee is at work for an employer:

- when the employee is at a workplace of the employer (or a related body corporate of the employer), whether or not the employee is actually performing work at the time; or
- or at any other place while performing work for the employer (or a related body corporate of the employer) (s 5).

This means that, for a Council, a workplace is (a) any Council premises and (b) wherever else a Council worker is working (e.g. on State-owned land managed by the Council or on other land the Council has permission to enter).

### What notification is required?

A Council must not commence camera surveillance of an employee without giving the employee prior notice in writing at least 14 days before the surveillance commences (although an employee may agree to a lesser notice period). The notice must indicate:

- the kind of surveillance to be carried out (e.g. camera surveillance);
- how the surveillance will be carried out;
- when the surveillance will start;
- whether the surveillance will be continuous or intermittent; and
- whether the surveillance will be for a specified limited period or ongoing (s 10).

Camera surveillance of an employee must not be carried out unless the cameras used (or camera casings or other equipment that would generally indicate the presence of a camera) are clearly visible in the place where the surveillance is taking place and the notices to employees are clearly visible at each entrance to that place (s 11).

### Use of hidden cameras

The WS Act provides that surveillance of employees at a particular premises or place will be taken to comply with the requirements referred to above (s 10 and 11 of the WS Act) if:

- those employees agree to the surveillance being undertaken at that premises or place for a purpose other than surveillance of employees; and
- the surveillance is undertaken in accordance with that agreement.

This means that Councils may use hidden cameras on Council-owned land (e.g. bush reserves) where it may have employees

performing work from time-to-time for the purpose of obtaining evidence of illegal dumping activities so long as it obtains those employees’ agreement to do so. We note that this exception only relates to Councils’ use of the camera footage for the specified purpose (e.g. for the purpose of obtaining evidence of illegal dumping). If, in the course of obtaining this footage, the Council obtains footage of an employee that it would otherwise seek to use against that employee (e.g. of the employee failing to perform his/her duties properly), the Council will not be permitted to use this footage for that purpose. Any such use would breach the WS Act because it would amount to covert surveillance of employees, which (as noted below) is generally not permissible under the WS Act.

### Covert surveillance of employees

The WS Act also restricts an employer’s right to carry out covert surveillance of employees while they are at work except in limited circumstances (ss 19, 20).

The WS Act also restricts an employer’s use and disclosure of surveillance records which are obtained by camera surveillance at the employer’s workplace.

An employer who carries out camera surveillance of an employee while the employee is at the employer’s workplace (excluding covert surveillance) must ensure that any surveillance record made as a result of the surveillance is not used or disclosed unless that use or disclosure is:

- for a legitimate purpose related to the employment of the employer’s employees or the employer’s business activities or functions;
- to a member or officer of a law enforcement agency (e.g. the NSW Police) for use in connection with the detection, investigation or prosecution of an offence;
- for a purpose directly or indirectly related to the taking of civil or criminal proceedings; or
- reasonably necessary to avert an imminent threat of serious violence to persons or of substantial damage to property (s 18).

## WHAT INFORMATION FROM THE ISSUING OF A PIN OR FINE CAN BE UTILISED IN MEDIA RELEASES (FOR USE AS A DETERRENT TO FUTURE ILLEGAL ACTIVITY)

### Summary

As described in more detail below:

- there is no restriction in the SD Act relating to how Councils may use this information;
- the POEO Act permits the Council to publish this information as it considers appropriate;
- the LG Act prohibits a Council from using this information for this purpose unless it has the relevant person's consent; and
- the PPIP Act prohibits a Council from using this information for this purpose to the extent that it is "personal information" unless it has the relevant person's consent.

### SD Act

If a Council lawfully obtains camera footage (i.e. with the consent of the land owner) or a recording of a conversation (i.e. either a private conversation that was recorded with the consent of the parties to the conversation or was reasonably necessary for the protection of a person's lawful interests, or a conversation that was not private), the SD Act does not restrict how Councils can use this footage/recording. This Act prohibits disclosure of "protected information", but this generally relates to information obtained from the use of a surveillance device under a warrant or by a law enforcement body (ss 39, 40).

### POEO Act

Under the POEO Act, a Council may disclose certain information by publishing it in such manner as it considers appropriate, including:

- the particulars required, or formerly required, to be kept on the register (see below); and
- particulars of any notice given under any the POEO Act (or other specific environmental legislation) (s 319).

This permits the Council to publish details of a penalty notice issued under the Act in a media release or otherwise if the Council considers it appropriate. Other provisions

in the POEO Act that relate to disclosure of information include:

- an authorised officer is restricted in how he/she can use a recording of questions and answers obtained pursuant to the Act (see references to ss 203 and 203A above in our answer to question 1 above); and
- Councils are required to keep a register containing certain matters, including details of convictions in prosecutions under this Act instituted by that Council (s 308-9).

### LG Act

Pursuant to the LG Act, a Council must not disclose information obtained in connection with the administration or execution of the Act other than:

- in connection with the administration or execution of the Act; or
- if the relevant person (who the information relates to) consents; or
- for the purpose of legal proceedings arising out of the Act or any report of such proceedings; or
- with other lawful excuse (s 664).

Unless a Council obtains the relevant person's consent, it is unlikely that any of these exceptions permit the Council to disclose information obtained from a person who has been issued with a penalty notice under the LG Act in media releases or otherwise. This relates to personal information (discussed further below) and any other information obtained by the Council in connection with the issue of the penalty notice.

(The POEO Act has an equivalent provision but it relates only to disclosure of information relating to any industrial, agricultural or commercial secrets or working processes obtained in connection with the administration or execution of the POEO Act or the regulations (s 319).)

**PPIP Act**

Pursuant to the PPIP Act, Councils must only use and disclose personal information they collect for the purpose for which it was collected or a directly related purpose. This means Councils may not disclose personal information (e.g. photographs or images of an individual or an individual's name and/or contact details) obtained for the purpose of investigating or issuing a penalty notice for other purposes (e.g. to include in a media release or other publication) unless they obtain the consent of the relevant person to do so.

In respect of non-personal information, such as the quantum of the fine, details of the camera used to catch the offender, or a company name, except in respect of information obtained pursuant to the LG Act (see our comments above), there is no restriction on a Council publishing this information in media releases.

## IS PHOTOGRAPHIC EVIDENCE ALONE, SUFFICIENT GROUNDS TO ISSUE PINS, FINES OR NOTICES?

**Summary**

As described in more detail below:

- pursuant to the POEO Act, an enforcement officer may serve a penalty notice on the basis of images captured from surveillance cameras if it appears from those images that the person has committed an offence under the Act; and
- pursuant to the LG Act, an authorised person may serve a penalty notice on the basis of images captured from surveillance cameras if it appears from those images that the person had committed an offence under the Act.

There is no requirement under either the POEO Act or LG Act for officer/person to first elicit a confession from the person.

**POEO Act**

As you know, the POEO Act creates a number of offences. For example, it is an offence to:

- wilfully or negligently dispose of waste in a manner that harms or is likely to harm the environment (s 115);
- pollute land (s 142A);
- deposit litter in or on a public place or an open private place (s 145).

These offences are subject to penalty units. An authorised officer (see our answer to question 8 below in respect of who is an authorised officer pursuant to the POEO Act) also has powers to enter premises and take other steps to investigate potential offences in the Act.

An enforcement officer (see our answer to question 8 below in respect of who is an enforcement officer pursuant to the POEO Act) also has the power to issue penalty notices.

An enforcement officer may serve a penalty notice on a person if it appears to the enforcement officer that the person has committed a penalty notice offence. This means an enforcement officer may serve a penalty notice on the basis of images captured from surveillance cameras if it appears from those images that the person has committed an offence under the Act. There is no requirement for the authorised officer to first elicit a confession from the person.

**LG Act**

The LG Act also creates a number of offences. For example, it is an offence to:

- place waste in a public place without the prior approval of the Council (s 626);
- wilfully or negligently do an act which damages or pollutes a public water supply (s 639).

These offences are subject to penalty units. An authorised person (see our answer to question 8 below in respect of who is an authorised person under the LG Act) may serve a penalty notice on a person if it appears to the authorised person that a person has committed an offence under the Act (s 679).

This means an authorised person may serve a penalty notice on the basis of images captured from surveillance cameras if it appears from those images that the person had committed an offence under the Act. There is no requirement for the authorised person to first elicit a confession from the person.

## WHAT LEGAL CONSIDERATIONS SHOULD COUNCILS BE AWARE OF WHEN UTILISING CAMERA IMAGES AS CONTEMPORANEOUS NOTES AND EVIDENCE? WHAT CHAIN OF EVIDENCE PROCESS NEEDS TO BE IN PLACE? HOW SHOULD IMAGES BE SAVED AND STORED? WHAT, IF ANY, DIFFERENCES EXIST WITH THE MANAGEMENT OF 'FILMED' FOOTAGE COMPARED TO THE MANAGEMENT OF 'STILL' IMAGES?

For the purpose of responding to these questions, we have assumed the relevant camera footage is obtained lawfully.

There are no specific rules of evidence which apply to the use of video or photographic images that positively identify offenders in criminal prosecutions. However, to assist with establishing the chain of evidence, Councils should ensure they are able to prove:

- the location of the camera (e.g. the camera is in a fixed location and a unique code is applied to all images captured by the camera);
- the date and time the images were taken (e.g. all images are electronically date- and time-stamped at the time of capture); and
- that the images have not been altered in any way (e.g. the images are stored securely and accurate records are kept of any custodian at all stages after capture).

There are no rules which specify how many images or time frames of images should be retained in the case of video or photographic evidence identifying an offender. The number of images captured at the time of the offence that will be required as evidence will depend on how the images are captured and stored, and the circumstances surrounding the offence. For example, in the case of images recorded by video camera, it would be advisable to retain any continuous block of footage containing the images. If the offender appears in images captured by a second camera at the time of the offence, footage containing those images should also be retained.

We would, however, recommend that Councils retain all images captured around the time of the offence. First, as noted above, it is important that a Council should be able to prove that the images are "as recorded" and have not been tampered or altered in any way. Keeping a complete set of the images recorded and not editing those images in any way will help Councils establish this. Second, Councils must also take care to retain any images that might be required as evidence in legal proceedings.

We note that there are certain statutory obligations relating to preservation of evidence which make it an offence for a person to destroy a document if the person knows the document is, may be, or is reasonably likely to be required in evidence in a legal proceeding. (Crimes Act 1990 (NSW), s 317).

## WHERE IMAGES OR FOOTAGE CAPTURES PERSONS NOT ENGAGED IN AN OFFENCE, ARE THERE ANY LEGAL ISSUES OR IMPLICATIONS THAT COUNCILS NEED TO BE AWARE OF?

### Summary

As described in more detail below:

- under the LG Act, the Council is not permitted to use this information for any purpose; and
- under the PPIP Act, the Council is not permitted to use this information for any purpose other than the purpose for which it was collected (i.e. as evidence of potential contraventions of the LG Act or POEO Act). The Council must also comply with the notification and data retention provisions of the PPIP Act referred to below.

There are no provisions in the SD Act or POEO Act that affect what a Council can or must do with images or footage it captures of a person not engaged in an offence. Please also see our answers to questions 9(d) and (e) below in relation to the issues that may arise if Councils take camera footage of public land they are not in control of, or of private land.

## WHAT SECURITY MEASURES NEED TO BE TAKEN WHEN COLLECTING, STORING OR DESTROYING IMAGES?

### LG Act

As noted above in answer to question 3, pursuant to the LG Act, a Council must not disclose information obtained in connection with the administration or execution of the Act other than in limited circumstances. None of these circumstances permit a Council to use information relating to persons not engaged in an offence for another purpose.

### PPIP Act

Under the PPIP Act, as discussed above in answer to question 1, it is likely that camera footage of a person (containing images of a person or a voice recording that identifies the person) is “personal information” under the PPIP Act. This means that, among other things, a Council may only use this information for the purpose for which it was collected or a directly related purpose. Where a Council obtains camera footage for the purpose of monitoring compliance with the POEO Act and/or LG Act, it must only use the footage for that purpose (e.g. for investigating potential unlawful activity). A Council must not use or disclose this footage (e.g. of a person not engaged in an offence) for any other purpose.

As noted above, under the PPIP Act, Councils are also required to take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as possible after, the individual is notified of certain information (e.g. the fact that the information is collected, the purposes for which it is collected, and the intended recipients of the information). It is likely that such steps as are reasonable in these circumstances do not include the Council notifying these people (whose images it has collected incidentally) of the required information. As noted above, if some steps are required, it may be sufficient for a Council to:

- include the relevant information in its website privacy policy; and
- post signs/notices on land on which cameras are installed to notify people that surveillance cameras may be in use.

Under the PPIP Act, a Council must also ensure that any personal information is not retained for longer than necessary for the purposes for which it may lawfully use the information (s 12). This means that, if a Council collects footage of persons not engaged in an offence, so long as it has no other reason to retain this footage (e.g. because it is on the same video tape as footage the Council does need to retain), it should not retain this footage. (Also see our comments in answer to question 7 below.)

The SD Act and the POEO Act do not contain any provisions specifically relating to this.

### LG Act

The LG Act provides that a Council must retain, preserve and destroy its records in accordance with any approved standards (s 739A). This includes standards prescribed regulations, by the Director-General, or any standards determined by the Council for the purpose of the provision in relation to which the expression is used.

### PPIP Act

Under the PPIP Act, Councils must:

- ensure that personal information is protected by taking such security safeguards as are reasonable in the circumstances against loss, unauthorised access, use, modification or disclosure, and against all other misuse;
- ensure that any personal information is not retained for longer than necessary for the purposes for which it may lawfully use the information; and
- dispose of any personal information securely and in accordance with any requirements for the retention and disposal of information (s 12).

These obligations apply to all images that are personal information, regardless of whether they are relevant to enforcement matters.

## Record keeping

As you would be aware, Councils must comply with all statutory and common law record-keeping obligations (for example, state records record-keeping obligations and other obligations to keep financial, accounting and employment records) in respect of how they handle and dispose of records. Councils should comply with any such obligations in respect of their storage and/or destruction of images captured by surveillance cameras.

We note that any documents a Council holds electronically in order to satisfy statutory obligations to produce documents or to retain records must comply with the relevant provisions of the Electronic Transactions Act 2000 (NSW). In general, electronic documents will be considered as valid and admissible as evidence in litigation if they can be authenticated. The legislation provides that “a reliable means of assuring the integrity of information” requires the information to remain complete and unaltered apart from the addition of any endorsement or immaterial change that arises in the normal course of communication, storage or display.

There are also court rules that relate to what form documents must be in to enable electronic discovery (production of relevant documents) for the purpose of court proceedings.

## Preservation of evidence

Please also see our answer to question 5 above in respect of a Council’s obligation to preserve evidence. What delegations are required for officers to be considered “Authorised” in relation to the placement and management of surveillance devices? What systems should be implemented to ensure the use of the cameras will be compliant and admissible in court proceedings?

The following advice is provided to Councils by the NSW Office of Environment and Heritage in their “Crackdown on Illegal Dumping Handbook 2008”.

The advice in the handbook set out below is accurate and appropriate. We have commented on specific aspects of it in footnotes.

Only officers who are experienced in locating and operating surveillance cameras should use them to collect admissible

evidence in criminal proceedings<sup>1</sup>. Consider whether or not the images will assist in proving any particular offence<sup>2</sup> as well as whether or not the location of the camera will place another person, say a nearby landowner at risk<sup>3</sup>.

Generally you need to locate the camera in a place where it will not be found or damaged but still be able to capture images that will assist in proving the elements of the relevant offence. The Officers will need to ensure they have the statutory power to install and recover the camera<sup>4</sup>. They also need to be able to give direct evidence about the following:

- How the camera was installed and removed.
- How it operates, including the manner in which it automatically captures and stores images.
- Generating a log of images that have been captured and identifying those images<sup>5</sup>.

All of this evidence will help establish that the images are genuine and have not been manipulated or damaged in any way. It is important to note that evidence about the manner in which surveillance is conducted may be protected from disclosure, even in criminal trials, by the concept of public interest immunity. This may mean, for example, that any covert techniques or methods that need to remain confidential to ensure appropriate evidence could be obtained in the future can be kept confidential, or that the identity of any person who is not an authorised officer and has assisted in the surveillance need not be revealed.<sup>6</sup>

<sup>1</sup> This is a matter of best practice. If a council can show that cameras were installed and operated by an appropriate experienced person, this may also demonstrate that the evidence is more reliable.

<sup>2</sup> Cameras should only be used where necessary and a Council should carefully consider the most appropriate place to install cameras.

<sup>3</sup> There is a risk that a person may attempt to destroy a camera. A camera should not be located in a place (e.g. next to private land) that makes it likely a person may trespass on private land in order to access a camera.

<sup>4</sup> As noted above, if a Council installs a camera on land that is not managed by Council, it should ensure it has written permission from the owner of the land to install, use and maintain the camera for necessary purposes.

<sup>5</sup> These issues are discussed in detail below.

<sup>6</sup> Public interest immunity prevents the disclosure in the course of legal proceedings of information or documents on the grounds that such disclosure is outweighed by the public interest in keeping it confidential. In NSW, it is primarily governed by s130 of the Evidence Act (1995). “Public interest” for the purposes of the immunity has long been held to extend to the protection of sources of information that may assist Government agencies to enforce the law. Whether the immunity should apply is determined on a case-by-case basis.

### **Authorised officers and enforcement officers – POEO Act**

Under the POEO Act, a Council may appoint any officer or employee of that authority as an authorised officer for the purpose of the Act. A Council may also appoint any officer or employee of another local Council as an authorised officer in respect of the appointing local Council's area (s 187).

As noted above in answer to question 1, an authorised officer has broad powers, such as to enter premises, take photographs of premises, and ask a person for information. A Council may also appoint a person as an enforcement officer in respect of class 1 offences (as prescribed by the regulations). The Council must duly authorise the person to exercise the functions of an enforcement officer under Part 8.2 of the POEO Act.

An enforcement officer has the functions of an authorised officer and has the power to issue penalty notices under the Act.

The POEO Act provides that the authorisation of an authorised officer by the Council is limited to matters concerning the functions of the Council under the Act (s 188). Further, it can be given generally or may be subject to conditions, limitations or restrictions or only for limited purposes. The Act does not specify:

- what delegations are required for a person to be considered an authorised officer or enforcement officer for the purpose of the Act (e.g. what qualifications, authority, status or otherwise a person should have);
- who within a Council has the authority to appoint an authorised officer or enforcement officer; or
- that only an authorised officer or enforcement officer may place and/or manage a surveillance device.

### **Authorised officers – LG Act**

Under the LG Act, an authorised person is an employee of a Council who is generally or specially authorised by the Council to deal with the matters to be dealt with by an authorised person under the Act.

An authorised person has the power to issue penalty notices under the Act.

The LG Act does not specify:

- what delegations are required for a person to be considered an authorised person for the purpose of the Act (e.g. what qualifications, authority, status or otherwise a person should have);
- who within a Council has the authority

- to appoint an authorised person; or
- that only an authorised person may place and/or manage a surveillance device.

### **Recommendations**

The steps that each Council may take to appoint authorised officers, enforcement officers and authorised persons will depend on its own governance procedures.

However, at a minimum, we recommend that Councils take formal steps to make these appointments. For example, each Council could pass a resolution to determine what designation of person (e.g. what level of manager) may make such appointments. The appointment should be made in writing and should indicate whether the appointment permits the person(s) to undertake all of the activities of that designation under the relevant Act or only specified activities.

A Council may also choose to implement an internal policy that only specified personnel (e.g. only authorised officers or authorised persons pursuant to the POEO Act and LG Act respectively) may undertake certain activities on behalf of that Council (e.g. install and operate surveillance cameras). Each appointed person should be required to maintain a record of any steps he/she takes as an authorised officer, enforcement officer or authorised person pursuant to the Acts.

In order to satisfy the requirements proposed in the handbook above, and the requirements summarised in answer to question 5 above (regarding what is required to preserve evidence), Councils should have systems in place in relation to their use of surveillance cameras so they can show that a particular procedure is followed every time.

As discussed in answer to part (a) above, we recommend that Councils authorise one or more specific persons to be responsible for installing, maintaining and using surveillance cameras. This person should keep a file recording all activity in respect of each camera ("Surveillance File"). The Surveillance File should contain a note of all of the relevant matters referred to below. These notes could be made on individual file notes contained in the file, or in a dedicated notebook that is kept on the file. Each note should be dated and should identify the author of the note.

In order to answer the questions proposed in the handbook above, for each surveillance camera used, Councils should be able to:

- produce a record of the date on which a camera was installed, the type of camera, the location of the camera, and the person who installed it. If the camera is checked or maintained, the responsible person should make a note of this in the Surveillance File. If the camera is relocated, this should be recorded and the same details should be recorded about the relocated camera;
- explain how the camera operates (e.g. what type of camera it is and what the recording mechanism is, how frequently it records, and what it does/does not record). The camera operating manual may provide some of this information. If the camera is calibrated to operate in a specific manner, this should be recorded on the Surveillance File;
- produce a log of images captured by the camera. This log should clearly identify the time/date that all images were captured and the location these images were captured. To the extent possible, these records should be generated and recorded automatically by the camera (e.g. time/date and location of the images) rather than by a person supplying this information separately; and

If the responsible person deletes images while in the field (for example, when no relevant or potentially relevant images were captured), the person should make a note on the Surveillance File that images were captured on a specific date at a specific location but were deleted by that person because no relevant or potentially relevant images were captured.

Further, Councils should have a procedure to move records from a camera to a storage place (whether electronic or hard copy) and maintain a record of this process. This should only be done by the responsible person and a file note should be made every time an action is taken in respect of an image (e.g. when it is moved from the camera to another storage device, viewed, or otherwise dealt with).

The Council should ensure it has appropriate security systems in place so that no unauthorised persons have access to camera surveillance images. A record should be made every time any person access the images and the reason for such access.

## LEGAL ADVICE - NEED FOR SIGNAGE

### WHERE COUNCILS ARE USING CAMERAS ON PUBLIC LAND THEY OWN AND MANAGE, IS THERE A NEED TO HAVE SIGNAGE INFORMING USERS OF THE LAND THAT SURVEILLANCE IS UNDERWAY? WHAT PROCESS NEEDS TO BE UTILISED IF SURVEILLANCE IS OCCURRING ON PRIVATE LAND?

There is no obligation under the SD Act, LG Act, POEO Act or PPIP Act for Councils to post notices on public land to inform users that the Council is using surveillance cameras. However, as we noted in our answer to question 1 above, posting such notices is one way a Council may comply with its obligations under the PPIP Act (to notify individuals that it collects their personal information).

Further, under the LG Act, if a Council does choose to post a notice, there are provisions affecting what form the notice should be in and what happens if a person does not comply with the notice (ss 632, 670). Although there is no obligation for Councils to post notices, if a Council does post a notice, pursuant to the LG Act:

- the notice may relate to the doing of any thing in the place or the use of the place or any part of the place (s 632);
- the terms of the notice may apply generally or be limited by reference to specified exceptions or factors (s 632);
- a person who fails to comply with the terms of the notice or sign is guilty of an offence, so long as the notice:
  - was clearly legible; and
  - exhibited at each entrance to the land or in a conspicuous place in or in the vicinity of the land (ss 632, 670), (and the Council has the onus of proving that the notice or sign meets these two criteria); and
- a person who wilfully removes, destroys, defaces, damages or otherwise interferes with a notice or sign erected by a Council is guilty of an offence (s 665).

Based on these requirements, whenever a Council wishes to obtain camera footage for the purpose of investigating illegal activity under the LG Act (whether or not the Council might also use the footage for investigating illegal activity under other laws), it is recommended that any notices/signs posted by a Council in respect to illegal dumping (or other relevant matters):

- notify the public that surveillance cameras may be in use;
- notify the public that camera footage may be used for the purpose of investigating potential infringement of the LG Act, POEO Act or other applicable legislation. If this notice refers to a specific offence (e.g. dumping waste), it is preferable if it also says "or any other applicable offence" so the Council is not limited in how it can use the footage;
- as in a font that is easy to read (e.g. large enough to read from wherever a person would reasonably stand to read the sign); and
- are posted at each public entrance to the land or otherwise in a conspicuous place (e.g. on a notice/information board at the main entrances of the land).

As noted above, a notice in these terms may also satisfy the notification requirement in the PPIP Act (see our comments in answer to question 1 regarding Councils' obligation to notify individuals of certain information at the time they collect personal information about that person).

Based on the requirements of the LG Act above, the Council should include notices/signs at each public entrance to the land. The Council should post as many notices/signs as is appropriate to ensure that it is reasonably likely that every person who enters the land by using a normal entrance to that land will see the notice.

The notices/signs need not be placed close to the cameras so long as every person who enters the land sees the notice before, or at the same time, that person becomes subject to camera surveillance. This might mean a person sees the notice/sign some time before that person is subject to surveillance.

There are some laws that prohibit the photographing and publishing of images taken in public areas in certain limited circumstances, but these are unlikely to apply to Councils (e.g. anti-voyeurism laws).

Examples of laws that could be relevant are:

- laws that prevent a person filming for a commercial purpose in certain areas (e.g. Sydney Harbour foreshore, the Opera House premises, at Sydney Olympic Park and other parts); and
- laws that prevent a person filming defence installations (Defence Act 1903 (Cth), s82).

There is no general 'right to privacy' in Australia. Although some minor courts in Australia have allowed privacy-type causes of action in very limited circumstances (e.g. in the context of stalking, sexual harassment and rape), there is currently no common law or statutory cause of action in Australia for a tort of invasion of privacy.

We note that, in a report issued by the Australian Law Reform Commission (ALRC) in 2008 relating to reform of Australia's privacy laws, the ALRC recommended that the Government introduce a statutory cause of action for serious invasion of privacy. The Government has not yet responded to this recommendation.

There is generally no restriction on a Council filming private land. If a Council employee actually enters private land (assuming the employee is not trespassing), the owner of the land is entitled to prohibit the person from taking pictures or camera footage.

But if the Council installs a camera on public land or other land it is permitted to install a camera on, there is generally no prohibition on it filming private land.

In very limited circumstances, filming private land could infringe the laws referred to above (e.g. filming a defence installation) or amount to nuisance (e.g. if a Council takes repeated footage of a person on private land over a period of time). These laws are unlikely to apply to Councils in the circumstances.

## WHAT SHOULD BE STATED ON ANY SIGNAGE INSTALLED RELATING TO THE USE OF CAMERA SURVEILLANCE?

It is preferable if any Council notices/signs that refer to use of surveillance cameras for the purpose of monitoring illegal dumping also include a more general reference to use of the cameras for any other applicable offences as well.

If the notices/signs only refer to the Council using the footage to monitor/investigate illegal dumping, this may restrict whether the Council can use this footage against people who infringe other laws.

### Crimes Act 1990 (NSW) (Crimes Act)

Under the Crimes Act, a person who knows or believes that a serious indictable offence has been committed, and has information which might be of material assistance in securing the apprehension, prosecution or conviction of the offender, is required to bring that information to the attention of the NSW Police. Failure to do so is a criminal offence punishable by imprisonment (s 316). An indictable offence is an offence that is punishable by imprisonment for 5 years or more and includes, for example, serious assaults, robbery/larceny and serious driving offences.

This means that, if a Council obtains camera footage of a serious indictable offence, it must bring that footage, and any other information relating to that offence, to the attention of the NSW Police.

There are no provisions in the SD Act or the LG Act specifically relating to this.

### PPIP Act

As discussed above, it is likely that camera footage of a person is "personal information" under the PPIP Act. This means a Council may only use this information for the purpose for which it was collected or another purpose that is directly related to that purpose.

If a Council only collects information for a specific purpose (e.g. to monitor potential illegal dumping), it can only use the information for that purpose or a directly related purpose.

### POEO Act

We also note that, under the POEO Act, Councils are limited in how they can use information provided by a person pursuant to the Act for the purpose of criminal proceedings against that person relating to matters other than an offence under the Act. The POEO Act provides that any information furnished or answer given by person pursuant to the Act is not admissible in evidence against the person in other criminal proceedings if:

- the person objected at the time to doing so on the ground that it might incriminate the person; or
- the person was not warned on that occasion that the person may object to furnishing the information or giving the answer on the ground that it might incriminate the person (s 212).

## LEGAL ADVICE - USE OF LAPEL CAMERAS

### WHAT LEGAL CONSIDERATIONS SHOULD COUNCIL BE AWARE OF WHEN CONSIDERING THE IMPLEMENTATION OF LAPEL CAMERAS?

We understand the purpose of a Council employee wearing a lapel camera is either or both:

- for the safety of the employee (for example, if the employee is required to approach a person who may be in the process of illegally dumping rubbish); and
- to record a conversation between the employee and the person (e.g. so the Council can use the record of this conversation to investigate potential illegal activity and/or issue a penalty notice or take other steps in relation to the activity).

### SD Act

A lapel camera is an optical surveillance device and a listening device pursuant to the SD Act. As noted in answer to question 1 above, to the extent that a lapel camera is a listening device (which is capable of recording or listening to a person's words or conversation), a Council must not record or listen to a private conversation except in specific circumstances. There is no restriction on using a listening device to record a conversation that is not a private conversation.

**POEO Act**

As noted above in answer to question 1, if a Council employee (who is an authorised officer pursuant to the POEO Act) asks a person to answer questions for the purpose of that officer investigating a potential offence under the POEO Act, and the officer records that conversation using a lapel camera, the officer must:

- inform the person who is to be questioned that the record is to be made; and
- provide a copy of the record to the person questioned as soon as practicable after it is made.

Further, as noted in answer to question 10, a Council will not be able to use information provided by a person for the purpose of criminal proceedings against that person relating to matters other than an offence under that Act if the person:

- objected at the time to doing so on the ground that it might incriminate the person; or
- was not warned on that occasion that the person may object to furnishing the information or giving the answer on the ground that it might incriminate the person.

(We have addressed these issues in question 13 below).

**PPIP Act**

As noted above in answer to question 1, pursuant to the PPIP Act, if a Council collects "personal information", the Council must, among other things, take steps to notify that person of certain matters. We discuss this issue further in answer to question 13 below.

There are no provisions in the LG Act relating to this issue.

In order to satisfy the requirements referred to above in the SD Act, POEO Act and PPIP Act, prior to the Council employee turning the lapel camera on, the employee should:

- inform the person(s) being recorded that the Council employee is using a lapel camera;
- seek the other person's consent to use the camera (or otherwise inform the person not to continue the conversation with the Council employee if he/she does not consent to the Council using the camera for this purpose);
- inform the person that the Council may use the recording to investigate potential illegal activity; and

- warn the person that he/she may object to giving information on the ground that it might incriminate him/her.

It is appropriate for Council employees to use lapel cameras where the employee:

- considers this necessary for his/her safety (e.g., if the employee intends to approach a person who may be in the process of illegally dumping rubbish or engaging in other illegal activity); and/or
- wishes to obtain a record of information provided to the employee by a person who have committed an offence.

It is unlikely that a Council will make a recording in any location where a camera should be explicitly turned off because its use may be considered an offence. One possible situation in which this could occur is if the footage might record a Commonwealth defence installation. Please also see our answers to question 9 above.

## DOES THE SURVEILLANCE DEVICES ACT 2007 OVERRIDE THE PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997 WITH REGARD TO RECORDING INTERVIEWS FOR EVIDENCE PURPOSES?

As noted above, the SD Act (ss 7, 8):

- applies to use by a Council of a camera or listening device;
- permits a Council to use a surveillance camera so long as the Council has permission to enter the land on which the camera is installed; and
- permits a Council to use a listening device to record a conversation that is not private, or to record a private conversation if (a) it has the consent of every person to that conversation or (b) the recording or listening is reasonably necessary for the protection of the lawful interests of one of the parties to the conversation.

The POEO Act (s 203A):

- applies only to a recording by an authorised officer of questions and answers relating to information the officer requires for the purpose of that Act; and
- requires the Council to inform the person who is to be questioned that the record is to be made and provide a copy of the record to the person questioned as soon as practicable after it is made.

The POEO Act provides that nothing in the Act affects the provisions of any other Act but that it prevails if there is any inconsistency between it and a provision of another Act.

This means that, whenever a Council records a conversation that is for the purpose of obtaining information for the purpose of the POEO Act (e.g. where an authorised officer suspects a person has committed an offence under the POEO Act), the Council must comply with s 203A of the POEO Act.

In other circumstances (and subject to any other requirements, e.g. in the PPIP Act), a Council need only comply with the SD Act.

## PROVIDE ADVICE ON APPROPRIATE WORDING FOR CAUTIONS WHEN COUNCILS ARE UTILISING LAPEL CAMERAS.

### SD Act and POEO Act

As noted above, the POEO Act provides that a Council may not use information provided by a person for the purpose of criminal proceedings against that person relating to matters other than an offence under that Act if the person:

- objected at the time to doing so on the ground that it might incriminate the person; or
- was not warned on that occasion that the person may object to furnishing the information or giving the answer on the ground that it might incriminate the person.

In order to ensure the Council is not prevented from using information for these other purposes, we suggest the following cautions:

#### 1. *Voluntary Use*

(i) I need to let you know that I am going to record our conversation on audio and video. Is that okay with you?

(ii) You do not have to do or say anything, but anything you do or say may be used in evidence against you. Do you understand that?

#### 2. *Safety Use*

(i) I am now activating my video recorder to protect myself. (Activate as appropriate)

(ii) You do not have to do or say anything, but anything you do or say may be used in evidence against you.

#### 3. *General Use*

(i) You do not have to do or say anything, but anything you do or say may be used in evidence against you. Do you understand that?

We recommend removing the question “Do you understand that?” from the cautions in paragraphs (a) and (b) above because asking this question is not necessary to comply with the notifications/warnings referred to in answer to question 11 above.

### PPIP Act

As noted above in answer to question 1, pursuant to the PPIP Act, if a Council collects “personal information”, the Council must, among other things, take such steps as are reasonable in the circumstances to notify that person of the information.

The cautions above satisfy a number of these requirements (e.g. informing the person that the Council is obtaining their personal information and the purpose for obtaining this information). It does not satisfy other requirements (e.g. informing the person who the intended recipients of the information are, whether supply of the information is required by law or is voluntary, any consequences of not providing the information, the existence of a right of access to the information etc). However, as discussed above, it is likely that such steps as are reasonable in these circumstances do not include the Council notifying these people (whose images it has collected using a lapel camera) of the required information. Or, as noted, it may be sufficient to include the required information in the Council’s privacy policy.

## 4. REFERENCES AND FURTHER INFORMATION

DECC, 2006, Powers of Authorised Officers: A Guide to your Powers Under Environmental Protection Legislation, available at: [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

HCCREMS, 2012, Evidence Gathering Guideline, available at: [www.hccrems.com.au](http://www.hccrems.com.au)

Unpublished, 2011, Legal advice from Baker Mackenzie Lawyers to HCCREMS Councils

# APPENDIX 1.

## EXAMPLE RECORD KEEPING TEMPLATES

### Attachment 1: Example record keeping templates

This Appendix provides example templates to show a suggested structure for the required records (described in this guideline).

To ensure adequate record keeping and maintenance of 'chain of custody' the following should be set up within Council's usual record keeping system:

- An overarching file where all file notes relating to surveillance cameras are kept (within, if hardcopy, or linked to, if electronic). As well as the file notes and logs suggested below, information relating to the camera including the camera manual should be kept in this file.
- A record of camera installation, for each installation (see example content below).
- A maintenance log, for each camera to record changes to settings and any maintenance to cameras (see example content below).
- Image log, for recording image movements and deletions (see example content below).
- File note of images recorded on file (see example content below).

#### Record of camera installation (suggested File Note content)

File no. **SUR001/11**

Surveillance File location/ no:	<b>F012345/11</b>
Date of record made:	<b>13/10/11</b>
Person making record:	<b>Kate Meares</b>
Date & time of camera installation:	<b>12/10/11 11:15am</b>
Location of camera installation (Road/ reserve name): (Coordinates):	<b>Smiths Lane Coordinates (WGS84) E: 452727 N: 6427272</b>
Type of camera: Location/ link to manual:	<b>Bushnell Trail Cam 119467C P://Linktomanual</b>
Person who installed camera:	<b>Kate Meares</b>
Location of/link to camera maintenance log:	<b>SUR002/11</b>
Location of/link to camera image log:	<b>SUR003/11</b>
Initial camera settings	<b>Trigger sensitivity low Photos – 3 taken at 1 second intervals once activated by motion</b>
Initial camera set up (e.g. location camera facing) Describe and link to photo taken of camera placement	<b>Strapped to large Tea Tree facing South-West at height of 2.1m above ground See image SUR004/11</b>

Other installation notes	<p>Signage installed at same time as camera by works staff member Michael Smith (at track entrance see image SUR004/11)</p> <p>Fresh batteries (4 x Energizer lithium) and 2G SD card</p> <p>Talking clock called at 11:10am to confirm time on time setting on camera</p>
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#### Camera maintenance log (suggested content)

Reference to File Note of camera installation: SUR001/11

Date & time of camera maintenance/ checking	Officer name	Description of maintenance (e.g. camera angle adjusted, settings changed – specify final settings, batteries changed, camera relocated – specify File note of new installation)
14/10/11 2pm	Kate Meares	Height of camera adjusted to approx 1.5m from ground level
14/11/11 9am	Kate Meares	New SD card installed

#### Image log (suggested content)

Reference to File Note of camera installation: SUR001/11

Officer name (create new log if officer changes): Kate Meares

Image number/s	Date/ time period images taken	Record of movement (and description of potential evidence) or in-field deletion (where no relevant evidence exists)	Date and time of movement/deletion
0001-00019	12/10/11-13/10/11	Images deleted in field due to no relevant content	13/10/11 4pm
00020-00040	13/10/11-23/10/11	SD card containing images removed and carried in wallet to office  Images moved from SD card (with card reader) to computer PC001 and deleted (permanently) due to no relevant content	14/11/11 9am  14/11/11 11am
00041-00042	25/10/11 9:00am and 9:15am	SD card containing images removed and carried in wallet to office.  Images moved from SD card (via Card Reader) to computer PC001 and	14/11/11 9am

		stored in folder F012345/11 as they are around the time of the offence	14/11/11 11am
00043, 00044	25/10/11 11:15am, 11:19am	Images showing potential offender (vehicle with trailer of mattresses). SD card containing images removed and carried in wallet to office.  Images moved from SD card (via Card Reader) to computer PC001 and stored in folder F012345/11 as they contain evidence of potential offence	14/11/11 9am  14/11/11 11am

**File note of images recorded on file – for images containing evidence**

Image number	00043
Date image placed on system/ in file and description of transfer method	14/11/11 9am Transferred from camera on SD card 14/11/11 11am Transferred from SD card to computer PC001 (via card reader) and filed in F012345/11
Date & time image taken	25/10/11 11:15am
Image description/ link to image file (unedited)	SUR005/11 Image shows red Holden Commodore with blue trailer. Trailer rego is XYX 121 and contains 3 mattresses.
Log of any action taken in relation to image (including dates and by whom)	

# APPENDIX 2.

## **SUMMARY OF LEGISLATIVE PROVISIONS RELATING TO LOCAL GOVERNMENTS USE OF SURVEILLANCE CAMERAS**

Baker & McKenzie have developed this comprehensive list of relevant legislation as a reference document for use during the development of systems to manage the use and maintenance of councils camera surveillance activities.