

Surveillance in Public Places Policy

Banyule City Council

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DEFINITIONS

1 Policy Definitions

CCTV	Closed circuit television.
Surveillance records/footage	Any information that is recorded or unrecorded that is taken from a surveillance system including any data, still images or moving images.
Steering Committee	The committee established by Council to oversee the operation of a system.
System	A surveillance system in which a number of cameras are connected through a closed circuit. The footage taken by the cameras is sent to a television monitor or recorder. These systems consist of cameras, monitors, recorders, interconnecting hardware and support infrastructure.
Council	Banyule City Council
Council Audit & Risk Committee	The Council committee for the ongoing management of systems. A function of the committee will be to uphold the integrity of Council systems and ensure they operate within this policy
Department of Justice's Guide	<i>Guide to Developing for Public Safety in Victoria</i> , Department of Justice, August 2011
FOI	Freedom of Information (in reference to the <i>Freedom of Information Act 1982 (Vic)</i>)
IPP	Information Privacy Principles (from Schedule 1 of the <i>Information Privacy Act 2000 (Vic)</i>)
Public place	Any place to which the public has access as of right or by invitation, whether expressed or implied and whether or not a charge is made for admission to the place. A public place relevant to Council can include, but is not limited to, public streets, public malls, shopping centres, Council car parks, open space parks or reserves; Council managed public buildings or areas.

PURPOSE AND OBJECTIVES

2 Purpose

The purpose of this Policy is to assist Council to regulate the operation and management of Council-owned surveillance systems which have been (or which in the future may be) installed for use in public places.

The Policy enables Council to fairly, appropriately and reasonably perform its functions and exercise its powers in connection with public place surveillance throughout the Banyule municipality.

Amongst other relevant material, the Policy takes account of (and acknowledgement is given to) the Victorian Ombudsman's Guidelines for developing Closed Circuit Television policies for Victorian Public Sector Bodies, November 2012.

The Policy will be freely available to Council staff and the public generally by being included on Council's Internet website and a hard copy can be provided on request.

As well as being a general Policy document, the Policy includes the detail of Council's audit and evaluation mechanisms and its complaint handling process. The Policy is intended to act as a code of practice for Council staff. Additionally, those members of Council staff working with Council systems will be expected to undertake their duties in accordance with the Policy.

3 Objectives

The objectives of this Policy are:

- To ensure that systems are installed for a lawful and proper purpose that has the benefits of increasing safety and security for people in Banyule and/or allow for Council function use
- To ensure Council systems are compliant with relevant legislation and other laws;
- To ensure that management of records/footage is appropriate, including in relation to use, retention, security, privacy, access, disclosure, storage and disposal; and
- To ensure there is appropriate and ongoing monitoring and evaluation of systems

SCOPE

4 Scope of Policy

This policy applies to all Council-owned systems installed in public places that have the purpose of public surveillance. They will be located in general public areas or Council managed buildings.

The Policy does not apply to surveillance systems used by Council where public access is restricted. The Policy does not apply where surveillance is for council operations for its own assets, such as Waste Truck operations and road and pathway condition reports. However, any incidental footage captured by this surveillance that is requested through a formal channel, e.g., Victoria Police, is included in the scope of this policy

The Policy also does not apply to systems that are used by Council staff or its contractors for drainage inspections.

POLICY

5 Network Principles

Council surveillance systems will be operated and managed in accordance with the following principles:

- All aspects will be operated and managed with integrity and will be compliant with the all relevant legislation, standards, codes and guidelines as outlined in this Policy and otherwise in force from time to time;
- All aspects will be operated and managed with due regard to the privacy and respect for the human rights of individual members of the public;
- Monitoring and access to surveillance records/footage will be controlled and managed in accordance with operating procedures of each system;
- Each system will be regularly monitored and evaluated to ensure that the purposes and objectives of each system are being achieved; and
- The public will be provided with clear and easily accessible information in relation to existing unmanned surveillance systems, including processes to request or to view surveillance records/footage.

6 Decision to Implement surveillance systems

Council will, in making decisions affected by this Policy, utilise and take into account all relevant material, including the Department of Justice's *CCTV Guide*, in the development and implementation of a system.

Any decision to implement a new (or retain an existing) Council-owned system will be assessed based on meeting the following categories:

Purpose:

- To improve actual and perceived levels of safety;
- To reduce levels of graffiti and other forms of vandalism;
- To reduce anti-social behaviour e.g., the surveillance may have a preventative effect, or Council can use it to respond strategically to issues
- To reduce incidents of serious criminal offences and/or
- To reduce illegal behaviour such as rubbish dumping, or damage to Council property
- To improve Council's facility supervision
- To monitor levels of activity at Council's facilities
- Contractor monitoring at Council's facilities

Criteria:

- Council owned land, or
- assess capacity for landowner to install where private property faces on to Council land;
- Meets legislative requirements;
- Meets cost benefit analysis;
- Fits in with councils broader strategic objectives for that site;
- Broader community safety and/or crime prevention initiatives are in place or planned for this site to complement
- It benefits the broader community rather than individuals
- Needs and priorities have been considered and compared to other sites in Banyule

Supporting evidence

- Expert advice
- Qualified statistical data specific to the site and/or
- Council requests through its Customer Records Management (CRM) system

Operating management responsibility

- The ownership is determined to be council
- Where Police access and monitor data, a written agreement is put in place with Council and Victoria Police about roles and accessing footage, or where an external company access and monitor data, a licence agreement is in place.

The relevant use must be specifically stated for each system and such use must be in accordance with the IPP 1: Collection (Information Privacy Principles from Schedule 1 of the

Privacy & Data Protection Act 2014. In accordance with IPP 2, any use for a purpose other than the primary purpose must be precluded or limited to exceptional circumstances, as determined by Council and in accordance with the legislation.

Council will consult with its community, the wider public and other relevant stakeholders prior to establishing a fixed surveillance system. The Victoria Police will be specifically consulted where the purpose of a surveillance system in a public place is to manage high crime locations and matters of public order or safety. Council will otherwise consult with such other stakeholders as required in relation to the performance of a particular function. This may include utility companies, private property owners and local traders.

The use of mobile cameras will not be subject to external consultation however they will be installed with signage to inform the community that they are there.

Council-owned systems will only be used as part of a range of strategies to improve community outcomes in that space, e.g., a public awareness campaign.

7 Documentation of Management Systems

In most cases, Council systems in public places will be owned, installed and maintained by Council. The responsibility for the operation and monitoring of the system will typically be by the Victoria Police, a private contracting company or a nominated member of Council staff.

Council owned with Victoria Police operating and monitoring

Where Victoria Police have direct access to view or download footage for a Council owned system, Council and Police will have an agreement to share footage as required and where it complies with legislation

Externally operated and monitored

Where a Council system is operated and monitored by a private contracting company, Council will enter into a Licence Agreement (or similar type of agreement) that will cover the key considerations listed above.

Council operated and monitored systems

Where a Council system is operated and monitored by Council, Council will prepare a Standard Operating Procedures Manual for each system that will cover the following:

- Confirmation that it meets the requirements section 6 of this Policy “Decision to implement surveillance systems:
- Camera locations including number of cameras within one system
- Technical data including installation date, product specifications, manufacturers details, warranty information, technical drawings,
- Hours of operation
- purpose of system e.g. main function is Local Laws
- Type of monitoring – active, passive or retrospective (determined by the purpose)
- Maintenance – schedule, responsibility and budget
- Authorised users: nominated positions for operation, extraction, viewing, storage and analysis of the data. Images/footage recorded is only able to be downloaded, viewed, copied and managed by the authorised officers.
- Training for operators of the system
- Data retention – recording should be kept for a minimum of 30 days and all retention schedules longer than this will be recorded here. Where a Freedom of Information (FOI) request is made prior to deletion of data, the data will be retained longer than the 30 days where possible, while waiting for a formal request/subpoena to arrive.
- Data that is used for evidential purposes will be securely stored and password protected limiting access to approved and authorised officers only.

- Incident response – this will detail the responsibilities of reporting incidents that are viewed on footage whether related to its main function or outside of main function, e.g. crimes recorded and viewed must be referred to police

8 Requests for Digital Images / Footage

Banyule City Council is committed to ensuring the right to privacy of individuals is respected and honoured. This document is intended to ensure the privacy of individuals undertaking lawful activity is protected and to govern the manner in which data collected through the operation of this system is maintained.

Digital images/footage captured will only be made available to the following external parties:

- An individual captured in the footage
- An authorised Police member in relation to an offence or suspected offence
- An external Enforcement agency where an exemption under the Information Privacy Act 2000 applies or a Court Order via Subpoena

Access to CCTV footage will only be considered for the above if one of the following authorised conditions is met:

- There is a foreseeable threat to Council property or staff (active viewing);
- It is required as a preventative measure to dissuade or arrest anti-social or criminal behaviour (active viewing);
- It is used to monitor and enhance delivery of a Council service. (active viewing);
- Where damage to council property or injury to Council staff, visitors, members of the public has occurred (passive review of incidents);
- Where evidence is required in which to investigate or prosecute a suspected or alleged crime (passive review); or
- Where otherwise authorised by law, such as a Freedom of Information request (FOI) or Subpoena

The decision as to whether access to footage is approved under the above authorised conditions can only be made by a Council authorised officer.

All other requests will require an application for a Freedom of Information (FOI) request. Information on FOI applications can be found on Council's website or by calling Council on 9490 4222.

Footage provided to an agency by Banyule City Council will be managed in accordance with relevant legislation and standards.

9 Standard Operating Procedures and Training

When a new system is installed, Council will provide the operators of the system with the required training and support to accompany the Standard Operating Procedures Manual.

10 Signage

Council will advise the community by installing appropriate signage to indicate that they are in an area of a system where they may be observed or recorded. Signage will be placed so as to comply with relevant Australian Standards in force from time to time and will comply with the following requirements:

- Signs will be placed at each main access to the coverage area where the members of the public are reasonably entitled to use and be monitored;
- Signs will be prepared so as to be easily understood by members of the public, including people who are from non-English speaking backgrounds. Signs will include a mix of text and symbols;
- Signs will be clearly visible, distinctive and located in areas with good lighting, placed within normal eye range and large enough so that any text can be read easily;
- Signs will identify Council as the owner of the system;
- Signs will include details of who to contact for any queries about the system; and
- Signs will be checked regularly for damage and theft, and replaced where required.

11 Collection of Surveillance Data

Council will ensure that its record keeping practices comply with the Public Records Office Standards for the management of public records, Public Records Office Specifications and the *Public Records Act 1973* (Vic). In general, camera footage is temporary and may be destroyed when any relevant administrative use has concluded.

Where footage has been provided to a third party (e.g. Victoria Police) it will be the third party's responsibility to retain the records/footage in accordance with the disposal authority that covers their agency's functional responsibilities.

12 Privacy

Council will balance the need for surveillance against the right for privacy of members of the public. Council staff that use surveillance systems are required to act responsibly and consider the reasonable expectations of the privacy of individuals. All Council staff that use surveillance systems will undertake the training on privacy and understand the contents of this Policy, including the legislative requirements to ensure that the requirements of privacy are understood. Information gathered by Council as a result of a system will only be shared with its staff on a need to know basis and in line with Council's Privacy Policy.

13 Inappropriate Use and Complaint Management

Council staff who work with surveillance systems are to comply with the requirements of this Policy. Where a Council staff member is in breach of this Policy, there will be an internal review and appropriate action will be taken.

Any public complaints in relation to any aspect of a system relating to Council must be made in writing to:

Banyule City Council
PO Box 51
Ivanhoe 3087
Or

enquiries@banyule.vic.gov.au

Any member of the public that is dissatisfied with the outcome of their complaint to Council also has the right to complain to the Victorian Ombudsman using the following contact details:

Victorian Ombudsman
Level 9, 459 Collins Street (North Tower)

Melbourne Victoria 3000
Email: ombudvic@ombudsman.vic.gov.au
Phone: (03) 9613 6222

Any complaints that are made by members of the public to Council relating to the policies and procedures of Victoria Police or to members of Victoria Police may be referred to the:

- Representative of Victoria Police;
- Officer in Charge for the Police station
- Victoria Police Professional Standards Command; or
- (Assuming jurisdiction) The Independent Broad-Based Anti-Corruption Commission.

14 Governance Evaluation and Monitoring

Council will establish a Surveillance Policy Steering Committee that is chaired by a Council representative and will be responsible to oversee the implementation of this Policy and its ongoing management;

The first rigorous evaluation of a new system will occur between 12 and 18 months following the full commissioning of the system.

The Surveillance Policy Steering Committee has the responsibility to uphold the integrity of Council surveillance systems. The Surveillance Policy Steering Committee will be responsible to:

- Report on the management of systems;
- Ensure adherence to the Standard Operating Procedures and , Council policies and the law;
- Promote public confidence in systems by ensuring its operations are transparent and subject to public scrutiny; and
- Make recommendations to improve the integrity of systems.

RELATED DOCUMENTS

15 Council Documents

This Policy is supplemented by a number of Council documents that relate to surveillance systems that include, but are not limited to, the following:

- Standard Operating Procedure Manuals developed for various surveillance systems;
- Operations and maintenance manuals developed for various systems;
- Council's Privacy Policy ; and
- Council's Corporate Information Management Policy
- Register of Councils surveillance systems

The implementation of Council surveillance systems supports the objectives, role and functions of Council under the Local Government Act 1989 (Vic) and the goals and objectives of the following Council strategic documents:

- Council Plan 2013-2017

16 Legislation

Council surveillance systems are to be operated and managed in accordance with all relevant Commonwealth and State legislation. The list below is not complete and is a guide only because legislation continually changes and new legislation is continually being applied.

State of Victoria	
Privacy & Data Protection Act 2014	Regulates the collection, use and disclosure of 'personal information' (other than health information) about individuals, including -captured information that is recorded and which a person is potentially identifiable. This legislation is to be considered when determining: <ul style="list-style-type: none"> • How to protect privacy of individuals. • How to protect information which may confirm the identity of an individual, for example vehicle licence plates. • How records are to be disclosed in accordance with the Information Privacy Principles from Schedule 1 of the Act. • How footage will be protected from misuse, loss, unauthorised access, modification and disclosure.
Public Records Act 1973	Provides requirements for the capture, access to, control, records management, storage and disposal of information. This legislation is to be considered when determining: <ul style="list-style-type: none"> • The circumstances records/footage is considered a public record. • How long public records must be kept. • How public records must be maintained. • How public records are to be disposed of.
Private Security Act 2004	Provides a requirement of being granted a private security licence on the successful completion of training in relation to each activity for which the licence is granted. This legislation is to be considered to ensure Council's employees and contractors acting as a control room operator or monitoring meet the licensing requirements.
Charter of Human Rights and Responsibilities Act 2006 (the Charter)	Makes it unlawful for public authorities to act in a way that is incompatible with human rights listed in the Charter, including the right not to have privacy arbitrarily interfered with. Requires any interference (such as through surveillance, recorded or unrecorded) to be demonstrably justifiable.
Freedom of Information Act 1982	Provides the community with the right to request information about the activities of Council, including records/footage.
Evidence Act 2008	Establishes the legal standard for the admissibility of evidence including records/footage.

17 Other Reference Material

Council will ensure that their surveillance systems are operated and managed in accordance with all relevant industry standards and guidelines including, but not limited to:

- Victorian Ombudsman's Guidelines for developing Closed Circuit Television policies for Victorian Public Sector Bodies, November 2012.
- *Guide to Developing CCTV for Public Safety in Victoria*, the Department of Justice, August 2011;
- AS4806 Set-2008 Australian Standard Closed circuit television (CCTV) Part 4: remote video;
- *Surveillance in Public Places, Final Report 18*, the Victorian Law Reform Commission, May 2010; and
- *Privacy Information Sheet 03.12*, Privacy Victoria, March 2012.

Appendix 1

HUMAN RIGHTS CHARTER – ASSESSMENT OF COMPATIBILITY

In accordance with section 28 of the Charter of Human Rights and Responsibilities, this statement of compatibility is made with respect to Banyule City Council’s Surveillance in Public Places Policy

This Policy is compatible with the human rights protected by the Charter.

Objectives

Banyule’s Surveillance in Public Places Policy has been developed to apply to all surveillance systems operating within Banyule. The policy is based on the Victorian Ombudsman’s Closed Circuit Television in Public Places Guidelines – November 2012.

Human Rights Assessment

What human rights are impacted?	Will any person feel their rights are limited and why?	What are the interests you have to balance?	Is the limitation reasonable?	What practical solutions are available to reduce the limitation? If a limited right is not reasonable, ensure comment made that the document was amended so the right is either not limited or reasonably limited.	
1	A right to Privacy and Reputation	<p>Yes. Persons captured on CCTV footage may feel that being filmed is an invasion of their personal privacy and would be concerned about how the footage will be used and by whom.</p>	<p>Protection of personal privacy needs to be balanced against the community’s expectation of Council to deliver on its City Plan priorities</p> <p>The City Plan 2013 – 17 key directions that surveillance can positively impact include</p> <ul style="list-style-type: none"> - develop and promote, safety and resilience in the community, - avoid waste generation, and - deliver best value services and facilities 	<p>Limitation is reasonable as the whole purpose of the policy is to ensure the safeguard of personal privacy and the handling of personal information.</p>	<p>The policy puts in place protections for the capture, access, storage and retention of the CCTV to mitigate any breaches of privacy. Access will only be available for lawful usage.</p>