

Ku-ring-gai Council

# Policy

## Covert Electronic Surveillance for Illegal Dumping

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# Covert Electronic Surveillance for Illegal Dumping Policy

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## Controlled Document Information

### Authorisation Details

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### Related Document Information, Standards & References

<b>Related Legislation:</b>	Privacy and Personal Information Protection Amendment (CCTV) Regulation 2013 Privacy and Personal Information Protection Act 1998 (PIIP Act) Workplace Surveillance Act 2005 (NSW) Workplace Surveillance Policy 2007 Local Government Act 1993 Surveillance Devices Act 2007 State Records Act 1998 Security Industry Act 1997 Protection of Environment Operations Act 1997	Authority to implement program is contained within.
<b>Related Policies (Council &amp; Internal)</b>	Graffiti Removal Policy Complaints Management Policy	Contains aims, objectives and basic standards under which the project will operate
<b>Related Documents - Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements, etc</b>	Direction on Processing of Personal Information by Public Sector Agencies in relation to their Investigative Functions, 23 December 2013 NSW Government Policy Statement and Guidelines for the Establishment and Implementation of Closed Circuit Television (CCTV) in Public Places Privacy Management Plan 2013 Overt Surveillance in Public Places: Code of Practice Ku-ring-gai Standard Operating Procedure - Covert electronic surveillance for illegal dumping	Contains aims, objectives and basic standards under which the project will operate

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## Version History

Version Number	Version Start Date	Version End Date	Author	Details and Comments
1	10/03/2015	N/A	Colin Wright	First version
	06/02/2018	31/10/2018	Colin Wright	Reviewed
2	31/10/2018	N/A	Anne Seaton	

## Policy

### Purpose and objectives

Reducing litter and illegal dumping is a key outcome area for Council. Illegal dumping is the unlawful deposit of waste on land, which is waste materials dumped, tipped or otherwise deposited onto private land where no licence or approval exists to accept such waste. Illegal dumping varies from small bags of rubbish or items of discarded furniture to larger scale dumping of truckloads of potentially hazardous materials in isolated areas, such as bushland.

Illegal dumping is a constant and highly visible problem. Businesses and individuals illegally dump to avoid either disposal fees or time and effort required for proper disposal. The Ku-ring-gai Council area covers 8536 hectares. Land use includes approximately 3730 hectares of residential zoning, 48 hectares of business zoning, 1047 hectares of road reserves, 59 hectares of open space parks, 212 hectares of open space sportsgrounds, 70 hectares of State Authority Land, 180 hectares of private open space, 1100 hectares of bushland managed by Council and 1683 hectares declared as National parks or Nature Reserves.

The purpose of this Policy is to ensure Council may legally conduct electronic surveillance operations using remote cameras for covert investigative surveillance across its local government area. The Policy will underpin Council's activities concerning its dumping prevention campaigns and guide the process in using and storing the information obtained from covert surveillance.

The objectives of this Policy are:

- To ensure Ku-ring-gai Council complies with the requirements of the *Privacy and Personal Information Protection Act (PPIP Act)* and the *Privacy and Personal Information Protection Amendment (CCTV) Regulation 2013* for crime prevention and public place safety surveillance.
- To assist with identifying the persons or company responsible for illegal dumping.
- To provide evidence in any regulatory action Council may pursue against persons or a company for illegally dumping.

### Scope

Surveillance can be an extremely effective technique in intelligence gathering; collecting evidence for prosecutions and deterring would-be dumpers, however it can be time consuming and expensive. It is therefore prudent to limit surveillance activities to known hot spots and times when illegal dumping is most likely to occur.

The use of covert surveillance cameras is one measure that can assist in managing and preventing illegal dumping. It is intended to use the covert surveillance cameras across the whole Ku-ring-gai local government area, deployment being dependent on the offence and likelihood of offending actions.

### Responsibilities

In respect of managing waste, littering and dumping, Ku-ring-gai Council is an Appropriate Regulatory Authority (ARA) under the Protection of the Environment Operations Act 1997 (POEO Act) and the Protection of the Environment Operations (Waste) Regulation 2005 (Waste Regulation). Council has further regulatory powers under the Local Government Act 1993, Roads (General) Regulation 2000 and Impounding Act 1993.

Ku-ring-gai Council is the administrator of an existing CCTV and covert camera surveillance program established in 2015. Ku-ring-gai Council's regulatory staff hold appropriate operational delegations and are therefore authorised for the operation, monitoring and retrieval of recorded footage and materials of

the surveillance program. The authorised officers may only access recorded material in accordance with the endorsed Code of Practice for covert camera operations.

Managers and supervisors are accountable for ensuring:

- their employees are conversant with the legislation, this policy and relevant procedures.

The Director is accountable for:

- developing appropriate systems and processes, within the department, which meet the requirements of the legislation and this policy; and
- ensuring compliance with legislation, this policy and relevant procedures.

The General Manager is accountable for:

- ensuring a budget is available to meet policy objectives; and
- ensuring compliance with policy standards.

All other employees, volunteers and contractors are accountable for:

- familiarising themselves with this policy and procedures and seeking clarification on any aspect of the policy from their supervisor.

## Policy statement

### Policy

Council will provide covert electronic surveillance to nominated locations in the Council LGA in accordance with the objectives and stated principles to assist in preventing or minimising illegal dumping as part of a range of measures to manage and prevent the issue.

Covert electronic surveillance will operate to assist in lawful investigations as defined in the Code of Practice for Covert Electronic Surveillance for Illegal Dumping.

### Principles

The following Principles are to be adhered to in the implementation of the Covert Investigative Surveillance Program:

### Covert Investigative Surveillance Program

1. Covert surveillance for illegal dumping will be conducted fairly, lawfully, and only for the purposes for which it is established or which is subsequently agreed in accordance with the Standard Operating Procedure for Covert Electronic Surveillance for Illegal Dumping.
2. The Covert Investigative Surveillance for Illegal Dumping Program will not limit the privacy and civil liberties of individual members of the public, including the rights to freedom of religious and political expression and assembly.
3. Ku-ring-gai Council has primary responsibility for compliance within the purposes and objectives of the Covert Investigative Surveillance Program for Illegal Dumping; for the maintenance, management and security of the Program and; the protection of the interests of the public in relation to the Covert Investigative Surveillance for Illegal Dumping Program.
4. Ku-ring-gai Council will be accountable to the public for the effective operation and management of the Program. This will be done through regular evaluation and monitoring of the Program.
5. Covert Surveillance devices are to be placed on public lands only, of which Ku-ring-gai Council is the Authorised Regulatory Authority as per the Protection of Environment Operations Act 1997.
6. Covert Surveillance devices on private property or lands under the care or control of the state will only be placed if express written permission has been obtained from the landowner, public utility and/or the occupiers of the land.
7. For the purposes of proactive or reactive intelligence gathering, Council will operate under the provision of the Evidence gathering Guideline in accordance with the commonwealth Evidence Act 1995, and the principles of the Privacy and Personal Information Protection Act 1998 and its associated guideline, together with the Surveillance Devices Act 2007. Information recorded will be accurate, relevant and not exceed that necessary to fulfil the purposes of the Covert Investigative Surveillance for Illegal Dumping Program.
8. The retention of; and access to, recorded material will be only for the purposes provided by this Policy or applicable laws and in accordance with any requirements for the retention and disposal of personal information. Recorded materials will be retained for 28 days unless they are required for law enforcement purposes or other lawful requirements.
9. All contact between Ku-ring-gai Council and the NSW Police, in relation to the Covert Investigative Camera Surveillance Program, will be conducted strictly in accordance with the Code of Practice. Everything reasonable within the power of Ku-ring-gai Council will be done to prevent unauthorised use or disclosure of the information.

## Operations

Council will deploy covert surveillance cameras in accordance with the following principles:

1. To gather information about locations and times illegal dumping is most likely to occur.
2. To capture information when an act of illegal dumping is underway.
3. To collect personal information for lawful purposes directly related to the function of regulatory actions.
4. To monitor and place surveillance cameras in accordance with the responsibility of any staff delegated as an Authorised Council Officer in accordance with S187 part 8.2 of the Protection of the Environment Operations Act 1997 by the General Manager.
5. To ensure when an incident is identified to which a response or action is required, the responsible authorised Council Officer will record the incident in the secured record system by:
  - a. logging the incident with a detailed description
  - b. recording the date, time and location of the incident
  - c. attaching any recorded images of the offence
  - d. recording the outcome of any investigation into the incident and
  - i. subject to the evidence, referring the matter for legal proceedings.
6. To impose the responsibility upon the authorised Council Officer to ensure :
  - a. information is retained or disposed of securely,
  - b. all necessary measures are taken to stop unauthorised access for the potential abuse of any information.
7. To insist that Authorised Council Officers involved in covert surveillance operations will be required to sign a confidentiality document stating they will not disclose information to a person or organisation unless lawfully directed to so. The agreement also confirms the Officer has read and will abide by the Ku-ring-gai Council “Covert Electronic Surveillance for Illegal Dumping Policy” and “Standard Operating Procedure for Covert Electronic Surveillance for Illegal Dumping” and will adhere to the required standards.

All images obtained will be retained in accordance with timeframes and requirements of the State Records Act 1998 and regulations there under.



## Definitions

Term / Abbreviation	Definition
Authorised Council Officer	An officer of Council holding delegations from the General Manager to act in accordance with S187 part 8.2 of the Protection of the Environment Operations Act 1997 .
Public Place	Defined from the <i>Local Government Act 1993</i> and refers to public reserves, public bathing reserves, public baths or swimming pools, public roads, public bridges, public wharfs or public road-ferries with the additional of public transport and car parks.
Closed Circuit TV (CCTV)	Surveillance by means of camera monitors, recording visual images of activities, in a public place.
Covert Investigative Surveillance Program	Undercover investigation generally using electronic surveillance equipment such as cameras to detect offenders.
Covert	Disguised / Hidden
Illegal Dumping	Depositing of any waste other than litter, upon public or private land or waters where no consent has been obtained from the Council or the granting of an environment protection licence from the <i>Environment Protection Authority</i> .
Lawful investigation	An investigation carried out by an agency under specific legislative authority or where the power to conduct the investigation is necessarily implied or reasonable contemplated under an <i>Act</i> or other law.
Standard Operating procedure	Ku-ring-gai Council Standard Operating Procedure for Covert Electronic Surveillance for Illegal Dumping”