

POLICY		Responsible Department	Executive
		Original Adoption Date	24.01.2024
		Current Adoption Date	24.01.2024
		Date of Next Review	24.01.2027

SURVEILLANCE DEVICES	
Latest Review Changes	New Policy
Previous Council Reviews	N/A

Applicable Legislation

Local Government Act 1999
Surveillance Devices Act 2016
Surveillance Devices Regulations 2017
State Records Act 1997
Freedom of Information Act 1991
Fair Work Act 1994

Related Policies

Employee Code of Conduct
WHS and RTW Policy
Privacy Policy

Related Procedures

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Reference Documents

Local Governments Surveillance Model Policy Template
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1. INTRODUCTION

The Municipal Council of Roxby Downs (Roxby Council) is authorised under the *Surveillance Devices Act 2016* (SA) (the SD Act) to use Surveillance Devices in various circumstances.

2. PURPOSE

- 2.1. The purpose of this Policy is to set out the circumstances in which the Council will use Surveillance and ensure all Employees, Volunteers, contractors and members of the community are informed.
- 2.2. The Council has determined that, in some circumstances, it is appropriate to install, use or maintain Surveillance Devices. The objectives and use of Surveillance Devices include the following:
 - 2.2.1. enhancing the integrity of records management through the use of Data Surveillance Devices;
 - 2.2.2. ensuring the safety of Employees and the community while present in monitored areas and/or while using Council equipment, vehicles, plant and goods;
 - 2.2.3. protecting and ensuring the appropriate use of Council equipment, vehicles, plant, goods, computers, programs and workplace areas;
 - 2.2.4. examining opportunities for more effective use of Council equipment, vehicles, plant, goods, computers, programs and workplace areas;
 - 2.2.5. use of data obtained from Surveillance Devices to support proceedings involving external parties (e.g. enforcement proceedings for alleged offences by members of the public); and
 - 2.2.6. use of data obtained from Surveillance Devices to support internal investigations or proceedings involving internal parties (e.g. Code of Conduct complaints, or other workplace investigations or proceedings).

3. SCOPE

This Policy and associated Procedure applies to all Employees, Volunteers, Contractors or other persons employed or engaged by the Council at any of its premises.

4. DEFINITIONS

Definitions for the purposes of this policy are:

Data Surveillance Device	means, pursuant to section 3 of the SD Act: <ul style="list-style-type: none">• A program or device capable of being used to access, track, monitor or record the input of information into, or the output of information from, a computer; and• Associated equipment (if any). but does not include a device, or device of a class or kind, excluded from the ambit of this definition by the SD Regulations.
Employee	means a person employed by the Council on a full-time, part-time or casual basis through an employment agreement.
Optical Surveillance Device	means, pursuant to section 3 of the SD Act: <ul style="list-style-type: none">• a device capable of being used to observe or record visually (whether for still or moving pictures) a person, place or activity; and• associated equipment (if any), but does not include: <ul style="list-style-type: none">• spectacles, contact lenses or a similar device used by a person with impaired vision to lessen or overcome that impairment; or• telescopes, binoculars or similar devices; or

	<ul style="list-style-type: none"> a device, or device of a class or kind, excluded from the ambit of this definition by the SD Regulations.
SD Act	Is the <i>Surveillance Devices Act 2016 (SA)</i> .
SD Regulations	is the <i>Surveillance Devices Regulations 2017 (SA)</i> .
Surveillance Device	<p>means, pursuant to section 3 of the SD Act:</p> <ul style="list-style-type: none"> an optical surveillance device; a tracking device; a data surveillance device; a device that is a combination of any of the devices referred to the SD Act; or a device of a class or kind prescribed by the SD Regulations.
Tracking Device	<p>means, pursuant to section 3 of the SD Act:</p> <ul style="list-style-type: none"> a device capable of being used to determine the geographical location of a person, vehicle or thing; and associated equipment (if any), <p>but does not include a device, or device of a class or kind, excluded from the ambit of this definition by the SD Regulations.</p>
Volunteer	means a person who volunteers to provide services for the Council through a volunteer arrangement.

5. USE OF SURVEILLANCE DEVICES

- 5.1. Installation of any Surveillance Device must be approved by the Chief Executive or their nominee. Installation of a Surveillance Device must only be for a purpose which is permissible under the SD Act and within the contemplation of this Policy.
- 5.2. The Chief Executive (or their nominee) who approves the installation of a Surveillance Device will determine the conditions which apply regarding the use and maintenance of the Surveillance Device at the time of approving the installation. These conditions may be revised from time to time by either the Chief Executive (or their nominee).
- 5.3. Except insofar as it may compromise or adversely affect an effort to protect the lawful interests of the Council or another person, the Chief Executive (or their nominee) who approves the installation of a Surveillance Device will ensure that the Chief Executive, affected **Group Managers, Supervisors, Workgroup Coordinators**, and / or Team Leaders are advised of:
 - 5.3.1. the installation and nature of the Surveillance Device; and
 - 5.3.2. the conditions which apply regarding the use and maintenance of the Surveillance Device.
- 5.4. Any unauthorised installation, use, maintenance, tampering or removal of a Surveillance Device will be treated extremely seriously by the Council. Such actions by any Employee may result in disciplinary action, including termination of employment.

6. USE AND STORAGE OF DATA OBTAINED FROM SURVEILLANCE DEVICES

- 6.1. Data obtained from a Surveillance Device will be collected and used only:
 - 6.1.1. for a purpose which is permissible under the SD Act and within the contemplation of this Policy; and
 - 6.1.2. in accordance with any privacy obligations which apply from time to time.
- 6.2. Data obtained from a Surveillance Device which constitutes official records will be stored and disposed of in accordance with the State Records Act 1997 (SA).

- 6.3. Data obtained from a Surveillance Device are subject to the operation of the Freedom of Information Act 1991 (SA), including any exemptions which may apply (such as, for example, documents affecting law enforcement and public safety, and documents affecting personal affairs).
- 6.4. Data obtained from a Surveillance Device in respect of any Employee may only be accessed by:
 - 6.4.1. the Group Manager to whom that Employee reports;
 - 6.4.2. Human Resources;
 - 6.4.3. the Chief Executive;
 - 6.4.4. any person who has been authorised specifically in writing by any of the above persons to access that data, and only for the purposes and to the extent described in the written authorisation;
 - 6.4.5. in respect of data obtained from a Data Surveillance Device—the IT Manager provided that the IT Manager will notify the Group Manager of the fact and purpose of any such access;
 - 6.4.6. any contractor engaged to provide services in connection with the installation, use or maintenance of a Surveillance Device, in accordance with the applicable terms of the engagement;
 - 6.4.7. any legal advisor of the Council.
- 6.5. Any unauthorised access, misuse, disclosure, tampering, copying or removal in relation to data obtained from a Surveillance Device will be treated extremely seriously by the Council. Such actions by any Employee may result in disciplinary action, including termination of employment.

7. OPTICAL SURVEILLANCE DEVICES

- 7.1. Under the SD Act, the Council may install, use or maintain an Optical Surveillance Device on or in premises, a vehicle or other thing to record visually or observe the carrying on of any activity (involving one or more persons):
 - 7.1.1. carried on in a public place; or
 - 7.1.2. carried on in premises or a vehicle if the activity can be readily be observed from a public place; or
 - 7.1.3. carried on in circumstances in which at least one party to the activity ought reasonably to expect that the activity may be observed by a person who is not a party to the activity; or
 - 7.1.4. where no party to the activity could, in the circumstances, reasonably be taken to desire the activity to be observed only by parties to the activity.
- 7.2. Additionally under the SD Act, the Council may install, use or maintain an Optical Surveillance Device on premises if the use of the device is reasonably necessary for the protection of the lawful interests of the Council.
- 7.3. Examples of lawful interests which the Council is entitled to protect are set out in a subsequent part of this Policy.

8. LAWFUL INTERESTS

- 8.1. Lawful interests which the Council is entitled to protect through the installation, use or maintenance of Listening Devices and Optical Surveillance Devices (where it is reasonably necessary to do so) include the following:
- 8.2. Protection of information from misuse, mismanagement, tampering, improper disclosure, or loss;
- 8.3. Protection of resources (including financial resources), goods, equipment, vehicles and plant from misuse, mismanagement, tampering, theft, damage or loss;

- 8.4. Prevention, detection or investigation of potential corruption, misconduct or maladministration in public administration; and
- 8.5. Prevention, detection or investigation of other potential offences or misconduct which may arise in connection with, or may impact upon, the affairs or operations of the Council.

9. PLACEMENT OF OPTICAL SURVEILLANCE DEVICES

- 9.1. Without derogating from the above provisions, the Council gives specific notice that Optical Surveillance Devices may be installed, used and maintained in the following places:
 - 9.1.1. Customer service areas and other workplace areas where members of the public are permitted;
 - 9.1.2. External public areas;
 - 9.1.3. Workplace areas including hallways, office areas (money counting areas etc.), sheds and yards (but, for the avoidance of doubt, Optical Surveillance Devices will not be used in any restroom or changing room);
 - 9.1.4. Council boardroom and other meeting rooms including for the purpose of recording Council or, Committee meetings;
 - 9.1.5. Council telephones may be used to record conversations (but, for the avoidance of doubt, a private conversation with a member of the public who is not subject to this Policy may only be recorded with the express or implied consent of this member of the public).
- 9.2. Specific locations of Listening Devices and Optical Surveillance Devices will be advised to any Employee upon request to the Team Leader/manager, or Group Manager to whom that Employee reports, except where disclosure of any specific device and/or location may compromise or adversely affect an effort to protect the lawful interests of the Council or another person.

10. TRACKING DEVICES

- 10.1. The Council may install, use or maintain a Tracking Device to determine the geographical location of any vehicle or thing (including any moveable equipment or plant):
 - 10.1.1. owned by, or in the lawful possession or lawful control of, the Council; or
 - 10.1.2. owned by, or in the lawful possession or lawful control of, another person, provided the owner or a person in lawful possession or lawful control of the vehicle or thing provides express or implied consent to the installation, use or maintenance of the Tracking Device.
- 10.2. In exercising this entitlement under the SD Act to install, use or maintain a Tracking Device to determine the geographical location of a vehicle or thing, the Council may, by inference, determine the location of any driver, operator, passenger or user of the vehicle or thing. By driving, operating, travelling in, or using any vehicle or thing owned by or in the lawful control or possession of the Council (including by rental), an Employee acknowledges and consents to the presence and use of a Tracking Device in or on that vehicle or thing, which may be used to determine the geographical location of the vehicle or thing and, by inference, the Employee.
- 10.3. Tracking Devices include:
 - 10.3.1. Global Positioning System devices and equipment and similar devices and equipment;
 - 10.3.2. Other telematics/telemetry (e.g. speed, acceleration, fuel usage, activation of equipment/functions) to the extent that such telematics/telemetry may be used to determine or impute geographical location;
 - 10.3.3. Tablet computers and mobile telephones (including where location data are directly available as a function of the device, and where location data can be inferred from information or other data from a utility or other service provider); or

- 10.3.4. Security and access technology requiring the scanning of keycards or the entering of codes, credentials or other information.

11. DATA SURVEILLANCE DEVICES

- 11.1. The Council may install, use or maintain a Data Surveillance Device to access, track, monitor or record the input of information into, the output of information from, or information stored in, a computer:
- 11.1.1. owned by, or in the lawful control or management of, the Council; or
 - 11.1.2. owned by, or in the lawful control or management of, another person, provided the owner or person in lawful control or management of the computer provides express or implied consent to the installation, use or maintenance of the Data Surveillance Device.
- 11.2. The term 'computer' includes:
- 11.2.1. Desktop and laptop computers;
 - 11.2.2. Tablet computers and mobile telephones;
 - 11.2.3. Other mobile computers including scanners, expiation and enforcement computers, and digital cameras;
 - 11.2.4. Payment terminals and other technology associated with receipt, payment or management of money;
 - 11.2.5. Security and access technology requiring the scanning of keycards or the entering of codes, credentials or other information.
- 11.3. By using a computer owned by or in the lawful control or management of the Council, an Employee acknowledges that a Data Surveillance Device may be installed, used or maintained in any manner consistent with the SD Act and other laws.

12. OTHER AUTHORITY

Nothing in this Policy limits the ability of an officer to use a Surveillance Device consistent with authority under other legislation (including the use of microphones and cameras for investigative or enforcement purposes by officers authorised under relevant legislation).

13. PUBLIC SURVEILLANCE

Nothing in this Policy limits the ability of the Council to install, use or maintain any Surveillance Device in accordance with the SD Act for the purpose of monitoring a public area.

14. REVIEW

This Policy and associated Procedure shall be reviewed by the Council every two years. Upon review, the Council will communicate the updated Policy and associated Procedure to all relevant persons.

15. AVAILABILITY OF POLICY

This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website www.roxbydowns.sa.gov.au. Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.