

## Access to Public CCTV Policy

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<b>MINUTE NUMBER</b>	704/2016
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<b>AUTHORITY</b>	Corporate Services
<b>CONTACT OFFICER</b>	General Manager

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## 1 PURPOSE

- 1.1 This Policy is intended to guide access to Council's Public Closed Circuit Television (CCTV) System.
- 1.2 The Policy provides guidelines and a process for the release of Council public CCTV footage whether the request is from Forbes Shire Council staff, Police, Government Agencies, Legal Representatives and/or the public.
- 1.3 Public CCTV systems and recorded video footage are governed by State and Federal Legislation and Policy guidelines. The CCTV system will be managed in accordance with the following legislation:
- i. *Privacy and Personal Information Protection Act 1998 (NSW)*
  - ii. *Privacy and Personal Information Protection Regulation 2014 (NSW)*
  - iii. *Workplace Surveillance Act 2005 (NSW)*
  - iv. *Surveillance Devices Act 2007 (NSW)*
  - v. *Local Government Act 1993 (NSW)*
  - vi. *Government Information (Public Access) Act 2009*
  - vii. *NSW Government's Policy and Guidelines for the Establishment and Implementation of Close Circuit Television (CCTV) in public places.*
- 1.4 The purpose of the Forbes CCTV System is:
- i. To assist in identification and co-ordination of response to incidents that negatively impact upon the public safety of the community and visitors to Forbes;
  - ii. To obtain reliable information that may be used as evidence following an event;
  - iii. To operate with efficiency, impartiality and integrity;
  - iv. To acknowledge that personal protection has priority over property protection; and
  - v. To operate with regard to the public requirements for due case, diligence and confidentiality.

## 2 SCOPE

- 2.1 This Policy applies to the operation of public CCTV systems in the Forbes Local Government Areas, which comprise of a network of close circuit television cameras installed in the Forbes Central Business District (CBD), skate park area and other places.
- 2.2 The CCTV recorders are linked via wireless communications to Council's computer network and to the Forbes Police Station.
- 2.3 It must be noted that no cameras are monitored by Council staff however most of the public CCTV cameras can be viewed and monitored by NSW Police at the Forbes Police Station. The *Privacy and Personal Information Protection Regulation 2014* provides as follows:

## *Clause 9: Local Council CCTV Camera Exemptions:*

- i. *A Local Council is exempt from Section 11 of the Act with respect to the collection of personal information by using a CCTV camera that the Council installs for the purpose of filming a public place if the camera is positioned so no other land is filmed (unless it is not reasonably practicable to avoid filming the other land when filming the public place).*
- ii. *The Local Council is also exempt from Section 18 of the Act with respect to the disclosure to the NSW Police Force of personal information by way of live transmission from such a CCTV camera.*
- iii. *In this clause, public place has the same meaning as in the Local Government Act 1993.*

All CCTV footage is recorded on CCTV recorders. The CCTV footage is retained for a period of up to 21 days after which the footage is overwritten and can no longer be accessed. Only Council's Information Technology (IT) staff have administrator rights to the CCTV recorders.

## 2.4 The Objectives of the CCTV System are:

- i. To identify and prevent illegal and/or inappropriate behaviour in the Forbes CBD , skate park areas and other places which has the potential to alarm or threaten citizens, result in damage of property to contravene law;
- ii. To permit the controlled provision of information by Council to the NSW Police; and
- iii. To protect Council staff in the operation of their duties and to protect Council property.

## **3 RELEASE OF CCTV FOOTAGE**

- 3.1 All requests for CCTV footage either verbal or in writing are to be referred to Council's Public Officer and must be accompanied by a completed *Access for Release of CCTV footage Form*. The Public Officer will then make a decision if there are grounds on which council can release the requested CCTV Footage.

The issues to be considered by the Public Officer are:

- i. Section 4 of the Privacy and Personal Information Protection Act 1998 which provides as follows:

### Section 4 – Definition of “personal information”

- (1) In this Act, personal information means information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

- ii. Section 8 of the Privacy and Personal Information Protection Act 1998 which provides as follows:

### Section 8 – Collection of personal information for lawful purposes

- (1) A public sector agency must not collected personal information unless:

- (a) The information is collected for a lawful purpose that is directly related to a function or activity of the agency; and
- (b) The collection of the information is reasonably necessary for that purpose;
- (2) A public sector agency must not collect personal information by any unlawful means.
- iii. Section 14 of the Privacy and Personal Information Protection Act 1998 which provides as follows:

### Section 14 – Access to personal information held by agencies

A public sector agency that holds personal information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.

- iv. Section 18 of the Privacy and Personal Information Protection Act 1998 which provides as follows:

### Section 18 – Limits on disclosure of personal information

- (1) A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:
  - (a) The disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure;
  - (b) The individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10 that the information of that kind is usually disclosed to that other person or body; or
  - (c) The agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or other person.

If the CCTV footage contains “personal information” about another person Council must not disclose that information to any person or body unless Council is satisfied that one of the matters under Section 18(1) of the Privacy Act applies. If Council is not satisfied that one of the exceptions under Section 18(1) applies Council should not provide the footage to any person unless the personal information of any other person, who is not the person requesting access to the footage, can be redacted.

If any person who does not have access to the footage recorded by the CCTV cameras and held by Council seeks access to that footage, it is open to that person to make an application for access under the Government Information (Public Access) Act 2009 (GIPA Act).

Section 5 of the Government Information (Public Access) Act 2009 provides as follows:

### Section 5 – Presumption in favour of disclosure of government information

*There is a presumption in favour of disclosure of government information unless there is an overriding public interest against disclosure.*

If a person makes an access application under the GIPA Act in respect to footage held by Council they would have a legally enforceable right to be provided with access to the footage unless there is an overriding public interest against disclosure of the information contained in the footage.

If Council agrees to the release of CCTV footage in accordance with the GIPA Act Council's IT staff will make copies of the requested footage. A copy will be made for the applicant and put onto a storage device i.e. USB or DVD. A further copy will be stored in a secure directory on Council's server as evidence that the footage has been supplied.

## 4 VARIATION

- 4.1 Council reserves the right to vary the terms and conditions of this policy subject to a report Council.

## 5 APPENDICES

- 5.1 This policy is supported by the following appendices:

Appendix No.	Description
1	CCTV Confidentiality Agreement
2	CCTV Collection Register
3	Request for Public CCTV System Footage Request Form
4	Application to view/obtain a copy of a DVD/ Photo from Forbes Shire Council's Public CCTV System Footage by a member of the NSW Police Service

## APPENDIX 1

### CCTV CONFIDENTIALITY AGREEMENT

I, \_\_\_\_\_, an employee of

Agree to:

- 1) Not disclose, unless lawfully directed, any matter or information which comes to my knowledge in relation to or emanating from the operation of the Public CCTV System operated by Forbes Shire Council.
- 2) Not use the contents of the recorded data:
  - i. To gain advantage for me or for any other person or body.
  - ii. To improperly cause harm or detriment to any person, body, or Council.
- 3) I further agree to:
  - i. Protect information relating to the operation of the Public CCTV System, including the recorded data.
  - ii. Not disclose any information discussed during a meeting with Council staff regarding the recorded data.
  - iii. Maintain the integrity and security of the recorded data and relevant information.
  - iv. Comply with Council's Privacy Management Plan when dealing with personal information as well as the provisions of the Privacy and Personal Information Protection Act 1998, Information Protecting Principles and the Privacy Code of Practice for Local Government and other relevant privacy or surveillance legislation.
  - v. Abide by Council's Code of Conduct and Council's Use of Information Policy.
  - vi. Not to reproduce recorded data in any manner or way for any purposes, unless authorised by Forbes Shire Council to do so.

**Signed:**

**Signature of Witness:**

**Name:**

**Name of Witness:**

**Date:**     /     /



## APPENDIX 3

### REQUEST FOR PUBLIC CCTV SYSTEM FOOTAGE REQUEST FORM

I,  
*(Name of Applicant)*

Of  
*(Name of Organisation)* *(Address)*

Phone:

hereby request a copy of Public CCTV System footage held by Forbes Shire Council for the following period:

Date/s (from and to): From / / to / /

Approximate time/s:

From the following location:

Description of location:  
*(e.g. corner of, in front of a certain premises)*

For the purpose of:

I hereby acknowledge that I will not make a copy of these images or disclose the images to any other persons or any other persons outside the organisation I represent unless required by legal proceedings or court order. I also undertake to return this copy to Forbes Shire Council as soon as possible following the completion for the need for the copy.

**Signed by Applicant:**

**Witnessed by:**

**Authorised by:**

**Name of Authorising Officer:**



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## APPENDIX 4

### APPLICATION TO VIEW/OBTAIN A COPY OF A DVD/PHOTO FROM FORBES SHIRE COUNCIL'S PUBLIC CCTV SYSTEM FOOTAGE BY A MEMBER OF THE NSW POLICE FORCE

Cops Events/Charge No:

Police Exhibit No:

CCTV Ref No:

#### Nature of Application

- View of DVD                       Obtain a copy of a DVD                       Serious (i.e. murder)
- 
- View of Photo                       Obtain a copy of a photo                       Urgent (i.e. next working day)
- Routine (i.e. required for Court Briefing)

#### Applicant Details

Name (NSW Police Case Officer):

Position:

Telephone No:

Local Area Command:

Email: @police.nsw.gov.au

#### Incident Details

Date: / /

Time:

Location:

*(Please describe the location as accurately as possible including the names of any nearby premises and streets)*

**Please detail the circumstances in which the incident occurred:**

*(Please describe what took place and the individuals involved or attach edited version of the Victim Statement of Narrative)*

**Please detail the category to which the incident relates:**

**Signature:**

*I have read the Conditions of Use overleaf and agree to abide by them in the event that the Forbes Shire Council releases to me a copy of a DVD/Photo or approves the viewing of a DVD/photo.*

Signature of NSW Police Case Officer		Date:	/	/
Signature of NSW Police Commissioned Officer		Date:	/	/



## Access to Public CCTV Policy

### FORBES SHIRE COUNCIL USE ONLY

**Application approved/rejected by:**

*(insert name of authorising Forbes Shire Council Responsible Officer)*

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**Signature:**

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**Date:**

/ /

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**DVD/Photo played/produced by:**

*(insert name of staff member who played/produced DVD/photo)*

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**Signature:**

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**Date:**

/ /

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**Original DVD Identification No:**

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**Copy DVD/Photo Identification No:**

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**DVD/Photo received/viewed by:**

*(insert name and rank of Police Officer collecting/viewing DVD/photo)*

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**Signature:**

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**Date:**

/ /

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## RELEASE OF PUBLIC CCTV SYSTEM FOOTAGE TO A MEMBER OF THE NSW POLICE SERVICE

### CONDITIONS OF USE

- 1) I acknowledge that any DVD/photo released to me is the property of the Forbes Shire Council;
- 2) I will not allow copies of any DVD/photo released to me to be reproduced except for court purposes;
- 3) I will not show or display any image, or release it publicly, without the prior written consent from the Forbes Shire Council;
- 4) I will keep the information released to me in a locked receptacle when not being utilised;
- 5) I will only use the released information for the purpose/s stated on this application;
- 6) I will return the DVD/photo to the Manager Information Services, Forbes Shire Council, within 28 days of receipt, unless otherwise negotiated;
- 7) If it is necessary to use a DVD/photo as evidence in a court of law, the original DVD will be subpoenaed from the Forbes Shire Council.

Condition applying to entry CCTV recorder rooms:  
(entry is permitted only when 'View Box' is selected on the form)

Authorised visitors to the CCTV recorder rooms will be required to:

- 1) Make the visit to the CCTV recorder rooms as brief as possible;
- 2) Remain with the Responsible Officer supervising the visit;
- 3) Not touch or attempt to operate any equipment in the CCTV recorder rooms;
- 4) Not touch or move any object in the CCTV recorder rooms;
- 5) Direct all enquiries regarding the CCTV system and cameras to the Responsible Officer supervising the visit.

I have read the Conditions of Use and the Conditions of Entry above and agree to abide by them in the event that the Forbes Shire Council gives to me a copy of a DVD/photo or approves the viewing of the DVD/photo.

**Print name of NSW Police**

**Case Officer/s**

**Signature of NSW Police Case Officer/s**

**Date:**            /            /

**Print name of NSW Police**

**Case Officer/s**

**Signature of NSW Police Case Officer/s**

**Date:**            /            /

Complete applications for the viewing/supply of a DVD/photo should be referred to Council's Public Officer at [forbes@forbes.nsw.gov.au](mailto:forbes@forbes.nsw.gov.au).

## Revision History

Version	Adoption Date	Authorised by	Approved by	Revision Date
V1	18/08/2016	Director Corporate Services	Council	18/08/2018

## Change History

Version	Change Details
V1	Initial Policy

## Related Documents

Title
<i>Privacy and Personal Information Protection Act 1998 (NSW)</i>
<i>Privacy and Personal Information Protection Regulation 2-14 (NSW)</i>
<i>Workplace Surveillance Act 2005 (NSW)</i>
<i>Surveillance Devices Act 2007 (NSW)</i>
<i>Local Government Act 1993 (NSW)</i>
<i>Government Information (Public Access) Act 2009 (NSW)</i>
<i>NSW Government's Policy and Guidelines for the Establishment and Implementation of Closed Circuit Television (CCTV) in Public Places</i>