

Policy

Surveillance device use for compliance and law enforcement activities

Responsible Manager (Title)	Environment, Development and Strategic Planning		
Adopted by Council	Date:	Minute Number:	
File Reference Number	ECM: TBA	Version 1	Review Due: May 2025
Document(s) this policy Supersedes	None		
Community Plan Linkage	1 Society		
	1.2 We will have a safe, active and healthy region		
	1.2.4 With our partners, promotes community safety		

1 Purpose

To assist with the lawful investigation and evidence gathering in respect of any person or company responsible for any illegal activities including waste dumping, littering, malicious damage on public land and public buildings, pollution, waste storage and disposal, unauthorised development, illegal camping in streets and reserves and illegal parking.

Body-worn cameras can provide an accurate documentation of staff-public contacts, enhance Council’s ability to review incidents, identify training requirements and may be useful in documenting offences. They can also act as a deterrent to aggressive and abusive behaviour directed towards staff, therefore improving workplace health and safety outcomes.

This policy has been developed to ensure compliance with all relevant legislation and guidelines pertaining to the use of surveillance devices. The policy will also ensure correct management of records to protect the privacy and confidential nature of the personal information collected. The use and management of surveillance devices will also assist and support Council’s Illegal Dumping Action Plan.

2 Definitions

‘**Local government authority**’ has the same meaning as in Section 3 of the Privacy and Personal Information Protection (PIPP) Act; i.e. a council, county council or a joint organisation.

‘**Public sector agency**’ has the same meaning as in Section 3 of the Privacy and Personal Information Protection (PIPP) Act.

‘**Surveillance footage**’ may include images or audio recordings from:

- Surveillance cameras
- Digital cameras
- Electronic PIN devices
- Smart Phones and tablets, and
- Body-worn cameras.

2.1 Scope of policy

This policy applies to:

- Council employees (primarily Authorised Officers located in the Development and Environmental Health Group)
- Consultants/Lawyers/Contractors/Volunteers
- Community members

3 Background/legislative requirements

The use of surveillance devices for compliance and law enforcement activities, while prima facie self-evident to affect the theme, objective and strategy of this policy (above) needs to be understood within the legislative frameworks for privacy and associated legislation. The legislative environment for this policy is complex. The following instruments have informed the development of the policy and are referred to below.

- Privacy and Personal Information Protection (PPIP) Act 1998
- Government Information (Public Access) (GIPA) Act 2009
- Local Government (LG) Act 1993
- Protection of the Environment Operations (POEO) Act 1997
- Workplace Surveillance (WS) Act 2005
- Surveillance Devices (SD) Act 2007
- Road Rules (RR) 2008
- Environmental Planning and Assessment (EP&A) Act 1979
- Evidence Act 1990 (EA)
- State Archives and Records Video/visual surveillance records (GDA8)
- Clarence Valley Council Enforcement Policy
- Clarence Valley Council Privacy Management Plan
- Clarence Valley Council Plant and Equipment – Use of GPS and Surveillance Devices Protocol

In particular, The PPIP Act defines personal information as 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.

There are nineteen Information Protection Principles (IPP) defined in the PPIP Act that apply to the collection, storage, use and disclosure of personal information. The Privacy Management Plan describes how Clarence Valley Council manages personal information with regard to its obligations under PPIP Act and associated legislation.

The PPIP Act provides public sector agencies with a number of exemptions to the IPPs for conducting law enforcement activities and sharing data between public sector agencies. Other relevant legislation is discussed below.

4 Policy statement

4.1 Key principles

The policy is based on the following guiding principles:

1. The covert surveillance device program will be operated fairly, within applicable legislative requirements and only for the purposes for which it is established or which are subsequently agreed in accordance with this policy.
2. The surveillance devices will only be used in accordance with this policy.
3. The surveillance devices will be operated with due regard to the privacy and civil liberties of individual members of the public, including the rights to freedom of religious and political expression and assembly.
4. The public interest in the operation of the surveillance devices will be recognised by ensuring the security and integrity of operational procedures.
5. The Manager of Environment, Development and Strategic Planning has primary responsibility for compliance with the purposes and objectives of this policy, for the maintenance, management and security of the program, and the protection of public interest in relation to the program.
6. Access to the surveillance monitoring equipment shall be restricted to authorised staff and will be protected from unauthorised access.

The retention of, and access to recorded material will only be for the purposes provided by this policy or applicable laws and in accordance with any requirements for the retention and disposal of personal information as specified in the State Archives and Records' Video/visual surveillance records (GDA8).

4.2 Establishing the use of surveillance

Surveillance devices are a powerful compliance 'tool' which can be deployed to deter illegal activities and to identify any offenders committing offences. The use of surveillance devices requires some effort in both the setup of management systems, and the ongoing implementation of the devices and the images they collect. In all instances Council should ensure:

- It is using the appropriate tool in the circumstances.
- It is implementing appropriate systems to support the efficient and legal use of the devices.
- All staff engaged in the activity and dealing with the devices have the correct delegations to do so.
- All staff engaged in the activity and dealing with the devices have the correct training to do so.

There are a number of actions that should be addressed prior to the use of any surveillance devices, namely consideration of staff delegations and evaluation of any requirements the Council has to 'notify' people about the use of devices. These issues are discussed in the 'Surveillance Device Use for Compliance and Law Enforcement Activities Procedure' associated with this Council Policy.

4.3 Public notification of the use of surveillance devices

There is no legislative requirement for councils to notify people of the use of devices, however it should be noted that the PIPP Act requires councils 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 it is collected for, and the intended recipients of the information etc).

This requirement to notify does not apply if the information is collected for law enforcement purposes but is more relevant to the collection of images of people not involved in committing an offence.

In the case of born-worn cameras Officers should inform all parties to the conversation/being recorded that a body worn camera is being worn and is recording sound and images. If the conversation continues with no objection, implied consent can be assumed to have been given. If parties to the conversation do object, the camera should be turned off unless the use of the born-worn camera is reasonably necessary for the protection of the lawful interests of the Officer. This is reiterated in the 'Surveillance Device Use for Compliance and Law Enforcement Activities Procedure' associated with this Council Policy.

4.4 Photographic evidence

There is no right to privacy that protects a person's image if photographed in a public place. There is also no restriction on taking photographs of people on private property if taken from public property.

Council's authorised officers will at times collect photographic evidence. This photographic evidence may contain images of people and vehicles and therefore will be treated as personal information. If photographs taken by Council were to be characterised as containing personal information then Council will handle and store the personal information to prevent access to these images in accordance with PPIP Act, noting the exemption contained in Section 23 of the PIPP Act concerning law enforcement and related matters. Access will be available to authorised officers of

Council only. Again, this is reiterated in the 'Surveillance Device Use for Compliance and Law Enforcement Activities Procedure' associated with this Council Policy.

4.5 Law enforcement purposes

Surveillance devices, other than body-worn cameras, shall only be used to collect data for law enforcement purposes.

Examples of law enforcement purposes include:

- To identify people and/or vehicles involved in the unlawful activities such as, but not limited to, disposal of waste at a known dumping hot spot(s), vandalism, illegal parking or illegal camping.
- To identify vehicles accessing a property that is reasonably suspected of being used for an unapproved purpose/development such as, but not limited to, an unlawful waste facility or illegal clearing or filling.
- To observe unlawful activities conducted on public or private land such as, but not limited to, an alleged unlawful waste facility, waste storage or pollution incidents.

Body-worn cameras may be used for wider purposes than law-enforcement as long as their use is lawful and complies with this policy.

4.6 In case of an event or criminal incident

In the event that an authorised staff member observes footage and/or recorded materials which are considered to capture an indictable offence, the staff member will:

- Refer the incident as soon as possible to their supervisor
- Notify the Police as to the circumstances of any criminal event
- Ensure footage is secured, saved and marked appropriately in the event that it is required for law enforcement or legal purposes.

5 Implementation

The implementation of the Council Policy is detailed in the 'Surveillance Device Use for Compliance and Law Enforcement Activities Procedure' associated with this Council Policy. The Procedure contains further detail about:

- Establishing the use of surveillance:
 - Staff delegations
 - Public notification of the use of surveillance devices
 - Staff notification of the use of surveillance devices
- Survey device placement
- Management of surveillance devices and images

- Photographic evidence
- Installation of devices and signage
- Maintenance of records, and:
- Implementation procedure for both surveillance device camera evidence and photographic and body camera evidence.

6 Related Documents

Clarence Valley Council Surveillance Device Use for Compliance and Law Enforcement Activities Procedure.

Procedure

Surveillance device use for compliance and law enforcement activities procedure

Responsible Manager (Title)	Manager Environment, Development and Strategic Planning		
Manager authorisation	Date: 23 April 2021	Signature: Adam Cameron	
File Reference Number	ECM 2220321	Version 1	Review Due: Feb 2025
Related documents	Surveillance device for compliance and law enforcement Council Policy		

1 Purpose

To assist with the lawful investigation and evidence gathering in respect of any person or company responsible for any illegal activities including waste dumping, littering, malicious damage on public land and public buildings, pollution, waste storage and disposal, unauthorised development, illegal camping in streets and reserves and illegal parking.

Body-worn cameras can provide an accurate documentation of staff-public contacts, enhance Council’s ability to review incidents, identify training requirements and may be useful in documenting offences. They can also act as a deterrent to aggressive and abusive behaviour directed towards staff, therefore improving workplace health and safety outcomes.

This procedure has been developed alongside the ‘Surveillance device for compliance and law enforcement activities Council Policy’ to ensure compliance with all relevant legislation and guidelines pertaining to the use of surveillance devices. The procedure will also ensure correct management of records to protect the privacy and confidential nature of the personal information collected. The use and management of surveillance devices will also assist and support Council’s Illegal Dumping Action Plan.

2 Definitions

‘Local government authority’ has the same meaning as in Section 3 of the Privacy and Personal Information Protection (PPIP) Act; ie, a council, county council or a joint organisation.

‘Public sector agency’ has the same meaning as in Section 3 of the Privacy and Personal Information Protection (PPIP) Act,

‘Surveillance footage’ may include images or audio recordings from:

- Surveillance cameras
- Digital cameras
- Electronic PIN devices
- Smart Phones and tablets, and

- Body-worn cameras.

2.1 Scope of procedure

This procedure applies to:

- Council employees (primarily Authorised Officers located in Environment, Development and Strategic Planning)
- Consultants/Lawyers/Contractors/Volunteers
- Committee members
- Community members

3 Background/legislative requirements

As detailed in the 'Surveillance Device Use for Compliance and Law Enforcement Activities Council Policy' the use of surveillance devices for compliance and law enforcement activities, while prima facie self-evident to affect the theme, objective and strategy of this procedure (above) needs to be understood within the legislative frameworks for privacy and associated legislation. The legislative environment for this policy is complex. The following instruments have informed the development of both the policy the procedure, and are referred to below.

- Privacy and Personal Information Protection (PPIP) Act 1998
- Government Information (Public Access) (GIPA) Act 2009
- Local Government (LG) Act 1993
- Protection of the Environment Operations (POEO) Act 1997
- Workplace Surveillance (WS) Act 2005
- Surveillance Devices (SD) Act 2007
- Road Rules (RR) 2008
- Environmental Planning and Assessment (EP&A) Act 1979
- Evidence Act 1990 (EA)
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There are nineteen Information Protection Principles (IPP) defined in the PPIP Act that apply to the collection, storage, use and disclosure of personal information. **The Privacy Management Plan describes how Clarence Valley Council manages personal information with regard to its obligations under PPIP Act and associated legislation.**

The PPIP Act provides public sector agencies with a number of exemptions to the IPPs for conducting law enforcement activities and sharing data between public sector agencies. Other relevant legislation is discussed below.

4 Procedure statement

4.1 Key principles

Directly reflecting the 'Surveillance Device Use for Compliance and Law Enforcement Activities Policy' the procedure is based on the following guiding principles:

1. The covert surveillance device program will be operated fairly, within applicable legislative requirements and only for the purposes for which it is established or which are subsequently agreed in accordance with this procedure.
2. The surveillance devices will only be used in accordance with this procedure.
3. The surveillance devices will be operated with due regard to the privacy and civil liberties of individual members of the public, including the rights to freedom of religious and political expression and assembly.
4. The public interest in the operation of the surveillance devices will be recognised by ensuring the security and integrity of operational procedures.
5. The Manager of Environment, Development and Strategic Planning has primary responsibility for compliance with the purposes and objectives of these procedures, for the maintenance, management and security of the program, and the protection of public interest in relation to the program.
6. Access to the surveillance monitoring equipment shall be restricted to authorised staff and will be protected from unauthorised access.

The retention of, and access to recorded material will only be for the purposes provided by these procedures or applicable laws and in accordance with any requirements for the retention and disposal of personal information as specified in the State Archives and Records' Video/visual surveillance records (GDA8).

4.2 Establishing the use of surveillance

Surveillance devices are a powerful compliance 'tool' which can be deployed to deter illegal activities and to identify any offenders committing offences. The use of surveillance devices requires some effort in both the setup of management systems, and the ongoing implementation of the devices and the images they collect. In all instances Council should ensure:

- It is using the appropriate tool in the circumstances.
- It is implementing appropriate systems to support the efficient and legal use of the devices.
- All staff engaged in the activity and dealing with the devices have the correct delegations to do so.
- All staff engaged in the activity and dealing with the devices have the correct training to do so.

There are a number of actions that should be addressed prior to the use of any surveillance devices, namely consideration of staff delegations and evaluation of any requirements the Council has to 'notify' people about the use of devices. These are discussed below.

4.2.1 Staff delegations

Council should carefully review the delegations for all staff using surveillance devices to ensure they are adequate. Although neither the POEO Act nor LG Act specifically state that a surveillance device must be placed and/or managed by an authorised officer or enforcement officer, it is considered appropriate as the POEO Act (Section 187) provides specific powers for these officers to "take photographs".

Any staff considering issuing Penalty Infringement Notices or other such action based on the images captured by surveillance devices is required to be an Authorised Officer under the relevant legislation.

Only Authorised Officers shall manage the Council's surveillance device systems, co-ordinate the placement and management of devices, and ensure chain of evidence of captured images, as this will be necessary if any legal proceedings occur in relation to action taken by Council utilising images recording illegal activity.

Officers shall *thoroughly* document all actions taken in the installation and maintenance of the surveillance devices.

4.2.2 Public notification of the use of surveillance devices

There is no legislative requirement for councils to notify people of the use of devices, however it should be noted that the PIPP Act requires councils 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 (eg the fact that the information is collected, the purposes it is collected for, and the intended recipients of the information etc).

This requirement to notify does not apply if the information is collected for law enforcement purposes but is more relevant to the collection of images of people not involved in committing an offence.

In the case of born-worn cameras Officers should inform all parties to the conversation/being recorded that a body worn camera is being worn and is recording sound and images. If the conversation continues with no objection, implied consent can be assumed to have been given. If parties to the conversation do object, the camera should be turned off unless the use of the born-

worn camera is reasonably necessary for the protection of the lawful interests of the Officer. This is reiterated in the 'Surveillance Device Use for Compliance and Law Enforcement Activities Procedure' associated with this Council Policy.

4.2.3 Staff notification of the use of surveillance devices

Where devices are to be installed on (or viewing) Council land, in an area that is considered a 'workplace', the WS Act requires the Council to directly notify staff that they may be recorded on the surveillance devices. The responsibilities for notification to staff are more stringent than those relating to the general public, and require Council to provide prior notice in writing at least 14 days before the surveillance commences.

The notice must indicate the following:

- The kind of surveillance to be carried out (example: covert surveillance).
- How the surveillance will be carried out.
- When the surveillance will start.
- Whether the surveillance will be continuous or intermittent.
- Whether the surveillance will be for a specified limited period or ongoing (Section 10).

Camera surveillance of an employee must not be carried out unless the devices used (or device 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 (Section 11, WS Act).

Covert surveillance devices may be used by Council, provided that surveillance of employees at a particular premises or place will be taken to comply with the requirements of Section 10 and Section 11 of the WS Act, namely:

- Surveillance of an employee must not commence without prior notice in writing to the employee; and
- The notice must be given at least 14 days before the surveillance commences.

This means that the Council may use covert surveillance devices on Council-owned land (eg roads or open spaces and reserves) where it may have employees performing work from time-to-time for the purpose of obtaining evidence of illegal activities so long as those employees are adequately notified of the placement of covert surveillance devices in accordance with the requirements of the WS Act.

Born-worn cameras should not be used to record interactions with other staff members or in locations where people have an expectation of privacy such as in bathrooms, lunchrooms etc.

4.3 Law enforcement purposes

Surveillance devices, other than body-worn cameras, shall only be used to collect data for law enforcement purposes.

Examples of law enforcement purposes include:

- To identify people and/or vehicles involved in the unlawful activities such as, but not limited to, disposal of waste at a known dumping hot spot(s), vandalism, illegal parking or illegal camping.
- To identify vehicles accessing a property that is reasonably suspected of being used for an unapproved purpose/development such as, but not limited to, an unlawful waste facility or illegal clearing or filling.
- To observe unlawful activities conducted on public or private land such as, but not limited to, an alleged unlawful waste facility, waste storage or pollution incidents.

Body-worn cameras may be used for wider purposes than law-enforcement as long as their use is lawful and complies with this procedure.

4.4 Surveillance device placement

The determination of where to place surveillance devices requires careful consideration of a number of factors:

- Council must be the land owner, or otherwise must obtain written consent of the land owner prior to entering land, installing and maintaining the device (Section 8, SD Act).
- The device should be placed in a location (considering camera angle and distance from potential illegal activity) to maximise the potential to capture images which assist in proving the required elements of offences.
- The device should be placed in a location that limits the ability for theft or damage from vandalism.
- Body-worn cameras shall be worn above the torso mid-line and in a position designed to produce an effective reading.

Council should avoid placing devices in close proximity to private land as this may place nearby landowners at risk. For example, risks associated with people trespassing on private land in an attempt to locate, damage or steal surveillance devices.

4.5 In case of an event or criminal incident

In the event that an authorised staff member observes footage and/or recorded materials which are considered to capture an indictable offence, the staff member will:

- Refer the incident as soon as possible to their supervisor
- Notify the Police as to the circumstances of any criminal event

- Ensure footage is secured, saved and marked appropriately in the event that it is required for law enforcement or legal purposes.

4.6 Management of surveillance devices and images

If the images captured by the surveillance devices are used in legal proceedings against an offender, Council may be required to provide evidence supporting the correct operation and maintenance of the surveillance device. As such it is important that the Officer responsible for installing and maintaining the device should have a good knowledge of how the device operates (example: what type of device is it and what the recording mechanism is, how frequently it records, and what it does/does not record) and be able to easily locate the device operating manual.

A 'Surveillance File' shall be set up to record any actions taken by the responsible officer/s including information pertaining to:

- Device installations and movements – including dates installed and person/s installing.
- Device type, operation and calibration.
- Checking of devices and maintenance.
- Images produced, transferred or deleted.

Each note should be dated and saved and should identify the author of the note. Templates to record required information are attached to this procedure document.

4.7 Photographic evidence

There is no right to privacy that protects a person's image if photographed in a public place. There is also no restriction on taking photographs of people on private property if taken from public property.

Council's authorised officers will at times collect photographic evidence. This photographic evidence may contain images of people and vehicles and therefore will be treated as personal information. If photographs taken by Council were to be characterised as containing personal information then Council will handle and store the personal information to prevent access to these images in accordance with PPIP Act, noting the exemption contained in Section 23 of the PIPP Act concerning law enforcement and related matters. Access will be available to authorised officers of Council only.

4.8 Installation of devices and signage

Signage (with appropriate wording as discussed below) is recommended to be used in conjunction with surveillance devices as:

- It may satisfy the requirement of the PPIP Act to notify people that their personal information may be collected.
- It allows offences under the LG Act pertaining to Notices to be enforced.
- It provides a visual deterrent to potential law-breakers.
- It removes excuses by improving awareness of offences and penalties.

Signage must be clearly legible and use a font that is large enough to be read from where a person would reasonably read the sign. Signage should be located at each entrance to the whole/part of parcel of land or in a conspicuous place (Section 670, LG Act). This means that Council should post as many notices/signs as is appropriate to ensure that it is reasonably likely that every person who enters the land (through normal entries) will see the notice.

The wording on the signage should notify the public that surveillance devices may be in use and that device footage may be used for the purposes of investigating potential infringements of the LG, POEO or other applicable legislation. If the notice refers to a specific offence (eg dumping waste), it is preferable if it also says “or any other applicable offence” to better allow for investigation of other applicable offences.

To assist with establishing chain-of-custody of evidence, ensure that device and signage location is recorded accurately. This would involve making records of the Global Positioning System (GPS) location of devices and signage, the date and time installed/moved and details of the person who installed the device. Taking photographs of the devices and signage at the time of installation is also recommended.

It is best practice that devices are located and operated by officers with experience in their use. If a matter goes to court and Council can demonstrate this experience, this may demonstrate the evidence is more reliable.

To ensure compliance with Section 7 of the SD Act, relating to recording of private conversations, devices should have audio recording turned off or be set to still image capture only. If the device is calibrated to operate in a specific manner (eg photo mode selected over video mode, sensitivity level selected) these details should be recorded.

Note: When using surveillance devices for law enforcement purposes, signage is not required under the exemption outlined in PPIP Act and relevant guidelines issued by the Information Privacy Commission (IPC).

Audio recording may be left on for body-worn cameras if all principal to the conversation consent, expressly or impliedly, to its use (SD Act, section 7(3)(a) or if the principal party to the conversation consents to its use and it is reasonably necessary for the protection of the lawful interests of that principal party (SD Act, section 7(3)(b)(i).

4.9 Maintenance of records

4.9.1 Use of images

As per the requirements of the PPIP Act, Council Officers are to ensure that surveillance images and information obtained from these images are only used for the purpose for which they were gathered. To assist with establishing chain-of-custody of evidence (by showing images have not been altered), all images are to be stored securely and accurate records are to be kept at all stages after capture.

All images captured around the time of the offence should be kept. Care is to be taken to keep a complete set of unedited images relating to an offence as these may be required as evidence in legal proceedings and Council may need to show the images are 'as recorded'. If capturing video images, continuous blocks of footage around images containing any evidence of an offence must be kept. If more than one device is used, ensure images from all devices relating to a potential offender are kept.

Council must not use or disclose images captured of a person that is not engaged in an offence unless it is for the purpose of investigating potentially unlawful activity. If Council collects images of people not engaged in an offence, these are not to be retained unless there is a lawful need (example: because it is part of the same footage that pertains to evidence that needs to be retained or for the gathering of relevant intelligence).

Personal information (including images) must be disposed of securely and in accordance with requirements of the PIPP Act (Section 12) and Councils' record-keeping requirements. Records shall be maintained detailing the movement of images from a device to a storage place (whether electronic or hard copy). If the responsible person deletes images while in the field (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. See attached 'Device Maintenance Log' template to record this information.

4.9.2 Images to be kept securely

Under the PPIP Act, Council must ensure personal information (including images from surveillance devices) is protected by taking reasonable security safeguards against loss, unauthorised access, use, modification, disclosure or other misuse. A record should be made every time any person accesses the images and the reason for such access.

5 Implementation procedures

This procedure is divided into the following parts.

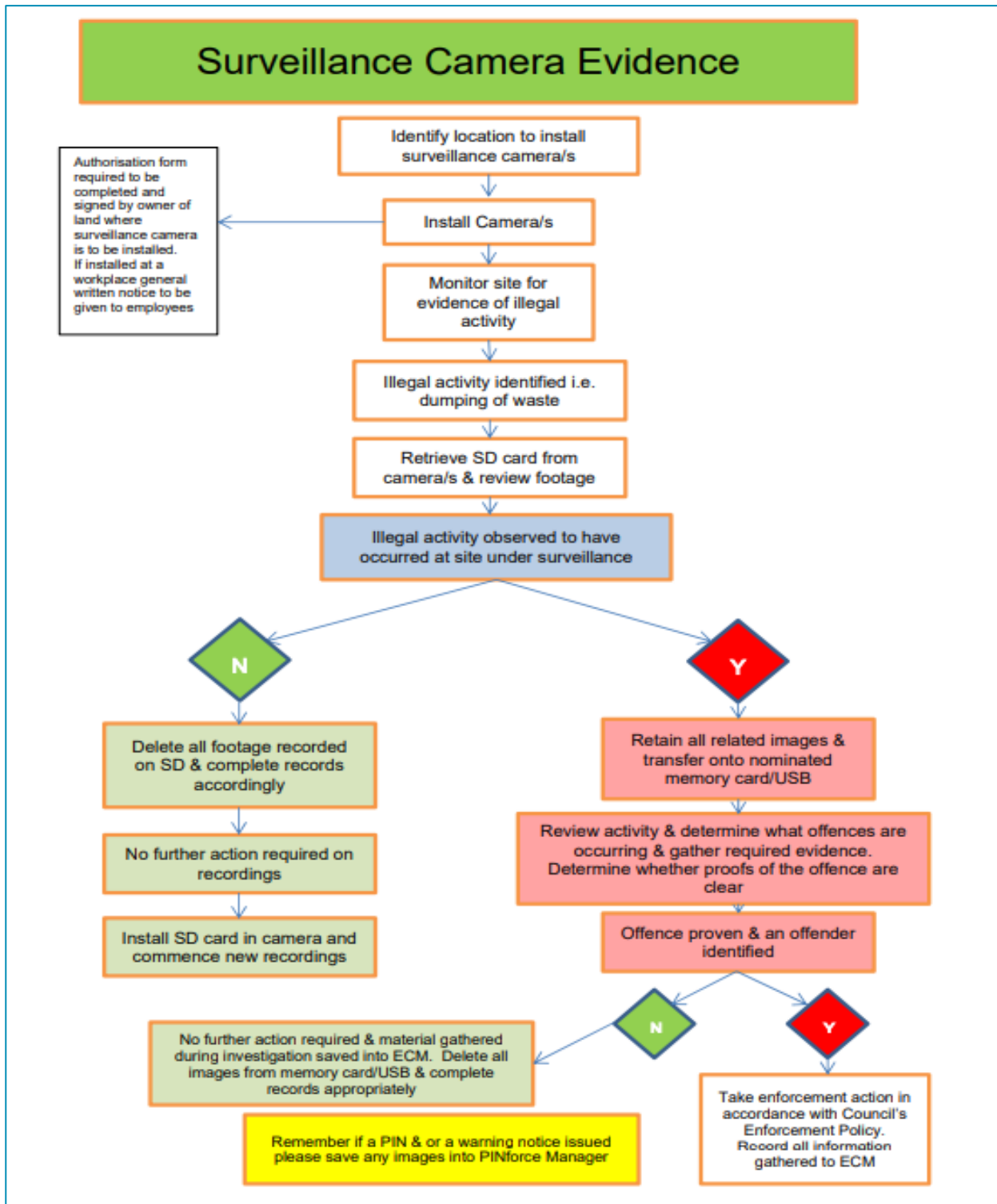
5.1:

- a) Flow chart of the steps to be taken when Council are utilising surveillance devices within the Clarence Valley Local Government Area and
- b) Detailed explanation of the requirement at each step (as shown in the flow chart), including required links and identification of other information required from the Council Officer.

5.2:

- a) Flow chart of the steps to be taken when managing photographic evidence and body camera footage within the Clarence Valley Local Government Area, and
- b) Detailed explanation of the requirement at each step (as shown in the flow chart), including required links and other information required from the Council Officer.

5.1 Surveillance camera evidence flowchart

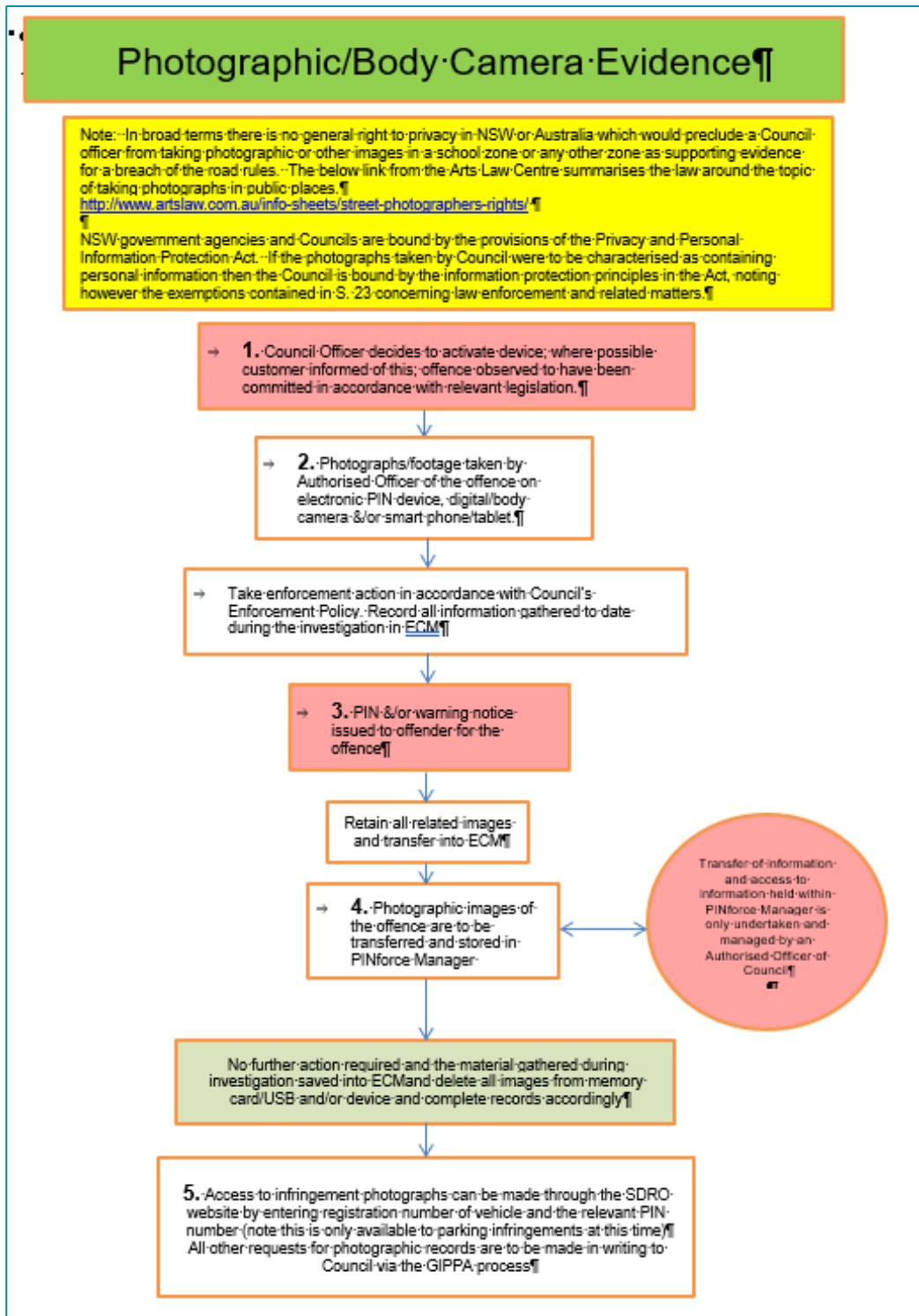


5.1.1 Surveillance camera evidence description

Step Number	Action Required	Trim Link/s (if applicable)	Other Actions Required
1.	<p>Identify location to install device</p> <p>Devices are to be installed in locations within the Clarence Valley Council area that have been identified as being subject to an incidence of waste dumping, littering, vandalism, graffiti, or other offences.</p> <p>These locations are to be determined on the basis of incidents identified by Council's Authorised Officers. The number and location of devices may vary from time to time and will be subject to approval from the Manager Environment, Development and Strategic Planning or any other officer delegated by the Manager.</p> <p>Device type and operation will be determined on a case by case basis.</p>	Illegal dumping hot spot spread sheet	
2.	<p>Install devices</p> <p>Ensure all staff involved have the correct delegations.</p> <p>Ensure sound is turned off.</p> <p>If to be placed on private property ensure written approval is given by the property owner.</p> <p>Complete 'Covert Surveillance Device Installation Form'.</p> <p>Determine if the site is a 'Workplace', if it is a workplace prior written notice of the surveillance shall be provided to employees in accordance with the requirements of the Workplace Surveillance Act.</p> <p>Photograph installed devices.</p>	Private property approval form	Covert Surveillance Device Installation Form
3.	<p>Monitoring site for signs of illegal activity</p> <p>Examine site and if an incident has occurred, photograph any evidence and make notes of inspection and findings.</p>		
4	<p>Retrieve SD card for review of footage</p> <p>When an incident has been identified record:</p> <ul style="list-style-type: none"> Type of incident including description, Date and time of incident, Authorised Officer, Notify Police if a criminal offence has been identified, Ensure footage is secured (save all images if images are of law enforcement value even if only 1 in 1000 have law enforcement value), saved and marked appropriately in the event it is required for law enforcement or legal purposes. Delete all images if nothing of law enforcement value obtained. 	Record on Device Maintenance Log	Complete device image log for any stored or destroyed images
5.	<p>Enforcement Action</p> <p>Need more evidence?</p> <ul style="list-style-type: none"> Examine dumped waste, 		

Step Number	Action Required	Trim Link/s (if applicable)	Other Actions Required
	<ul style="list-style-type: none"> • Vehicle owner search, • Notices to provide records and information, • Interviews with persons of interest, and • Contemporaneous notes. <p data-bbox="285 524 1123 580">If an offence has been proven and a person responsible has been identified, take action in line with Council's Enforcement Policy</p>		
6.	<p>Evaluation and Review</p> <p data-bbox="285 649 1002 676">Council is responsible for ensuring compliance with the procedure.</p> <p data-bbox="285 692 1123 772">Council is required to investigate any alleged breaches of the procedure. If a breach is found to have occurred, Council will remedy the breach to the extent possible.</p> <p data-bbox="285 790 1107 873">Complaints in relation to the management or operation of covert surveillance devices should be made in writing to Council in accordance with the Complaints Management Policy and Privacy Management Plan.</p>		

5.2 Photographic camera & body camera evidence flowchart



5.2.1 Photographic camera/body camera evidence description

Step Number	Action Required	Link/s (if applicable)	Other Actions Required
1	Offence observed, ensure appropriate delegations and rights of access/entry (if on private property) OR Likelihood of offence occurring as assessed by Council Officer; where possible customer informed that body camera has been operated.		
2	Photographs/footage taken, ensure date and time stamped and images are clear and proofs of offence are sufficient.		
3	Take appropriate action in accordance with Council's Enforcement Policy ie issue Penalty Infringement Notices (PINs) or Warning Notice etc.		
4	Ensure all photographic evidence/footage is transferred to secure and protected storage location at Council or destroyed if not needed for law enforcement purposes.		
5	Customers advised application to access photographic evidence/footage related to motor vehicle offences can be made direct to State Debt Recovery Office (SDRO). All other requests can be made through a GIPA application (including payment of the relevant fee).		

6 Review

This procedure is to be reviewed every four years.

7 Attachments

Attachment A: Record of Placement of Covert Surveillance Device

Attachment B: Authorisation for Use of Surveillance Devices on Private Property

Attachment C: Device maintenance log

Attachment D: Device Image Log

Attachment E: Record of surveillance camera use for illegal dumping hotspots

Attachment B: Authorisation for Use of Surveillance Devices on Private Property
Authorisation for Use of Surveillance Devices on Private Property

I/We.....

Of

give my/our consent, permission and authority for Officers of the Clarence Valley Council to install, operate, maintain and retrieve surveillance devices at my business/residential premises or vacant land located at

.....

for the sole purpose of detecting the occurrence of illegal activity, within the vicinity of the above stated premises.

Start Date

End Date

I/We declared that we are the owners/occupiers of the above stated premise and give this consent in accordance with Section 8 of the Surveillance Devices Act 2007.

Print name.....

Signature(s).....

Date

Officer Signature

Date

Attachment C: Device maintenance log

Device maintenance log

Camera.....

Location.....

Date & Time	Officer name	Description of maintenance

Attachment D: Device image log

Device image log

Camera Location.....

Ref/File #..... Stored.....

Officer.....

Image number/s	Date/ time-period images collected	Record of movement (and description of potential evidence) or in field deletion (where no evidence exists)	Date and time of movement/deletion

Attachment E: Record of surveillance camera use for illegal dumping hotspots

Council Name: _____

Date	Council Officer Positioning cameras	Hot Spot Location	No. Cameras positioned	Camera No	Date returned to site	Council officer checking on cameras	Has any dumping occurred at the site? If so What?	If yes. Were any images captured of the dumper?	Did you leave or remove the camera?	What action was taken with the images?	What was the result of the action taken?

Policy

Water restrictions

Responsible Manager (Title)	Manager Water Cycle		
Adopted by Council	Date: TBA	Minute Number	
File Reference Number	ECM: TBA	Version: 5	Review Due: November 2025
Document(s) this policy Supersedes	Water restrictions policy V4.0		
Community Plan Linkage	4 Environment		
	4.2 We will foster a balance between development and the environment considering climate change impacts		
	4.2.5 Educate the community, business and industry about sustainable practices in the home, at work and in public places		

1 Purpose

To introduce or revoke water restrictions on the use of reticulated water in the Clarence Valley as required in accordance with the triggers nominated in the procedures and in compliance with relevant Acts.

This policy applies to all properties using water supplied by Council’s water supply infrastructure. The policy does not apply to the use of water from sources that are not part of Council’s water supply infrastructure such as farm dams, watercourses, bores, and rainwater tanks on properties that have no connection to Council’s water supply.

2 Definitions

Commercial/industrial water use – Water that is essential to the operation of a business or commercial enterprise.

Permanent water conservation measures – Measures that apply permanently to encourage efficient use of water.

Trigger – conditions that apply for water restrictions to be introduced or revoked.

3 Background/legislative requirements

The following Acts and legislative requirements are relevant to this policy:

- NSW Water Management Act 2000
- Shannon Creek Water license no: 30SL066010 issued 17th March 2006
- Local Government Act 1993

- Local Government (General) Regulation, 2005

4 Policy statement

Restrictions are a necessary management tool for a well managed water supply. To design and operate a water supply for all drought situations would be very expensive. The “5/10/20” rule has been used as the basis for all long-term supply strategies. The “5/10/20 rule may be summarised as follows:

Restrictions on supply will not last, in total, for more than 5% of the time (averaged over a 10–20-year period);

Restrictions on supply will not be necessary more than once in every ten years (on average);

The water supply system will be able to supply 80% of normal demand through any drought event that is as severe as or less severe than the worst ever recorded drought, with this percentage being measured from the point in time when restrictions are first applied.

To minimise the frequency and severity of any water restrictions imposed, the Clarence Valley Council will vigorously encourage water conservation and demand management. Through efficient use of water and the provision of adequate infrastructure the impact of restrictions will be minimised. Future infrastructure provision will be planned based on growth projections and design capacity including the 5/10/20 rule, however additional infrastructure will not be installed until restrictions have been implemented as a direct result of the need for such infrastructure. This maximizes the asset life and allows for demand management the maximum opportunity to delay costly infrastructure provision.

The General Manager has delegated authority to introduce, upgrade or revoke water restrictions as required.

Clarence Valley Council will carefully consider the needs of all consumers before introducing or upgrading water restrictions, especially the needs of those who rely on water for commercial operations and/or where the health and safety of people is concerned.

Clarence Valley Council has worked with water supply authorities across the North Coast to achieve consistent naming for levels of restriction and the current policy is consistent with regional policies. This helps to reduce confusion amongst the consumers of the various water supply authorities.

A variety of communication strategies have been implemented to ensure that all consumers of water are made aware of any restrictions imposed from time to time and to increase the awareness of appropriate water efficiency methods.

5 Implementation procedures

5.1 Permanent water conservation measures

In an effort to promote water efficient measures and in response to community comment permanent water conservation measures were introduced in 2007. This means that the use of sprinklers and unattended hoses is banned permanently between the hours of 9am and 4pm every day when evaporation is at its highest. However, there are no restrictions on handheld hoses or micro-sprays and drippers/sub-surface irrigation.

5.2 Introducing water restrictions

Introduction of water restrictions is linked to the storage remaining in Shannon Creek Dam and other water supply reservoirs. The combined water storage in Karangi & Shannon Creek Dams will be used for trigger levels. The policy enables restrictions to be applied in specific areas if storage reservoirs fall below determined levels. Table 1 indicates the triggers when a level of water restriction is to be introduced, and Table 2 indicates restrictions on water use which apply at each level. Water restrictions will be introduced when these trigger levels are met, AND when Nymboida River flow <225ML/d.

5.3 Restrictions for emergency management and/or maintenance

Localised water restrictions may be introduced at any time to manage situations including but not limited to pump or main failures. In these circumstances, restrictions may be implemented to prevent failure of supply in a localised area. This will be done on a case-by-case basis and restrictions will be as directed by Council.

5.4 Recycled water

There are no restrictions on the use of recycled water during periods of water restriction unless directed by Council.

5.5 Bores

Bores may be used during periods of water restrictions. Properties connected to the Council water supply where bore water is being used should have clearly visible signage to signify that a bore is in use on the property.

5.6 Revoking a level of water restriction

For all areas supplied with reticulated water from Clarence Valley Council, restrictions will be lifted when combined water storage in Karangi & Shannon Creek Dams meets trigger levels (Table 1), AND when Nymboida River flow > 225ML/d for 7 days and turbidity <3.5 NTU for 7 days.

For all other instances - restrictions shall be revoked when the reservoirs are full, or the localised situation is resolved.

Table 1: Water restriction levels, triggers and target demand

Restriction Level	Trigger Combined Shannon Creek & Karangi Dams (% full) ¹	Target reduction in demand (%)	Trigger to lift restrictions— Combined Shannon Creek & Karangi Dams (% full) ²	Target daily demand—CVC (ML/d)
Permanent Water Conservation Measures	N/A	N/A	N/A	16.0 – 19.0
1 Moderate	80%	5-20%	85%	13.0 – 16.0
2 High	65%	20 - 30%	80%	11.5 – 13.0
3 Very High	50%	30 - 40%	65%	10.0 – 11.5
4 Severe	35%	40 - 50%	50%	8.0 – 10.0
Emergency	20%	50 - 60%	35%	6.5 – 8.0

¹ Only introduced when Nymboida River flow <225ML/d

²- Only lifted when Nymboida River flow ≥225ML/d for >7 days and turbidity <3.5 NTU for 7 days.

Table 2: Restrictions on water use that apply to each level

ID	Restriction Type ¹	Level 1: Moderate	Level 2: High	Level 3: Very High	Level 4: Severe	Emergency
Residential and Non-Residential Premises – Indoor Use						
I1	Showers, toilets, taps, washing machines	All users are requested to conserve water wherever possible.	All users are requested to conserve water wherever possible.	All users are requested to conserve water wherever possible.	Essential uses only.	Essential uses only.
Residential Urban and Rural Premises – Outdoor Use						
R1	Watering of established gardens and lawns	<p>Buckets permitted at any time.</p> <p>Hand-held hoses for maximum 1 hour per day before 9am or after 4pm on odd or even days matching house numbering system.</p> <p>Micro-sprays and drippers/sub-surface irrigation for maximum 15 minutes before 9am or after 4pm on odd or even days matching house numbering system.</p> <p>No watering on the 31st of the month.</p> <p>Other irrigation and unattended hoses banned.</p>	<p>Buckets permitted before 9am or after 4pm.</p> <p>Hand-held hoses permitted for maximum 30 minutes per day before 9am or after 4pm on odd or even days matching house numbering system.</p> <p>Micro-sprays and drippers/sub-surface irrigation for maximum 15 minutes before 9am or after 4pm on odd or even days matching house numbering system</p> <p>No watering on the 31st of the month</p> <p>Other irrigation and unattended hoses banned.</p>	<p>Buckets permitted before 9am or after 4pm on odd or even days matching house numbering system.</p> <p>Hand-held hoses permitted for maximum 10 minutes per day before 9am or after 4pm on odd or even days matching house numbering system.</p> <p>Micro-sprays and drippers/sub-surface irrigation for maximum 15 minutes before 9am or after 4pm on odd or even days matching house numbering system</p> <p>No watering on the 31st of the month</p> <p>Other irrigation and unattended hoses banned.</p>	Use of grey water only for garden and lawn watering. All other watering banned.	Not permitted.

ID	Restriction Type ¹	Level 1: Moderate	Level 2: High	Level 3: Very High	Level 4: Severe	Emergency
R2	Watering of new turf, lawn or gardens.	Watering-in permitted for 1 hour only on the day of establishment. Then 1 hour daily before 9.00am and after 4.00pm for 14 days after the date of establishment.	Watering-in permitted for 1 hour only on the day of establishment. Then 30 minutes daily before 9.00am and after 4.00pm for 7 days after the date of establishment.	Watering-in permitted for 30 minutes only on the day of establishment. Then 15 minutes every second day, between 4.00pm and 9.00am on odd or even days matching house numbering system for 7 days after the date of establishment.	Not permitted.	Not permitted.
R3	Swimming pools and spas.	Topping up to maintain filter function permitted before 9.00am and after 4.00pm. Emptying and refilling of existing pools/spas banned. Filling of new registered swimming pools and spas permitted.	Topping up to maintain filter function permitted before 9.00am and after 4.00pm. Emptying and refilling of existing pools/spas banned. Filling of new registered swimming pools and spas only permitted using water from a rainwater tank.	Topping up to maintain filter function permitted before 9.00am and after 4.00pm with council approval. Emptying and refilling of existing pools/spas banned. Filling of new registered swimming pools and spas only permitted using water from a rainwater tank.	Not permitted.	Not permitted.
R4	Water play tools, toys and slides.	Not permitted	Not permitted	Not permitted	Not permitted	Not permitted
R5	Pet care/washing	Provision of drinking water permitted. Washing pets and pet pens with bucket or hand-held hose fitted with an on/off nozzle permitted.	Provision of drinking water permitted. Washing pets and pet pens with bucket or hand-held hose fitted with an on/off nozzle permitted.	Provision of drinking water permitted. Washing pets and pet pens with bucket only. Use of hose not permitted.	Provision of drinking water permitted. Washing pets and pet pens with bucket only. Use of hose not permitted.	Provision of drinking water permitted.

ID	Restriction Type ¹	Level 1: Moderate	Level 2: High	Level 3: Very High	Level 4: Severe	Emergency
R6	Fountains, ponds, water features, outdoor aquaria.	Operation or top up not permitted except to maintain fish life. Installation and filling of new facilities not permitted.	Operation or top up not permitted except to maintain fish life. Installation and filling of new facilities not permitted.	Operation or top up not permitted except to maintain fish life. Installation and filling of new facilities not permitted.	Operation or top up not permitted except to maintain fish life. Installation and filling of new facilities not permitted.	Not permitted.
R7	Washing of driveways, paved areas, roofs, walls, windows and paths.	Permitted prior to sale or lease of property. Not permitted for any other reason except for health and safety. Efficient high pressure, low flow rate cleaners with trigger control are to be used.	Banned except for health and safety reasons. Efficient high pressure, low flow rate cleaners with trigger control are to be used.	Not permitted except for health and safety reasons by registered cleaning businesses only.	Not permitted.	Not permitted.
R8	Car/boat/vehicle washing.	Washing off boats permitted for 10 minutes at a time. Car washing permitted considering: - Buckets or efficient high pressure, low flow rate cleaners with trigger control are to be used if possible. - Where practical runoff should be directed to a lawn and not down the drain.	Washing off boats permitted for 10 minutes at a time. Car washing permitted only using buckets or efficient high pressure, low flow rate cleaners with trigger control or commercial car wash facility.	Washing off boats permitted for 5 minutes at any time. Car washing permitted only using buckets or commercial car wash facility. Use of pressure cleaners and hoses to wash cars is banned.	Washing off boats not permitted. Car washing is allowed with a bucket to clean windows, mirrors, lights, registration plates and spot-removal of corrosive substances only or use of a commercial car wash.	Not permitted.

ID	Restriction Type ¹	Level 1: Moderate	Level 2: High	Level 3: Very High	Level 4: Severe	Emergency
Public Facilities (including Sports Clubs) – Outdoor Use						
P1	Public swimming pools.	No restrictions	Topping up permitted between 4.00pm and 9.00am using hand-held hose fitted with an on/off nozzle. Log of water use required. Emptying and refilling of pools not permitted.	Topping up permitted, if required to reduce structural damage or ensure filter efficiency, between 4.00pm and 9.00am using hand-held hose fitted with an on/off nozzle. Log of water use required. Emptying and refilling of pools not permitted.	Topping up permitted, if required to reduce structural damage or ensure filter efficiency, between 4.00pm and 9.00am using hand-held hose fitted with an on/off nozzle. Log of water use required. Emptying and refilling of pools not permitted.	Not permitted.
P2	Irrigation of sports grounds, playing fields and golf fairways.	Not permitted.	Not permitted.	Not permitted.	Not permitted.	Not permitted.
P3	Cricket pitches, bowling greens and golf greens.	Sprinklers or hand-held hoses permitted 1 hour per day between 5.00pm and 8.00am. Alternative times to be approved by Council.	Sprinklers or hand-held hoses permitted 30 minutes per day between 5.00pm and 8.00am. Alternative times to be approved by Council.	Sprinklers or hand-held hoses permitted 15 minutes per day between 5.00pm and 8.00am. Alternative times to be approved by Council.	Not permitted.	Not permitted.
P4	Public outdoor showers, beach showers and outdoor taps.	Permitted.	Permitted.	Not Permitted.	Not permitted.	Not permitted.
P5	Public gardens, council parks and reserves.	Sprinklers or hand-held hoses permitted 1 hour per day between 5.00pm and 8.00am. Alternative times to be approved by Council.	Sprinklers or hand-held hoses permitted 30 minutes per day between 5.00pm and 8.00am. Alternative times to be approved by Council.	Not permitted.	Not permitted.	Not permitted.

ID	Restriction Type ¹	Level 1: Moderate	Level 2: High	Level 3: Very High	Level 4: Severe	Emergency
Business and Commercial Premises – Outdoor Use						
B1	Swimming pools and spas	Topping up to maintain filter function permitted between 4.00pm and 9.00am. Log of water use required Emptying and refilling of existing pools/spas not permitted. Filling of new registered swimming pools and spas permitted.	Topping up permitted between 4.00pm and 9.00am using hand-held hose fitted with an on/off nozzle. Log of water use required. Emptying and refilling of pools not permitted. Filling of new registered swimming pools and spas permitted using water from a rainwater tank.	Topping up of existing pools/spas permitted if required to reduce structural damage or ensure filter efficiency. Log of water use required. Emptying and refilling of pools not permitted. Filling of new registered swimming pools and spas permitted if required to avoid structural damage or ensure filter efficiency.	Topping up of existing pools/spas permitted if required to reduce structural damage or ensure filter efficiency. Log of water use required. Emptying and refilling of pools not permitted. Filling of new registered swimming pools and spas not permitted.	Not permitted.
B2	Water play facilities, water parks	Operation or top up not permitted unless water is recirculated. Log of water use required.	Operation or top up not permitted unless water is recirculated. Log of water use required.	Operation or top up not permitted unless water is recirculated. Log of water use required.	Not permitted.	Not permitted.
B3	Fountains, ponds, water features, outdoor aquariums	Operation or top up not permitted except to maintain fish life. Installation and filling of new facilities not permitted.	Operation or top up not permitted except to maintain fish life. Installation and filling of new facilities not permitted.	Operation or top up not permitted except to maintain fish life. Installation and filling of new facilities not permitted.	Operation or top up not permitted except to maintain fish life. Installation and filling of new facilities not permitted.	Not permitted.
B4	Watering of established gardens and lawns.	Sprinklers permitted 1 hour per day between 5.00pm and 7.00am. Council approval required for alternative times.	Not permitted.	Not permitted.	Not permitted.	Not permitted.

ID	Restriction Type ¹	Level 1: Moderate	Level 2: High	Level 3: Very High	Level 4: Severe	Emergency
B5	Watering of new turf, lawns and gardens.	Watering-in permitted for 1 hour only on the day of establishment. Then 1 hour daily between 4.00pm and 9.00am for 14 days after the date of establishment.	Watering-in permitted for 1 hour only on the day of establishment. Then 30 minutes daily between 4.00pm and 9.00am for 7 days after the date of establishment.	Watering-in permitted for 30 minutes only on the day of establishment. Then 15 minutes every second day, between 4.00pm and 9.00am for 7 days after the date of establishment.	Not permitted.	Not permitted.
B6	Pet care, animal husbandry.	Provision of drinking water permitted. Washing animals with bucket or hand-held hose fitted with an on/off nozzle permitted before 9.00am and after 4.00pm. Cleaning of pens with high pressure cleaning unit permitted.	Provision of drinking water permitted. Washing animals with bucket or hand-held hose fitted with an on/off nozzle permitted between 4.00pm and 9.00am. Cleaning of pens with high pressure cleaning unit permitted.	Provision of drinking water permitted. Washing animals with bucket or hand-held hose fitted with an on/off nozzle permitted between 4.00pm and 9.00am. Cleaning of pens with high pressure cleaning unit permitted.	Provision of drinking water permitted. Washing animals with bucket or hand-held hose fitted with an on/off nozzle permitted between 4.00pm and 9.00am. Cleaning of pens with high pressure cleaning unit permitted.	Provision of drinking water permitted.
B7	Washing of buses, taxis, food transport, emergency services, garbage vehicles, construction vehicles, livestock transport vehicles and commercial car wash.	Efficient high pressure, low flow rate cleaners with trigger control are to be used. Log of water use required.	Efficient high pressure, low flow rate cleaners with trigger control are to be used. Log of water use required.	Buckets and efficient high pressure, low flow rate cleaners with trigger control permitted every second day between 6.00am and 8.00am. Log of water use required.	Permitted only with approval from Council.	Not permitted.

ID	Restriction Type ¹	Level 1: Moderate	Level 2: High	Level 3: Very High	Level 4: Severe	Emergency
B8	Motor vehicle dealers, car detailing/rep air.	Efficient high pressure, low flow rate cleaners with trigger control are to be used. Log of water use required.	Buckets and efficient high pressure, low flow rate cleaners with trigger control permitted every second day between 6.00am and 8.00am. Log of water use required.	Buckets and efficient high pressure, low flow rate cleaners with trigger control permitted every second day between 6.00am and 8.00am. Log of water use required.	Not permitted.	Not permitted.
B9	Washing of driveways, paved areas, rooves, walls and paths.	Permitted prior to sale or lease of property only with approval from your local council. Not permitted for any other reason except for health and safety. Efficient high pressure, low flow rate cleaners with trigger control are to be used.	Not permitted except for health and safety reasons. Efficient high pressure, low flow rate cleaners with trigger control are to be used.	Not permitted except for health and safety reasons by registered cleaning businesses only.	Not permitted.	Not permitted.
B10	Window cleaning.	Buckets permitted at any time. Hand-held hoses or high-pressure cleaners not permitted.	Buckets permitted at any time. Hand-held hoses or high-pressure cleaners not permitted.	Buckets permitted at any time. Hand-held hoses or high-pressure cleaners not permitted.	Buckets permitted at any time. Hand-held hoses or high-pressure cleaners not permitted.	Not permitted.
B11	Road works and land development .	Permitted for compaction and dust suppression only.	Permitted for essential compaction and dust suppression only. Encourage use of non-potable supplies.	Permitted for essential compaction and dust suppression only. Encourage use of non-potable supplies.	Permitted for essential compaction and dust suppression only. Encourage use of non-potable supplies.	Not permitted.
B12	Cleaning of construction sites.	Efficient high pressure, low flow rate cleaners with trigger control are to be used.	Efficient high pressure, low flow rate cleaners with trigger control are to be used.	Efficient high pressure, low flow rate cleaners with trigger control are to be used.	Efficient high pressure, low flow rate cleaners with trigger control are to be used.	Not permitted.

ID	Restriction Type ¹	Level 1: Moderate	Level 2: High	Level 3: Very High	Level 4: Severe	Emergency
B13	Market gardens, orchards, nurseries, commercial flower gardens, turf farms.	Sprinklers or sprays permitted 2 hours per day between 5pm and 8am. Alternative times to be approved by your local council.	Sprinklers or sprays permitted 1 hour per day between 5.00am and 8.00am and/or 5.00pm and 7.00pm. Council approval required for alternative times.	Sprinklers or sprays permitted 30 minutes per day between 5.00am and 8.00am and/or 5.00pm and 7.00pm. Council approval required for alternative times.	Sprinklers or sprays permitted 30 minutes per day between 5.00am and 7.00am and/or 5.00pm and 7.00pm. Council approval required for alternative times.	Not permitted.
All Non-Residential Uses						
N1	All non-residential potable water use	All users are required to conserve water in accordance with the Level 1 water saving measures.	All users are required to conserve water in accordance with the Level 2 water saving measures. Drought Water Management Plan to be prepared.	Consumption in accordance with approved Drought Water Management Plan only.	Consumption in accordance with approved Drought Water Management Plan only.	Not permitted.

6 Reviewing what is restricted at particular levels

The General Manager may, at any time, review what activities are restricted at particular levels. Such reviews are to be based on:

- Technical data provided by staff and any external authorities;
- Feedback from consumers, both directly and through staff who deal with customer enquiries;
- Restrictions imposed at various levels by nearby water supply authorities;
- Licensing or other requirements set down by the State Government and/or its authorities;
- Any other relevant information.

7 Communication strategies

The Communication Plan (as a component of the Clarence Valley Council Drought Management Plan) provides a detailed action plan to prepare and implement communication actions during drought restrictions.

8 Dealing with breaches of water restrictions

Breaching water restrictions is an offence under Section 637 of the Local Government Act. Action may be undertaken against consumers who are detected breaching water restrictions in accordance with Council's Enforcement Policy.

9 Resourcing activities associated with water restrictions

The General Manager will allocate sufficient skilled personnel and other resources to ensure that all procedures are carried out in a timely and professional manner.



Policy

Complaints Management

Responsible Manager (Title)	Director Corporate & Governance		
Adopted by Council	Date: 25 May 2021	Minute Number:	
File Reference Number	ECM:	Version: 5.0	Review Due: September 2025
Document(s) this policy Supersedes	Complaints management V4.0		
Community Plan Linkage	5 Leadership		
	5.2 We will have an effective and efficient organisation		
	5.2.3 Fosters an organisational culture focused on customer service excellence, innovation and continuous improvement		

1 Purpose

This policy aims to ensure that:

- The community's right to comment is protected and promoted.
- All complaints are addressed in a timely and effective manner.
- Information that can assist in improving the Council is captured in a systematic way, allowing corrective actions to be taken when necessary.
- The community's satisfaction with Council services is increased and in turn contributes to the satisfaction of staff.

2 Scope and responsibilities

The policy applies to all Councillors, Council Officers and delegates, irrespective of whether they are usually customer-facing in their roles. It also applies to members of the public, other agencies, service providers, and community organisations.

The General Manager, Directors and/or other Designated Officers are responsible for investigating complaints, determining outcomes, and recommending appropriate remedial action where necessary.

All complaints about Council Officers will be determined by the procedures in this policy.

The General Manager or Director Corporate & Governance is responsible for addressing with serious or difficult complaints which have been escalated to them as per the provisions of this policy.

Commented [BG1]: Note expansion. This previously stated:

To ensure quality customer service to the community and to ensure all complaints are handled fairly, promptly, respectfully and confidentially across the organisation to achieve a resolution.



3 Definitions

3.1 What is a complaint?

A **complaint** is an expression of dissatisfaction with Council's policies, procedures, charges, employees, agents, or the quality of service provided.

A **competitive neutrality complaint** (as defined by the Office of Local Government's 'Pricing and Costing for Council Businesses: A Guide to Competitive Neutrality' and discussed in Council's 'Competitive Neutrality Policy') is:

- a. A complaint that Council has not met its requirements under the NSW Government's 'Pricing and Costing for Council Businesses: A Guide to Competitive Neutrality'. This includes a concern that Council has not established an effective complaints-handling mechanism in relation to such complaints, or
- b. A complaint that Council has not abided by the spirit of competitive neutrality in the conduct of a business activity.

A competitive neutrality complaint is not:

- i. A complaint regarding the level of service provided by a business activity,
- ii. A complaint regarding the cost of the service, unless it is that Council has not costed its service to take competitive neutrality into account,
- iii. A complaint regarding the trade practices laws and their application to councils.

3.2 Exceptions under specific instruments

This policy does not apply where there is specific legislation for addressing particular types of complaints.

For example:

- The making of a Public Interest Disclosure under the *Public Interest Disclosures Act 1994*
- The making of applications for internal review of alleged breaches of privacy under the *Privacy and Personal Information Protection and GIPA Act 1998*
- The making of applications for access to information under the *Government Information (Public Access) Act 2009* (GIPA Act) and associated legislation.

Information about the above procedures is available from Council's website, or at Council's Customer Service Centres.

3.3 What is not a complaint?

A request for a service or for information about a service is not a complaint. However, a request for service or information may escalate into a complaint if action is not taken within designated timeframes or is undertaken in an unprofessional or substandard manner.

An objection to a Development Application (DA) or a submission made to Council in response to a call for public comment is not a complaint.

Commented [BG2]: This has been given its own section and comes *after* the legislatively more important PIDs and actions under PPIP



An expression of concern for service levels that are the result of limits set by Council policy, and not the result of organisational or mechanical breakdown, is not a complaint but rather a customer request.

3.4 Other definitions

A **day** means a business day.

The **Designated Officer** is the staff member who is responsible for the area of Council activity to which the complaint relates, or the staff member to whom the complaint is referred for resolution by the General Manager, Director or Manager. If a complaint relates to the conduct of a staff member, then that staff member shall not be the Designated Officer.

A **substantial response** is a response which advises:

- a. the action that Council has or will take in relation to a complaint together with the timeframe within which that action will occur, or
- b. the reasons why Council is unable to take action in relation to the complaint, or
- c. that the complaint has been referred to an external body and the reasons for that referral.

An **unreasonable complaint** is one that has been assessed as being made with the intention to annoy or disrupt the processes of Council, without substantial basis. This type of complaint requires investigation before being dismissed.

Unreasonable complainant conduct (UCC) is any behaviour by a current or former complainant which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for our organisation, our staff, other service users and complainants or, in the assessment of the Designated Officer, the complainant themselves.

UCC can be divided into five categories of conduct:

- Unreasonable persistence
- Unreasonable demands
- Unreasonable lack of cooperation
- Unreasonable arguments
- Unreasonable behaviours

Definitions of these types of conduct, the associated policy and implementation are contained in Council's 'Unreasonable Complainant Conduct Policy' adopted by Council 26 May 2020 and Council's 'Unreasonable Complainant Conduct Procedure' adopted 25 May 2020.

4 Background/legislative requirements

Customer service excellence is identified in Council's 2027 Community Strategic Plan as a core principle informing all Council operations. An effective complaints management system makes a significant contribution to customer service excellence.

Council is the first point of contact for any complaint; however, some complaints are of such a serious nature that they are governed by agencies outside or liaising with Council.

Commented [BG3]: New section—please note:

- Change from 'calendar day' to 'business day';
- Change from 'vexatious complainant' to 'unreasonable complainant' and 'unreasonable complainant conduct' as per the Ombudsman and the CVC UCC Procedure.



Akin to all areas of local government operations, complaints management is governed by a system of overlapping legislative instruments, regulations and agencies, all of which have informed the development of this policy. Central to this system of governance are:

- The NSW Office of Local Government (OLG): The OLG can assume responsibility for complaints about pecuniary interest, Councillor misconduct, public interest disclosures ('whistleblowing') allegations of corruption under Section 53 of the *Local Government Act 1993* and special investigations under Section 430 of the same Act.
- The Information and Privacy Commission (IPC): The IPC has principal responsibility for the operation of the *Government Information (Public Access) Act 2009* (GIPA Act) the *Government Information (Public Access) Regulation 2018* (GIPA Regulation); the *Privacy and Personal Information Protection Act 1998* (PPIP Act) and the *Public Interest Disclosures Act 1994* (PID Act). In this role it provides extensive information about these instruments.
- The NSW Ombudsman: Ombudsman NSW investigates complaints for all government agencies in NSW including local government. It also provides extensive information and guidance for agencies about complaints procedures, including managing unreasonable complainant conduct.
- The Independent Commission Against Corruption (ICAC): ICAC examines corruption in NSW public sector agencies in NSW, including local government.

In all instances these agencies work with each other and with Council to conduct preliminary inquiries and investigations. This reinforces the point that for any complaint about Council, Council itself should be the first agency contacted.

5 Policy statement

This policy recognises Council's commitment to quality service delivery to the community and to the prompt resolution of complaints that arise as part of the process of continuous service improvement.

Council recognises that customer feedback is welcome and that customers are entitled to have complaints heard and actioned fairly, respectfully, and with complete confidentiality.

In order to achieve the objectives of the policy, Council will:

- Provide customers with information concerning Council's Complaints Management Policy.
- Inform customers of the options available and the avenues of review if they are not satisfied with the outcome or decision following investigations into their complaint.
- Ensure that the lodging of a complaint is simple and reliable and instils confidence in the customer that all complaints are handled promptly, fairly and confidentially.
- Ensure complaints are responded to quickly. If a speedy resolution is not possible, then a response indicating the process to be undertaken and an estimate of the time frame will be provided to the complainant.
- Ensure staff understand their obligations and the procedures to follow when a complaint is received.
- Provide a framework for reporting on complaints received to ensure the continual improvement of services, systems and staff skills.



This policy recognises that as a result of information gathered from the complaints management system, it may be necessary to redesign products and services, review procedures and policies, reassess staff training priorities, or review or identify customer information needs such as newsletters, pamphlets or website content.

Council may choose from a number of options in order to resolve a complaint. Options may include, but are not limited to, an explanation of policies or procedures or why particular action was or was not taken, an apology; a change of decision; changes to the relevant policy or procedure; financial compensation (including an *ex gratia* payment); repair or replacement; technical assistance; or the waiver of debt.

Should a complaint remain unresolved at the completion of the investigation, or if the complainant is not satisfied with the resolution offered, the complainant is entitled to refer the matter to an external organisation for review. This is addressed under 6.4 Other referrals (please see below).

Public awareness of this policy is a vital component of Council's commitment to customer service. Council will provide clear explanatory material on this policy, including brochures, web notification and a complaint form available online.

Complainants are encouraged to submit complaints in writing, either by letter or email. Correspondence should be clearly marked 'complaint' before specifying the nature of the customer's concerns.

6 Procedure

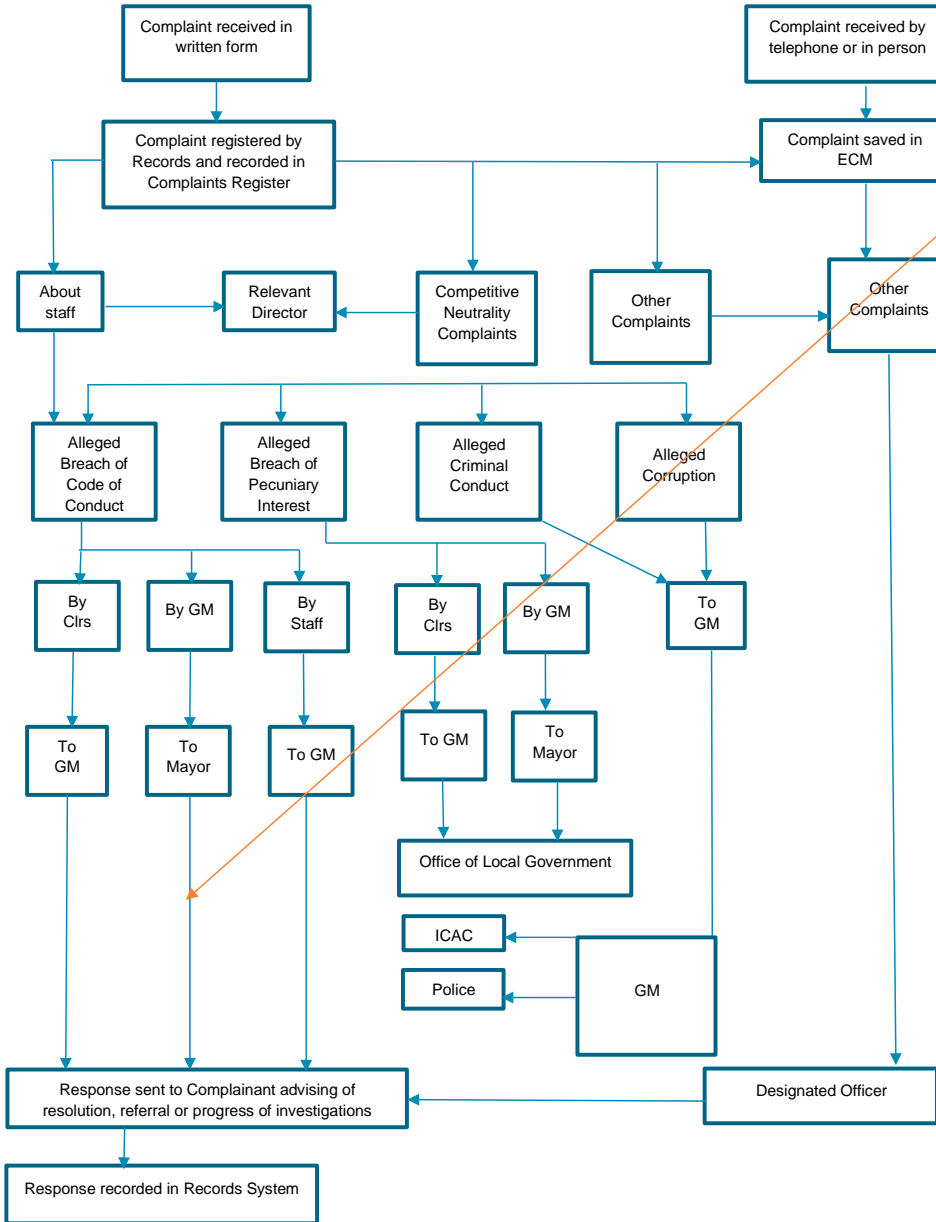
The procedure for addressing complaints is shown in the Complaints Management Flowchart and described below.

Commented [BG4]: Revised.



Complaints management flowchart

Commented [BG5]: Previous diagram included a 'Conduct Committee' as per arrow. Diagram moved up to centre of document; no longer at the end (and therefore neglected).





6.1 Submitting, receiving, and acknowledging a complaint

Complaints may be lodged in any manner with Council. Verbal complaints may be lodged by phone (**telephone 02 6643 0200**), or over the counter during normal work hours. However, verbal complaints may require written follow up to provide further details which will permit investigation and resolution in accordance with this policy. In particular, Council will require any complaint that questions the integrity or performance of any staff member or Councillor to be made in writing.

Written complaints should be sent to Council by surface mail (**Locked Bag 23, Grafton 2460**) or by email (**council@clarence.nsw.gov.au**). Alternatively, they can be delivered over the counter during Council office hours—generally 8.30 am to 4.30 pm.

If the complaint is received in writing, Council shall acknowledge receipt of the complaint and advise the complainant of the name of the intended Designated Officer.

Where possible, telephone complaints will be resolved by the Designated Officer on the day on which they are received. However, if the complaint concerns the conduct of a staff member, the complaint should be requested to be made in writing after which, it shall be referred to the relevant Director or General Manager.

The Designated Officer will respond substantially to any complaint (other than a competitive neutrality complaint) within 21 days after it is received.

If it is not possible to respond substantially to a complaint within that time, the Designated Officer shall forward an acknowledgement letter to the complainant within that time period advising that the complaint is being investigated and that a response will be forwarded within a further 28 days.

If the investigation into the complaint is ongoing beyond this period, the complainant must be kept informed of the likely timeframe for resolution and be promptly advised following completion of the investigation.

If the complaint (other than a competitive neutrality complaint) cannot be resolved by Council within the time periods noted in 6.1.5 (above) then the relevant Manager shall advise the complainant of external avenues for review as noted in the policy statement (above).

6.2 Special cases

6.2.1 Complaints against Councillors, the General Manager and Council Officers

Commented [BG6]: Highlighted/specified.

If a complaint is received relating to:

- a. A Councillor, it is to be referred as soon as possible to the General Manager
- b. The General Manager, it is to be referred to the Mayor and handled in accordance with the General Manager's contractual arrangements with Council and the provisions of specific legislation as described above, if applicable, or:
- c. A member of staff (other than the General Manager), it is to be:
 - (i) Referred to the relevant Director or Manager (or if it relates to a Director, to the General Manager), unless the complaint alleges a breach of the Code of Conduct by that member of staff, in which case it is to be referred directly to the General Manager,
 - (ii) Handled in accordance with Council policy and Human Resource agreements.
 - (ii) No complaint about the conduct or performance of a member of staff shall be either investigated or responded to by that member of staff.



6.2.2 Complaints alleging illegal activity

Commented [BG7]: Highlighted/specified.

Notwithstanding 6.2.1, if a complaint alleges:

- a. Breaches of pecuniary interest under the *Local Government Act*, the complaint is to be referred to the General Manager (unless the complaint relates to the General Manager, in which event it will be referred to the Mayor) who will investigate and, if necessary, refer the complaint to the Office of Local Government, with the complainant identified and, where appropriate, the complaint verified by statutory declaration.
- b. Criminal actions, then the matter is to be referred immediately to the General Manager (unless the complaint relates to the General Manager, in which event it will be referred to the Mayor), who will refer the matter to the Police where it is appropriate to do so (this may require formal legal advice from Council's solicitors before proceeding), or
- c. Corruption, it is to be referred immediately to the General Manager for investigation and, where appropriate, for action under the Independent Commission Against Corruption (ICAC)¹.

NOTE: If the General Manager or Mayor are unavailable and/or the complaint involves both the General Manager and Mayor, then the complaint should be made to Council's Public Officer who will become the Designated Officer.

6.2.3 Anonymous complaints

Council will only investigate anonymous complaints if:

- a. The General Manager or their delegate considers that a particular complaint warrants investigation, and:
- b. Convincing reasons are given by the complainant for the complainant to remain anonymous. An anonymous complaint may still be investigated if it is considered to have some substance, is of reasonable seriousness, and if sufficient information is provided to undertake an investigation.

6.2.4 Protected disclosures

Where a complaint is a protected disclosure in accordance with the *Protected Disclosures Act*, then the complaint shall be dealt with in accordance with Council's internal reporting processes and the complainant shall be entitled to the protections offered by that Act.

¹ ICAC Act defines corrupt conduct as dishonest or partial exercise of an official function by a public official. It must involve:

- a. a criminal offence under NSW law or any other law which could apply in the particular circumstances, or
- b. a disciplinary offence which could lead to disciplinary action under any law including regulations, or
- c. reasonable grounds to dismiss or terminate the services of a public official.

The Act requires Council's General Manager to report suspected cases of corrupt conduct to ICAC.



6.2.5 Complaints about privacy breaches

Where a person seeks an internal review by Council of:

- a. a breach of an information protection principle applying to the Council,
- b. a breach of the Privacy Code of Practice for Local Government, or
- c. disclosure of personal information held on a public register in a manner inconsistent with that permitted under the Privacy Code of Practice for Local Government—

Council shall conduct the review in accordance with its Privacy Management Plan.

6.2.6 Procedure where a complaint relates to another agency

Where Council is clearly not responsible for handling the complaint and another identifiable agency is, or the appropriate alternative is through the Courts, then the Designated Officer shall so advise the complainant, verbally if the complaint is verbal or otherwise in writing as soon as practicable, which if at all possible, shall be within 14 days after the receipt of the complaint.

6.3 Review

If after receiving a response from Council a complainant remains dissatisfied after receiving a response from a Designated Officer, the complainant may make a written request to have the complaint investigated by the Responsible Manager or, if the Responsible Manager is the Designated Officer the relevant Director.

6.4 Alternative resolution procedures

At any time while a complaint is under consideration, the General Manager may elect, if considered appropriate and with the consent of the complainant, to refer it to conciliation or mediation by Council Officers or externally by a neutral third party. This can include a referral to the relevant state agency, or 'Other Referral'.

Commented [BG8]: Changed—gives GM more flexibility.

6.5 Confidentiality

Council shall not release any personal details of complainants unless:

- a. The identity of the complainant has already been disclosed in a publicly available document, or
- b. The complaint is clearly malicious or not made in good faith, or is, in Council's opinion, unreasonable or frivolous, or
- c. The complaint is an objection to a building or Development Application and the complainant has not requested that his/her identity remain confidential, or
- d. Council is required by law (e.g. via subpoena) to release the information available, or
- e. The complaint is referred to an external agency, in which event Council will provide the external agency with details of the complainant's identity, or
- f. The complainant agrees to Council releasing their personal information.

6.6 Limits to Council response

Notwithstanding anything contained in this policy, in accordance with Council's Unreasonable Complainant Policy and the associated Unreasonable Complainant Procedure, the General Manager or the Director



Corporate & Governance may limit contact or terminate telephone calls with a member of the public who is abusive, threatening, harassing, persistently intimidating or defamatory of staff, or who persistently continues to pursue complaints that Council has fully dealt with (unless new substantive issues are raised).

If a Designated Officer arrives at an evidence-based assessment that a complaint is unreasonable/and or a complainant is being unreasonable, the Director Corporate & Governance, or their delegated authority will be advised. The complainant will be advised of this assessment and of the reasons for this. From this decision, Council's 'Unreasonable Complainant Policy' and the associated 'Unreasonable Complainant Procedure' are then used to guide the interactions between Council and the complainant.

6.7 Unreasonable Complainants Register

Commented [BG9]: Register now incorporated.

In order to more effectively manage potential negative impact upon Council of both unreasonable complaints and unreasonable complainants (as defined in Section 3) an 'Unreasonable Complainants Register' will be kept. The register provides an efficient reference point for members of the Customer Service Team and the Executive to document and manage unreasonable complaints and unreasonable complainant conduct. The Governance Officer has designated responsibility for managing the register, in consultation with the Team Leader, Customer Service.

An evidence-based case must be provided for all entries on the register, referring to the definitions of an unreasonable complaint and/or unreasonable complainant conduct in Section 3 of this policy and as stipulated in Council's Unreasonable Complainant Conduct Procedure. In managing the register, all Council Officers must be mindful of timeframes and of addressing the core concerns of complainants.

6.8 Reporting

Council will report on its Complaints Management in its Annual Report.

7 Council's supporting Documents and Policies

This policy is compliant with and supported by the following Council documents:

- Clarence Valley Council Access to Council Documents Policy
- Clarence Valley Council Code of Conduct
- Clarence Valley Council Competitive Neutrality Policy
- Clarence Valley Council Customer Service Policy
- Clarence Valley Council Employee Assistance Program
- Clarence Valley Council Privacy Management Plan
- Clarence Valley Council Unreasonable Complainant Policy
- Clarence Valley Council Unreasonable Complainant Procedure
- Clarence Valley Council Work Health and Safety Policy

8 Appeal/objections process

Commented [BG10]: This section and Attachment A are new.

In order for Clarence Valley Council to ensure that all complaints are dealt with fairly, efficiently and effectively and that occupational health and safety standards and duty of care obligations are adhered to, Appendix A: 'Individual Rights and Responsibilities of the Parties to a Complaint', must be observed and respected by all of the parties to the complaint process.



This Appendix is also included in Council's Unreasonable Complainant Conduct Policy.

9 Attachments

Appendix A: 'Individual Rights and Responsibilities of the Parties to a Complaint'.



Appendix A: Individual Rights and Mutual Responsibilities of the Parties to a Complaint²

In order for Clarence Valley Council to ensure that all complaints are dealt with fairly, efficiently and effectively and that occupational health and safety standards and duty of care obligations are adhered to, Council notes that the following rights and responsibilities must be observed and respected by all of the parties to the complaint process.

Individual rights¹

a) Complainants have the right:

- to make a complaint and to express their opinions in ways that are reasonable, lawful and appropriateⁱ
- to a reasonable explanation of the organisation's complaints procedure, including details of the confidentiality and/or privacy rights or obligations that may apply
- to a fair and impartial assessment and, where appropriate, investigation of their complaint based on the merits of the caseⁱⁱⁱ
- to a fair hearing^{iv}
- to a timely response
- to be informed in at least general terms about the actions taken and outcome of their complaint^v
- to be given reasons that explain decisions affecting them
- to at least one right of review of the decision on the complaint^{vi}
- to be treated with courtesy and respect
- to communicate valid concerns and views without fear of reprisal or other unreasonable response^{vii}

b) Staff have the right:

- to determine whether, and if so how, a complaint will be dealt with
- to finalise matters on the basis of outcomes they consider to be satisfactory in the circumstances^{viii}
- to expect honesty, cooperation and reasonable assistance from complainants
- to expect honesty, cooperation and reasonable assistance from organisations and people within jurisdiction who are the subject of a complaint
- to be treated with courtesy and respect
- to a safe and healthy working environment^{ix}
- to modify, curtail or decline service (if appropriate) in response to unacceptable behaviour by a complainant.^x

c) Subjects of a complaint have the right:

- to a fair and impartial assessment and, where appropriate, investigation of the allegations made against them
- to be treated with courtesy and respect by staff of the *Clarence Valley Council*
- to be informed (at an appropriate time) about the substance of the allegations made against them that are being investigated^{xi}
- to be informed about the substance of any proposed adverse comment or decision

² Ombudsman NSW (2013). Unreasonable Complainant Conduct Model Policy, available at < <https://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/managing-unreasonable-complainant-conduct-a-model-policy-and-procedure> >. Accessed 4 March 2021. The NSW Ombudsman's Unreasonable Complainant Model Policy should be read as informed by the Ombudsman's (2020) Managing Unreasonable Conduct by a Complainant Workbook, available at < <https://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/unreasonable-complainant-conduct-manual-2012> >.



- to be given a reasonable opportunity to put their case during the course of any investigation and before any final decision is made^{xii}
- to be told the outcome of any investigation into allegations about their conduct, including the reasons for any decision or recommendation that may be detrimental to them
- to be protected from harassment by disgruntled complainants acting unreasonably.

Mutual responsibilities

a) Complainants are responsible for:

- treating staff of Council with courtesy and respect
- clearly identifying to the best of their ability the issues of complaint, or asking for help from Council staff to assist them in doing so
- providing to the best of their ability, all the relevant information available to them at the time of making the complaint
- being honest in all communications with the Council
- informing Council of any other action they have taken in relation to their complaint^{xiii}
- cooperating with staff who are assigned responsibilities to assess/investigate/ resolve/determine or otherwise deal with their complaint.

If complainants do not meet their responsibilities, Council may consider placing limitations or conditions on their ability to communicate with staff or access certain services.

Council has a zero tolerance policy in relation to any harm, abuse or threats directed towards its staff. Any conduct of this kind may result in a refusal to take any further action on a complaint or to have further dealings with the complainant.^{xiv} Any such conduct of a criminal nature will be reported to police and in certain cases legal action may also be considered.

b) Staff are responsible for:

- providing reasonable assistance to complainants who need help to make a complaint and, where appropriate, during the complaint process
- dealing with all complaints, complainants and people or organisations the subject of complaint professionally, fairly and impartially
- giving complainants or their advocates a reasonable opportunity to explain their complaint, subject to the circumstances of the case and the conduct of the complainant
- giving people or organisations the subject of complaint a reasonable opportunity to put their case during the course of any investigation and before any final decision is made^{xv}
- informing people or organisations the subject of investigation, at an appropriate time, about the substance of the allegations made against them^{xvi} and the substance of any proposed adverse comment or decision that they may need to answer or address^{xvii}
- keeping complainants informed of the actions taken and the outcome of their complaints^{xviii}
- giving complainants reasons that are clear and appropriate to their circumstances and adequately explaining the basis of any decisions that affect them
- treating complainants and any people the subject of complaint with courtesy and respect at all times and in all circumstances
- taking all reasonable and practical steps to ensure that complainants^{xix} are not subjected to any detrimental action in reprisal for making their complaint^{xx}
- giving adequate warning of the consequences of unacceptable behaviour.

c) Subjects of a complaint are responsible for:

- cooperating with the staff of Council who are assigned to handle the complaint, particularly where they are exercising a lawful power in relation to a person or body within their jurisdiction^{xxi}



- providing all relevant information in their possession to Council or its authorised staff when required to do so by a properly authorised direction or notice
- being honest in all communications with Council and its staff
- treating Council staff with courtesy and respect at all times and in all circumstances
- refraining from taking any detrimental action against the complainant^{xxii} in reprisal for them making the complaint.^{xxiii}

If a subject or subjects of a complaint fail to comply with these responsibilities, action may be taken in accordance with any breaches of Council's Codes of Conduct.

d) Council is responsible for:

- having an appropriate and effective complaint handling system in place for receiving, assessing, handling, recording and reviewing complaints
- decisions about how all complaints will be dealt with
- ensuring that all complaints are dealt with professionally, fairly and impartially^{xxiv}
- ensuring that staff treat all parties to a complaint with courtesy and respect
- ensuring that the assessment and any inquiry into the investigation of a complaint is based on sound reasoning and logically probative information and evidence
- finalising complaints on the basis of outcomes that the organisation, or its responsible staff, consider to be satisfactory in the circumstances^{xxv}
- implementing reasonable and appropriate policies/procedures/practices to ensure that complainants^{xxvi} are not subjected to any detrimental action in reprisal for making a complaint^{xxvii}, including maintaining separate complaint files and other operational files relating to the issues raised by individuals who make complaints
- giving adequate consideration to any confidentiality and/or privacy obligations or responsibilities that may arise in the handling of complaints and the conduct of investigations.

ENDNOTES

- ⁱ The word 'rights' is not used here in the sense of legally enforceable rights (although some are), but in the sense of guarantees of certain standards of service and behaviour that a complaint handling system should be designed to provide to each of the parties to a complaint.
- ⁱⁱ Differences of opinion are normal: people perceive things differently, feel things differently and want different things. People have a right to their own opinions, provided those opinions are expressed in acceptable terms and in appropriate forums.
- ⁱⁱⁱ While degrees of independence will vary between complaint handlers, all should assess complaints fairly and as impartially as possible, based on a documented process and the merits of the case.
- ^{iv} The 'right to be heard' refers to the opportunity to put a case to the complaint handler/decision-maker. This right can be modified, curtailed or lost due to unacceptable behaviour, and is subject to the complaint handler's right to determine how a complaint will be dealt with.
- ^v Provided this will not prejudice on-going or reasonably anticipated investigations or disciplinary/criminal proceedings.
- ^{vi} Such a right of review can be provided internally to the organisation, for example by a person not connected to the original decision.
- ^{vii} Provided the concerns are communicated in the ways set out in relevant legislation, policies and/or procedures established for the making of such complaints/allegations/disclosures/etc.
- ^{viii} Some complaints cannot be resolved to the complainant's satisfaction, whether due to unreasonable expectations or the particular facts and circumstances of the complaint [see also Endnote 25].
- ^{ix} See for example WH&S laws and the common law duty of care on employers.
- ^x Unacceptable behaviour includes verbal and physical abuse, intimidation, threats, etc.
- ^{xi} Other than where there is an overriding public interest in curtailing the right, for example where to do so could reasonably create a serious risk to personal safety, to significant public funds, or to the integrity of an investigation into a serious issue. Any such notifications or opportunities should be given as required by law or may be timed so as not to prejudice that or any related investigation.
- ^{xii} Depending on the circumstances of the case and the seriousness of the possible outcomes for the person concerned, a reasonable opportunity to put their case, or to show cause, might involve a face to face discussion, a written submission, a hearing before the investigator or decision maker, or any combination of the above.
- ^{xiii} For example whether they have made a similar complaint to another relevant person or body or have relevant legal proceedings at foot.
- ^{xiv} Other than in circumstances where the organisation is obliged to have an ongoing relationship with the complainant.



- xv See Endnote 11.
- xvi Other than where an allegation is so lacking in merit that it can be dismissed at the outset.
- xvii See Endnote 11
- xviii See Endnote 5
- xx 'Complainants' include whistleblowers/people who make internal disclosures.
- xx 'Complaints' includes disclosures made by whistleblowers/people who make internal disclosures.
- xxi This does not include any obligation to incriminate themselves in relation to criminal or disciplinary proceedings, unless otherwise provided by statute.
- xxii See Endnote 19
- xxiii See Endnote 20
- xxiv See Endnote 2
- xxv Once made, complaints are effectively 'owned' by the complaint handler who is entitled to decide (subject to any statutory provisions that may apply) whether, and if so how, each complaint will be dealt with, who will be the case officer/investigator/decision-maker/etc., the resources and priority given to actioning the matter, the powers that will be exercised, the methodology used, the outcome of the matter, etc. Outcomes arising out of a complaint may be considered by the complaint handler to be satisfactory whether or not the complainants, any subjects of complaint or the organisation concerned agrees with or is satisfied with that outcome.
- xxvi See Endnote 19
- xxvii See Endnote 20