

Records Management Policy & Procedure for Councillors

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Objective

This document has been specifically developed to assist Councillors to meet their recordkeeping responsibilities. Council staff members should refer to Council's *Records Management Policy* and *Records Management Procedures* for assistance in meeting their record keeping responsibilities

1. Policy statement

The purpose of this document is to ensure that full and accurate records (see Appendix C: Glossary) of the activities and decisions of the Councillors, in the course of their official duties for Council, are created, managed and disposed of appropriately to meet the Council's organisational needs and accountability requirements.

A record management program (see Appendix C: Glossary) has been established by Council in accordance with section 12(2) of the *State Records Act 1998*. This document provides part of the framework for that program. More information on the records management program is available in Council's *Records Management Policy*.

1 Purpose, scope, authority and application of this document

1.1 Purpose of this document

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1.2 Scope of this document

This document has been specifically developed to assist Councillors to meet their recordkeeping responsibilities. Council staff members should refer to Council's *Records Management Policy* and *Records Management Procedures* for assistance in meeting their record keeping responsibilities.

1.3 Authority of this document

This document has been adopted by the Council by formal minute based on the Director, Governance & Financial Services' report and recommendations. It has been

developed in consultation with Councillors and will be revised on a regular basis. Ownership of the policy and procedures rests with the Director, Governance & Financial Services who is responsible for reporting to State Records NSW regarding compliance with legislative requirements and recordkeeping standards.

1.3 Application of this document

All Councillors must comply with this document in their conduct of official business for Council. Official business includes business relevant to the performance of the function and duties of the office of Councillor. This document applies to records in all formats, including electronic records.

2 State records

2.1 Some Councillors' records are State records

Public offices are bound by the *State Records Act 1998* which establishes rules for best practice for recordkeeping in NSW Government, encouraging transparency and accountability. Councils are identified as public offices under the Act (section 3(1)). When discharging functions of Council, Councillors are subject to the State Records Act when they create or receive 'State records'.

A State record is 'any record made and kept or received and kept, by any person in the course of the exercise of official functions in a public office, or for any purpose of a public office, or for the use of a public office' (section 3(1)).

2.2 Examples of State records

Examples of State records include (but are not limited to):

- correspondence, including emails, regarding building and development matters
- a petition received from a community group
- declarations concerning a Councillor's pecuniary interests
- speech notes made for addresses given at official Council events, and
- complaints, suggestions or enquiries by rate payers about Council services.

2.3 Examples of records that are not State records

Conversely, records which are created, sent or received by Councillors when they are **not** discharging functions of Council are **not** considered to be State records for the purposes of the *State Records Act 1998*.

Examples of records that are not State records include (but are not limited to):

- records relating to political or electoral issues e.g. lobbying for votes, supportive emails from members of the community regarding elections or political stances

- communications regarding matters of personal/general interest rather than Council interest e.g. information from environmental or other interest groups not specific to issues being considered by Councillors or Council
- records relating to attendance at sports functions, church fetes, community functions when the Councillor is not representing Council
- personal records of Councillors such as personal emails, character references for friends, nomination for awards, letters to local newspapers etc that are not related to Council business.

3 Records as a resource

Records are a vital asset to Council. Many records created and received by Councillors have the potential to:

- support the work of Councillors and Council's program delivery, management and administration
- help Councillors and Council to deliver customer services in an efficient, fair and equitable manner
- provide evidence of Councillors' actions and decisions and establish precedents for future decision making, and
- protect the rights and interests of the Council, Councillors and its clients and rate payers.

A small percentage of records created and received by Councillors will become archives (See Appendix C: Glossary), part of the cultural resources of the State.

4 Creation and capture of records

4.1 What records to create and capture

Councillors should create and capture full and accurate records of any significant business undertaken in the course of their official duties for Council. Significant business can include:

- providing advice, instructions or recommendations
- making decisions, commitments or agreements binding for the Councillor or Council.

In addition, Councillors should capture:

- drafts of documents for Council containing significant annotations or submitted for comment or approval by others
- correspondence received and sent relating to their work undertaken for Council.

Council is responsible for:

- creating and capturing records of Council or committee meetings where the Council is the secretary
- capturing any State records it sends to Councillors regarding Council business.

4.2 Creation of records of a confidential nature

On some occasions Councillors are approached and asked to keep matters discussed relating to Council business confidential. In this case they should refer the person to Council's Statement of Affairs under the Freedom of Information Act. This indicates that confidential conversations/correspondence must still be recorded and registered into Council recordkeeping systems if they refer to Council business. There are policies and security controls in place to ensure these records have limited access (see Section 6 Security and confidentiality of records), but these records may still need to be produced under relevant legislation, e.g. subpoena, the *Freedom of Information Act 1989* or s.12 of the *Local Government Act 1993*. With security controls in place records are likely to be less at risk than if they were not in recordkeeping systems.

4.3 How to create records

Council has a number of paper and electronic templates available for Councillors (upon request) to create emails, faxes, letters, memos, file notes and meeting notes. These will assist Councillors in ensuring that the essential information is recorded while conducting Council business. Decisions, commitments, permissions etc made during telephone or verbal conversations or via SMS should be recorded using the Council's standard file note template (e.g. time, date, parties involved, summary of decisions, commitments, permissions etc given and reasons for them). Notes in Councillors' diaries are generally not adequate where there are recordkeeping requirements: they should be converted into a formal file note. These records should be made **as soon as possible** after the event to ensure the information is accurate.

See Section 6 Security and confidentiality of records for information about the treatment of confidential matters.

4.4 How to capture records

Records of Council business that are created or received by Councillors (with the exception of those sent from Council as they are already captured) should be saved into official Council recordkeeping systems as soon as is practicable so that Council can assist with their long term management.

Paper records

Records created or received in paper format should be forwarded to the Coordinator Information Management, each month. If

matters are deemed urgent they should be forwarded immediately. If records are of a sensitive or confidential nature, the Councillor should attach a note to the front of the record so that appropriate security controls can be applied.

Email and electronic records

Email and other electronic records should be forwarded to Council promptly for registration. They should be forwarded to the Coordinator Information Management. If records are of a sensitive or confidential nature, the Councillor should insert a note on the top of the email to this fact so that appropriate security controls can be applied. See [Section 6 Security and confidentiality of records](#) for information about security controls for sensitive records.

Councillors' copies

If a Councillor retains copies of any records once the originals have been forwarded for registration, these should be retained only while needed for current Council business. Alternatively if the Councillor requires the document to be returned after capture, a note should be attached to the document. The returned document will be clearly noted that it has been captured.

The routine destruction of copies of records is permitted under the *State Records Act* (section 21(2)). See [Section 11 Disposal](#) for more information. These should be disposed of in Security destruction bins which are available at Council.

It is important to recognise that these copies should be treated like the originals with regard to security controls applied (see [Section 10 Handling and Storage of records](#)).

5 Registration of records by Council

5.1 Registration procedures

Records received from Councillors for registration will be handled in accordance with the Council's [Records Management procedures](#). See [Section 6 Security and confidentiality of records](#) for information about security controls applied to sensitive records. If it is a copy of a document that has already been received by Council, Corporate Information will mark the document accordingly and not record it a second time.

5.2 Councillors' mail (including email)

Mail addressed to the Mayor is opened within Information Management, including correspondence marked as 'Private and Confidential'. Incoming mail for Councillors received at Council is not opened regardless of whether there are privacy markings or not. Councillors' mail is sent unopened to

Administrative Services, who in turn, sort and distribute the mail appropriately.

Mayor's mail considered to be pertinent to a Council business transaction will be registered into Council's recordkeeping system before being forwarded to the Mayor's Personal Assistant. Any mail that is not considered to be pertinent to a Council business transaction is forwarded unregistered to the Mayor's Personal Assistant.

Although mail addressed to Councillors is not opened, it is the Councillor's responsibility to return any mail that is Council business related to Information Management for registration in the Council's main recordkeeping system.

Emails received in the Mayor's Email Box are forwarded to the Mayor's Personal Assistant irrespective of whether they are Council business related or not. Mayor's emails that pertain to Council business are also registered into Councils Electronic Recordkeeping system.

It is the responsibility of the individual Councillors to ensure any emails that are directly received by them, that pertain to Council business are captured into the Electronic Recordkeeping system. This should be done via the Administrative Services Section or directly sent to Information Management.

6 Security & confidentiality of records

6.1 Building controls

Council's paper records are kept securely in Information Management or defined records storages areas with security controls to protect against unauthorised access.

6.2 System controls

The Council's records management software which controls both paper and electronic records restricts access according to security access controls.

6.3 Security labels

Sensitive records in all formats have labels such as Confidential or access controls to prevent them from being accessed without authorisation.

6.4 Rules for Council staff and Councillors

Council staff and Councillors are bound by Council's *Code of Conduct*, preventing unauthorised access or disclosure of Council records.

See [Section 10 Handling and storage of records](#) for advice regarding Councillors' security responsibilities when storing records.

7 Access to records of Council

7.1 Access relating to civic duties

Councillors need to have access to information held by Council to help them make informed decisions on matters under their consideration. This information should be relevant and appropriate to the discharge of their obligations e.g. records relating to matters before Council or due to be listed for which there is notification.

As a first step, Councillors should contact the Manager, Administrative Services. Records can be made available for viewing during normal business hours. Access to such documents will be restricted to the Councillors' Rooms/Mayoral Office/Administration Building and is to be undertaken in the company of a staff member nominated by the General Manager.

7.2 Access relating to personal interest

Councillors wishing to access records in relation to a matter of personal interest have the same rights as other members of the public. Access may be obtained, for example, under:

- Section 12(1) of the *Local Government Act 1993* which allows all persons to have a right of access to certain Council records
- the *Privacy and Personal Information Protection Act 1998*
- the *Health Records and Information Privacy Act 2002*
- the *State Records Act 1998*, or
- the *Freedom of Information Act 1989*.

7.3 Refusal of access

Should a Councillor be refused access to records of Council, the Councillor will be provided with reason(s) and these reasons will be publicly available. Councillors can ask for a review of a decision to deny access in accordance with section 12A of the *Local Government Act 1993* or, alternatively, the Councillor may, at a meeting of the Council, move for the production of the document. However, the Councillor must give notice of intention to move the motion.

If a Councillor is refused access to records under another Act, they should refer to any appeal provisions of that Act.

7.4 More information on access

More information on gaining access to Council records can be obtained from Council's "Councillors' Access to Information & Interaction between Councillors and Staff" Policy for from the Manager, Administrative Services. See also [Section 9 Unauthorised access or disclosure of council records](#).

8 Borrowing records of Council

Council does not allow Councillors to borrow Council records at all. They must be viewed in the Councillors' Rooms/Mayoral Office/Administration Building in the presence of a staff member nominated by the General Manager.

8.1 Borrowing paper-based records

Under section 11(1) of the *State Records Act*, Councils are required to ensure the safe custody and proper preservation of records they are responsible for therefore paper based records should be viewed on Council premises only. Photocopies of relevant pages can be made available to Councillors if restrictions on copying do not apply.

8.2 Borrowing records in electronic form

Records may be supplied in Electronic form to Councillors at the discretion of the Manager, Administrative Services. These records must not be forwarded or given to any other person without authorisation.

9 Unauthorised access or disclosure of Council records

The *Local Government Act 1993* section 664(1) prohibits the disclosure of information obtained in connection with the administration or execution of the Act, except in certain specific circumstances. Councillors are also bound by the Council's *Code of conduct* **not** to:

- attempt to access records they are not authorised to see
- provide unauthorised access to other parties while Council records are in their care
- disclose confidential information about Council business, or
- disclose personal information of employees, clients etc without the subject's consent.

These rules help to ensure that Council and its staff and clients are protected and that that the requirements of relevant legislation, such as privacy legislation, are met (see [Appendix A](#)).

10 Handling and storage of records

10.1 Damage or neglect of records is an offence

Damage or neglect of a State record is an offence under section 21 of the *State*

Records Act. Councillors should apply the storage and handling rules below to ensure records are protected.

10.2 Handling of records

When handling Council records the following rules apply:

- registered documents are not to be rearranged or removed from Council files (the order provides context for the records) and information on files should never be altered
- no food or drink is to be consumed near records (grease and food particles can attract vermin and liquids can damage records if spilt on them)
- strictly no smoking around records (due to airborne pollutants and the risk of fire)
- if records are damaged during handling, the Coordinator Information Management should be informed. No attempts should be made to repair the record (as some repairs can do long term damage).

Information on handling specific formats is available in State Records' *Recordkeeping in Brief 14: Handle with care* or can be provided by Council's records staff.

10.3 Storage of records

When storing Council records temporarily the following rules apply:

- records are to be kept away from known risks such as water, fire, mould, vermin, vandalism, chemicals, direct sunlight, extreme temperatures etc
- electronic records should be protected against additional hazards such as viruses or electronic fields
- records should be secured appropriate to their level of sensitivity. No Council records should be left in plain view in vehicles or lying around the house.

Councillors who are storing records of a sensitive or confidential nature should ensure that they are appropriately protected.

Council recommends that paper records be kept in locked cupboards with the key kept secured away from the cupboards when the records are not being used. Electronic records should be appropriately controlled with password protection on computers, virus protection and lockdown of screens when a Councillor is away from the computer

11 Disposal of records

11.1 Disposal in accordance with the State Records Act

State records held by Councillors must be disposed of in accordance with the *State Records Act 1998*.

State Records NSW has issued *General Retention and Disposal Authority - Local Government records (GDA10)*, which outlines

classes of records and how long they should be kept before being legally destroyed or transferred to archives. Periods specified are based on relevant legislation, guidelines and standards. Failure to keep records for the length of time specified in the GDA may put Councillors and Councils at risk.

Other forms of authorised disposal include:

- by order of a court or tribunal
- 'normal administrative practice' (NAP) where ephemeral, duplicate or facilitative records can be destroyed. State Records has produced *Guidelines on Normal Administrative Practice (NAP)* which provide further information on the application of NAP.

11.2 Liaison with Council for disposal

Councillors should liaise with the Council regarding the disposal of any records of Council business as Council is responsible for:

- ensuring legislative requirements are met
- ensuring destruction is undertaken appropriately (e.g. that no sensitive information is released due to inappropriate destruction methods), and
- documenting disposal decisions for accountability purposes.

The Council's information management staff should be primarily responsible for the disposal of State records, unless other arrangements are approved. Councillors may destroy copies of Records that have already been captured, notes of meetings where formal minutes have been captured and copies of business papers and information that has been provided to them by Council. Other records should be referred to the Council for destruction.

Records should be disposed of securely in Confidential disposal bins which will be provided at a central location for councillors.

12 For more information

For more information about the use of this policy and procedures, contact David Kelly, Manager Administrative Services or Julie Hartshorn, Senior Administrative Coordinator.

Acknowledgment:

The Council acknowledges the use of State Records NSW, *Sample records management policy and procedures for Councillors* which draws on policy/procedure documents of State Library of NSW, State Records NSW, Armidale/Dumaresq Council, Shoalhaven City Council, and the Council of the City of Sydney.

Appendix A – Legislative requirements for recordkeeping

- *Environmental Planning and Assessment Act 1979* available at: http://www.austlii.edu.au/au/legis/nsw/consol_act/epaaa1979389/
- *Evidence Act 1995* available at: http://www.austlii.edu.au/au/legis/nsw/consol_act/ea199580/
- *Freedom of Information Act 1989* available at: http://www.austlii.edu.au/au/legis/nsw/consol_act/foia1989222/
- *Health Records and Information Privacy Act 2002* available at: http://www.austlii.edu.au/au/legis/nsw/consol_act/hraipa2002370/
- *Local Government Act 1993* available at: http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/
- *Privacy and Personal Information Protection Act 1998* available at: http://www.austlii.edu.au/au/legis/nsw/consol_act/papipa1998464/
- *State Records Act 1998* – including standards and retention and disposal authorities issued under the Act - available at: http://www.austlii.edu.au/au/legis/nsw/consol_act/sra1998156/
- *State Records Regulation 2005* available at: http://www.austlii.edu.au/au/legis/nsw/consol_reg/srr2005247/

[Note: This list is not exhaustive. It is the responsibility of managers to examine legislation and government directions which govern their activities, and ensure that records arising from these activities conform with recordkeeping requirements.]

Appendix B – Best practice guidance for recordkeeping

- Australian Standard, AS ISO 15489-2002, *Records management*
- Australian Standard AS5090-2003, *Work process analysis for recordkeeping*
- NSW Ombudsman, *Good Conduct and Administrative Practice: Guidelines for state and local government*, 2003, available at: <http://www.ombo.nsw.gov.au/publication/PDF/guidelines/Good%20Conduct%20and%20Administrative%20Practice.pdf>
- NSW Premier's Department, *Model Code of Conduct for NSW Government agencies*, 1997, available at: http://www.premiers.nsw.gov.au/our/library/conduct/Model_Code_of_Conduct.pdf

Appendix C - Glossary of terms

This glossary has been compiled from the *State Records Authority Glossary of Recordkeeping Terms*. Sources of terms include Australian and international standards on records management.

Access

Right, opportunity, means of finding, using or retrieving information. *AS ISO 15489 Part 1 Clause 3.1*

Appraisal

The process of evaluating business activities to determine which records need to be captured and how long the records need to be kept, to meet business needs, the requirements of organisational accountability and community expectations. *AS 4390 Part 1 Clause 4.3*

Archives

Those records that are appraised as having continuing value. *AS 4390 Part 1 Clause 4.5*

Disposal

A range of processes associated with implementing appraisal decisions. These include the retention, deletion or destruction of records in or from recordkeeping systems. They may also include the migration or transmission of records between recordkeeping systems, and the transfer of custody or ownership of records. *AS 4390 Part 1 Clause 4.9*

Recordkeeping

Making and maintaining complete, accurate and reliable evidence of business transactions in the form of recorded information. *AS 4390-1996, Part 1.4.19*

Recordkeeping systems

Information systems which capture, maintain and provide access to records over time. *AS 4390-1996, Part 1. Clause 4.20*

Records

Information created, received, and maintained as evidence and information by an organisation or person, in pursuance of legal obligations or in the transaction of business. *AS ISO 15489 Part 1 Clause 3.15*
Any document or other source of information compiled, recorded or stored in written form or on film, or by electronic process, or in any other manner or by any other means. *State Records Act 1998 (NSW)*

Records management program

A records management program encompasses the management framework, the people and the systems required within an organisation to manage full and accurate records over time. This includes the identification and protection of records with longer-term value that may be required as State archives.

Retention and Disposal Authority

Documents authorised by the Board of State Records NSW that set out appropriate retention periods for classes of records.

State archive

A State record that the State Records Authority of New South Wales has control of under the *State Records Act, 1998 (NSW)*.

Appendix D – Web addresses for publications referred to in this document

See also Appendix A for links to legislation.

Government Chief Information Office, *Guide to labelling sensitive information*, 2002, available at:

<http://www.gcio.nsw.gov.au/pages.asp?CAT=764&ID=779>

State Records, *Destruction of records: A practical guide*, revised 2005, available at:

http://www.records.nsw.gov.au/recordkeeping/003_destruction_6883.asp

State Records, *General Retention and Disposal Authority - Local Government records (GDA10)*, 2002, available at <http://www.records.nsw.gov.au/publicsector/disposal/gda10-locgov/gda10-toc.htm>

State Records, *Guidelines on Normal Administrative Practice (NAP)*, 2005, available at:

http://www.records.nsw.gov.au/recordkeeping/008_nap_7111.asp

State Records, *Recordkeeping in Brief 14: Handle with care*, 2000, available at:

http://www.records.nsw.gov.au/recordkeeping/rib_14_handle_3439.asp