

## ADMINISTRATION POLICIES



### Records Management Policy & Procedures for Councillors

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## **1 Purpose, scope, authority and application of this document**

### **1.1 Purpose of this document**

The purpose of this document is to ensure that full and accurate records (see Appendix C: Glossary) of the activities and decisions of 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.

### **1.2 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 (eg: emails).

## **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

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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, suggestion or enquiries by ratepayers 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 eg: 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 eg: 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, nominations 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.

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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
- ◆ 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.

### 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 General Manager. 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 or the *Government Information (Public Access) Act 2009*. With security controls in place records are likely to be less at risk than if they were not in recordkeeping systems.

### 4.2 How to create records

Details of significant advice, commitments etc made during telephone or verbal conversations or via SMS should be recorded using the Council supplied iPad and emailed to the General Manager. 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.

### 4.3 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.

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#### **Paper records**

Records created or received in paper format should be given to the General Manager. If records are of a sensitive or confidential nature, the Councillor should alert the General Manager to this fact so that appropriate security controls can be applied.

#### **Email and electronic records**

Email and other electronic records should be forwarded to the General Manager promptly for registration. If records are of a sensitive or confidential nature, the Councillor should mark the records as CONFIDENTIAL 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. Once they are no longer needed they should be given to the Records Manager who will arrange for the secure destruction of these records. The routine destruction of copies of records is permitted under the *State Records Act* (section 21(2)). See Section 11 Disposal for more information.

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 Councillors' mail (including email)**

Mail addressed to the Councillor and marked s PRIVATE or CONFIDENTIAL will be opened by the General Manager. If the mail is found to be personal it will be passed on to the relevant Councillor. If mail is Council business, it will be registered into Council record management system and tasked to the General Manager. The Councillor will receive a copy of this mail.

All mail not marked as private or confidential will be opened and treated the same as all Council incoming correspondence. Councillors will receive a copy of this mail if it is relevant to them.

## **6 Security and confidentiality of records**

### **6.1 Building controls**

Council's paper records are kept securely to protect against unauthorised access.

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#### **6.2 System controls**

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

#### **6.3 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 Councillor's 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 eg: records relating to matters before Council or due to be listed for which there is notification.

As a first step, Councillors should contact the General Manager to request access. Records can be made available for viewing during normal business hours. Records must be viewed in the presence of the Records 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:

- ◆ The *Privacy and Personal Information Protection Act 1998*
- ◆ The *Health Records and Information Privacy Act 2002*
- ◆ The *State Records Act 1998*, or
- ◆ The *Government Information (Public Access) Act 2009*.

#### **7.3 Refusal of access**

If a Councillor is refused access to records, they should refer to any appeal provision of the relevant Act.

#### **7.4 More information on access**

More information on gaining access to Council records can be obtained from the General Manager.

See also Section 9 Unauthorised access or disclosure of council records.

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## 8 Borrowing records of Council

### 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. Councillors will not be able to borrow paper-based Council records. Viewing of these records must be arranged by contacting the General Manager.

### 8.2 Borrowing records in electronic form

Electronic records required by Councillors will be made available in PDF format only so they cannot be altered.

### 8.3 Archives

Council policy regarding archives is that they are **not** to be borrowed. They should rather be viewed within Council offices during normal working hours in the presence of a records officer. Photocopies of relevant pages can be made available to Councillors if restrictions on copying do not apply.

## 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 (or other relevant document) **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 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 of the *State Records Act*. Councillors should apply the storage and handling rules below to ensure records are protected.

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## 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 (GA39)*, 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 General Manager regarding the disposal of any records of Council business as Council is responsible for:

- ◆ Ensuring legislation requirements are met
- ◆ Ensuring destruction is undertaken appropriately (eg: that no sensitive information is released due to inappropriate destruction methods), and
- ◆ Documenting disposal decisions for accountability purposes.

The Council's record management staff should be primarily responsible for the disposal of State Records. Draft notes when file notes are registered with Council, notes of meetings when Council is recording the official version etc. are permitted to be destroyed by the Councillor.

## 12 For more information

For more information about the use of the policy and procedures, contact the General Manager.

## 13 Approval

Signed \_\_\_\_\_ Date: \_\_\_\_\_

**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.

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#### **Appendix A – Legislative requirements for recordkeeping**

- ◆ *Environmental Planning and Assessment Act 1979* available at:  
<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+203+1979+cd+0+N>
- ◆ *Evidence Act 1995* available at:  
<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+25+1995+cd+0+N>
- ◆ *Government Information (Public Access) Act 2009* available at:  
<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+52+2009+cd+0+N>
- ◆ *Health Records and Information Privacy Act 2002* available at:  
<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+71+2002+cd+0+N>
- ◆ *Local Government Act 1993* available at:  
<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+30+1993+cd+0+N>
- ◆ *Privacy and Personal Information Protection Act 1998* available at:  
<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+133+1998+cd+0+N>
- ◆ *State Records Act 1998* – including standards and retention and disposal authorities issued under the Act - available at:  
<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+17+1998+cd+0+N>
- ◆ *State Records Regulation 2010* available at:  
<http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+450+2010+cd+0+N>

#### **Appendix B – Best practice guide 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](http://www.premiers.nsw.gov.au/our_library/conduct/Model_Code_of_Conduct.pdf)



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## **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 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

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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, *Guideline 3 – Destruction of records*, revised 2010, available at: <http://www.records.nsw.gov.au/recordkeeping/government-recordkeeping-manual/guidance/guidelines/guideline-3>

*State Records, General Retention and Disposal Authority: local government records (GDA10)*, revised 2006, available at: <http://www.records.nsw.gov.au/recordkeeping/government-recordkeeping-manual/rules/general-retention-and-disposal-authorities/local-government-records-gda-10>

State Records, *Guideline 8 – Normal administrative practice*, 2005, available at: <http://www.records.nsw.gov.au/recordkeeping/government-recordkeeping-manual/guidance/guidelines/guideline-8>

State Records, *Recordkeeping in Brief 14- Handle with Care*, 2000, available at: <http://www.records.nsw.gov.au/recordkeeping/government-recordkeeping-manual/guidance/recordkeeping-in-brief/recordkeeping-in-brief-14>

See also Independent Commission Against Corruption, *Lobbying local government councillors*, 2006, available at: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au) which includes recommendations for recordkeeping.

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