

# TEMORA SHIRE COUNCIL



TEMORA

*The Friendly Shire*

## RECORDS MANAGEMENT AND PROCEDURES FOR COUNCILLORS

**ACTIVE**

## Review Details

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# Records management policy and procedures for Councillors

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## Contents

- 1 Purpose, authority and application of this document
- 2 State records
- 3 Records as a resource
- 4 Creation and capture of records
- 5 Registration of records by Council
- 6 Security and confidentiality of records
- 7 Access to records of Council
- 8 Borrowing records of Council
- 9 Unauthorised access or disclosure of information
- 10 Handling and storage of records
- 11 Disposal of records
- 12 For more information
- 13 Approval

Appendix A – Legislative requirements for recordkeeping

Appendix B – Best practice guidance for recordkeeping

Appendix C – Glossary of terms

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

## **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.

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*.

### **1.2 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*.

### **1.3 Authority of this document**

This document has been adopted by the Council by formal minute based on the General Manager's report and recommendations [or other means of adoption]. 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 [nominated senior officer] 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
- 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 [refer to relevant policy which should be publicly available e.g. statement in *Privacy management plan*]. 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.

### 4.2 How to create records

Council has a number of paper and electronic templates available for Councillors to create emails, faxes, letters and memos while conducting business for the Council. These will assist Councillors in ensuring that the essential information is recorded.

Details of significant advice, commitments 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 discussion, commitments, advice given etc 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.

### 4.3 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.

## Paper records

Records created or received in paper format should be forwarded to Council on a monthly basis, at the monthly Council meeting. If records are of a sensitive or confidential nature, the Councillor should alert the records 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 Council promptly for registration. The record should be forwarded to [arands@temora.nsw.gov.au](mailto:arands@temora.nsw.gov.au) as soon as possible. If records are of a sensitive or confidential nature, the Councillor should alert the records manager 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. 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 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.

## 5.2 Councillors' mail (including email)

All incoming mail for Councillors received at Council with no privacy markings will be opened by the records staff. Mail considered to be a State record will be registered into Council's recordkeeping system before being forwarded to the Councillor. Mail with privacy markings is registered in a separate register but forwarded to the Councillor unopened. It is then the Councillor's responsibility to return any mail that is a State record and requires registration in the Council's main recordkeeping system.

Faxes to Councillors are registered in the recordkeeping system, before being forwarded to Councillors.

Electronic mail received through the Council's generic email address that is addressed to Councillors is forwarded to the Councillor, with the exception of unsolicited recruitment material, items which appear to have little or no significance to the Councillor's role or Council operations, pornographic or obscene material, or spam. Again it is the Councillor's responsibility to return any mail that is a State record and requires registration in the Council's main recordkeeping system.

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

### **6.1 Building controls**

Council's electronic records are kept securely in the Council Chambers, 105 Loftus Street, Temora 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 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 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 direct enquiries to the Records Manager or General Manager

Councillors wishing to access records that have access restrictions higher than their level of clearance must contact the General Manager.

Records can be made available for viewing during normal business hours. Records must be viewed in the presence of a Council staff member.

### **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*. Requests for review should be directed to [relevant position holder].

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 [person(s) within Council responsible e.g. Freedom of Information Officer, Records Manager etc and contact details].

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

### **8 Borrowing records of Council**

#### **8.1 Borrowing 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. Council does not allow Councillors to borrow Council records. The records must be viewed on the premises or if the record is available for access by the public, a copy may be made.

### **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 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 [records manager] 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**

No Council records are to be kept at a Councillors home, with the exception of publicly available documents or duplicates of documents that have been registered by Council after being received by the Councillor.

## **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 GA39 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 records management staff should be primarily responsible for the disposal of State records, unless other arrangements are approved. Councillors should return the records as requested for destruction by Council.

**Example:**

One Council allows Councillors to destroy limited records according to NAP, such as draft notes when file notes are registered with Council, notes of meetings when Council is recording the official version etc. Their procedure outlines refers to State Records' *Guidelines on Normal Administrative Practice (NAP)* and to State Records' *Destruction of records: A practical guide*. Other records are referred to the Council for destruction.

## 12 For more information

For more information about the use of this policy and procedures, contact [nominated senior officer, records manager].

**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/](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/](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/](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/](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/](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/](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/](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/](http://www.austlii.edu.au/au/legis/nsw/consol_reg/srr2005247/)

## **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](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](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](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](http://www.records.nsw.gov.au/recordkeeping/rib_14_handle_3439.asp)

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.