

# COUNCILLORS' RECORD MANAGEMENT

CS220



NARRANDERA SHIRE COUNCIL POLICY

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# COUNCILLORS RECORDS MANAGEMENT POLICY



<b>Policy No:</b>	<b>CS220</b>
<b>Policy Title:</b>	<b>Councillors' Records Management</b>
<b>Section Responsible:</b>	<b>Corporate and Community Services</b>
<b>Minute No:</b>	<b>15/292</b>
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## Objective

To ensure that full and accurate records of the activities and decisions of Councillors in the course of their duties for Council, are created, managed and disposed of appropriately to meet organisational needs and legislative and accountability requirements.

## Policy Statement

Efficient and effective administrative procedures are implemented to meet regulatory requirements.

## Scope

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 subsequent work instructions.

## Definitions

Access	Right, opportunity, means of finding, using or retrieving information. <i>(AS ISO 15489 Part 1 Clause 4.3)</i>
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. <i>(AS 4390 Part 1 Clause 4.3)</i>
Archives	Those records that are appraised as having continuing value. <i>(AS 4390 Part 1 Clause 4.5)</i>
Disposal	A range of processes associated with implementing appraisal decisions. These include the retention, deletion or destruction of records in or from recordkeeping systems, and the transfer of custody or ownership of records. <i>(AS 4390 Part 1 Clause 4.9)</i>
Recordkeeping	Making and maintaining complete, accurate and reliable evidence of business transactions in the form of recorded information. <i>(AS4390-1996, Part 1.4.19)</i>

Recordkeeping System	Information system which captures, stores and provides 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)
State Archive	A State record that the State Records Authority of New South Wales has control of under the <i>State Records Act, 1998 (NSW)</i> .
State Record	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. (State Records Act 1998)
MagiQ	Narrandera Shire Council's current Electronic Document Records Management System.

## Content

### 1. State Records

#### 1.1 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'.

#### 1.2 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
- Declaration 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.

#### 1.3 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 such as personal emails, character references for friends, nomination for awards, letters to local newspapers etc that are not related to Council business.

## **2 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.
- Provide evidence of Councillors' actions, 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, part of the cultural resources of the State.

## **3 Creation and Capture of Records**

### **3.1 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 information
- 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 but not originating from 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.

### **3.2 Creation of records of a confidential nature**

On some occasions, Councillors are approached and asked to keep matters discussed relating to Council business confidential. 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 5 Security and confidentiality of records), but these records may still need to be produced under relevant legislation, eg. 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.

### **3.3 How to create records**

Letters, faxes, emails, file notes and memos can be created and forwarded to Council electronically or in hard copy format.

Details of significant advice, commitments etc made during telephone or verbal conversations or via SMS should be recorded using a file note (eg. 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.

### **3.4 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.

#### **3.4.1 Paper records**

Records created or received in paper format which relate to Customer Requests should be forwarded to Council via Council's Customer Service Group or the Personal Assistant to the GM and Mayor. All other records are to be referred to the Personal Assistant to the GM and Mayor. If the records are of a sensitive or confidential nature, the Councillor should alert the Officer so that appropriate security controls can be applied.

#### **3.4.2 Email and Electronic Records**

Email and other electronic records should be forwarded to Council promptly for registration via [council@narrandera.nsw.gov.au](mailto:council@narrandera.nsw.gov.au). If records are of a sensitive or confidential nature, the Councillor may forward it to the Personal Assistant to the GM and Mayor, noting this fact on it so that the appropriate security controls are placed on it.

#### **3.4.3 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)). It is important to recognize that these copies should be treated like the originals with regard to security controls applied.

## **4 Registration of Records by Council**

### **4.1 Registration procedures**

Records received from Councillors for registration will be handled in accordance with Council's Records management procedures.

### **4.2 Councillors' mail (including email)**

Incoming mail for Councillors received at Council will be opened by the Customer Service Officers, unless it is clearly marked private and confidential. Mail considered to be a State Record will be registered into Council Recordkeeping system before being forwarded to the Councillor. Mail marked private and confidential will be forwarded to the Councillor unopened. It is then the Councillors' 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 electronically forwarded to Councillors.

Electronic mail received through the Council's generic email address, that is addressed to Councillors is forwarded to the Councillor after being registered, if that email is considered to be a State Record.

## **5 Security and Confidentiality of Records**

### **5.1 Building controls**

Council's paper records are kept securely in Council's archives. Legal documents are securely stored in the strong room.

### **5.2 System controls**

The Council's records management software which controls records, restricts access according to security levels.

### **5.3 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.

## **6 Access to Records of Council**

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 matter before Council or due to be listed for which there is notification.

Please refer to the following Policy for further information:

- ES30 – Councillors Access to Information and Interactions with Staff and Access to Council Premises.

## **7 Borrowing Records of Council**

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 therefore prohibits the borrowing of paper-based or other physical records by any person. Should a Councillor require access to such records, they may be viewed on Council premises. Photocopies of relevant pages may be made available to Councillors if required.

## **8 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 subjects 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 – Legislative requirements for recordkeeping).

## **9 Handling and Storage of Records**

### **9.1 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.

### **9.2 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.
- All due care must be exercised when handling Council records and any damage identified should be reported to the Records Officer.
- 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 cause 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 Councils records staff.

### **9.3 Storage of Records**

Council does not allow Councillors to store any Council files in their homes. Files must be accessed at Council in normal working hours.

Business Papers and other documents which are provided to Councillors as part of their Civic duties (in both hard copy and electronic form) should be managed carefully by all Councillors, with specific care taken in relation to confidential business papers and documents as these are not generally accessible by the public.

Therefore, Councillors are requested to retain Council papers only as long as the matter contained within those documents is currently under consideration. Confidential Business Papers and other materials should be deleted from electronic files and hard copies returned to the Office of the General Manager as soon as practicable after the matter in question has been heard. Ideally, confidential business papers should be returned at the completion of the Council meeting to which they relate.

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 they are appropriately protected. Paper records should be secured in a locked cupboard and electronic files should be password protected.

### **10 Disposal of Records**

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.

Councillors should liaise with 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 (eg. that no sensitive information is released due to inappropriate destruction methods), and
- Documenting disposal decisions for accountability purposes.



Council's records management staff should be primarily responsible for the disposal of State records, unless other arrangements are approved.

### **Related Legislation/Guidelines/Narrandera Policies and Associated Procedures**

- NSW State Records Act
- Local Government Act 1993
- General Disposal Authority GA39
- Councils Code of Conduct
- ES30 – Councillors Access to Information and Interactions with Staff and Access to Council Premises
- Recordkeeping in Brief 14: Handle with Care
- Records Management Australian Standard (AS) ISO 15489-2002

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### **Policy History**

Endorsed by relevant Committees (name) and date

Adopted by ELT 12 October 2015

Adopted by Council 9 December 2015

Endorsed by ELT 15 May 2018

Adopted by Council 15 May 2018



Signed: General Manager

Date: 15 May 2018

## **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>