

The Preservation of Local Government Records In New South Wales: Historical and Current Legislative Requirements (Part II)

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This article is based on a paper presented to the annual general meeting of the New South Wales Branch of the Records Management Association, Local Government Chapter, on 9th June, 1982. Part I was published in the last issue of this journal. Part II has been updated to highlight the subsequent work of the Local Government Records Action Committee and the Ministerial Working Party.

Policy on local government records

With the background of discussion of the fate of local government records in New South Wales, as outlined in Part I of this article¹, in mind, the Sydney Branch of the Australian Society of Archivists in 1981, decided to hold a workshop for those personnel responsible for maintaining such records. Subsequently the workshop was expanded to provide a seminar the following day in order to discuss policies on the preservation of local government records. The joint workshop and seminar was organised in conjunction with the Library Association of Australia, NSW Branch, whose municipal members had perceived a need in this area.

Preparation for the workshop impelled the branch to give expression to a long-felt need for a formal policy from the profession. Accordingly, the then convener of the Sydney Branch, Tony Mitchell, with a sub-committee, drafted a proposal which was placed before the branch on 19th August, 1981. The policy statement was discussed by members at some length, amendments were made and the document "Statement of Policy on

the Preservation of Local Government Records in New South Wales” was the result.²

The main features of the policy were:—

- * Councils should be responsible for the management and custody of their own records.
- * The records should be preserved *in corpus* and not alienated.
- * Trained archivists should be engaged to organise local government archives (either full time, part time, on a consultancy basis or on a sharing basis).
- * Adequate storage facilities should be provided.
- * The State government should assist by matching grants (for example, for salary or capital costs).

A discussion paper³ was presented at the same time, which outlined six options which the sub-committee had considered viz,

- (1) *Local Government records to be proclaimed “public records.”* This option was not adopted as the Archives Office of NSW at present has insufficient staff and storage resources to provide the necessary assistance.
- (2) *Regional archives of the Archives Office of NSW.* These would be similar to existing ones at the University of New England, and Wollongong University, which currently house State Archives. Most of these have inadequate capacity and future expansion is unlikely.
- (3) *Specific authorities in local government be proclaimed “public offices”.* The problem of housing records as in option (1), would still exist.
- (4) *Local Government authorities retain records in public libraries.* Already this is often practised as a temporary measure, however, library methods and techniques are not applicable to archives and the practice diverts librarians from their primary responsibilities.
- (5) *Local Government establish its own regional archives.* The records would be maintained through co-operative storage and shared staff. This option requires a high degree of co-operation between councils. It could be a similar operation to the co-operative library network.
- (6) *Local authorities provide for their own records.*

The Sydney Branch believed the sixth option would “provide most satisfactorily for the future control and maintenance of local government records, and adopted it as Branch policy on local government records”.⁴

In the draft discussion paper, the Branch also considered other options,

such as a local government records advisory body, to provide advice to the Department of Local Government and Councils on the retention, preservation and disposal of records. However, the Branch saw that the first steps would be to amend the Ordinance (see appendix A) and create a climate of the awareness of records in local government.

Workshop and seminar

The workshop,⁵ held on 15th October, 1981, attracted about 100 participants from local government, including archivists, records managers, town clerks and their deputies, file clerks, librarians, and other personnel who were responsible for record keeping. It concentrated on the practical aspects of maintenance and preservation of records, with papers presented on the concepts and functions of archives, the significance and use of local government records, the disposal of records, implications of technological change, the techniques and pitfalls of microfilming, preventive conservation, and the archival operations at the Council of the City of Sydney.

The workshop aimed to assist those already responsible for records in local authorities, partly as a consciousness-raising exercise. It stressed the importance of preserving local government records, how to provide for those records already preserved, and the implications of the changing formats and technology on records for future custodians.

The seminar, held on 16th October, 1981, on the other hand, was directed at those who were in some position to influence the practices of preservation of local government records in the future, and was entitled "Issues of Control, Management, Preservation and Use". Papers were presented on current policy and practice in retention and management of local government records, the use of such records by staff and the public, and access to them. It was attended by leading figures in the archival profession, conservation experts, academics, town clerks, records managers and representatives of the NSW Local Government Association.

Action Committee on Local Government Records

The Action Committee on Local Government Records was formed at the concluding session of the seminar on 16th October, 1981. Participants at the seminar felt that there should be an on-going committee for two main purposes:

- * Seeking amendments to Ordinance No.1 in the matters of definition of the term "Records" and in the retention periods of records.
- * Aiming to be a "bridge" between the Local Government and Shires Association (who represent local government), archivists, records managers, librarians and the Office of Local Government (at that time, the Department of Local Government), particularly in the field of education and distribution of information.

Those nominated to the committee included representatives of most of these interests.

In the first few months of the committee's existence it considered the following issues:—

Definition of "records"

The committee concluded that amendments were necessary to Ordinance I of the Local Government Act to provide for a definition of "records"; for more series of records to be permanently preserved by Council; and the relaxation of the six year limit on the destruction of records. Draft amendments were formulated to ensure that more records are kept as permanent archives, whilst on the other hand, allowing councils to destroy a greater bulk of records earlier than six years. The committee also considered the feasibility of general disposal schedules being applied to councils and the possibility of alerting councils to the pitfalls and techniques of microfilming. By June, 1982, the committee had formulated a definition of "records" which was forwarded to the Department of Local Government for consideration:

"Records" means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work), that is, or has been, made or received in the course of his official duties by an officer or servant of this Council.

The committee recognised that in legislation providing for the preservation of records created by other levels of government, for example, the Commonwealth Archives Bill, 1978, and the NSW Archives Act, 1960, a definition of "records" is included as a vital precursor to the provisions of such legislation. Likewise, legislation in other countries has similar provisions for a comprehensive definition of "records". It is proposed that the definition of "records" be inserted after the definition of "present" in the list of definitions at the beginning of Ordinance I.

Proposed amendments to Ordinance I: Categories of permanent records

By December, 1982, following several drafts of proposed Clause 55a, (see Appendix A) the committee presented a replacement clause 55a for Ordinance I, along with a reasoned case for each category of records never to be destroyed. The committee proposed Council's "permanent" records would be:—

- (a) minute books of the meetings of Council and of Council Committees;
- (b) registers of legal documents;
- (c) contracts entered into by Council relating to property, engineering or building programmes and public works, leases and other legal documents;

- (d) registers and indexes of Council correspondence and files;
- (e) cemetery and burial registers;
- (f) the certified copy of the electoral roll, the declaration of elections and polls and other electoral records other than ballot papers in respect of each election and poll;
- (g) rate books and valuation books;
- (h) annual statements of accounts;
- (i) survey plans, stormwater and drainage plans, work-as-executed plans, and plans of sub-divisions approved by the Council;
- (j) registers of development consents;
- (k) registers of building applications and registers of building approvals;
- (l) building approvals with relevant plans where the applications have varied from standard conditions previously approved by Council.

The committee has been fully cognisant of the problems of preservation which face local government at the present time — such as the increasing costs of storing records, increasing costs of staff, the more pressing concerns of day-to-day administration and functions, and the problems of storing information on new record formats.

Some sections of the local government community favour the status quo in this area - others favour more compulsion, whilst some members of the rate-paying public favour more access to information, more of their “local history” being preserved and less destruction of records.

It is a basic tenet of the archival and record profession that “you can’t have one without the other”. In other words, preservation of permanent records must take place alongside the rational destruction of unwanted records.

Retention period of records

The third proposal from the Action Committee is in connection with the statutory six year retention period of records. The first paragraph of Section 55b is proposed as follows:-

Any other records or papers of the Council may be destroyed or otherwise disposed of, if the Council so decides, in accordance with the disposal schedules approved by the Minister.

The reasoning behind the inclusion of disposal schedules being approved by the minister is to encourage the wide-spread application of the principle of the disposition of records according to approved schedules. The committee envisaged that the minister could approve of a schedule of a class of records, which could be applicable to many councils — for example, correspondence files. A schedule could be proposed which

provided for the permanent retention of all correspondence files which had as their subject, policy matters, council-owned property, legal decisions or cases, whilst other matters, such as requests for information, could be disposed of after a shorter period.

Microfilming records

The fourth inclusion in Section 55 is that of Part "c", the proposed version being:-

The Council may, in accordance with standards approved by the Minister for microfilming programmes covering equipment, film, processing, storage and procedures, microfilm the records referred to in paragraph I (f) to (l) and, notwithstanding anything contained in that paragraph, dispose of the originals.

The committee recognised that the current legislative provisions do not allow in any way for records created by more recent technological innovations, such as microfilming or electronic data processing. The committee further recognised that standards in microfilming are essential for the permanency of records to be established.

Microfilming programmes by some councils are questionable at the present time, due to the lack of expertise within councils on the technical aspects of microfilming. Staff may not be qualified to advise them on whether microfilming should take place in the first place, which records should be filmed, or the cost-effectiveness of microfilming particular records versus their storage in conventional storage situations. Councils also need to consider the efficiency of previous microfilming programmes both within and outside their own organisation. Councils need also to be aware of the importance of standards of microfilming if they are to retain permanent records on that medium.⁶

As microfilm technology changes with time and standards improve and taking into consideration the Evidence (Reproductions) Act of 1967, whereby the Minister can gazette certain equipment for microfilming which is "approved", the committee felt that under the Local Government Act, the Minister should be able to gazette the standards, the equipment, the film and procedures whereby councils can microfilm. The particular significance is for those records which councils wish to destroy because of pressure on space.

In the above proposals, the Action Committee has tried to balance competing factors:—

1. The importance to the local history of NSW of the preservation of more records of the local council.
2. The increasing cost of administration, and hence the cost of keeping records and maintaining them.

3. The wish not to impose too much onto councils, by means of additional legislative compulsion.
4. The problems which records staff currently face in councils.
5. The cultural responsibility which council have of preserving their local heritage.

However, the committee recognises that many people in local government realise the importance of having "legislative muscle" so that councils can be encouraged to provide for the future of their communities. Without such "legislative muscle", few councils would voluntarily preserve more records than is currently the case.

It is recognised that the onus should be on the council. There is little hope that the resources, both financial and human, of the Archives Authority of NSW could be increased sufficiently to cope with the transfer of records of local councils, if they were declared as "public offices" under the Archives Act. Indeed, many see that possibility as being undesirable and that local government records should as far as possible be kept in the locality which produced them and maintained by the body which created them.

Future options

Most people concerned for the preservation of local government records feel legislative change is essential. All agree on the necessity for "consciousness-raising" and training sessions for those responsible for them.

It could be possible in the future for larger councils to have their own archivists (perhaps along similar lines to those in England and the USA). Country councils could be served by a co-operative set-up or a regional repository run by another body. Smaller councils could draw on the advice of consultants, use archives students to deal with records, or give staff more opportunity to gain more knowledge by means of training sessions.

It is vital that councils recognise:

1. The importance of efficiently run co-ordinated information systems within their own administrations, and hence the significance of disposal decisions.
2. That by preserving their own records they are fulfilling an obligation to maintain their community's heritage.
3. That councils consider what they should be doing in the area of the retention of records of administrative, legal, historical and cultural value.

In March, 1983, the Action Committee on Local Government Records was formally recognised by the Hon A.R.L. Gordon, NSW Minister for

Local Government and Lands, who agreed "to receive the advice of the Action Committee on Local Government Records concerning the following matters:

- a) the definition of records;
- b) extending the documents required to be preserved;
- c) the destruction of records in accordance with a disposal schedule; and
- d) the making of microfilm copies of documents in accordance with appropriate standards."⁷

Subsequently, the Minister invited several members of the Action Committee to serve on a new Ministerial Working Party on Records Disposal Schedules for Local Government.

In conclusion, the matter of preservation of local government records in New South Wales is still covered by the same legislation as formerly, that is, the Local Government Act of 1919 and its Ordinances.⁸ However, the work of the Action Committee has led to three important steps being taken, (a) ministerial recognition of the significance of preserving local government records and a willingness to receive independent advice on relevant issues, (b) the concept of active training programmes for records personnel, and (c) the preliminary investigation of disposal schedules for local councils.

Indeed, New South Wales can be seen as being 'out of step' with practices elsewhere in Australia and the English-speaking world, where the usual controls over the preservation, and the destruction, of local government records are exercised by the State archival authority.

As one observer of the New South Wales Local Government scene wrote in 1975:

Greater attention needs to be given to Local Government records. At present there is no programme for preservation of these records. They are important because they provide a record of changing land use and document in a personal way, community problems and needs.⁹

As outlined in this article, greater attention is now being given to initiating a programme for preservation of local government records in New South Wales.

The views expressed in this article are those of the author and are not those of the Council of the City of Sydney or its administration.

FOOTNOTES

1. Howse, Janet. "The Preservation of local government records in New South Wales: Historical and current legislative requirements (Part I)." *Archives and Manuscripts* Vol.11, No.1, May 1983, pp.38-46.
2. Australian Society of Archivists, Sydney Branch, "Statement of Policy on the Preservation of Local Government Records in New South Wales", *Local Government Records in New South Wales: Control, Management, Preservation and Use*. Australian Society of Archivists and the Library Association of Australia, 1982, p.66—67.
3. Australian Society of Archivists, Sydney Branch "Discussion paper: Preservation of Local Government authority records in New South Wales". *Ibid*, pp68—71.
4. *Ibid*. p.71.
5. *Local Government Records in New South Wales: control, management, preservation and use*. Papers from a workshop and seminar 15 and 16 October 1981... edited by Marie Ryan and Patricia Ward. Occasional Paper No 6, Library Association of Australia, New South Wales Branch, Sydney 1982.
6. Accordingly, a Sub-committee of the Action Committee organised a seminar for 29 April 1983, in conjunction with the Training and Development Unit of the NSW Local Government Association, entitled "Microfilming Local Government Records: Issues and Challenges for Senior Officers". The response was overwhelming, and another seminar was held on 8 July 1983, along similar lines. Altogether, over 100 senior officers from councils attended one of the seminars.
7. Letter from the Minister for Local Government and Lands, 9 March 1983.
8. NSW Act No.41, 1919.
9. Haworth, D. "The Organisation of Records in Local Government in New South Wales", *Archives and Manuscripts*, Vol. 6, No.2, February 1975, p.44.

APPENDIX A

Excerpts from Ordinance 1 made under the New South Wales Local Government Act, 1919.

Access to records.

54. (a) The Mayor or President may direct the Clerk to allow any member to inspect any record of the Council which such member desires to see.

(b) If the Mayor or President refuse the request of any member to give such direction as aforesaid, the member may give notice and move for the production of the document.

(c) Where the Council has carried a motion for the production of a document, the document shall be produced forthwith and laid upon the table for the perusal of members; and shall be made available for the perusal of any member on reasonable notice to the Mayor, President, or Clerk during office hours on any day within one month after the carriage of the motion.

Preservation of records.

55. (a) The following records of the Council shall not be destroyed, viz., Minute Book, Register of Legal Documents, Register of Correspondence, Legal Documents, Register of Returning Officers' declarations of elections and of polls and those declarations.

(b) Any other records or papers of the Council may be destroyed, or otherwise disposed of if the Council so decide, after the expiration of six years from the last entry therein or transaction thereon:

Provided that any record or paper relating to accounts shall not be destroyed or disposed of unless, prior to the passing of the resolution to that end, the Auditor shall have reported that such record or paper is of no further value.

Provided also that tape recordings of the proceedings of meetings of the Council and of meetings of committees of the Council may be destroyed, or otherwise disposed of if the Council so decide, at the expiration of three months after the recordings have been made.

Records.

56. (a) All records of the Council (other than the minute book and other books, and other than rolls and other records relating to elections, except Returning Officers' declarations of elections or of polls) shall be duly registered by the Clerk, and such documents shall, except where otherwise specifically provided, be in the custody of the Clerk.

(b) Except as otherwise provided by law, no member or servant of the Council shall be at liberty to show, lay open, or expose any record of the Council to any person other than a member, without the leave of the Council.

(c) Any member or person who removes any record or book of the Council from the Council Chamber, or the place where, by the direction of the Council, such record is usually kept, without authority for such removal having first been obtained from the Mayor, President, or Council, or without other lawful cause for such removal, shall be liable to a penalty not exceeding \$100.

(d) Any person who, without lawful authority, destroys, defaces, or alters any record of the Council shall be liable to a penalty not exceeding \$100.