



GOSFORD CITY COUNCIL

# L A T E A G E N D A

**ORDINARY  
COUNCIL MEETING**

**TUESDAY, 7 MAY 2013**

PLEASE RETAIN THIS AGENDA FOR THE  
RECONVENED ORDINARY MEETING ON  
TUESDAY, 14 MAY 2013

# GOSFORD CITY COUNCIL - MEETING PROCEDURES

## Public Participation

Council encourages members of the community of the City to participate in the decision making process of the Council and provides the following procedures which in part relate to the requirements stipulated in the Local Government Act 1993 (as amended).

Public participation is permitted for business before the Council when in Open Council, and at the Closed Council Meeting for confidential items. This does not allow the public to participate in respect to Petitions and Questions on Notice reports which are "information only" items, nor individual tenderers to participate in respect to tenders; nor reports concerning investigations of allegations of Code of Conduct violations by Councillors, General Manager or other Council employees. The speaker should not make defamatory or insulting statements. The speaker is to ensure they have approvals to discuss other people's personal information.

Ordinary Council Meetings commence at 6.00 pm and immediately close to consider confidential business in the Closed Council Meeting - Confidential.

### Closed Council Meeting - Confidential

Council conducts a Confidential Session, commencing at 6.00 pm on Tuesday of Weeks 1 and 4 of each month and, if necessary, Week 2 of the month.

- 1 During these sessions, the Closed Council Meeting - Confidential is required to consider matters deemed confidential in accordance with Section 10A of the Local Government Act.
- 2 Prior to Closed Council Meeting considering these matters, members of the public may indicate reasons why any item listed should not be included in the Confidential Session [section 10A(4)].
- 3 Items to the Closed Council Meeting - Confidential will not be available. However the Table of Contents for the Ordinary Council meeting will identify that an item has been submitted to the Confidential Session.
- 4 The report of the Confidential Session will be included in the Ordinary Minutes for that meeting.
- 5 The Open Session of Council recommences at 6.45 pm.

### Open Sessions of the Council Meetings

- 1 An Agenda Paper may be viewed on or collected from the Receptionist's Counter on the ground floor of the Administration Building after 12 noon on the Thursday preceding the meeting and at all Branch Libraries after 10.00 am on the Thursday preceding the meeting. The Agenda Paper is also available on Council's Internet site [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au) after 12 noon on the Thursday preceding the meeting.
- 2 All requests to address the Council must be submitted by each individual speaker to the Secretariat, or by Telephone on (02) 43258336 and (02) 43258379 or by Email addressed to [secretariat@gosford.nsw.gov.au](mailto:secretariat@gosford.nsw.gov.au) (**with the subject "Public Participation"**) before 12 noon on the Monday preceding the Ordinary meetings of Council, which are on Tuesdays in Weeks 1 and 4 of each month. All presentations must be limited to a maximum of three minutes. Electronic presentations to be given as part of the public participation must be submitted to the Secretariat at the email address above before the 12 noon deadline. If the electronic file is too large to email, contact should be made with the Secretariat on the above telephone numbers and Council's electronic drop box will be utilised. Please note: electronic presentations will not be accepted on the night of the meeting.
- 3 Requests from members of the public to address Council should include reference to the item number in the Agenda, the speaker's name, address, daytime telephone number and whether for or against the recommendation. Where a speaker wishes to address Council on behalf of an organisation, authorisation advice is required from the Organisation.
- 4 Items where Public Participation has been requested will be referred to the Open Council or the Closed Council. The number of participants speaking in favour of any one item is to be balanced by the same number of speaker(s) against the proposal. Council will decide who is to speak from the list of registered requests received and unless decided otherwise, speakers for/against will be in order of registration of intention to speak.
- 5 Registered participants will be invited to comment during Council's consideration of the matter (except the Closed Meeting, unless invited to do so by the Council or the Mayor).
- 6 Council may defer items on the Agenda for inspection or further discussion. Persons who have requested to address Council on any item listed for inspection by a Councillor will be advised, on the afternoon preceding the meeting, that their names have been registered to address Council at the Reconvened Meeting held at 6.45pm on Tuesday of Week 2.
- 7 Where a participant is to address a particular item, the Chairperson may invite that person, as well as any other persons present, to discuss the matter with Council.
- 8 Any proposed variations to the above shall be subject to a resolution of Council.
- 9 The Chairperson may curtail public participation where the information being presented is considered repetitive or irrelevant and may rule a participant or question out of order.

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to be held in the Council Chamber, Level 1, 49 Mann Street, Gosford  
on Tuesday, 7 May 2013 at 6.00 pm**

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## **MATTER TO BE SUBMITTED TO THE OPEN COUNCIL**

### **MATTER SUBMITTED BY THE DIRECTOR - ENVIRONMENT AND PLANNING**

#### **ENV.27 PLANNING PROPOSAL FOR SHORT-TERM HOLIDAY LETTING OF RESIDENTIAL DWELLINGS (IR 13590457)**

Directorate: Environment and Planning  
Business Unit: Integrated Planning

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### **BACKGROUND**

The Land and Environment Court has made a determination that will affect the permissibility of Short-Term Holiday Letting of residential dwellings in the Gosford City Local Government Area. The Court has determined that the Short-Term Holiday Letting of residential dwellings is a prohibited land use in the low density Residential 2(a) zone in Gosford. The case specifically relates to the operation of the use at 24 Charles Kay Drive, Terrigal.

### **REPORT**

Holiday letting of dwellings has, for a number of generations, been a source of vacation accommodation for many Australian families. The activity provides a source of income for owners as well as providing economic support through tourism for many towns and villages.

Use of apartments and dwelling houses for this activity has generally been seen by local communities as a land use that, due to its historic status, is part of the living environment of seaside locations such as Gosford. The Court's determination will have potentially significant effects on tourism, an important employment industry in Gosford.

The legal standing of the holiday letting of dwellings for vacation purposes has largely remained unquestioned due to the historic status of the use. Gosford City Council has viewed the use as being akin to the accepted practice of medium to long-term renting of dwellings. Council, in recent years, has begun receiving complaints about the use of 'holiday houses'. The complaints relate primarily to the behaviour of the temporary occupiers of a small proportion of holiday houses in the City.

The issues that are being raised by residents in the Gosford Local Government Area are also being experienced in other coastal areas of NSW. Councils along the coast have responded to the issues by undertaking a range of different actions. A NSW Government policy direction on this State-wide significant issue would provide the opportunity for a consistent Local Government approach in dealing with the issues associated with permitting short-term holiday letting.

Gosford City Council was informed in 2009, as part of the documentation in relation to its Section 65 Certificate to authorise exhibition of its Standard Instrument LEP (i.e. Draft LEP 2009), that the former NSW Department of Planning would be preparing a State-wide policy in relation to Short-Term Holiday Letting of residential dwellings. This policy was not prepared. In its place, the Department prepared in 2012 a Holiday Rental Code of Conduct for operation of the use. The code does not provide any policy support for the continued operation of this important economic activity in coastal areas like Gosford.

Council has written to the Minister for Planning and Infrastructure as a result of the court case requesting a State-wide policy approach relating to landuse support for this important industry.

Gosford City Council has incorporated provisions relating to the permissibility of short-term holiday letting into its DLEP 2009. This DLEP has some way to go before it is made by the Minister.

The Land and Environment Court's determination that the subject use is not permitted under Council's current planning provisions for the residential zone means that Council will have to commence preparation of a Planning Proposal to enable the use to continue now (as proposed in DLEP 2009).

DLEP 2009 provided with respect to short-term holiday letting of residential dwellings for:

- exempt development – dwellings up to and including four (4) bedrooms
- development consent - dwellings of five (5) and six (6) bedrooms & these would be also assessed against a DCP for the use
- prohibition - dwellings with more than six (6) bedrooms

Council officers will now begin the preparation of a Planning Proposal to bring forward the provisions that were placed on public exhibition for DLEP 2009.

**Attachments:** Nil

**Tabled Items:** Nil

## **FINANCIAL IMPACT STATEMENT**

The recommendation does not impact on Council's financial position.

## **RECOMMENDATION**

- A Council initiate the Local Environmental Plan 'Gateway' process pursuant to Section 55 Environmental Planning and Assessment Act by endorsing the preparation of a Planning Proposal (as outlined in this report) which aims to bring forward the Short Term Holiday lettings provisions exhibited within Draft Local Environmental Plan 2009, with any amendments deemed necessary to enable insertion into current LEP/s
- B Council delegate to the General Manager the power to authorise the Section 55 Report once prepared by staff, to be submitted to the Department of Planning & Infrastructure requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act and forward the Planning Proposal and all necessary documentation according to their requirements and this report
- C Council prepare a Development Control Plan to assist in implementing the LEP planning provisions to be exhibited concurrently with the exhibition of the Planning Proposal