



# **EXTRAORDINARY COUNCIL MEETING**

## **BUSINESS PAPER**

**TUESDAY 2 JUNE 2009**

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29 May 2009

## **EXTRAORDINARY COUNCIL MEETING**

Notice is hereby given that an Extraordinary Council Meeting of the Council of the City of Randwick will be held in the Council Chamber, Town Hall, 90 Avoca Street, Randwick, on Tuesday, 2 June 2009 at 6:00pm.

### **PRAYER AND ACKNOWLEDGEMENT OF THE LOCAL INDIGENOUS PEOPLE**

#### **Prayer**

*"Almighty God,*

*We humbly beseech you to bestow your blessings upon this Council and to direct and prosper our deliberations to the advancement of your glory and the true welfare of the people of Randwick and Australia.*

*Amen"*

#### **Acknowledgement of the local indigenous people**

*"I would like to acknowledge that we are here today on the land of the Bidjigal people of the Dharwahal Nation. The Bidjigal people are the traditional owners and custodians of this land and form part of the wider aboriginal nations of the Sydney area. On behalf of Randwick City Council I would also like to acknowledge and pay my respects to the Elders both past and present."*

#### **Apologies/Granting of Leave of Absences**

#### **Declarations of Pecuniary and Non-Pecuniary Interests**

#### **Address of Council by Members of the Public**

#### **Mayoral Minutes**

#### **General Manager's Reports**

GM26/09 Objection to section 600 rebates - Sydney Ports Corporation ..... 1

.....  
Ray Brownlee  
**GENERAL MANAGER**



## General Manager's Report No. GM26/09



**Subject:** Objection to section 600 rebates -  
Sydney Ports Corporation

**Folder No:** F2005/00408

**Author:** Greg Byrne, Manager Financial Operations

### Introduction

As has been granted in past years, Sydney Ports Corporation ("the Corporation") have requested that Council grant a 25% rebate as provided for under Section 600 of the Local Government Act, 1993 for various parcels of land owned by the Corporation at Port Botany. Legal opinion has been obtained that supports grounds for an objection to the rebate. This matter is being referred to this extraordinary meeting of Council in order to obtain a resolution to object to the Corporations rebate application within the statutory timeframe.

### Issues

The section 600 provisions of the Local Government Act, 1993 provide ordinary rates rebates of 25%, or a lesser amount if so determined by the Minister for Local Government, for a parcel of land vested in a public body where access to the parcel is wholly or substantially over other lands for which the public body provides at its own cost, access and services which would otherwise need to be provided by Council.

The following table shows a history of the rebate that has been granted to the Corporation in recent years.

| Year    | S.600 Rebate Amount  |
|---------|--|
| 2003-04 | \$369,866  |
| 2004-05 | \$397,520  |
| 2005-06 | \$409,176  |
| 2006-07 | \$423,878  |
| 2007-08 | \$483,348  |
| 2008-09 | Application rejected. Original claim of \$501,934 revised to \$396,934 |
| 2009-10 | Objection Notice Lodged  |

In 2008 an internal review of the legislative provisions governing the rebate raised a question about whether the Corporation are eligible for the rebate when the roads in question are internal private roads that form part of the rateable parcels of land. Council subsequently obtained legal opinion on how the Section 600 provisions apply to the Sydney Ports Corporation's properties located within the Randwick Council area at Port Botany.

The other lands in question for which the Corporation provides access and services are in fact private roads owned by the Corporation and not public roads that Council would otherwise be responsible for the asset maintenance and renewal. Consequently, it was argued that the Corporation is not entitled to the rebate and it was on this basis that the Corporations rebate application in 2008/09 was rejected.

GM26/09

The Minister for Local Government and the Corporation were both advised that Council was rejecting the claim. The 2008/09 rates were paid in full, however the Corporation's solicitors have subsequently made claim for a refund of the section 600 component, albeit on a reduced number of land parcels. The land parcels serviced by Bumborah Point Road were never entitled to the section 600 rebate.

The Corporation has made application for the full 25% section 600 rebate to again apply to the nominated land parcels for 2009/10. The application is dated 3 April 2009 and was received by Council on 6 April 2009. The Department of Local Government recommended that Council lodge an objection to the 2009/10 rebate within the statutory 2 month period. To this end, an objection dated 4 May 2009 was lodged with the Minister and notice of the objection has been served on the Corporation. A legal officer from the Department of Local Government has since recommended that the objection should be supported by a resolution of Council.

Due to the urgency and the financial implications of this matter, it is considered prudent to refer this matter to this extraordinary meeting and obtain a Council resolution supporting the objection.

### **Relationship to City Plan**

The relationship with the City Plan is as follows:

Outcome 1: Leadership in Sustainability.  
Direction 1c: Long term financial viability is achieved.

### **Financial impact statement**

The original budget estimate for section 600 rebates in 2008-09 was \$501,934. With the revised list of land parcels submitted by the Corporation, this figure was reduced by \$105,000 to \$396,934.

The section 600 rebates applicable to the 2009-10 rates are anticipated to be approximately \$410,000.

### **Conclusion**

The notice of objection lodged with the Minister for Local Government against the application of section 600 needs to be supported by a resolution of Council.

### **Recommendation**

That Council objects to the application of section 600 rebates on all of the land parcels included on the list submitted by the Sydney Ports Corporation.

### **Attachment/s:**

1. Copies of correspondence issue to the Corporation and the Minister for Local Government in relation to this matter - DISTRIBUTED UNDER SEPARATE COVER