

## **COLLECTIVE BARGAINING NOTIFICATION**

### **Toowoomba City Community Aerodrome Inc.**

#### **Section 1 – Information**

##### **Notifying Party**

##### **1. Provide details of the notifying party, including:**

##### **1.1 name, address (registered office), telephone number, and ACN**

Toowoomba City Community Aerodrome Inc. (“TCCAI”)

Building 23, Spitfire St, Toowoomba City Aerodrome, Wilsonton QLD 4350

Telephone: NIL

ACN: 239 413 909

##### **1.2 contact person’s name, telephone number, and email address**

c/o Matt Handley [ President, TCCAI]

TCCA Inc Spitfire St Wilsonton QLD 4350

Tel [REDACTED] Email [REDACTED]

##### **1.3 a description of business activities**

TCCA is a registered association and is a representative group of the tenants (the “**TCA Tenants**”) at the Toowoomba City Aerodrome (the “**Aerodrome**”). The Aerodrome is located in Toowoomba City and is owned and operated by Toowoomba Regional Council (the “**Target**”)

Each of the TCA Tenants lease the ground that their hangars are on. Most of the tenants have erected their own hangars at their own cost and upon vacating must remove all of their improvements.

##### **1.4 email address for service of documents in Australia.**

[REDACTED]

##### **Details of the notified conduct**

##### **2 Indicate what the notified conduct is for:**

The notified conduct is for collective bargaining (under s. 93AB) without collective boycott.

##### **3. Provide details of the notified conduct including:**

##### **3.1 a description of the notified conduct**

TCCAI intends to negotiate with the Target on behalf of the TCA Tenants, in relation to the Aerodrome Hangar lease agreements to be entered into between the Target and each of the TCA Tenants (the “**TCA Leases**”)

Participation in the notified conduct is voluntary and each party may independently determine whether or not to enter into a lease on the terms negotiated.

##### **3.2 any relevant documents detailing the terms of the notified conduct**

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No relevant documents

### **3.3 the rationale for the notified conduct**

The Target has delayed renewal of leases for almost 2 years and has now placed a hold on leases being renewed, due to the Target completing a review of leases, rent and other charges to determine if these are commercially competitive and in line with similar aerodromes. The Target has engaged a suitably qualified consultant to provide the required market rent assessment.

TCA Tenants have agreed that there would be benefit in negotiating common lease terms to apply to the use of the Aerodrome now and into the future. Such coordinated negotiations are necessary to enable efficient negotiation of complex lease terms and conditions with a group of small operators so as not to duplicate efforts and spending on legal advice.

Due to this, the TCA Tenants see benefit in those negotiations covering matters such as tenure (term), rent (price) and other commercial points.

The TCA Tenants are each small to medium businesses and are mostly captive tenants of the Target. Absent of collective negotiation, the TCA Tenants will have limited bargaining power in negotiations with the Target.

By negotiating collectively, TCCAI ( as the representative of all TCA Tenants) and the TCA Tenants expect to negotiate better terms and conditions with the Target and create efficiencies that could not be achieved individually.

### **3.4 any time period relevant to the notified conduct**

The Target is currently reviewing its standard aerodrome lease document. The TCA Tenants would like to negotiate collectively with the Target to participate in the review of the terms of the standard aerodrome lease. Therefore, notification to the ACCC is made to permit immediate collective bargaining negotiation on these and other commercial matters, including price and tenure.

Negotiations are expected to commence in the near future with further consideration by TCCAI. Accordingly, it is appropriate that the notification be in place for the usual period of 10 years to ensure longevity of leaseholders/ business owners at the Aerodrome.

### **4. Provide documents submitted to the notifying party's board or prepared by or for the notifying party's senior management for purposes of assessing or making a decision in relation to the notified conduct and any minutes or record of the decision made.**

On 27<sup>th</sup> August 2024 , TCCAI held a public meeting of TCA Tenants. Out of the 39 TCA Tenants, 24 TCA Tenants attended the meeting and unanimously approved a resolution allowing TCCAI to lodge a collective bargaining notification with the ACCC on their behalf. This has not been officially minuted.

### **5. Provide the names and/or a description of the persons or classes of persons who may be directly impacted by the notified conduct (including targets in collective bargaining or boycott conduct) and detail how or why they might be impacted.**

Beyond the Target, TCCAI does not expect that other persons will be materially impacted by the notified conduct.

### **Market information and concentration**

### **6. Describe the products and/or services, and the geographic areas, supplied by the notifying parties. Identify all products and services in which two or more parties to the notified conduct overlap (compete with each other) or have a vertical relationship (e.g. supplier-customer)**

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The TCA Tenants are a diverse group of users of the Aerodrome. The Aerodrome hosts over twenty-five aviation businesses servicing the Toowoomba Region and surrounding western Queensland communities. Some of the businesses who specialise in certain aircraft maintenance, restoration and avionics have clients from all over Australia and some from New Zealand. This unique ecosystem of aviation specialists includes:

- Pilot training
- Charter Services
- Aeroclub for students and pilots
- Emergency Services including Life Flight, RFDS, QFD
- Aircraft Maintenance
- Avionics specialists
- Restoration specialists
- Private users

The TCA Tenants are all independent entities and acquire services of the Target, including leasing and associated use of the Aerodrome. To the extent that TCA Tenants acquire these services, they may compete with each other to do so.

**7. Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.**

As described above and below, the industry immediately impacted by the notified conduct is general aviation industry in the region of the Aerodrome and surrounding communities.

**8. In respect of the overlapping products and/or services identified, provide estimated market shares for each of the parties where readily available.**

There are no relevant market shares of the parties. As noted, the TCA Tenants comprise a variety of users of the Aerodrome, participating in a variety of markets.

**9. In assessing a notification, the ACCC considers competition faced by the parties to the proposed conduct. Describe the factors that would limit or prevent any ability for the parties involved to raise prices, reduce quality or choice, reduce innovation, or coordinate rather than compete vigorously. For example, describe:**

- 9.1 existing competitors
- 9.2 likely entry by new competitors
- 9.3 any countervailing power of customers and/or suppliers
- 9.4 any other relevant factors.

Southeast and Southwest Queensland Regional Airports (which include Gympie, Sunshine Coast, Caloundra, Dalby, Warwick and Roma airports) offer equivalent services to the services provided by the Aerodrome.

Whilst those proximate airports would offer some constraint to the Target, the Target's unique location, business profile and the longstanding, embedded position held with some TCA Tenants, give it significant market and bargaining power

Note that Wellcamp ( Brisbane West Airport) is not included in this comparison as it is not an Airport with equivalent services. It is a Regular Passenger Transport (RPT) Airport, not a General Aviation Airport.

As noted above, concerns of countervailing power of the Target puts individual TCA Tenants at a significant bargaining disadvantage. Currently there are several leaseholders that have not had their leases renewed and are on holding over (Month to Month leases). This creates uncertainty for those business owners and de-values their business due to lack of certainty. TCCAI-lead bargaining is hoped to assist those tenants counteract that issue so that they can operate at the Aerodrome on more favourable terms.

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Beyond competition for leases, there is limited competition amongst TCA Tenants, given their differentiated businesses. Commercial TCA Tenants will face competition from businesses operating out of nearby airfields to different extents.

However, TCCAI understands that the tenants at these other airports are subject to lower rents and longer tenures than the current rent and tenures applicable to the TCA Tenants. This limits the ability of the TCA Tenants to compete effectively with respective service providers at those airports.

Not having secure tenure at the Aerodrome (as no current Aerodrome lease terms extend beyond 2031), has impacted some businesses, resulting in some TCA Tenants resorting to selling their businesses to improve their hangarages by moving to alternate aerodromes outside the Toowoomba LGA.

There are no factors that would be expected to limit or prevent competition amongst the parties that would be impacted by the notified conduct.

### **Public Benefit**

#### **10 Describe the benefits to the public that are likely to result from the notified conduct. Provide information, data, documents or other evidence relevant to the ACCC's assessment of public benefits.**

The TCA Tenants serve various public benefits, including supporting emergency services, offering local employment and supporting tourism and local businesses that use the Aerodrome to transport personnel and products. Darling Downs Aeroclub (one of the TCA Tenants) has over 300 members that utilise the Aerodrome and its facilities.

In rebalancing the bargaining position of the TCA Tenants through the notified conduct, it is hoped that TCA Tenants will be able to negotiate more favourable terms (including price) and so continue to remain viable and support the identified public benefits. TCA Tenants believe that collective bargaining will also ensure the longevity of the Aerodrome and give security to the business community not only at the Aerodrome but across the Darling Downs and western QLD.

The proposed collective negotiation with the Target is also aimed at ensuring that the TCA Tenants continue to compete effectively in their respective primary markets, by ensuring that a key input cost is kept to a minimum.

### **Public detriment (including competitive effects)**

#### **11 Describe any detriments to the public that are likely to result from the notified conduct, including those likely to result from any lessening of competition. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the detriments.**

TCCAI does not anticipate any detriments to the public or any reduction in competition in the marketplace arising out of it collectively bargaining on behalf of the TCA Tenants.

Participation in the notified conduct is voluntary and each party may independently determine whether or not to enter into a lease on the terms negotiated.

As noted above, there is limited scope for a reduction in competition to arise by virtue of the notified conduct, given the diverse markets serviced by the TCA Tenants and the discrete scope of coordination contemplated. Indeed, the outcome is more likely to be pro-competitive, as far as it rebalances the bargaining power between the TCA Tenants and the Target.

### **Contact details of relevant market participants**

#### **12 Identify and/or provide names and, where possible, contact details (Phone number and email address) for interested parties, such as actual or potential competitors, customers and suppliers, trade or industry associations and regulators.**

The contact details of the Target are as follows:

Notification of Collective Bargaining  
Toowoomba City Community Aerodrome Inc.

Brian Pidgeon  
Chief Executive Officer  
Toowoomba Regional Council  
City Hall  
541 Ruthven St, Toowoomba QLD 4350  
P: [REDACTED]  
E: [REDACTED]

### **Any Other Information**

#### **13 Provide any other information you consider relevant to the ACCC's assessment of the notified conduct.**

To-date the Target has not been forthcoming in its dealings with the TCA Tenants. On 28 May, 2024, the Target even proposed closing the Aerodrome down completely and selling the asset. TCA Tenants are looking for security of tenure on reasonable terms and conditions at the Aerodrome

#### **Section 2 – Additional Information for collective bargaining (with or without collective boycott) conduct only**

#### **14 Confirm that the notifying party is not a trade union, an officer of a trade union to acting at the direction of a trade union.**

TCCAI confirms it is not a trade union.

#### **15 Provide details ( name, phone number email address) of the persons who are current member of the group (contracting parties) on whose behalf notification is lodged. If relevant, identify the classes of the person who may become contracting parties in the future and on whose behalf the notification is lodged.**

Notification is lodged on behalf of the TCA Tenants appearing at **Attachment 1** (contracting parties). It is also lodged on behalf of any other potential or future TCA Tenant, should they seek to participate in the notified conduct.

#### **16 Confirmation**

TCCAI confirms that:

- (a) Each contracting party reasonably expects to enter into an agreement with the Target in respect of the leasing of the Aerodrome as each TCA Tenant is a current tenant of the Target and currently intends to continue to be so; and
- (b) the value of that agreement will not exceed \$3 million in any 12-month period, as the rent is substantially below that figure- indeed the rent for each tenant is currently well under \$100,000.

#### **17 The contracting parties do not propose to engage in a collective boycott**

The notified conduct is for collective bargaining without collective boycott.

#### **Declaration by notifying party**

Authorised persons of the notifying party must complete the following declaration.

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The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the Criminal Code (Cth).



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Signature of authorised person

President of TCCA

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Office Held

Matt Handley

This Friday 4th day of October 2024

Note: If the Notifying Party is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Notifying Party, this fact must be stated.