

**COLLECTIVE BARGAINING NOTIFICATION**  
**Redcliffe Aerodrome Chamber of Commerce Inc. (RACCI)**  
Response to Moreton Bay Regional Council's submission

We refer to the submission from Moreton Bay Regional Council (the **Target**) dated 30 July 2020 (the **Submission**), in response to RACCI's collective bargaining notification lodged on 13 July 2020 (notification number CB10000474-1) (the **Notification**).

We are instructed to provide the following response to the Submission.

**1 Executive Summary**

- 1.1 The Submission does not address the relevant test that must be applied by the ACCC in allowing the Notification to stand. The notified conduct will have clear public benefits and presents no notable public detriments.
- 1.2 RACCI's members are aligned and eager to work cooperatively with the Target to negotiate a mutually beneficial outcome by achieving common terms and lease expiry, which will be workable across the tenant mix. RACCI wishes to negotiate rental rates that would be achieved *but for* the bargaining power of the Target. In doing so, it will seek that consideration be given to all realistic third party rent valuations. That, RACCI submits, is "market value".
- 1.3 The following specific comments are made for completeness in response to the Submission and the associated questions raised by the ACCC.

**2 RAH Tenants consent to be involved in collective negotiation**

- 2.1 RACCI was granted express approval by each RAH Tenant listed in Attachment 1 to its original Notification to list them as seeking to be involved in the notified conduct. It is not aware of any RAH Tenant that has opted out of the proposed notified conduct.
- 2.2 Moreover, each of the RAH Tenants has consented to be represented by RACCI to negotiate on their behalf and have agreed to contribute to the costs and fees associated with engaging a single law firm and procuring a valuation to represent them in such negotiation.
- 2.3 In any event, RACCI has never suggested that the entire complement of RAH Tenants is necessary for the benefits of the notified conduct to be achieved. RACCI is seeking immunity for those that wish to be involved in the conduct to do so. As previously stated, participation in the notified conduct is voluntary.

**3 Significant benefits created by the commonality of issues across the RAH Tenants group**

A. Common terms and conditions between the RAH Leases

- 3.1 The apparent diversity across RAH Tenants is irrelevant to the vast proportion of matters to be collectively negotiated.
- 3.2 Whilst the permitted use specified in a lease may vary, the overall way the RAH Tenants use the leased premises is very similar, particularly given the location and use of the hangars at an aerodrome. Also, beyond the building or lease footprint, the rules for the use of the aerodrome are the same. RACCI is not suggesting that some tenant-specific tailoring

will not be needed. However, these will be minor divergences from what will be mostly common legal terms.

3.3 Accordingly a centralised negotiation process will be managed by RACCI and its legal advisor that will seek feedback on contract drafts from the RAH Tenants and then engage, on the group's behalf, in negotiations with the Target to agree a template.

3.4 The RAH Tenants and RACCI consider that, due to the high degree of similarity between the RAH Leases, the proposed collective negotiation will create obvious benefits and greater efficiencies for both the Target and the RAH Tenants, including by avoiding unnecessary transaction costs and time consuming negotiations due to having to deal with multiple lawyers and their clients.

3.5 There are also demonstrable benefits to the Target in negotiating with one sophisticated legal representative on behalf of the RAH Tenants that might otherwise have no legal representation at all.

B. Common expiry date

3.6 RACCI, on behalf of the RAH Tenants, intends to negotiate termination of all existing leases and migration to new leases over the coming months. The parties wish to propose a common expiry date for all RAH Leases, by reference to the longest current term in place. This would create benefits for all parties, including by (i) giving all RAH Tenants certainty of tenure, and (ii) allowing the Target to masterplan the Redcliffe Aerodrome in the future.

3.7 RACCI had understood that the Target was in support of such a proposition.

C. Rental arrangements and valuation

3.8 Allowing the Notification to stand does not prevent the Target from complying with the regulatory obligations that it identifies in its Submission. In any case, RACCI is not seeking to obtain rental rates below market value.

3.9 Both RACCI and the Target have obtained valuations to assist future negotiation of rent.

(1) The Target declined to provide a copy of its valuation to RACCI and the RAH Tenants until RACCI sought a copy through a freedom of information request. RACCI has concerns with the Target's valuation.

(2) RACCI has obtained another credible valuation that the Target has declined to entertain.

3.10 As previously noted to the ACCC, each RAH Tenant will ultimately agree their own rent bilaterally with the Target. The proposed collective negotiation would benefit the parties by achieving some alignment on an appropriate valuation and standardisation in approach to rental pricing negotiation across the RAH Tenant base.

3.11 Absent a collective approach, negotiations will not reflect what would occur in a workably competitive market (unfettered by imbalances in bargaining power). RACCI is seeking the opportunity to negotiate on a more level playing field with the Target and in doing so, have the Target entertain a valuation that it has procured and believes is reasonably based.

3.12 Partaking in balanced negotiations and having regard to legitimate valuations is, we submit, necessary for the Target to comply with the referenced requirements of the Local Government Act and Regulation.

D. Notification period

3.13 Whilst negotiation is expected to take place over the coming months, given the duration of the RAH Leases to be negotiated and entered into by the RAH Tenants as a result of the notified conduct, RACCI considers that it would be appropriate that the notification be in place for a period of **ten years**. Such notification period would also allow future incoming tenants who wish to participate in the collective negotiation to obtain legal protection.

3.14 At the conclusion of ten years, RAH Tenants may seek further immunity to see out the duration of the relevant leases.

**4 No lessening of competition**

4.1 No detriment to the public or lessening of competition will arise from a collective negotiation of the common terms and conditions. The Target has not made any submission to the contrary. As noted in the original Notification, the outcome is more likely to be pro-competitive, insofar as it rebalances the bargaining power between the RAH Tenants and the Target.