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Mandy Bendelstein
Assistant Director
Merger and Authorisation Review Division
Australian Competition & Consumer Commission
Level 20, 175 Pitt Street
SYDNEY NSW 2000

By email: mandy.bendelstein@accc.gov.au

Dear Ms Bendelstein

**CB1000047 - REDCLIFFE AERODROME CHAMBER OF COMMERCE Inc.
SUBMISSION**

This submission is made by **Moreton Bay Regional Council** ("council"):

1. Council is the registered owner and operator of the land on which the Redcliffe aerodrome is located. Council's operations include leasing aerodrome hangar leases of 68 lease sites. There are 47 separate tenants across these sites.
2. By Collective Bargaining Notification dated 10th July 2020, the Redcliffe Aerodrome Chamber of Commerce Inc. ("RACCI") is seeking approval to undertake collective bargaining under section 93AB without collective boycott. RACCI has indicated it intends to negotiate with council on behalf of Redcliffe aerodrome tenants in relation to aerodrome hangar leases.
3. Council **does not support** RACCI's proposal to carry out collective bargaining.
4. There are some 47 separate tenants at the airport. Though (to council's knowledge) not minuted, RACCI assert that 30 tenants resolved at some meeting to allow RACCI to lodge a collective bargaining notification.
5. No evidence has been provided to council of RACCI's constitution or power to act in any manner whatsoever, including the manner now proposed by RACCI. No evidence has been provided of the purported support by some (but it appears not all) the tenants for RACCI's lodgement of the collective bargaining notification. No evidence has been provided of the tenants' support of RACCI to carry out the notified conduct. Indeed, some individual lessees have directly expressed views to council officers that fundamentally differ from RACCI's purported position.

6. The tenant mix is diverse. The mixture of tenants includes small private aircraft owners utilising sites for recreational purposes, commercial operators of varying sizes (including BP Australia), RAAF and a long-standing not-for-profit club, like Redcliffe Aero Club. The diversity does not allow for any helpful degree of commonality in type, interest or purpose that would otherwise encourage consistency in negotiating outcomes regarding rental arrangements and lease terms and conditions.
7. In addition to the tenant mix, the existing leases are as diverse as the tenants. As an example, twenty-two (22) of the tenants' leases are due to expire between now and the year 2035; eleven (11) are due to expire between the years 2035 and 2044 and fourteen (14) have already expired. Similarly, hangar lease areas vary from 36 sq.m. to 8,800 sq.m.
8. Council's chief executive officer met with RACCI representatives on 8th May 2020, 11th June 2020 and 16th July 2020. In these discussions, RACCI have clearly enunciated to council their determination to only accept a single rent rate regardless of the diversity in tenants and tenancy types. They have further demonstrated an unwillingness to compromise in any way from valuation advice received by RACCI (that significantly differs from the valuation report provided to council).
9. As a local government, council is legislatively required to dispose of land (a valuable non-current asset including leases) only after having gone to tender or auction. The Local Government Act 2009 obligates council to abide by 'sound contracting principles'. This is to ensure any transfer of an interest in land (e.g. lease) owned by council is only transferred on the basis of 'value for money' and subject to 'open and effective competition'. Limited exceptions do apply including for the disposal of an interest in airport land or airport related purpose. However, pursuant to section 236 (2) & (3) of the Local Government Regulation 2012, a pre-condition of exercising that exception is that council must:
 - (a) decide, by council resolution, that the exception is to apply thereby enabling council to lease sites without going to tender or auction; and
 - (b) lease the property for a consideration that is no less than market value evidenced by a valuation.
10. Any collective bargaining about matters of rental or lease consideration must, by necessity of section 236 of the Regulation, be to a value no less than market value. Market based pricing ensures a fair return for ratepayers and the allocation of scarce airport space. This generally requires independent bidding to maximise return to ratepayers on a limited resource such as airport land and avoid distorted pricing.

11. Council has already provided an independent valuer's report as evidence of market rent for the information of airport tenants and has proposed more standardised lease terms document with the option to include tenant specific variations in recognition of the wide diversity in the needs of the cohort.
12. A collective bargaining regime will not lend any more to this process and may well lead to outcomes that are contrary to council's statutory obligations as outlined above.

Yours sincerely



Greg Chemello
Chief Executive Officer