



## **MELTON CITY COUNCIL**

---

**Minutes of the adjourned Meeting of the  
Melton City Council  
of 14 September 2020  
held on 21 September 2020  
via a videoconference**

---

**THESE MINUTES CONTAIN REPORTS DEALT WITH AT A  
CLOSED MEETING OF COUNCIL**

---

**TABLE OF CONTENTS**

<b>MEETING OPENING</b>	<b>3</b>
<b>APOLOGIES AND LEAVE OF ABSENCE</b>	<b>3</b>
<b>DECLARATION OF ANY PECUNIARY INTEREST, OTHER INTEREST OR CONFLICT OF INTEREST OF ANY COUNCILLOR</b>	<b>3</b>
<b>12.27 MELTON COUNTRY CLUB - RENT RELIEF</b>	<b>4</b>
To consider a request for rent relief from Essendon Football Club in relation to the Melton Country Club.	
<b>13. REPORTS FROM DELEGATES APPOINTED TO OTHER BODIES AND COUNCILLOR REPRESENTATIONS AND ACKNOWLEDGEMENTS</b>	<b>9</b>
<b>14. NOTICES OF MOTION</b>	<b>10</b>
14.1 NOTICE OF MOTION 712 (CR ABBOUSHI)	10
14.2 NOTICE OF MOTION 713 (CR ABBOUSHI)	11
14.3 NOTICE OF MOTION 714 (CR ABBOUSHI)	12
14.4 NOTICE OF MOTION 715 (CR KESIC)	13
14.5 NOTICE OF MOTION 716 (CR KESIC)	14
14.6 NOTICE OF MOTION 717 (CR KESIC)	15
<b>15. COUNCILLOR'S QUESTIONS WITHOUT NOTICE</b>	<b>16</b>
<b>16. URGENT BUSINESS</b>	<b>17</b>

<b>17.</b>	<b>CONFIDENTIAL BUSINESS</b>	<b>18</b>
<b>17.1</b>	<b>MINUTES OF THE 2021 COMMUNITY ACHIEVEMENT AWARDS ASSESSMENT PANEL MEETING</b>	<b>19</b>
	To present to Council the Minutes of the 2021 Community Achievement Awards Assessment Panel Meeting held on Tuesday 25 August 2020.	
<b>18.</b>	<b>CLOSE OF BUSINESS</b>	<b>22</b>

## **MELTON CITY COUNCIL**

MINUTES OF THE ADJOURNED MEETING OF THE  
MELTON CITY COUNCIL OF 14 SEPTEMBER 2020  
HELD ON 21 SEPTEMBER 2020 COMMENCING AT 7:03PM  
VIA A VIDEOCONFERENCE

**Present:** Cr L Carli (Mayor)  
Cr S Abboushi (Deputy Mayor)  
Cr K Hardy  
Cr G Kesic  
Cr K Majdlik  
Cr S Ramsey  
Cr Y Sebire  
Cr B Turner

Mr K Tori, Chief Executive Officer  
Mr P Bean, General Manager Corporate Services  
Mr M Heaney, General Manager Community Services  
Mr L Shannon, General Manager Planning and Development  
Ms LJ Mellan, Executive Manager Property and Projects  
Ms C Denyer, Manager Legal and Governance  
Mr J Whitfield, Governance Coordinator  
Ms R Bartlett, Acting Governance Officer

### **MEETING OPENING**

The Mayor, Cr Carli opened the meeting and welcomed Councillors and community members watching the live stream.

### **APOLOGIES AND LEAVE OF ABSENCE**

Cr M Mendes

### **DECLARATION OF ANY PECUNIARY INTEREST, OTHER INTEREST OR CONFLICT OF INTEREST OF ANY COUNCILLOR**

Nil

**12.27 MELTON COUNTRY CLUB - RENT RELIEF**

**Author: Maree Stellini - Senior Legal Officer**  
**Presenter: Kel Tori - Chief Executive Officer**

**PURPOSE OF REPORT**

To consider a request for rent relief from Essendon Football Club in relation to the Melton Country Club.

**RECOMMENDATION:**

That Council in accordance with the *COVID-19 Omnibus (Emergency Measures) (Commercial Leases and Licences) Regulations 2020*:

1. Provide rent relief to Essendon Football Club in the form of a 50% waiver and 50% deferral for the period 29 March 2020 to 31 December 2020;
2. Delegate authority to the Chief Executive Officer to negotiate the method for amortisation of the deferred rent in accordance with the Regulations and execute any necessary documentation to give effect to the rent relief.

The Mayor summarised the consideration of Item 12.27 that took place at the Council meeting held 14 September 2020 including the Motion that was moved and lost prior to the meeting being adjourned and that the matter was still to be determined.

**Motion**

Crs Turner/Hardy

That the officer recommendation be adopted

LOST

Cr Majdlik called for a division thereby setting aside the vote.

**For:**

Crs Hardy, Ramsey, Sebire and Turner

**Against:**

Crs Abboushi, Carli, Kesic and Majdlik

The Mayor declared the Motion LOST on the casting vote of the Mayor

**Motion**

Crs Majdlik/Abboushi

That Council:

1. seeks external independent legal advice as to the tenants eligibility for rent relief as prescribed under Section 7(1)(a) & (b) and (2)(a) & (b) including whether the tenant has complied with all its obligations for the tenants request for rent relief as prescribed under Section 10(1), (2)(a) & (b), (i) & (ii) under the *COVID-19 Omnibus (Emergency Measures) (Commercial Leases and Licences) Regulations 2020*
2. receives a report outlining the external independent legal advice.

CARRIED

Cr Majdlik called for a division thereby setting aside the vote.

**For:**

Crs Abboushi, Carli, Kesic, Hardy, Majdlik, Ramsey, Sebire and Turner

**Against:**

Nil

The Mayor declared the Motion CARRIED

---

**REPORT****1. Executive Summary**

Essendon Football Club currently leases the property situated at 28-30 Reserve Road, Melton known as the Melton Country Club and has sought rent relief for the period 29 March 2020 to 31 December 2020 as set out in **Appendix 1**.

Council as the landlord is required to act in accordance with the *COVID-19 Omnibus (Emergency Measures) Act 2020* and the *COVID-19 Omnibus (Emergency Measures) (Commercial Leases and Licences) Regulations 2020*, when considering and offering rent relief to tenants in eligible leases.

**2. Background/Issues**

Essendon Football Club (the Tenant) currently leases the property situated at 28-30 Reserve Road, Melton known as the Melton Country Club (the leased premises). The current lease commenced on 1 December 2018 and is in its initial term of 4 years (with a remaining five further term options of five years each).

COVID-19 pandemic has had a wide spread effect across the community and has resulted in many changes to the way businesses can operate. This has seen the closure of many facilities and specifically, the leased premises has been closed since on or about the end of March 2020.

By way of letter dated 1 September 2020, the Tenant has formally requested that Council consider providing rent relief as set out in **Appendix 1**. This is the second request for rent

relief from the Tenant with the first request received prior to the relevant legislation and regulations coming into effect.

The Tenant has sought rent relief as a result of the COVID-19 pandemic and the various restrictions within Victoria that has seen the closure of the leased premises with an overall cease in revenue.

The request is seeking rent relief in the form of a 50% rent waiver and a 50% deferral of rent payable for the period 9 March 2020 to 31 December 2020.

#### Relevant legislation

On 8 April 2020, the National Cabinet implemented a mandatory code of conduct for commercial leasing (the Code) which imposes a set of good faith leasing principles for negotiations between landlords and tenants.

Subsequently in Victoria, the *COVID-19 Omnibus (Emergency Measures) Act 2020* (the Act) and the *COVID-19 Omnibus (Emergency Measures) (Commercial Leases and Licences) Regulations 2020* (the Regulations) were enacted.

The objective of the Regulations is to implement temporary measures to apply to tenants and landlords under certain eligible leases to mitigate the effect of measures taken in response to the COVID-19 pandemic.

An eligible lease is a commercial or retail lease where the tenant is a participant in the JobKeeper scheme and has a turnover of less than \$50million.

The Tenant has advised that they are a participant in the JobKeeper Scheme and for their current financial year ending on 31 October 2020, will report turnover of approximately \$40m. Therefore based on this information, the lease is an eligible lease.

The Regulations are broadly as follows:

- taken to come into operation on 29 March 2020 and ending on 29 September 2020 (the relevant period as defined). Further information is set out in this report in relation to the proposed Bill.
- landlord and tenant must cooperate and act reasonably and in good faith in all discussions and actions (regulation 8(2));
- a landlord must offer rent relief to the tenant within 14 days after receiving the request or as otherwise agreed between the parties (regulation 10(3))
- a landlord's offer of rent relief must be based on all the circumstances of an eligible lease (regulation 10(4)); and
- either party is able to refer a matter for dispute resolution (Part 6, Division 1 & 2)).

#### Rent relief

In accordance with regulation 10(4), rent relief must be based on all the circumstances of the eligible lease and must relate to up to 100% of the rent payable during the relevant period (regulation 10(4)(a)). The current monthly rent is \$24,947.36 per month inclusive of GST.

No less than 50% of the rent relief offered by the landlord must be in the form of a waiver of rent (unless a landlord and a tenant otherwise agree in writing) and apply to the relevant period (regulation 10(4)(b) and(c)). This would see the Tenant provided with a rent waiver in the total amount of \$12,473.50 per month.

As at the time of writing this report, the relevant period is 29 March 2020 to 29 September 2020.

In considering any further rent relief, regulation 10(4)(d) requires that a landlord take into account—

- (i) *the reduction in a tenant's turnover associated with the premises during the relevant period; and*

- (ii) any waiver given pursuant to regulation 14(2); and
- (iii) whether a failure to offer sufficient rent relief would compromise a tenant's capacity to fulfil the tenant's ongoing obligations under the eligible lease, including the payment of rent; and
- (iv) a landlord's financial ability to offer rent relief, including any relief provided to a landlord by any of its lenders as a response to the COVID-19 pandemic; and
- (v) any reduction to any outgoings charged, imposed or levied in relation to the premises.

The Tenant has sought a 50% deferral.

In accordance with regulation 16, deferred rent must be amortised and repaid over a minimum period of 24 months (unless the landlord and tenant otherwise agree). Payment of any deferred rent could commence at the expiry of the relevant period. The Regulations do not set out a method for amortisation and instead requires, the amortisation of the deferred rent to be agreed by the parties.

A landlord cannot charge interest or any other fee or charge in relation to any payment of deferred rent (regulation 17(2)).

#### Extension of legislation and regulations

On 20 August, the Victorian government released a media statement that the relevant period would essentially be extended until 31 December 2020.

Whilst not yet in operation, Council should note that the COVID-19 Commercial and Residential Tenancies Legislation Amendment (Extension) Bill 2020 has recently passed its third reading in the Legislative Assembly. The Bill proposes to extend the Regulations until 26 April 2021.

In considering the request from the Tenant, the Recommendation has taken into account these proposed amendments to the Regulations.

### **3. Council and Wellbeing Plan Reference and Policy Reference**

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

- 5. A high performing organisation demonstrating leadership and advocacy: An organisation operating with innovation, transparency, accountability and sustainability

*5.3 Effective civic leadership, advocacy, partnerships and good governance.*

### **4. Financial Considerations**

The current lease provides for a monthly rent of \$24,947.36 inclusive of GST.

Rent relief in the form of a 50% waiver, would be in the amount of \$12,473 per month.

For the period 29 March 2020 to 29 September 2020, this would see a rent waiver of \$74,838.

For the period 29 March 2020 to 31 December 2020; as per the request, this would see a rent waiver of \$112,257.

Any deferred rent would be required to be repaid over a minimum period of 24 months (unless the landlord and tenant otherwise agree) with the method for amortisation of the deferred rent to be agreed by the parties.

### **5. Consultation/Public Submissions**

Not applicable.



## 6. Risk Analysis

Council as landlord must cooperate and act reasonably and in good faith in all discussions and actions associated with matters to which the Regulations apply (regulation 8).

The Regulations provide for the referral of a dispute under an eligible lease to the Victorian Small Business Commission for mediation. The relevant mediation procedures apply.

Should the VSBC certify in writing that mediation has failed, or is unlikely to resolve the dispute, the matter can be the subject of a proceeding in VCAT or in a court. Leave is required to commence a proceeding in the Supreme Court.

## 7. Options

Council has the option to

1. Adopt the recommendation as set out;
2. Provide rental relief by way of a 50% waiver and 50% deferral for the period 29 March 2020 to 29 September 2020 and delegate authority to the Chief Executive Officer to negotiate the method for amortisation of the deferred rent in accordance with the Regulations and execute any necessary documentation to give effect to the rent relief.

## LIST OF APPENDICES

1. Letter from Essendon Football Club - dated 1 September 2020

Cr Ramsey left the meeting at 7:47pm

Cr Ramsey returned to the meeting at 7:48pm.

**13. REPORTS FROM DELEGATES APPOINTED TO OTHER BODIES  
AND COUNCILLOR REPRESENTATIONS AND  
ACKNOWLEDGEMENTS**

Verbal reports were received from Crs Majdlik, Hardy, Ramsey, Turner and Carli.

## 14. NOTICES OF MOTION

### 14.1 NOTICE OF MOTION 712 (CR ABBOUSHI)

Councillor: Steven Abboushi - Councillor

**NOTICE:**

That Council arrange a roundtable forum with a representative of the following organisations;

1. Victoria Police;
2. Local developers;
3. Members of Parliament in the Melton LGA;
4. Youth organisations servicing the Melton LGA and;

Any other organisation as recommended by officers to discuss strategies and mechanisms to tackle the increase in antisocial behaviour, particularly in and around new estates and developments in the City of Melton.

**Motion**

Crs Abboushi/Kesic.

That Council arrange a roundtable forum with a representative of the following organisations;

1. Victoria Police;
2. Local developers;
3. Members of Parliament in the Melton LGA;
4. Youth organisations servicing the Melton LGA and;

Any other organisation as recommended by officers to discuss strategies and mechanisms to tackle the increase in antisocial behaviour, particularly in and around new estates and developments in the City of Melton.

CARRIED

Cr Majdlik called for a division thereby setting aside the vote.

**For:**

Crs Abboushi, Carli, Kesic, Hardy, Majdlik, Ramsey, Sebire and Turner

**Against:**

Nil

The Mayor declared the Motion CARRIED

**14.2 NOTICE OF MOTION 713 (CR ABBOUSHI)****Councillor: Steven Abboushi - Councillor****NOTICE:**

That officers report on the planned provision of recreation and sporting facilities to service the Thornhill Park area including the nature, location, funding and planned delivery timeline for such facilities .

**Motion**

Crs Abboushi/Majdlik.

That officers report on the planned provision of recreation and sporting facilities to service the Thornhill Park area including the nature, location, funding and planned delivery timeline for such facilities.

CARRIED

**14.3 NOTICE OF MOTION 714 (CR ABBOUSHI)****Councillor: Steven Abboushi - Councillor****NOTICE:**

That Council officers provide a report to Council on the likely costs associated with the full reconstruction of the main oval at Burnside Heights, including but not limited to: a fully reconstructed playing surface, cricket pitch, irrigation, drainage, fencing, coach's boxes and the like.

**Motion**

Crs Abboushi/Kesic.

That Council officers provide a report to Council on the likely costs associated with the full reconstruction of the main oval at Burnside Heights, including but not limited to: a fully reconstructed playing surface, cricket pitch, irrigation, drainage, fencing, coach's boxes and the like.

CARRIED

Cr Majdlik called for a division thereby setting aside the vote.

**For:**

Crs Abboushi, Carli, Kesic, Hardy, Majdlik, Ramsey, Sebire and Turner

**Against:**

Nil

The Mayor declared the Motion CARRIED

#### **14.4 NOTICE OF MOTION 715 (CR KESIC)**

**Councillor: Goran Kesic - Councillor**

**NOTICE:**

That Council officers investigate and prepare a report on whether there is a need to install traffic calming devices in Fraser Rise, City Vista Court due to frequent collisions caused by speeding.

Cr Kesic advised he had received further information on this matter and would not be moving Notice of Motion 715.

## 14.5 NOTICE OF MOTION 716 (CR KESIC)

Councillor: Goran Kesic - Councillor

### NOTICE:

That Council officers explore areas appropriate for the installation of publically accessible electric car charging stations across the municipality.

### Motion

Crs Kesic/Majdlik.

That Council officers explore areas appropriate for the installation of publically accessible electric car charging stations across the municipality.

CARRIED

**14.6 NOTICE OF MOTION 717 (CR KESIC)**

**Councillor: Goran Kesic - Councillor**

**NOTICE:**

That Council officers prepare a report on the feasibility, suitability, possible locations and community support for protected bicycle lanes in the Melton City Council municipality.

**Motion**

Crs Kesic/Hardy.

That Council officers prepare a report on the feasibility, suitability, possible locations and community support for protected bicycle lanes in the Melton City Council municipality.

CARRIED



Cr Abboushi left the meeting at 8:15pm

Cr Abboushi returned to the meeting at 8:16pm

## 15. COUNCILLOR'S QUESTIONS WITHOUT NOTICE

### 15.1 COUNCILLOR'S QUESTIONS WITHOUT NOTICE

Cr Majdlik

Can officers provide an update on the consultation with INChurch and the Diggers Rest Primary School regarding their ideas on Christmas Carol options for this year during COVID-19 restrictions?

### 15.2 COUNCILLOR'S QUESTIONS WITHOUT NOTICE

Cr Hardy

Can officers please provide an update on the Bulmans Road project and the donation from the Catholic Regional College to the service lane on Bulmans Road?

### 15.3 COUNCILLOR'S QUESTIONS WITHOUT NOTICE

Cr Ramsey

How much will the Bulmans Road project cost over the life of the project?

### 15.4 COUNCILLOR'S QUESTIONS WITHOUT NOTICE

Cr Ramsey

At the site of the Woodgrove bus interchange works there were a number of trees cut down. Were they mature trees and have other trees been planted as an offset?

### 15.5 COUNCILLOR'S QUESTIONS WITHOUT NOTICE

Cr Ramsey

How are the negotiations going regarding the re-opening of the 50m pool? And can the Council provide a bollard into the Scott Street park to stop access by hooning cars?

### 15.6 COUNCILLOR'S QUESTIONS WITHOUT NOTICE

Cr Turner

Can officers please outline the extent of the Bulmans Road Project and how long will it be until this project is completed?

**15.7 COUNCILLOR'S QUESTIONS WITHOUT NOTICE**

Cr Sebire

Residents in The Bridges Estate, Caroline Springs, particularly around Lauriston Quay, have noticed frogs migrating into their pools and unfortunately the frogs are perishing. Does Council test the quality of waterways in the municipality to check for the health of those waterways and ensure the wildlife is sustainable?

**16. URGENT BUSINESS**

Nil.

## 17. CONFIDENTIAL BUSINESS

### Procedural Motion

Crs Majdlik/Ramsey.

That pursuant to section 66(1) and (2)(a) of the *Local Government Act 2020* the meeting be closed to the public to consider the following reports that are considered to contain **confidential information** on the grounds provided in section 3(1) of the *Local Government Act 2020* as indicated:

#### 17.1 Minutes of the 2021 Community Achievement Awards Assessment Panel Meeting

- (f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs

CARRIED

**Procedural Motion**

Crs Majdlik/Ramsey.

That the meeting be opened to the public

CARRIED

**18. CLOSE OF BUSINESS**

The meeting closed at 8:22pm

Confirmed

Dated this

.....CHAIRPERSON