

# CAULFIELD RACECOURSE RESERVE

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31 March 2014

Mr Brodie Arnold  
Chief Executive  
Melbourne Racing Club  
PO Box 231  
Caulfield East  
VIC 3145

Dear Brodie

Thank you for your prompt response of 25 February 2014.

The Trustee has been attempting to negotiate a renewal of the lease arrangements with the Club for nearly two years. The club has refused to engage meaningfully in negotiations during that time. Rather, the club has refused to agree to any increase in rental and expressed the view the matter will have to be resolved by the government.

The intransigence of the MRC has prompted the trustee to seek legal advice about its responsibilities in circumstances where there was a real prospect that the lease would expire.

This advice has been made available to the club.

Before I come to the matter of the clubs proposals in relation to "Key Principles" I need to address the attempt by the club, and the club nominated representatives on the Trust, to call into question the Charter Keck Cramer (CKC) valuation commissioned by the Trust.

The Trust resolved to obtain an independent valuation so as to provide the Trust with a base for proper negotiations with the MRC and the Trust subsequently resolved to adopt the valuation provided by CKC. The basis for the valuation was current government policy. That is, where Crown Land is being used for commercial purposes, a commercial rental should apply and where Crown Land has non-exclusive use a community rental value used.

In the case of the CKC valuation, only the Tabaret rental was assessed as being commercial. The basis of the valuation is clear, explained in the valuation document itself and the club has had a copy of the valuation for more than 12 months. In the time since the MRC has been in possession of the valuation, it has made no detailed criticism of the document with the exception of claiming the terms of the valuation are not clear.

The proposal by the Trust to the MRC for a renewal of the lease was holistic and included bringing all leases together and providing a licence to the MRC's use of the non-leased areas. It should be noted that there is no rental suggested for those areas proposed to be licenced to the MRC.

The MRC corresponded with the Trustee on 23 December 2013 proposing an increase in rental from circa \$90,000 to \$150,000 for a lease period of 21 years on conditions including no CPI increases.

The Trust arranged to meet with the MRC on 31 January 2014 to discuss the MRC proposal. At that meeting the Trust's representatives made it clear that the rental proposed was not acceptable. The MRC proposed to draft a set of principles they wished the Trust to consider. These principles were provided to the Trust on 26 February 2014.

The Trustee sought advice from the Victorian Government Solicitors Office (VGSO) in relation to the proposed principles.

A meeting of the lease working group was held on the 18 March 2014 to discuss the MRC proposal and the VGSO advice. It should be noted that Peter Le Grand, a MRC nominated Trustee and MRC Committee Vice Chairman, was present at the meeting and provided with all relevant documentation. At the meeting it was quickly apparent that the MRC proposal could not be agreed upon as the MRC was seeking significant extensions to current use and exclusive use of additional areas outside the current lease.

Rather than move the Trustee and MRC closer to finding a solution, the proposal opened up significant additional proposals which would further reduce public access to the course.

At this stage, with time running out before the lease was due to expire, the Trustee has looked to find a way forward and sought additional advice from Herbert Smith Freehills.

The proposal we sent you on 26 March 2014 is aimed at providing time for the Trust and MRC to resolve the issues between us, but in a context of conditions that encourage an equitable outcome for the MRC and the State of Victoria.

A key condition being, that the matter of the rental be arbitrated by the Valuer General. As to involving the responsible Minister, I should think there are issues of governance but provided the Valuer General's advice was made public to the Trustee at the same time as to the Minister, we would be guided by advice from the Minister's Office and the Department.

For clarity, I need to again point out that the MRC lease and MRC access to the centre and training areas are separate issues.

The proposed lease (subject of the CKC valuation) covers the Tabaret, Grandstands, stables, administration building and car parks, the Tabaret is the only "commercially" rated rental proposed.

The licence proposed by the Trustee is not a lease but to clarify the rights of the club to use community use areas on terms agreed with the Trustee. There is currently no rental proposed for the licenced areas.

Consequently discussions around the licence conditions should not impede the finalisation of the lease terms. Worst case scenario is the Trust and Club fail to reach agreement on the introduction of a licence and the current position, where there is no licence continues.

Given the MRCs' unwillingness to proceed in the direction proposed by the Trust, the Trust will give consideration to its responsibilities in circumstances where the MRC allows the lease to expire. I will advise further.

Yours sincerely

A handwritten signature in black ink, appearing to read "Greg Sword". The signature is written in a cursive style with a period at the end.

Greg Sword AM  
Chairman  
**Caulfield Racecourse Reserve**

cc: Mr Mike Symons, Chairman MRC; Caulfield Racecourse Reserve Trustees; Minister for Environment & Climate Change; Minister for Racing; & Department of Environment and Primary Industries