

COVID-19 Rent Relief for City of Melbourne Tenants

Council

Presenter: Michael Tenace, General Manager Finance and Corporate

28 April 2020

Purpose and background

1. At the Future Melbourne Committee on 17 March 2020, Council resolved to provide eligible tenants in Council owned buildings with rent relief of 50 per cent for the months of April to June (inclusive) in response to COVID-19 (Resolution).
2. Under the approved rent relief package “eligible tenants” are defined as those providing retail, hospitality, arts services and tourism (including waterways business operators with wharf / dock leases under City of Melbourne management) and who are individuals or meet the definition of a small or medium sized business under Council’s General Hardship Policy (Policy). At a high level, the Policy defines small business as a business with 0-19 employees and annual turnover of up to \$1 million and a medium sized business is defined as a business with 20-199 employees and annual turnover of up to \$5 million.
3. On 8 April 2020, the National Cabinet implemented a mandatory code of conduct for commercial leasing (Code) which imposes a set of good faith leasing principles for negotiations between landlords and tenants to alleviate financial stress and hardship stemming from the COVID-19 pandemic. The Code applies to small to medium business tenants who are eligible for the Commonwealth Government’s Jobkeeper programme and have an annual turnover of less than \$50 million. Not for profit tenants are also eligible under the Code.

Key issues

4. The Code imposes obligations on Council in its capacity as a landlord that are over and above the Resolution, rent relief package and Policy. These obligations include:
 - 4.1. Offering tenants proportionate reductions in rental in the form of waivers and deferrals of up to 100 per cent of the amount ordinarily payable based on the tenant’s trade during the COVID-19 pandemic period and subsequent reasonable recovery period, with waivers constituting not less than 50 per cent of the total reduction.
 - 4.2. Allowing payment of rental deferrals to be amortised over the balance of the lease term and for a period of not less than 24 months unless otherwise agreed by the parties.
 - 4.3. Allowing tenants the opportunity to extend their leases for the equivalent period of the rent waiver and/or deferral period.

Freezing rental increases for the duration of the COVID-19 pandemic and subsequent reasonable recovery period.
5. At the time of writing the Code has not been passed into Victorian legislation, however it is anticipated that this will occur before the end of April 2020. If there are additional changes required to Council’s rent relief approach arising from the legislation, further Council approval will be sought at that time.
6. It is proposed to also extend rental relief of 50 per cent for the period of April – June 2020 to not only eligible tenants of City of Melbourne owned premises but also to sub-tenants and licensees (primarily artists) in Council managed premises. There are approximately 86 licensees and sub-tenants across these venues. In addition to leased premises, there are also approximately 45 tenants on Crown land under City of Melbourne management who may also be eligible under the Code.
7. To allow flexibility to negotiate rent relief on a case by case basis with tenants as required by the Code, the following recommendation is presented to Council below.

Recommendation from management

8. That Council:

- 8.1. Notes the previously endorsed rental relief of 50 per cent for the period April-June 2020 for eligible tenants of City of Melbourne owned premises based on established criteria and approves extending this rent relief to include Council managed premises.
- 8.2. In cases of extreme hardship, endorses further rent relief of up to 50 per cent to a maximum of 100 per cent for the period April-June 2020 for eligible tenants of City of Melbourne owned and managed premises, which may be granted in the form of a wavier or deferral depending on the nature of the hardship and approved by the Director Property.
- 8.3. Notes that where the National Cabinet Mandatory Code of Conduct (or subsequent Victorian legislation) applies to tenants of Council owned and managed premises that rent relief will be negotiated on a case by case basis and approved by the Director Property.
- 8.4. Authorises the General Manager Finance and Corporate to make amendments to the Council's General Hardship Policy to remove reference to leasing and rent relief.
- 8.5. Notes that additional principles relating to rent relief will be included in a Leasing Policy to be presented to Council before the end of 2020.
- 8.6. Notes that the estimated financial revenue loss impact based on broad level assumptions is likely to be in the order of \$600k per quarter in waived rental and \$600k per quarter in deferred rental on the 2019-20 and 2020-2021 Budget.

Attachments:

1. Supporting Attachment (page 3 of 3)

Supporting Attachment

Legal

1. Legal advice will be provided as and when required.

Finance

2. A number of tenants of Council owned and managed premises are unsure of their eligibility under the National Cabinet Mandatory Code of Conduct and as such the financial implications to Council are unknown at this stage however the financial impact to Council is anticipated to be \$600k per quarter in waived rental and \$600k per quarter in deferred rent.

Conflict of interest

3. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Health and Safety

4. In developing this proposal no Occupational Health and Safety issues or opportunities have been identified.

Stakeholder consultation

5. The proposal seeks to align Council practice with the National Mandatory Code and any subsequent Victorian legislation and as such consultation with stakeholders is not required.

Relation to Council policy

6. This proposal seeks to amend the General Hardship Policy.

Environmental sustainability

7. In developing this proposal no environmental sustainability issues or opportunities have been identified.