

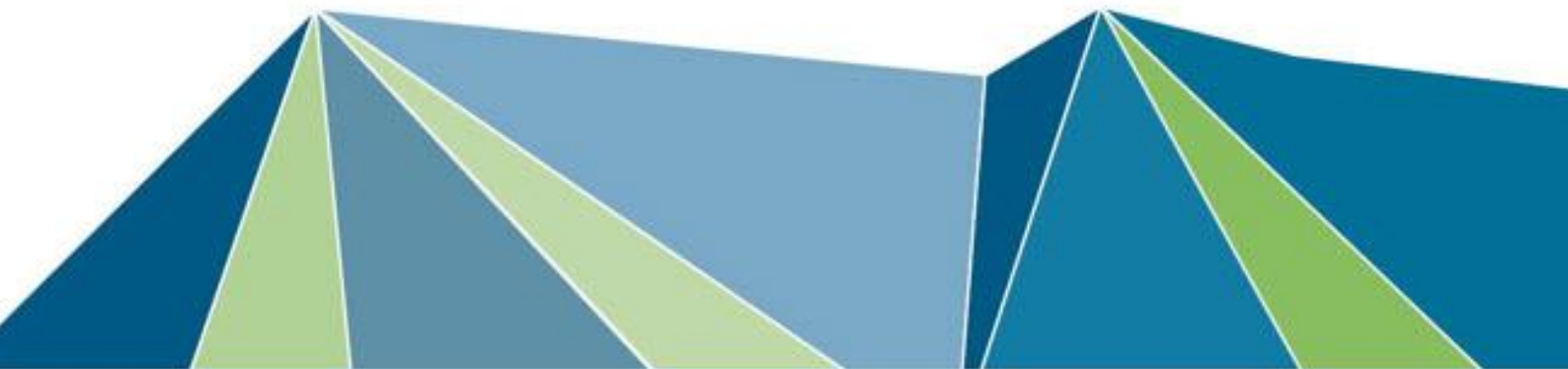
Agenda

Commercial Services Committee Meeting **14 August 2025**

A Commercial Services Committee Meeting will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **14 August 2025 commencing at 4:00 PM.**

1. Acknowledgement of Country
2. Apologies
3. Declarations of Interest
4. Deputations
5. Committee Reports

Paul Hickey
General Manager



Ethical Decision Making and Conflicts of Interest

A guide for Councillors, Council employees and community representatives

Ethical decision making

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

Conflict of Interest

A conflict of interest is a clash between private interest and public duty. There are two types of conflict:

- **Pecuniary** – an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to yourself or another person or entity defined in part 4 of the Council's Code of Conduct, with whom you are associated.
- **Non-pecuniary** – a private or personal interest that you have that does not amount to a pecuniary interest as defined in the Council's Code of Conduct.

These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.

The test for a conflict of interest

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of "corruption" – using public office for private gain.
- It is important to consider public perceptions of whether you have a conflict of interest.

Identifying problems

- Do I have private interests affected by a matter I am officially involved in?
- Is my official role one of influence or perceived influence over the matter?
- Do my private interests' conflict with my official role?

Disclosure and participation in meetings

Pecuniary Interests

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned, and who is present at a meeting of the Council or Committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Non-pecuniary Interests

Must be disclosed in meetings. There are a broad range of options available for managing non-pecuniary interests and the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary interests must be dealt with in one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as per the provisions in the Code of Conduct (particularly if you have a significant non pecuniary interest)

Deputations to Council – Guidelines

- Deputations by members of the public may be made at Council meetings on matters included in the business paper.
- Deputations are limited to one speaker in the affirmative and one speaker in opposition.
- Deputations, per person, will be limited to a maximum of two items on the agenda.
- Requests to speak must be lodged in writing or by phone with the General Manager by noon on the day preceding the meeting.
- Deputations are given five minutes to address Council.
- Deputations on the same matter will be listed together with the opposition first and the speaker in affirmative second.
- Members of the public are advised that any documents tabled or given to Councillors during the meeting become Council documents and access may be given to members of the public in accordance with the requirements of the Government Information (Public Access) Act 2009.
- The use of powerpoint presentations and overhead projectors is permitted as part of the deputation, provided that the speaker has made prior arrangements with the General Manager's Office at the time of booking their deputation. The setup time for equipment is to be included in the total time of five minutes allocated for the deputation.
- To avoid conflicts of interest, real or perceived, deputations will not be accepted from:
 - a) Tenderers during a public tender or request for quotation
 - b) Persons or representatives from organisations seeking financial support from Council that involves an expression of interest
 - c) Consultants who are engaged by Council on the matter the subject of the deputation.

Recording and Livestreaming of Council Meetings

- The meeting (with the exception of the confidential session) is being livestreamed and recorded for on-demand viewing via Council's website (ballina.nsw.gov.au/agendas-and-minutes) and a person's image and/or voice may be broadcast.
- Attendance at the meeting is taken as consent by a person to their image and/or voice being webcast.
- All speakers should refrain from making any defamatory comments or releasing any personal information about another individual without their consent.
- Council accepts no liability for any damage that may result from defamatory comments made by persons attending meetings. All liability will rest with the individual who made the comments.
This meeting must not be recorded by others without the prior written consent of the Council in accordance with Council's Code of Meeting Practice.

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1. Acknowledgement of Country
 2. Apologies
 3. Declarations of Interest
 4. Deputations
-

1. Acknowledgement of Country

In opening the meeting the Mayor provided an Acknowledgement of Country.

2. Apologies

3. Declarations of Interest

4. Deputations

5.1 Ballina Bowling and Recreation Club Ltd (Club Lennox) - Lease Update

5. Committee Reports

5.1 Ballina Bowling and Recreation Club Ltd (Club Lennox) - Lease Update

Section Commercial Services

Objective To provide the Council with an update on the capital works program and rent rebate schedule for Club Lennox

Background

Ballina Bowling and Recreation Club Limited (BBRC) lease the site located at 10 Stewart Street and part of King Street, Lennox Head and is known as Club Lennox Sports (the Club).

The lease for the 10 Stewart Street parcel of land commenced on 1 July 2022 and expires in 2043. The lease over part King Street commenced 1 July 2022 and is only for five years, as this is a lease under the *Roads Act 1993* and cannot exceed five years.

When Council granted these two leases to BBRC, a 50% rent reduction for the first three years was included to assist BBRC in undertaking capital improvement works. The rent reduction granted is in the form of a rental rebate that runs until 30 June 2025, at which time a reconciliation is to be undertaken to determine if BBRC is to pay back the rental rebate proportional to unexpended capital works.

This report seeks direction on whether to enforce the rental rebate provisions under the lease and provide an update on BBRC's capital works program.

Key Issues

- Compliance with lease terms and rent reductions

Discussion

A report was presented to the 5 August 2024 Commercial Services Committee meeting (refer Attachment 1) providing an update on the capital works program and seeking landowner's consent for the lodgement of a Development Application to undertake building works at 10 Stewart Street Lennox Head.

The recommendation from the Commercial Services Committee meeting, which was adopted at the August 2024 Ordinary meeting is as follows:

1. *That Council notes that, as per the contents of this report, the planned capital expenditure program to support the rental rebate for the Ballina Bowling and Recreation Club (BBRC) Limited has not been met as per the conditions of the leases for 2022/23 and 2023/24.*
2. *That Council confirms that it will not seek a rental rebate for 2022/23 and 2023/24 based on the expenditure commitment planned by the BBRC*

5.1 Ballina Bowling and Recreation Club Ltd (Club Lennox) - Lease Update

Limited for 2024/25, however if by the end of 2024/25, the cumulative expenditure is not above the agreed works program, Council will claim a rental rebate for the percentage under expended.

3. *That Council authorises the General Manager to provide landowner's consent for a development application to undertake building works on premises located at 10 Stewart Street and part King Street, Lennox Head, as detailed in this report.*
4. *That Council authorises an amendment to include major works to the Plan of Management for 10 Stewart Street, Lennox Head based on the BBRC Limited's proposed works program.*

When the lease was prepared in 2022, a scope of works for capital expenditure totalling \$1.78m was included as a basis for the rental rebate, as outlined in Table 1.

Table 1 – Capital Expenditure Estimates (ex GST \$)

Item	2022/23	2023/24	2024/25
Various fittings and furniture upgrades		50,000	
Air conditioners fully replaced	95,000		
Kitchen compliance	12,000		
Design front entrance and perimeter fencing	120,000		
New bar design		250,000	
New kitchen		650,000	
New amenities			600,000
Totals	227,000	950,000	600,000

BBRC has provided an update annually of the capital works program. Table 2 provides the BBRC's capital expenditure from 2022/23 to 2024/25.

Table 2 – Capital Works Actual (ex GST \$)

Item	2022/23	2023/24	2024/25
Level ground/lighting/artificial turf	18,000		
Airconditioning	73,606		
Fencing and locks	61,275		
Security cameras	21,366		
POS upgrades		6,134	
Access Handrails		2,460	
Furniture		160,455	
Member Kiosk		10,750	
Outdoor Seating		13,246	
Turf replacement and painting			30,674
Cyclone related repairs and replacements (\$61,278 was received from the insurance payout)			106,472
Design and DA submission related expenses		72,160	104,140

5.1 Ballina Bowling and Recreation Club Ltd (Club Lennox) - Lease Update

Item	2022/23	2023/24	2024/25
Total	174,247	265,205	180,008
Total three years	619,460		

The \$180,008 for 2024/25, has an insurance payout of \$61,278 deducted.

Clause 3 of the Stewart Street lease and Clause 2.03.6 of the part King Street lease provides Council with grounds to reduce the rental reduction by the same proportion by which the Lessee has not undertaken works.

The Council resolution in 2024 proposed that if the cumulative expenditure was not above the agreed works program, Council may claim a rental rebate for the percentage under expended.

The potential rebate is outlined in the following table.

Table 3 – Rental Paid and Potential Discount Rebate (ex GST)

Details	2022/23 (\$)	2023/24 (\$)	2024/25 (\$)
Rentals as per Lease			
10 Stewart Street	76,000	81,016	84,095
Part King Street	3,600	3,836	3,983
Total Rentals as per Leases	79,600	84,852	88,078
Less 50% reduction	39,800	42,426	44,039
Rental paid	39,800	42,426	44,039
Rental Discount Rebate based on Capital Works program			
Percentage Expended	77%	28%	30%
Percentage Under Expended	23%	72%	70%
Dollar Value of Rebate to Council	9,154	30,546	30,827

The dollar value of rebate to Council figure is calculated by applying the percentage under expended to the discount provided.

This figure equates to \$70,527 based on the three figures in Table 3.

BBRC advised they lodged a Development Application on 16 June 2025 for alterations/additions to the Club over two stages. Some of the works proposed in Table 1 cannot proceed until development consent is granted.

The total estimated cost of works under the DA is \$9,710,800 with Stage 1 approximately \$6m.

Council's Planning Section advised that the DA was publicly advertised from 27 June 2025 to 25 July 2025 with 15 submissions received.

5.1 Ballina Bowling and Recreation Club Ltd (Club Lennox) - Lease Update

Council's planners are currently assessing the application and preparing a report for the consent authority, the Northern Region Planning Panel, for a briefing in late September.

In regard to Point 4 of the August 2024 Ordinary meeting resolution, Council's Planning Section is also working on a further amendment to the Plan of Management to identify the works proposed by BBRC, as 10 Stewart Street is community land.

Community Engagement Strategy

The Development Application for the capital works to be undertaken by BBRC have been publicly exhibited.

The Stewart Street land is classified as community land, and public notice is required prior to Council approving a lease.

Financial / Risk Considerations

Council has provided a 50% rent rebate to BBRC for the first three years of the lease with a condition that capital works program was to be undertaken.

The capital works program has been held in abeyance whilst BBRC seek development consent for their nominated works.

As the rent rebate was conditional upon BBRC undertaking capital works, the understanding is that the works have not been completed as development consent is required to do so.

Accordingly, Council could claim the balance of the rent rebate commensurate with the percentage of works unexpended.

The 50% rent rebate was only for three years up to 30 June 2025 and BBRC is now being invoiced for the full rent amount from 1 July 2025.

The latest publicly available financial report for the BBRC, for 2023/24, confirms an operating profit of \$497,311 based on total revenue of approximately \$18.5m.

Options

Under the terms of both leases the options open to Council are as follows:

Option 1

Council could resolve to enforce its rights and claim back the rental rebate calculated to \$70,527 + GST proportional to the percentage of capital works not undertaken over the last three years in line with the lease terms.

The figure of \$70,527 + GST is the aggregate rental rebate for the past three years.

Option 2

Council could resolve not to enforce its rights and claim back the rental rebate calculated to \$70,527 + GST proportional to the percentage of capital works not undertaken over the last three years in line with the lease terms.

This course of action would be justified on the basis that BBRC has, to date, spent \$619,460 of the total \$1.78m included in the capital works program but proposes to spend a further \$9m in capital works based on current estimates.

Option 3

Council could authorise the General Manager to negotiate a payment in part of up to 50% of the rental rebate due.

This option would allow the Council to receive an amount of the rental rebate due but also recognise that BBRC will be expending considerable funds in the future.

If BBRC is unable to commence the works in the five years from 1 July 2025, Council could enforce its rights to claw back the remaining 50% (being \$35,264) of the \$70,527 + GST rebate unpaid.

The significant renovation will mean the Club will be impacted during construction.

This is the recommended option.

RECOMMENDATIONS

1. That Council authorises the General Manager to invoice a payment in part of the reduced rental rebate of 50% (\$35,264) due by Ballina Bowling and Recreation Club Limited for 10 Stewart Street and part King Street Lennox Head.
2. This reduced rental rebate amount is based on the Ballina Bowling and Recreation Club Limited planning to expend significant funds in the next few years to upgrade the facilities in Lennox Head.

Attachment(s)

1. Commercial Services Committee meeting report - 5 August 2024 - Club Lennox Update [⇒](#)

5.2 Bitupave Ltd (Boral) - Tuckombil Quarry

5.2 Bitupave Ltd (Boral) - Tuckombil Quarry

Section Commercial Services

Objective To provide Council with an update on works undertaken by Bitupave Ltd (Boral) to decommission and remediate the site they held under lease at Tuckombil Quarry

Background

A report was presented to the 2 December 2024 Commercial Services Committee meeting regarding the decommissioning and remediation of the site leased by Bitupave Ltd (Boral) at the Tuckombil Quarry, 540 Gap Road Alstonville.

The purpose of this report is to provide an update on the works undertaken by Boral.

Key Issues

- Extension of lease
- Make good provisions
- Site remediation works

Discussion

The resolution from the December 2024 Commercial Services Committee meeting, as adopted at the December 2024 Ordinary meeting is as follows:

1. *That in accordance with Clause 30 of the lease that expires on 31 December 2024, Council resolves to allow Bitupave Pty Ltd (Boral) to remain in occupation on Lot 21 DP 1243105, 540 Gap Road, Alstonville on a month-to-month basis, until all lease and development consent terms and conditions in relation to decommissioning, remediation and rehabilitation are complied with, to the satisfaction of Council.*
2. *That in respect to the rental fee, Council continue to charge the current rental fee, with the General Manager authorised to provide a 50% rebate for January and February 2025, if the decommissioning and rehabilitation of the site is completed to Council's satisfaction by 28 February 2025. This rebate is based on the site not being operated on a commercial basis and Bitupave Pty Ltd (Boral) has been a reliable lessee for approximately 50 years.*
3. *If the decommissioning and rehabilitation of the site is not expected to be completed by 31 March 2025, a further report is to be submitted to Council on the status of the lease.*
4. *That subject to point two above, all other terms and conditions of the registered lease agreement (AP976897X) remain applicable for the month-to-month extension period.*

5.2 Bitupave Ltd (Boral) - Tuckombil Quarry

Council staff notified Boral of the Council resolution and requested they provide regular updates on the progress of decommissioning and remediation works.

Boral advised initially they would have the site remediated by March 2025; however, they sought an extension to June 2025 due to delays associated with Tropical Cyclone Alfred.

This was communicated to Councillors by way of a Councillor Bulletin in April 2025.

In early June 2025, Boral advised they would have the site handed back to Council by end July 2025.

Boral has since advised that due to delays encountered in decommissioning electrical infrastructure and obtaining permits to remove and relocate soil, that this would be delayed further. The permits relate to soil testing and are required by a QLD government department.

Council has recently received confirmation from Boral that all relevant permits are now in place that will allow the works to be completed.

The updated advice is Boral will be able to hand the site back to Council by November 2025, subject to weather.

Community Engagement Strategy

This report is provided due to community interest in this site.

Financial / Risk Considerations

Boral has continued to pay rent in accordance with the lease terms.

A master planning process for this site is underway and will be reported to Council closer to the end of 2025. Importantly, the decommissioning work does not impact on the master plan.

Options

This report is for noting, to provide Council with an update on the decommissioning and remediation of the Tuckombil Quarry located at 540 Gap Road Alstonville.

RECOMMENDATION

That Council notes the contents of this report in respect to the revised timeframe for the decommissioning of the Tuckombil Quarry site by Bitupave Ltd.

Attachment(s)

Nil

5.3 Wollongbar Land Sales - Status

5.3 Wollongbar Land Sales - Status

Section Commercial Services

Objective To provide Council with an update on the outcome of the recent auction of six lots of residential land at Wollongbar Urban Expansion Area - Stage Three.

Background

The purpose of this report is to provide an update of the project and the results of the auction of six residential lots in Stage Three of Council's Wollongbar Urban Expansion Area (WUEA).

Key Issues

- Auction results
- Financial return to Council

Discussion

In accordance with a Council resolution arising from the March 2025 Finance and Facilities Committee meeting, a marketing campaign was conducted to auction Lots 1 to 6 Avalon Avenue on Stage 3 of Council's Wollongbar Estate (refer Figure 1).

The auction was previously scheduled for 28 May 2025, but rescheduled to Wednesday 6 August 2025, to allow potential buyers more time to arrange finance and liaise with builders and hopefully gain the benefit of potential cuts in interest rates.

The campaign included emailing all Ballina Shire agents advising them of auction and inviting them to participate. Agents were also updated via email throughout the campaign period. Sign boards were erected on site, and electronic brochure distributed to agents and placed on Council's website.

Figure 1 – Lots 1 to 6 Avalon Avenue, Wollongbar



5.3 Wollongbar Land Sales - Status

The auction was held at the Lennox Head Cultural Centre on Wednesday 6 August 2025.

Ten parties were registered to bid on the night, and all were nominated via a real estate agent.

Unfortunately, all lots were passed in as bidding failed to reach reserve prices.

Whilst the lots were passed in, several parties have expressed interest in progressing via private treaty. The lots are now being offered for sale by private treaty at what were the reserve prices noted as follows:

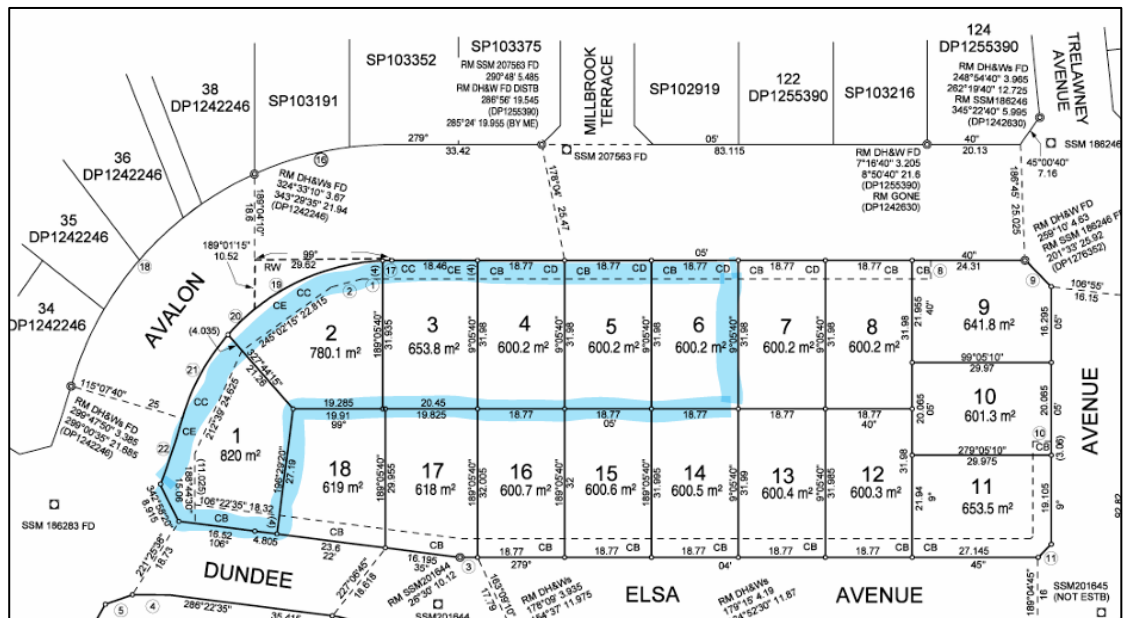
Table 1 – Asking Prices

Street No.	Lot No.	Site Area	Aspect	Asking Price (incl. GST)
47	1	820m ²	West	\$535,000
43	2	780.1m ²	North/West	\$545,000
41	3	653.8m ²	North	\$565,000
39	4	600.2m ²	North	\$565,000
37	5	600.2m ²	North	\$565,000
35	6	600.2m ²	North	\$565,000

Notes

1. The frontages to Lots 1 and 2 are encumbered by wide easements which impinge upon development potential (see DP extract below)
2. Lots 1 and 2 have more slope than Lots 3, 4, 5 and 6.
3. All lots could accommodate duplex development subject to planning approval.

Figure 2 - Plan Extract



Whilst the auction results are disappointing, they are reflective of the current state of the local and broader residential land markets. The depressed state of the market is symptomatic of a number of factors including:

5.3 Wollongbar Land Sales - Status

- Planning and approval timeframes
- The scarcity and cost of renting whilst approvals are obtained, and a house is constructed
- Securing finance to buy land and build a house. Lenders have been seeking fixed price construction contracts
- Cost escalation of labour and materials limits a building contractor to issue fixed price contracts

There is also significantly more residential land for sale in Wollongbar and Goonellabah than has been for some time.

It is understood that lot prices on a nearby estate have dropped significantly after hitting peaks in excess of \$600,000 when being sold off the plan during the post Covid boom. Asking prices for resale lots on that estate generally range from the high \$400,000's to early \$500,000's.

Given the competitive state of the market, Council could reconsider the commission rate it has resolved to pay real estate agents, currently set at 1.5% plus GST.

When the market is strong, and stock is in short supply, a commission rate 1.5% plus GST might be acceptable to local agents.

However, when the market is depressed, and the supply of land is high, agents are likely to provide a higher level of service to vendors willing to pay a higher rate of commission, e.g.

- 2.0% plus GST on \$550,000 equates to a commission of \$12,100
- 1.5% plus GST on \$550,000 equates to a commission of \$11,000

Within the commission, Council also expects agents to pay for marketing. It's understood the cost of listing a property in Wollongbar on the website realestate.com.au is about \$1,700.

In previous property marketing campaigns (for example, stage one and two of Wollongbar Urban Expansion Area and Southern Cross Industrial Estate stages) Council has paid commission rates of at least 2% plus GST and passed on the responsibility for the cost of marketing to agents.

Should Council wish to reconsider the commission payable, a further resolution will be required.

Sale Contracts

The sale contracts include a settlement period of 28 days and a vendor disclosure statement noting Council's proposal for medium density housing on Lots 19 to 25 in DP1292552.

Proposed Timeframe for Sale of Additional Lots

Given the outcome of the recent public auction, Council needs decide when to schedule a further auction for the remaining lots in the WUEA Stage Three.

5.3 Wollongbar Land Sales - Status

It is recommended that the sale of any further lots be deferred until such time as Lots 1 – 6 are sold.

Financial / Risk Considerations

The table below provides an overview of the financial considerations of WUEA Stage Three assuming all residential lots were to be sold.

WUEA Stage Three	Based on Reserve prices \$
Estimated Net Sale Proceeds – Lots 1 to 6 (based on reserve prices)	2,980,000
Net Sale Proceeds – Lots 30 Childcare Lot	2,000,000
Less Actual Costs for 2020/21	(978,500)
Less Actual Costs for 2021/22	(2,338,637)
Less Actual Costs for 2022/23	(105,500)
Less Actual Costs for 2023/24	(112,200)
Less Actual Costs for 2024/25	(118,100)
Less interest on borrowings	(363,999)
Net Proceeds (or Loss) to Date	963,064
Estimated Net Future Sales of Lots 7 – 18 (based on reserves for Lots 1 – 6)	6,070,000
Less agent commission, legal fees, marketing and sales costs (estimate)	(236,000)
Total Estimated Net Sale Proceeds	6,797,064

Options

This report has been prepared to provide an update on the outcome of the recent auction for six lots in Avalon Avenue, Wollongbar.

A confidential report is included in this meeting agenda that includes pricing outcomes for the lots.

RECOMMENDATIONS

1. That Council notes the contents of this report in respect to the results of the public auction of Lots 1 to 6 in Avalon Avenue, Wollongbar
2. That Council defer the sale of any further residential lots in the Wollongbar Urban Expansion Area Stage Three until such time as Lots 1 to 6 Avalon Avenue, Wollongbar are sold.

Attachment(s)

Nil

5.4 Russellton Industrial Estate - Land Sale Update

5.4 Russellton Industrial Estate - Land Sale Update

Section Commercial Services

Objective To provide further information on the proposed sale of industrial land at Russellton Estate.

Background

At the 24 July 2025 Ordinary meeting, Council resolved to sell an industrial lot based on information contained in the open and confidential reports.

The resolution was as follows:

- 1. That Council adopts Option One as per the contents of this report, and approves the sale of proposed Lot 20, based on the pricing contained with the report.*
- 2. That Council authorises the General Manager to finalise negotiations for the sale, execute all relevant documentation and affix the Council seal.*

After that meeting, Cr Meehan has raised concerns in relation to the contents of the reports, being the omission of the agent's commission.

This report provides this information to confirm whether Council still wishes to proceed with the sale.

Key Issues

- Purchase prior to auction
- Fair and transparent processes
- Expenses associated with sale of real estate

Discussion

Council resolved to sell one lot of industrial land at the 24 July 2025 Ordinary meeting.

The selling price was \$2m + GST, that reflects \$513/m² for the 3,898m² site.

The sale price was considered fair and reasonable in the current market when compared to recent sales.

The confidential report indicated that Council had been approached by a local real estate agent, but did not provide details of the proposed commission.

There was also no mention of legal fees payable as the report did not have information on the net sale proceeds. The financial information was based on the overall sale value and rate per square metre, benchmarked against other sales.

The following financial information is provided to clarify this.

Table 1 – Financial Summary (excl GST)

Description	Amount (\$)
Sale price	2,000,000
Less agents commission (1.5%)	(30,000)
Less estimated legal fees	(3,000)
Net Sale Proceeds	1,967,000

In terms of the sale of this land, Council staff were guided by the following Council resolution from the 12 December 2024 Ordinary meeting:

- 1. That Council the authorises the sale of Lots 1 to 13, 14, 16 and 19 to 26 in the proposed plan of subdivision for Lot 21 DP 1252162, as per Attachment 2 to this report, at the Russellton Industrial Estate, by public auction and authorises the General Manager to set price reserves based on market conditions and the high level of demand for industrial land.*
- 2. That Council authorises the General Manager to enter into open or general agency agreements with local real estate agents who wish to participate in the auction campaign.*
- 3. That the agents' commission be set at 1.5% of the sale price.*
- 4. The General Manager is authorised to execute all necessary sale documents and affix the Council seal to same.*

Following on from the Ordinary meeting of 24 July 2025, Council staff notified the agent and executed a sales agreement for a commission rate of 1.5% + GST.

Acting in good faith, the agent then issued a sales advice to Council's solicitor to facilitate the preparation of a sales contract.

It is normal practice to pay a real estate agent a sales commission for introducing a purchaser and negotiating a sale.

It is also important to note that commission is success based and not payable until the sale settles.

If Council does not support the practice of paying agent commission, the elected Council will need to provide direction to staff on the use of real estate agents for future projects.

This point is important as Council has several commercial and residential real estate projects underway.

Working collaboratively with agents will ensure agents introduce buyers, use their networks to market the properties, negotiate prices and receive a commission for doing so.

Projects underway include:

- Russellton Industrial Estate - excluding the lots sold to Rous (without an agent's commission), there are 25 lots to be sold, worth an estimated total of \$17.5m + GST (including the subject sale).

5.4 Russellton Industrial Estate - Land Sale Update

- Wollongbar Residential Estate - there are 18 lots to be sold worth an estimated \$9m + GST.

Furthermore, it is also unrealistic to expect that a flat rate of commission will be payable irrespective of property type and the state of the prevailing market.

When the market is strong, and stock is in short supply, 1.5% commission plus GST might be acceptable to local agents.

However, when the market is depressed, and the supply of land is high then agents are likely to direct their customers to vendors willing to pay a higher rate of commission.

This will possibly be the case with the residential land in Wollongbar, at present, due to several lots being available.

In the upper end of the residential market, some potential buyers may engage a buyer's advocate to act on their behalf, to find a property to meet their needs and negotiate a sale.

There is no set scale of fees for such services, but they generally range from about 1.5% to 3%.

Some buyer's advocates may offer to act for a fixed low fee, but that probably reflects the level of service offered and experience in negotiating sales.

In instances where a buyer's advocate is used, the purchaser would expect the selling price to be reduced accordingly, i.e. deducted from the sale price as payment of the fee must come from somewhere.

Community Engagement Strategy

Public auctions are generally the preferred method of sale, unless there are mitigating circumstances, which was the case in this matter.

Financial / Risk Considerations

Whilst the agent commissions and legal costs were not clarified in the confidential report, the feasibility of the project was reported in the open Council to the same meeting and to the 2 December 2024 Commercial Services Committee meeting.

This assessment included expenditure such as agent commission, development costs, interest on borrowings and contributions payable.

The table has been updated to reflect interest on borrowings however the estimated sale proceeds remain as per December 2024.

Table 2 - Feasibility Assessment Summary (Excl GST \$)

Details	December 2024	June 2025
Estimated Gross Sale Proceeds (27 lots)	20,004,000	20,004,000
Less: Marketing, Agent Commissions and Selling Expenses	347,000	347,000
Net Sale Proceeds	19,657,000	19,657,000
Less: Development Costs and Council Contributions (includes estimates to complete works)	7,115,000	7,005,000
Sub Total	12,542,000	12,652,000
Less: Estimated Interest on Borrowings	300,000	387,000
Forecast Cash Surplus	12,242,000	12,265,000

The sales figures are based on dollar per square metre rates ranging from \$242/m² to \$484/m² (excl. GST) depending upon size, topography, and configuration.

Options

There were two options proposed in the confidential 24 July 2025 Ordinary meeting report, one to proceed with the sale, and the other to wait until the public auction later in the year.

If Council does not support the practice of paying commission, the elected Council will need to provide direction to staff on the use of real estate agents for future projects.

Should the Council wish to take a different direction, then a further resolution will need to be adopted.

If Council wishes to discuss commercial aspects of the sale, it may be necessary to resolve into confidential session.

RECOMMENDATION

That Council notes the contents of this report including the commission payable to real estate agents, particularly with respect to the Russellton Industrial Estate land sale, as reported to the 24 July 2025 Ordinary meeting, with that commission set at 1.5% plus GST.

Attachment(s)

Nil

6. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

6.1 Wollongbar Land Sales - Pricing

This report contains information relating to as the information contained herein relates to minimum selling prices for residential lots.

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

6.1 Wollongbar Land Sales - Pricing

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the information contained herein relates to minimum selling prices for residential lots.