

ATTACHMENTS TO

Commercial Services Committee Meeting Business Paper

14 August 2025

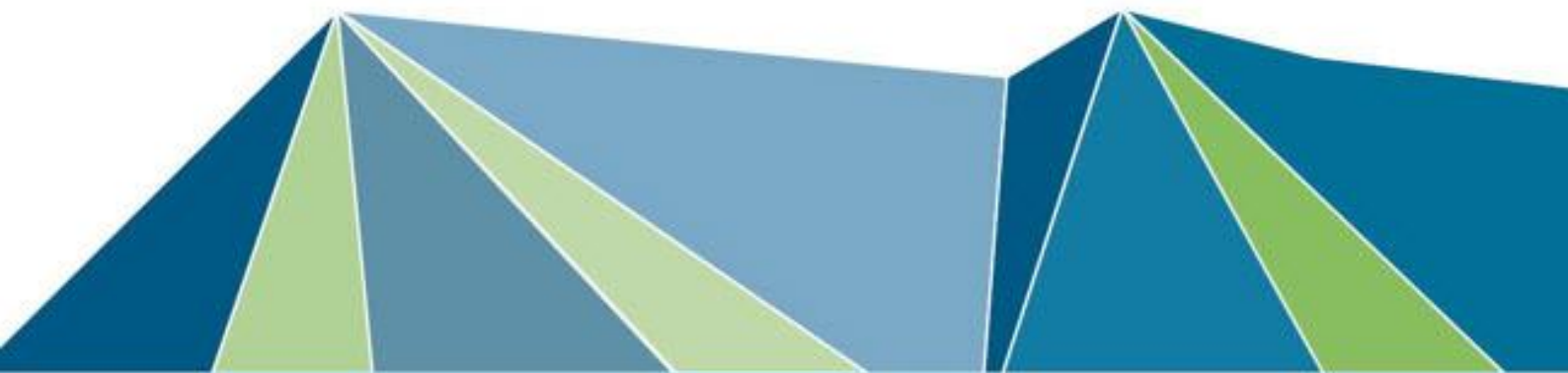


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5.2 Cherry Street Sports Group - Club Lennox Sports Leases - Update
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Section Commercial Services

Objective To provide Council with an update on Club Lennox Sports leasing matters and to confirm whether Council wishes to approve a development application for redevelopment works.

Background

At the 24 February 2022 Ordinary meeting Council resolved to grant leases to the Ballina Bowling and Recreation Club Limited (BBRC) over a Council owned site at 10 Stewart Street and part of King Street, Lennox Head. Under the lease terms, BBRC own the building improvements on the sites, generally known as Club Lennox Sports, with Council owning the land.

The lease for 10 Stewart Street was granted for a term of 21 years, with a 50% rent reduction for the first three years of the lease, to assist BBRC in undertaking capital improvement works. The lease over part of King Street, contains a similar condition, and this lease is for five years.

This report provides an update on the upgrade works and seeks landowner's consent for the lodgement of a development application for the works.

Key Issues

- Compliance with lease terms
- Landowner's consent for upgrade works

Discussion

BBRC has been operating Club Lennox Sports since 1 July 2022, the commencement date of the current leases. A condition of the leases is that a 50% rent reduction is provided to BBRC, in recognition of capital upgrade works to be undertaken, during the first three years of the leases.

The scope of the capital works is included in Item 11 of the Schedule in the Stewart Street lease and Item 1 of the King Street lease, detailed as follows:

Table 1 – Capital Expenditure Estimates

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 include perimeter fencing	120,000		
New bar design		250,000	
New kitchen		650,000	
New amenities			600,000
Totals	227,000	950,000	600,000

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As part of the lease condition, BBRC provides Council with a report on the upgrade works undertaken during the year.

In Year 1 (2022/23), BBRC undertook works to the value of \$174,247 which included fencing, air conditioning, security cameras and lighting.

This represents 77% of the agreed works program.

In Year 2 (2023/24), BBRC undertook works to the value of \$193,045 in furniture, access handrails, outdoor seating, Point of Sale upgrades and an entry kiosk (refer to Attachment 1).

This represents 20% of the agreed works program.

Club Lennox advise a further \$72,160 in design fees for refurbishment of the Club have been incurred in 2023/24, albeit that has not been demonstrated as actual works. If this expenditure is included the percentage completed increases to 28%.

Clause 3 of the Stewart Street lease and Clause 2.03.6 of the Part King Street lease provides the Lessor (Council) with grounds to reduce the rental reduction by the same proportion by which the Lessee has not undertaken works, in a period specified in Item 1 and Item 11 of the leases.

Based on the information provided to date by BBRC, Council could potentially claim a range of discounted rental rebates to date, as per the following followings.

Table 2 – Rental Paid and Potential Discount Rebate (Ex GST)

Details	2022/23	2023/24 (1)	2023/24 (\$) (2)
10 Stewart Street	76,000	81,016	81,016
Part King Street	3,600	3,836	3,836
Total Rentals as per Leases	79,600	84,852	84,852
Less 50% reduction	39,800	42,426	42,426
Rental Paid	39,800	42,426	42,426
Rental Discount Rebate			
Percentage Expended	77%	20%	28%
Percentage Under Expended	23%	80%	72%
Dollar Value of Rebate to Council	9,154	33,941	30,546

(1) Excludes design fees

(2) Includes design fees

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

BBRC advises it will spend in the order of \$5m in capital works over two stages commencing in 2024/25, which is significantly higher than the \$600,000 noted in Item 11 of the lease for 2024/25.

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BBRC also advise they have engaged Ashley Cooper Constructions to commence the design and planning phase of the building upgrade works at a cost of \$570,000, with \$72,160 of the \$570,000, being the design fees, incurred in 2023/24.

The proposed building upgrade works will predominantly be within the footprint of the existing building envelope.

Council will be requested to provide landowner's consent for the lodgement of a development application for these proposed works.

Gaming machine numbers

Council has previously debated the merit of gaming machines in Council owned properties and during July 2024, Council was notified by Liquor and Gaming NSW that BBRC has approval to increase the number of gaming machine entitlements from 26 to 30 at Club Lennox.

Council has no jurisdiction in relation to gaming machines, as advised by Liquor and Gaming NSW, where the Licensing Officer stated: *Gaming Machines Act 2001 No 127 s.209 refers to a consent authority, which may include Local Council, cannot "regulate or restrict, the installation, keeping or operation of approved gaming machines".*

Further to this, the Environmental Planning and Assessment Act 1979 (cl. 209) states:

(3) A consent authority (within the meaning of the EPAA 1979) cannot –

- (a) as a condition of any development consent under the Act, prohibit or otherwise regulate the installation, keeping or operation of approved gaming machines in a hotel or on the premises of a club or any other premises, or*
- (b) refuse to grant any such development consent to a hotel or club for any reason that relates to the installation, keeping or operation of approved gaming machines in a hotel or on the premises of a club.*

Gaming machine numbers can now only be managed by Council through specific lease conditions.

Gaming machine revenue remains a major contributor to the overall operating surplus for the BBRC, with Attachment 2 showing the financial position for 2022/23, as well as a comparison to the previous year.

Community Engagement Strategy

As a major part of the Council owned land is classified as community land, public notice was required before the leases were approved by Council.

Financial / Risk Considerations

Given BBRC receive a 50% rental concession on their two leases with Council, there are financial considerations.

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Council has an opportunity to claim an additional percentage of rental reduction provided to BBRC in 2023/24 and 2022/23, given the non-compliance with their capital works program.

A further consideration is the Plan of Management for the community land where Club Lennox is located (10 Stewart Street, Lennox Head) is authorised for the following:

- *Social and recreational activities associated with use of the site as a bowling and sports club.*
- *Small scale alterations and additions to existing building and facilities permitted subject to development consent requirements.*

The capital works program estimated to be \$5m does not currently fit within the 'authorised uses'.

Therefore, the recommendation that follows seeks to amend the authorised uses in the Plan of Management for 10 Stewart Street, Lennox Head to include 'major works'.

This will allow BBRC to undertake their capital works program.

Options

Council can seek to claim rent back from BBRC given the non-compliance with the terms of the leases.

The rental rebate options are:

- a) 2022/23 \$9,154 and 2023/24 \$33,941 for a total of \$43,095
- b) 2022/23 \$9,154 and 2023/24 \$30,546 (design figures included in expenditure) for a total of \$39,700.

Alternatively, Council could choose to forego the claim of additional rent with the understanding that a large capital works program is planned in 2024/25.

With respect to landowners' consent, Council could approve or refuse a request from BBRC for the General Manager, acting as landowner, to sign a development application for the proposed building renovations at Club Lennox Sports at 10 Stewart Street and Part of King Street, Lennox Head.

In respect to options, it is a matter for Council to determine whether the planned works justify a continued reduction in rent.

The 2022/23 expenditure was relatively close to the planned works program whereas the 2023/24 expenditure is substantially less.

The rebate period is for three years and the BBRC has confirmed that it has a significant expenditure program planned for 2024/25.

Based on this, the preference is to confirm that Council will not seek a rebate for the 2022/23 and 2023/24 financial years, on the proviso that the BBRC will expend well above the agreed schedule of works for the three-year period.

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However, it should also be noted that Council will seek a rental rebate for the entire period, if the agreed figures are not reached on a cumulative basis, based on the percentage under expended.

It is also recommended that Council authorise landowner's consent, for the proposed building renovations, as this would be in the spirit of the leases held with BBRC to improve the facilities.

It also recommended that Council amend the Plan of Management to ensure the proposed capital works program does not conflict with authorised uses.

RECOMMENDATIONS

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 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 of 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.

Attachment(s)

1. Cherry Street Sports Group - Club Lennox Sports - 2023/24 Expenditure (Ballina Bowling and Recreation Club Ltd)
2. Cherry Street Sports Group - Annual Report and Financial Statements - 2022/23