



2 January 2013

General Manager  
Tweed Shire Council  
PO Box 816,  
Murwillumbah NSW 2484

Attention – Mr Vince Connell

Dear Vince

**Submission to Tweed Draft Local Environmental Plan 2012  
Seagulls Club  
Lot 2, DP 881169, 54-68 Gollan Drive TWEED HEADS WEST**

This submission is made in response to the public exhibition of, and invitation to make submissions on, the Tweed Draft Local Environmental Plan 2012. Think Planners Pty Ltd on behalf of North Sydney Leagues Club Ltd, who own and operate Seagulls Club at Tweed Heads West, has prepared this submission. The submission relates entirely to the land at 54 – 68 Gollan Drive, Tweed Heads West, commonly referred to as Seagulls Club.

On behalf of Seagulls Club this submission provides strong support to the proposed zone and predominant development controls applying to Seagulls Club, as outlined in the draft LEP, with the one exception.

This submission additionally raises concern that the draft LEP, once gazetted, will have the effect of prohibiting a use that is currently permitted on site and for which a development application has been lodged. Accordingly this submission advocates for an inclusion of the site into Schedule 1 of the LEP, and make provision for the conditional operation of a general store, as proposed in DA12/0527.

**Background**

The operating environment for Clubs in New South Wales has changed significantly in recent history. Changes to community expectations for Clubs, along with changing attitudes towards gaming, has resulted in an evolution of many Club's vision of their role and the services they offer to their members and guests.

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9A O'Connell St.  
Parramatta NSW 2150  
02 9890 8543

Such changes to the overall operating environment in the State have had an impact upon Seagulls Club. In response to a changing environment Seagulls Club, as part of North Sydney Leagues Club Ltd, has over the past 5-10 years embarked on a program of improving the level and type of services to its members, along with a rationalisation and improvement of facilities.

Noting that while there are legitimate fiscal challenges that face Seagulls Club, no consideration has been, nor will be, given to shutting the Club, or seeing the venue diminish through poor maintenance, nor reducing the level of commitment to sporting teams in the area. Conversely, the Club has embarked upon a program of a series of enhancements to the Club building, along with a broadening of its services and recreational activities that it offers to the community. These improvements to the Clubs facilities and its recreational services perfectly align with the intention of the draft RE2 Private Recreation Zone that the land be used for a range of recreational settings and activities.

### **Seagulls Club Improvements**

Over the past 5 years Seagulls has been engaged in a progressive improvement to its facilities and services.

The approval of DA 05/1452 in 2006 has resulted in improvements such as –

- lounge refurbishments and extensions;
- new bistro dining, servery, bar servery and lounge facilities;
- refurbishment of amenities; and
- the erection of an external terrace area as an extension to the Buffet restaurant overlooking the Tweed River.

At the same time the Club has improved and broadened its recreational facilities through the major renovation and improvement of the Gymnasium, provision of a kids recreational facility and installation of all weather Futsal Courts.

Seagulls Club intends to continue on the path of broadening the recreational offer of the Club, along with a complimentary emphasis on the environment. In the future the Club will be seeking to better connect its members with the unique environment in which the Club is located. Proximity to, and outlook over, the Tweed River provides the Club with the opportunity to improve environmental awareness of the wetland areas on site and allow for small groups of kayaks to become a part of the recreational offering of the Club.

Seagulls Club values its existing members and has identified the need to meet a greater cross section of our members recreational needs. In canvassing the needs of our members and local community it is clear that the recreational needs range from active recreational pursuits such as gym workouts and futsal games, to passive socialising at the Club.

## **General Store Development Application**

In canvassing the recreational needs of the members and local community, it became apparent to Seagulls that there is a local community demand for a general store that will service needs not currently being adequately met.

A Development Application was lodged in November 2012 for the conversion of existing floor space within the Club and minor ground floor extension for a General Store of 1965m<sup>2</sup> GFA. Seagulls Club sees the provision of a General Store within its facilities as a complimentary component to the Clubs community offering.

Seagulls Club remains primarily a private recreational business that provides a range of recreational settings and activities. The general store is a complimentary use at the Club and in no way can be seen to be the dominant or primary function of the site.

It is noted that the general store will take up less than 12% of the total GFA of the Club. Similarly the car parking requirement for the General Store is 69 spaces, being less than 12% of the existing formalized 582 spaces on site (and 8% of the approved parking on site including the approved overflow parking areas along the northern side of the site). It is apparent from a review of the floor space and car parking demand that the General Store comprises a minor component of the sites use, which is predominantly that of a recreational facility. Similarly the Club provides a wide range of recreational activities on site. Members and their guests visit the Club for numerous reasons such as enjoying meals at dining / bistro facilities; socialise in the lounges; participate in recreational bingo, keno or gaming; meet with people at the bar; attend the gymnasium; allow their children to enjoy the kid recreation facility; and play indoor sports at the Futsal Courts. The broadening of the sites uses to include a General Store does not diminish the primary purpose and predominant business of Seagulls Club being that of a recreational facility. The General Store forms a complimentary activity on site.

The Club has considered carefully the potential impact, and benefits, of a 1965m<sup>2</sup> GFA small format full line supermarket upon the local community, many of which are members of the Club.

A socio-economic impact assessment was undertaken by the Club, which concludes that the proposed store will “offer a range of economic and social benefits to the community” and “will fulfill an established need of the local community”.

Notably the socio-economic impact assessment considered whether the proposal for a small supermarket at Seagulls would benefit the local community. The report states –

*The establishment of a small format full line supermarket at Seagulls Club is considered to be a good fit with the needs of the community.*

*The development (the supermarket in conjunction with the revitalised club) will offer a range of economic and social benefits to the community. A supermarket will also benefit the community through a greater level of convenience and an increase in choice, local jobs, competition (resulting in lower prices) and product offer.*

Seagulls Club is entirely dependent upon its relationship with its members, which are made up of members of the local community. The local communities social and recreational needs evolve over time and the Club is responding through improved facilities and a broadening of the range of recreational activities it offers. The provision of a small supermarket on site is not only a compatible land use, but meets an established social and economic need of the local community. Relevantly, the socio economic impact assessment concludes –

*The redevelopment of the Seagulls Club will also allow this facility to remain viable and continue to service the community and entertainment needs of local and regional residents.*

### **Draft Tweed LEP Provisions**

Think Planners Pty Ltd have reviewed the draft Tweed LEP provisions in relation to the Seagulls Club site.

No objection is raised to the zone identified for the site, nor the various relevant planning controls such as building height, FSR, terrestrial biodiversity, etc.

The draft Tweed LEP proposes an RE2 Private Recreation Zone as follows -

#### **Zone RE2 Private Recreation**

##### **1 Objectives of zone**

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

##### **2 Permitted without consent**

*Environmental facilities; Environmental protection works*

##### **3 Permitted with consent**

*Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Charter and tourism boating facilities; Child care centres; Community facilities; Eco-tourist facilities; Emergency services facility; Entertainment facilities; Flood mitigation works; Food and drink premises; Forestry; Function centres; Helipad; Heliport; Industrial training facilities; Information and education facilities; Jetties; Kiosks; Marinas; Markets; Mooring; Mooring pens;*

*Places of public worship; Public administration building; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Respite day care centres; Roads; Sewerage systems; Signage; Tourist and visitor accommodation; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities*

**Prohibited**

*Any development not specified in item 2 or 3*

It is agreed that the most appropriate zoning recognition for the site is RE2 Private Recreation, noting that the current zone is similar in intent and that there is no better fit in the Standard Template LEP.

The current zone is 6(b) Recreation, which has as its primary objection “to designate land, whether in public or private ownership, which is or may be used primarily for recreational purposes.”

Seagulls Club intends to continue its business operation on site as a privately owned recreation facility that serves the local and regional community.

The Seagulls Club operates in full accord with the objectives of the draft zone as the Club –

- is privately owned and is purposed at providing recreational facilities and services;
- provides a range of recreational activities, in a number of recreational settings (passive and active recreation); and
- is cognisant of its remarkable location in close proximity to exceptional natural environmental features such as the Tweed River and associated wetlands and coastal terrestrial flora, and is active in seeking to connect its members and guests to the natural environment in both passive and active ways.

Accordingly, this submission fully supports the broad planning intentions and planning controls proposed from the subject site in the Draft Tweed LEP 2012.

However, in translating the current Tweed LEP into the Standard Template LEP format, a permissible land use that currently applies to the land will become a prohibited use following the gazettal of the draft LEP.

This submission seeks to correct this anomaly through a site specific provision in the LEP, as articulated further below.

## **Schedule 1 Inclusion**

This submission raises concern that the draft LEP, once gazetted, will have the effect of prohibiting a use that is currently permitted on site and for which a development application has been lodged.

Accordingly, until this anomaly is resolved, objection is raised to the removal of the provision for a “general store” (as currently permitted and defined) from the zone. In order to address this omission by default, resulting from the adoption of the Standard Template LEP zone, this submission advocates for an inclusion of the site into Schedule 1 of the LEP.

Development Application 12/0527 was lodged at Council on 13 November 2012, proposing the use of a small proportion of the site as a General Store, for a full line small supermarket; commonly known as IGA. The proposal is permissible with consent and is currently being assessed by Council.

The Standard Template LEP has no definition of “General Store” and the term is no longer being used in recently gazetted Local Environmental Plans in New South Wales.

To arrive at an appropriate replacement term for that of “General Store”, consideration has been given to the definitions of “neighbourhood shop”, “retail premises” and “shop”.

The definition of “neighbourhood shop” is an appropriate term, however, the draft Tweed LEP seeks to limit the size of a neighbourhood shop to having a retail floor area of no more than 300 square metres. Having regard to the proposal for a 1965m<sup>2</sup> GFA, the definition is inappropriate.

It is requested that the site be included in Schedule 1 – Additional Permitted Uses of the Draft Tweed LEP 2012, identifying development for the purposes of a “shop” as permitted with consent. It is noted that “shop” is a type of “retail premises”, as demonstrated in the definitions below –

*retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:*

- (a) bulky goods premises,*
- (b) cellar door premises,*
- (c) food and drink premises,*
- (d) garden centres,*
- (e) hardware and building supplies,*
- (f) kiosks,*
- (g) landscaping material supplies,*
- (h) markets,*

(i) plant nurseries,  
(j) roadside stalls,  
(k) rural supplies,  
(l) shops,  
(m) timber yards,  
(n) vehicle sales or hire premises,  
but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

*shop* means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop, but does not include food and drink premises or restricted premises.

Request is made that the following insertion be provided in Schedule 1 Additional Permitted Uses of the draft LEP -

**10. Use of certain land at 54-68 Gollan Drive, Tweed Heads West**

- (1) *This clause applies to land at 54-68 Gollan Drive, Tweed Heads West, being Lot 2 DP 881169, shown as "10" on the Additional Permitted Uses Map.*
- (2) *Development for the purpose of a 1965m<sup>2</sup> GFA shop is permitted with consent.*

It is noted that in the absence of the above provision in the draft Tweed LEP 2012, and following the approval of DA 12/0527 and gazettal of the draft LEP, that the approved "general store" would benefit from "existing use rights". Accordingly it is submitted that the most responsible and appropriate action to take in the circumstance is to ensure that the existing permissible use is carried over in to the draft LEP through a site specific Schedule 1 recognition. This will have the effect of creating "like for like" permissible uses between Zone 6(b) and Zone RE2, while also avoiding any creation of "existing use rights" for an approved general store.

Finally, we have considered whether the proposal made in this submission to include the site into Schedule 1 of the draft LEP 2012 would in and of itself require the re-exhibition of the draft LEP.

We have formed the view that a re-exhibition is not warranted nor required in the circumstances as the proposal does not seek to change or amend the planning permissibility for the site from that which currently applies. As a "general store" is permissible on the site under the current LEP, no prejudice to any person or party emerges as a result of ensuring that the draft LEP faithfully replicates the range of permissible uses that currently apply to the

site. Relevantly, it is also noted that the proposed amendment does not seek to alter the primary objective and function of the site, that being a privately owned recreational facility. The proposed amendment limits the gross floor area of the “shop” to that which is proposed in the development application, being only some 12% of the gross floor area of the site.

### **Conclusion**

As articulated in the discussion above, this submission supports the planning controls for the Seagulls Club, subject to one amendment. In order to faithfully allow for the range of permissible uses on the site that currently apply, and that a development application relates to, the site is to be included within Schedule 1 of the draft LEP, permitting a “shop” with a defined limitation on floor space area.

Thank you for the opportunity to make this submission and should you have any comments or questions please do not hesitate to contact me on 0419 288 899.

Regards,

Adam Byrnes- Director  
**Think Planners Pty Ltd**