

Hospitality & Gaming Alert June 2007

Maximising Your Land Potential - The New Game For Registered Clubs

“ Many clubs are increasingly moving into major property developments and commercial projects. We have been at the forefront of some of the largest projects in the clubs industry. ”

The Issue

Many registered clubs throughout New South Wales are finding that they are situated in what many consider to be prime development locations. Given their prime locations and the potential economic benefits available to clubs through the development of their properties, we have noticed that a significant number of our registered club clients are becoming involved in the property development field. Such developments may involve the development of vacant land owned by the club, the redevelopment of their existing premises for retail, commercial or residential purposes, or a combination of those purposes.

When assessing any proposed development, it is important for clubs to remember that they are at an inherent disadvantage when dealing with property developers, most of whom have many years of experience in the property industry - experience which most registered clubs lack.

The Way Forward

For this reason, and to ensure that clubs obtain the maximum economic benefit that can be derived from a particular project, it is imperative that clubs obtain appropriate advice on a wide range

of legal, financial and construction issues, including advice on:

- > the feasibility of the development, including the cost and financing of the development. For example, depending on the cost and structure of the development, consideration will need to be given as to whether:
 - the development is to be financed by borrowings;
 - the club will finance the development itself; or
 - the development is to be financed by a joint venture partner;
- > the taxation consequences of the development (including any stamp duty and capital gains tax implications of the development); and
- > the contract documentation required for the development and the structure of the transaction. For example, depending on the cost and type of development being undertaken:
 - the development is to be financed by a joint venture partner;



- will the club be undertaking the development itself, in which case the club will simply engage a builder to construct the development;
- will the club enter into a joint venture with a developer who will construct the development at the developer's cost, and who will be entitled to a share of any future income or profit derived from the sale or leasing of the development;
- will the development take the form of a sale and lease back, where the club sells the relevant land to a developer for the developer to construct the development which the club leases back from the developer on completion; or
- will the developer be constructing the development and leasing the completed development from the club on completion.

Further Issues

The preceding list is by no means an exhaustive list of the issues which clubs will need to consider when developing property. It is, however, a brief snapshot of the more significant issues that a club should obtain appropriate advice on when first considering any development proposal.

Issues relevant to the later phases of a development, for which appropriate advice should also be obtained, include:

- > design management (to ensure that the development is constructed to an appropriate standard);
- > project management (to ensure that the development is constructed on schedule and to budget);
- > risk management (to ensure that the development is completed if for any reason the developer or builder is unable to do so); and

- > reporting (to ensure that the club is kept adequately apprised of the status of the development during the construction phase).

Conclusion

Given the vagaries of the property market, the success of any development is by no means assured, even where appropriate advice is obtained. However, obtaining advice from appropriately qualified consultants for all phases of a development project will go a long way toward identifying and minimising any risk involved in a particular project.

With extensive experience acting for landowners in property development matters, and our knowledge of the registered club industry in general, Thomson Playford is uniquely placed to provide clubs with sound commercial advice on the complex legal issues they will face when entering into the property development field.

Philip Wade - Senior Associate
+61 2 8248 5822
pwade@thomsonplayford.com.au



Adelaide
101 Pirie Street . Adelaide . SA 5000
T: +61 8 8236 1300 . F: +61 8 8232 1961

Melbourne
Level 40 . 140 William Street
Melbourne . VIC 3000
T: +61 3 8608 7000 . F: +61 3 8608 7199

Sydney
Australia Square Tower
264 George Street . Sydney . NSW 2000
T: +61 2 8248 5800 . F: +61 2 8248 5899

info@thomsonplayford.com.au
www.thomsonplayford.com.au

