

# CP25

**Section 94 Plan**

## **No. 25 – SALT Open Space and Associated Car Parking**

**Version 3.0  
December 2009**

CERTIFIED IN ACCORDANCE WITH  
THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979  
AND REGULATIONS

GENERAL MANAGER

DATE: 15 December 2009

DRAFT SECTION 94 PLAN No 25

SALT  
Open Space and Associated Car Parking

In force 23 December 2009

Version 3

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### 1.0 PART A – SUMMARY SCHEDULES

#### 1.1 Summary schedule – contribution rates

	Persons	Structured Open Space Levy Base Rate 2003	Structured Open Space Levy Indexed 2009
Per person	1	\$562.37	\$789.05
Per Lot/ET	2.4	\$1,350	\$1,894
Detached dwelling	2.4	\$1,350	\$1,894
1 bedroom unit	1.3	\$731	\$1,026
2 bedroom unit	1.7	\$956	\$1,341
3 bedroom unit	2.1	\$1,181	\$1,657
4+ bedroom unit	2.4	\$1,350	\$1,894

NB: Does not apply to tourist development.

#### 1.2 Summary schedule - works program

Item	Original cost	Indexation*	Add	Revised Total
Land	\$400,000	42.5%	\$170,000	\$570,000
Embellishment	\$117,152	38%	\$44,511	\$161,663
Revaluation	\$1,500	-	0	\$1,500
Amenities block	\$236,000	38%	\$89,667	\$325,667
<b>TOTAL</b>				<b>\$1,058,830</b>

See *APPENDIX C – INDEXATION CALCULATIONS* on page 26.

#### 1.3 Published indices at time of adoption

Index	Rate	Index Date	Published
IPD (Engineering Construction)	105.94	July 2009	Released 14/10/2009 ABS
TSC Land Index	142.50	June 2009	2009/2010 Tweed Shire Council Revenue Policy

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### 2.0 PART B - ADMINISTRATION

#### 2.1 What is Section 94?

Section 94 of the Environmental Planning and Assessment Act 1979 permits Council to levy contributions from developers to fund the increasing demand for public services and amenities generated by the carrying out of development. The contribution may take the form of monetary contributions, the dedication of land free of cost, or the carrying out of works.

Section 94 of the Act requires that there must be a “nexus” between conditions imposed on a development consent relating to public services and the amenities demanded by the development. The Section 94 criteria for contributions are:

- i. it must be for, or relate to, a planning purpose;
- ii. it must fairly and reasonably relate to the subject development; and
- iii. it must be such as a reasonable planning authority, duly appreciating its statutory duties, could have properly imposed.

#### 2.2 Name of plan

The name of this Plan is Tweed Shire Council Section 94 Contributions Plan No 25 – SALT Open Space and Associated Car Parking.

#### 2.3 Land to which this plan applies

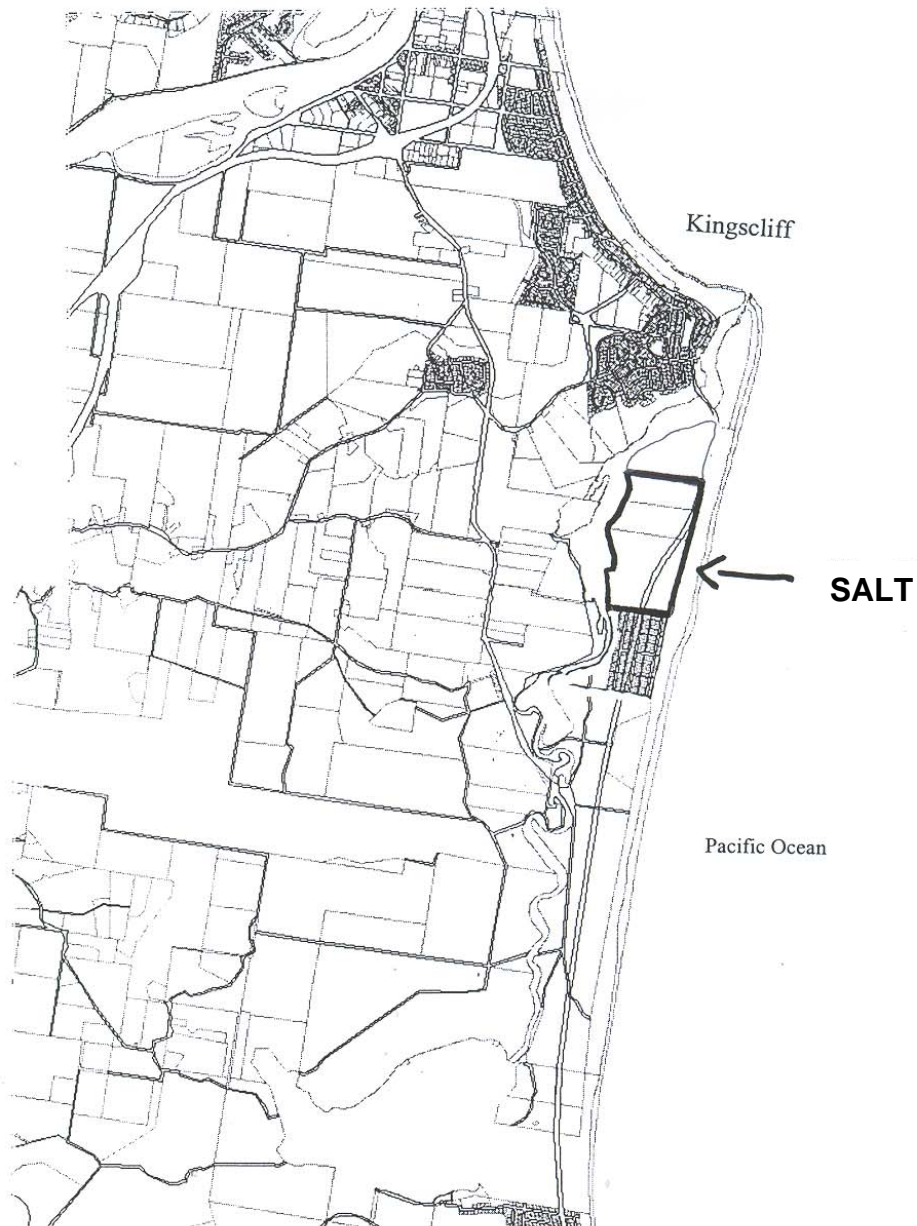
This Plan applies to land within Tweed Shire, immediately south of Kingscliff, located within the bold black line as shown on Figure 1.

The land comprises:

- land owned by South Kingscliff Developments Pty Ltd - Lots 194, 301 and 312, DP 755701.

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**Figure 1**  
**SALT**  
Locality plan



### 2.4 The purpose of the s94 plan

The purpose of this development contributions plan is to:

- (a) enable the levying of contributions for the provision of public open space in the SALT area, to meet the increase in demand for open space arising from new development;
- (b) enable the collection of direct contributions for key community infrastructure, being the provision of local sporting, recreational, cultural and social facilities in the form of open space in accordance with Section 116H of the *Environmental Planning and Assessment Act*
- (c) ensure that adequate key community infrastructure is provided for as part of any new development
- (d) authorise the council to impose conditions under section 94 (s94) of the *Environmental Planning and Assessment Act 1979* when granting consent to development on land to which this plan applies
- (e) provide a comprehensive strategy for the assessment, collection, expenditure accounting and review of development contributions on an equitable basis
- (f) ensure that the existing community is not burdened by the provision of key community infrastructure required as a result of future development
- (g) enable the council to be both publicly and financially accountable in its assessment and administration of the development contributions plan.

### 2.5 Commencement of the plan

The Plan came effect on 2 August 2000 and was amended on 21 July 2003 and was amended on **15 December 2009**.

This amended version (Version 4) has been prepared pursuant to the provisions of s94 of the *Environmental Planning & Assessment Act* and Part 4 of the *Environmental Planning & Assessment Regulation* and takes effect from the date on which public notice was published, being **23 December 2009**, pursuant to clause 31(4) of the *Environmental Planning & Assessment Regulation*.

### 2.6 Relationship to other council plans

This plan is part of the package of Contributions Plans prepared for a variety of key community infrastructure which are required to be provided and/or augmented by or on behalf of Tweed Shire Council to meet the needs of new development within the Tweed Shire Local Government Area.

This development contributions plan supplements the provisions of Tweed Local Environmental Plan 2000 and any amendment or local environmental plan which it may supersede.

This development contributions plan supplements the provisions of the adopted Tweed Development Control Plan and any amendment which it may supersede.



2.7 Definitions and standards

<b>Definitions</b>	
Accredited Certifier	For the purposes of the certification of Construction Certificates and Complying Development Certificates as referenced in this plan, the Accredited Certifier is the principal certifying authority
EP&A Act	Environmental Planning and Assessment Act, as amended
EP&A Regulation	Environmental Planning and Assessment Act Regulation, as amended.
IPD (Implicit Price Deflator)	Index used for adjustment of construction component – refers to the value of work done (implicit price deflator); Chain Volume Measures; Engineering Construction; ABS Reference A405071T, ABS Product Number 8782.0.65.001
TSC Land Index	Index used for adjustment of land acquisition costs – Tweed Shire Council Land Index, as published in Council’s Management Plan and Quarterly Report.
Nexus	The relationship between the expected types of development in the area and the demand created by those developments for additional public facilities. The link between the proposed development and the increased demand for public facilities may be demonstrated through causal nexus (what), spatial nexus (where) and temporal nexus (when). <b>Causal nexus</b> requires that the need for the service or facility being levied must be a result of the development being levied. <b>Physical nexus</b> requires that the service or facility be near enough in physical terms to provide benefit to that development. <b>Temporal nexus</b> requires that the service or facility must be provided within a reasonable time.

<b>Standards used in this contributions plan</b>	
Dwelling house/lot	Equivalent to 2.4 persons (one Equivalent Tenement) Source: Tweed Shire Urban Land Release Strategy 2009
1 bedroom unit	Equivalent to 1.3 persons Source: Tweed Shire Urban Land Release Strategy 2009
2 bedroom unit	Equivalent to 1.7 persons Source: Tweed Shire Urban Land Release Strategy 2009
3 bedroom unit	Equivalent to 2.1 persons Source: Tweed Shire Urban Land Release Strategy 2009
4+ bedroom unit	Equivalent to 2.4 persons Source: Tweed Shire Urban Land Release Strategy 2009
Tourist related development that provides accommodation	Equivalent to the above residential standards with reference to the number of bedrooms

2.8 Timing of payment

A contribution must be paid to the council at the time specified in the condition that imposes the contribution. If no such time is specified, the contribution must be paid prior to the issue of a construction certificate or complying development certificate.

- Council’s policy regarding the timing of payment of S94 contributions is as follows:
- DAs involving subdivision - prior to the release of the subdivision linen plan;
- DAs involving building work - prior to the release of approved building plans; and
- DAs where no building work involved - prior to occupation.

2.9 Obligation of accredited certifiers

**Construction Certificates:**

In accordance with Clause 146 of the EP&A Regulation, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it has verified that each condition requiring the payment of monetary contributions has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that contributions have been fully paid and copies of such receipts must be included with copies of the certified plans provided to the council in

accordance with clause 142(2) of the EP&A Regulation. Failure to follow this procedure may render such a certificate invalid.

The only exceptions to the requirement are where a works in kind, material public benefit, dedication of land or deferred payment arrangement has been agreed by the council. In such cases, council will issue a letter confirming that an alternative payment method has been agreed with the applicant.

#### **Complying Development Certificates:**

In accordance with section 94EC of the EP&A Act a certifying authority must impose a condition on a complying development certificate requiring the payment of a monetary contribution in accordance with this plan. The condition must require payment prior to commencement of works or prior to commencement of use whichever occurs first. The condition must be set out and be calculated in accordance with APPENDIX D of this plan.

Payment for contributions cannot be accepted by Council before Council has registered the complying development certificate in its system which will not occur until Council has received notification of the complying development certificate from the accredited certifier of the issuing of the certificate.

Failure to follow this procedure may render such a certificate invalid.

#### **Recalculation of contributions:**

Council's search fee will apply in cases where the recalculation of contribution rates is required.

### 2.10 Deferred/periodic payments

Deferred or periodic payments may be permitted in the following circumstances:

- compliance with the provisions of Clause 2.8 is unreasonable or unnecessary in the circumstances of the case,
- deferred or periodic payment of the contribution will not prejudice the timing or the manner of the provision of public facilities included in the works program,
- where the applicant intends to make a contribution by way of a planning agreement, works-in-kind or land dedication in lieu of a cash contribution and council and the applicant have a legally binding agreement for the provision of the works or land dedication,
- there are circumstances justifying the deferred or periodic payment of the contribution.

If council does decide to accept deferred or periodic payment, council may require the applicant to provide a bank guarantee by a bank for the full amount of the contribution or the outstanding balance on condition that:

- the bank guarantee be by a bank for the amount of the total contribution, or the amount of the outstanding contribution, plus an amount equal to thirteen (13)

months interest plus any charges associated with establishing or operating the bank security

- the bank unconditionally pays the guaranteed sum to the council if the council so demands in writing not earlier than 12 months from the provision of the guarantee or completion of the work
- the bank must pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development
- the bank's obligations are discharged when payment to the council is made in accordance with this guarantee or when council notifies the bank in writing that the guarantee is no longer required.
- where a bank guarantee has been deposited with council, the guarantee shall not be cancelled until such time as the original contribution and accrued interest are paid.

#### 2.11 "In-kind" settlement or material public benefit

The council may accept an offer by the applicant to provide an "in-kind" contribution (ie the applicant completes part or all of work/s identified in the plan) or through provision of another material public benefit in lieu of the applicant satisfying its obligations under this plan.

Council may accept such alternatives in the following circumstances:

- the value of the works to be undertaken is at least equal to the value of the contribution that would otherwise be required under this plan; and
- the standard of the works is to council's full satisfaction; and
- the provision of the material public benefit will not prejudice the timing or the manner of the provision of public facilities included in the works program.

The value of the works to be substituted must be provided by the applicant at the time of the request and must be independently certified by a Quantity Surveyor who is registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications.

Council will require the applicant to enter into a written agreement for the provision of the works.

Acceptance of any such alternative is at the sole discretion of the council. Council may review the valuation of works or land to be dedicated, and may seek the services of an independent person to verify their value. In these cases, all costs and expenses borne by the council in determining the value of the works or land will be paid for by the applicant.

#### 2.12 Adjustment of contribution rates

To ensure that the value of contributions are not eroded over time by movements in the land value increases, the capital costs of administration of the plan or through changes in the costs of studies used to support the Plan, the council will adjust the contribution rates.

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The contribution rates will be adjusted in accordance with the consent condition by reference to the following specific indices:

- construction costs by the **IPD Chain Volume Measures:Engineering Construction** as published by **the Australian Bureau of Statistics (ABS)**;
- land acquisition costs by reference to average land valuation figures (**Tweed Land Index**) published by council in Council's Management Plan;
- specific valuations for particular parcels of land that are identified in the s94 plan as published by the council in Council's Management Plan;
- changes in the capital costs associated with provision of administration and salary costs for staff involved in implementing council's s94 plan by reference to increases in salary rates under the Local Government State Award Plan as published by the council in Council's Management Plan;
- changes in the capital costs of various studies and activities required to support the strategies in the plan by reference to the actual costs incurred by council in obtaining these studies plan as published by the council in Council's Management Plan.

In accordance with clause 32(3)(b) of *the EP&A Regulation*, the following sets out the means that the council will make changes to the rates set out in this plan.

For changes to the **IPD** index, the contribution rates within the plan will be adjusted on a quarterly basis in accordance with the following formula:

$$\text{\$C}_A + \frac{\text{\$C}_A \times (\text{Current Index} - \text{Base Index})}{[\text{Base Index}]}$$

Where

$\text{\$C}_A$	is the contribution at the time of adoption of the plan expressed in dollars;
Current _ Index IPD	is the <b>IPD</b> as published by the ABS available at the time of adjustment of the contribution rate;
Base Index _ IPD	is the <b>IPD</b> as published by the <b>ABS</b> for the date of adoption of this Plan.

Note: In the event that the Current IPD is less than the previous IPD, the Current IPD shall be taken as not less than the previous IPD. Also note that the ABS adjusts the base year annually and therefore the actual IPD figures to be used are those applicable on the date on which indexation occurs. Please refer to paragraph 1.3 for the applicable figures at the time of adoption, however these may vary over time for the reasons stated.

For changes to land values, the council will publish at least on an annual basis the revised land index values that are to be used to change the base land values contained in the plan which will be determined in accordance with the following formula:

$$\text{\$C}_{LV} + \frac{\text{\$C}_{LV} \times (\text{Current LV} - \text{Base LV Index})}{[\text{Base Index}]}$$

Where

$\text{\$C}_{LV}$	is the land values within the plan at the time of adoption of the plan expressed in dollars;
Current LV Index_	is the land value index as published by the

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<u>TSC Land Index</u>	council available at the time of adjustment of the contribution rate;
Base LV Index _ <u>TSC Land Index</u>	is the land value index as published by the council for the date of adoption of this Plan.

Note: In the event that the Current LV Index is less than the previous LV Index, the Current LV Index shall be taken as not less than the previous LV Index. Also note that the council may adjust the base year for this index and therefore the actual LV Index figures to be used are those applicable on the date on which indexation occurs. Please refer to paragraph 1.3 for the indexation figures available at the time of adoption, however these may vary over time for the reasons stated.

For changes in salary costs and changes in the costs for studies and other activities associated with the plan, council will publish at least on an annual basis the revised indices that are to be used to change the base costs of salaries and the costs of studies and associated activities in administering the plan.

#### 2.13 Adjustments at the time of payment

The contributions stated in a consent are calculated on the basis of the s94 contribution rates determined in accordance with this plan. The contributions payable will be adjusted and the amount payable will be calculated on the basis of the contribution rates that are applicable at time of payment in accordance with the consent condition.

The current contribution rates are published by council and are available from council offices. Should the council not validly publish the applicable contribution rates, the rate applicable will be calculated in accordance with the rate prevailing in the previous quarter.

#### 2.14 Allowances for existing development

Contributions will be levied according to the estimated increase in demand. An amount equivalent to the contribution attributable to any approved development on the site of a proposed new development will be allowed for in the calculation of contributions. Council will determine the credit on the basis of the likely demand that the existing development would create.

#### 2.15 Pooling of contributions

This plan expressly authorises monetary s94 contributions paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of the levies are shown in the works schedule.

#### 2.16 Savings and transitional arrangements

A development application which has been submitted prior to the adoption of this plan but not determined shall be determined in accordance with the provisions of the plan which applied at the date of determination of the application.

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#### 2.17 Register

Council will maintain a register of all contributions in accordance with EP&A Regulation 34.

The register will be made available for public inspection at any time during normal office hours. An annual statement of contributions will be produced documenting amounts received and relevant details. Such statements will also be made available for public inspection upon request.

### 3.0 PART C – STRATEGY PLAN AND NEXUS

#### 3.1 Introduction

Part 116D of the Environmental Planning and Assessment Act requires that Council take account of 5 key considerations for development contributions, being:

- (a) Can the public infrastructure that is proposed to be funded by a development contribution be provided within a reasonable time?*
- (b) What will be the impact of the proposed development contribution on the affordability of the proposed development?*
- (c) Is the proposed development contribution based on a reasonable apportionment between existing demand and new demand for public infrastructure to be created by the proposed development to which the contribution relates?*
- (d) Is the proposed development contribution based on a reasonable estimate of the cost of proposed public infrastructure?*
- (e) Are the estimates of demand for each item of public infrastructure to which the proposed development contribution relates reasonable?*

These considerations are addressed in this section by demonstrating a clear nexus between the requirement for the required open space to meet the needs of the increased population as a result of new development and the works program designed to provide it.

#### 3.2 Demand for Open Space

In order to levy contributions under S94, a fundamental link must be established between the new development and the demand created for additional public facilities. Where Council has the responsibility to provide public facilities such as open space areas, Council must provide these facilities and is entitled to recover that proportion of costs arising from the demand generated by new development. The standard means of providing open space is to require the dedication of identified areas of land, in lieu of monetary contributions.

Any increase in population will increase the demand for public open space. Council currently levies tourist accommodation for open space contributions under CP No. 5 – Open Space Contribution and CP No. 19 – Kings Beach/Kings Forest. However, neither of these contributions plans apply to the SALT area.

Tourist accommodation is levied for passive open space because tourists are considered to be equal if not greater beneficiaries of public open space than permanent residents. Surveys by the Hunter Valley Research Foundation have found that visitor/tourist usage of public open space in Tweed Shire is higher than resident usage, but varies according to location. It is therefore reasonable that the



requirement to provide passive open space be apportioned amongst the new developments that will benefit from the open space.

### 3.3 Expected Population

The SALT area is unique, being the only land in Tweed Shire zoned 2(t) Tourist Area. The primary intent of the zone is to allow for tourist developments.

However the Master Plan for the proposed development (SALT), which has been determined by Council, indicates that the following is the estimated population for the SALT development area:

#### **Permanent residents**

202 medium density units	343 people
410 standard residential	<u>1,066</u> people
	1,409

#### **Tourists**

613 tourist rooms	
@ 2 persons per room	<u>1,226</u>
Total	2,635 persons

### 3.4 Open Space Principles

In general, open space areas should be provided where they can achieve maximum public benefit. In the SALT area, public open space is preferably located adjacent to the beach and adjacent to Cudgen Creek.

Open space provided adjacent to the beach can cater for people's preference to recreate near the ocean, while at the same time affording protection to the coastal environment and the visual quality of the coastline. The NSW Coastal Policy 1997 encourages the dedication of foreshore areas to Council for use as public open space. It must also be noted that the Tweed Coast in general must meet a growing regional demand for coastal recreational space.

Of equal importance is the necessity to provide a riparian zone adjacent to Cudgen Creek. The development of land in vicinity of the creek will require the establishment of a riparian buffer to protect the creek and adjoining areas of environmental significance. The buffer should be of a minimum 20m in width. This is the absolute minimum considered necessary to afford any sustainable level of protection to the creek.

The need for a riparian buffer zone to mitigate the impacts of new development is a concept which has support from many sources, including Council's 'Cudgen, Cudgera and Mooball Creeks Estuary Management Plan' (TSC, 1997), NPWS and NSW Fisheries advice, and a Flora and Fauna Assessment of the Kingscliff tourism land (Lot 490 DP 47021), prepared for Council by Peter Parker Environmental Consultants in January 2000.

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#### 3.5 Type of Open Space Required

Public open space has two components: structured open space and passive open space. Structured open space, sometimes referred to as active open space, includes any land developed for organised outdoor sporting pursuits, such as sports fields and tennis courts. Casual open space is land used for informal leisure activities, and includes parks and gardens, playgrounds, foreshore and riverbank areas, bushland and natural areas.

Generally, Council has required that the public open space standard of 2.83ha be provided in the following proportions:

60% Structured open space (1.7 ha/1000 persons)

40% Passive open space (1.13 ha/1000 persons).

It is proposed that the plan incorporates a structured open space component in the plan as the permanent residents will create a demand for structured open space in the Shire and it is fair and equitable that these future residents contribute to such a facility. It is proposed that only the permanent residential population be levied as they will be the major users of the structured open space.

It has been agreed with the developer of SALT that the above standard proportion be reversed so that 40% of the public open space be structured open space (1.13ha/1,000 persons). This is a result of an excess in the minimum requirement of casual open space that has been provided in the development, and it has also been determined that it is less likely that younger families with children will be purchasing in the SALT development.

#### 3.6 Formulae for Contributions

Where a monetary contribution is considered more appropriate than dedication of land, or where the amount of land does not fully satisfy the standard of passive open space to be provided, the following formula shall apply:

$$\text{Contribution per person} = \frac{C + E + A}{P} + 5\% \text{ Administration levy}$$

Where:

C = cost of acquiring land serving the locality

E = improvement, embellishment costs

A = project costs

P = anticipated population in locality to be served by the unstructured open space

On 25 February 2005 the Department of Commerce valued land at SALT at \$2,300,000 per ha.

The formulae for calculating the amount of contributions payable is based on consideration of:

- the demand for open space generated by the development, based on the additional population expected;
- the current cost of acquiring the necessary land;

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- the current capital cost of providing the facility or service;
- increases in land acquisition and building costs, based on the Tweed Shire Land Index and ABS IPD (refer *Section 2.7 - Definitions and standards* on page 5);
- project costs, being valuation and annual revaluation of lands;

a 5% levy applies to all Section 94 charges to cover the costs associated with administration, development and review of Section 94 Plans.

### 3.7 Provision of Open Space

#### 3.7.1 Structured Open Space

Public open space has two components: structured open space and passive open space. Structured open space, sometimes referred to as active open space, includes any land developed for organised outdoor sporting pursuits, such as sports fields and tennis courts. Casual open space is land used for informal leisure activities, and includes parks and gardens, playgrounds, foreshore and riverbank areas, bushland and natural areas.

Council's policy is that the public open space standard of 2.83 ha be provided in the following proportions:

60% Structured open space (1.7 ha/1000 persons)

40% Passive open space (1.13 ha/1000 persons)

As a result of the change in the population mix at SALT, there is a requirement to amend the assumption in CP 25 to include a component of structured open space. Based on the agreed proportion for open space of 1.13ha/1,000 persons for structured open space, the following is required to be provided for a projected permanent population of 1,409 at the SALT development:

- $1.13\text{ha} \times 1.409 = 1.592\text{ha}$  structured open space, say 1.6ha.

It is proposed to amend the plan to incorporate a structured open space component in the plan as these residents will create a demand for structured open space in the Shire and it is fair and equitable that these future residents contribute to such a facility.

While Council has considered the location of the structured open space within this development site it has been agreed that it will be located next to the proposed structured open space to be provided under Contribution Plan No. 7 West Kingscliff for the following reasons:

- The Master Plan for SALT has now been determined by Council. However in the preceding discussions with the developer it was considered that the positioning of structured open space in this area is not the best utilisation of this coastal land.
- Where possible it is deemed more appropriate that structured open space areas be grouped together to form larger playing facilities, for reasons of maintenance, the provision of ancillary facilities such as car parking and the ability of the larger sporting fields to support the bigger sporting clubs.

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- The provision of structured open space at West Kingscliff is more likely in the short term, whereas the time frame for development at Kings Forest is unknown. While the proposed open space area site at West Kingscliff is currently under review, it is estimated that the likely site is only 3 km from SALT.

Spatial nexus requires that the proposed public facility be located so as to serve the needs of those who have created the demand for it. However there is no requirement for the proposed public facility to be located within a physical proximity to the contributing development. The key determinant is that the population that has created the demand must have reasonable access to the facilities provided. The exception to this is the provision of local passive open space (parks and the like) which should be located close to the development. Most residents in the Shire are required to drive to structured open space facilities and therefore it is considered that the location of the proposed structured open space area at West Kingscliff that satisfies the intended population at SALT is not inconsistent with the intentions of Section 94 funding.

#### **Calculation of levy rate**

**Value of land** in 1(b2) zone at West Kingscliff – \$250,000 per hectare. - Cost of acquiring the 1.6ha is \$400,000. Note: This land was valued by the State Valuation Office on 3 March 2003 and indexed in this version of the plan by use of the Tweed Shire Land Index (see Appendix C for indexation calculations).

**Cost of embellishments**, as based on information from Council's Recreation Services Unit, and adjusted annually by the use of the ABS IPD (see Appendix C for index calculations):

Topsoil - \$84,000 ( $\$35/m^3$  for 1.6ha, @150mm deep)

Seeding - 120kg/ha at \$6/kg = \$1,152

Irrigation \$20,000 per hectare = \$32,000

**Total embellishment costs = \$117,152**

**Revaluation cost: initial valuation and annual revaluation = \$1,500**

#### **Amenities blocks**

Council will also require provision of an amenities block located at the sports field area with appropriate vehicular parking and pedestrian access. The size of the amenities block is as follows:

200m<sup>2</sup> (2 change rooms with showers and toilets, store room and separate toilets for the public)

200m<sup>2</sup> x \$700/m<sup>2</sup> = \$140,000

Parking costs: 40 car spaces

40 x 30m<sup>2</sup>/car space=1200m<sup>2</sup> x \$80/m<sup>2</sup>= \$96,000

**Total amenities block and parking: \$236,000**

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### SALT Open Space and Associated Car Parking

Item	Original cost	Indexation*	Add	Revised Total
Land	\$400,000	42.5%	\$170,000	\$570,000
Embellishment	\$117,152	38%	\$44,511	\$161,663
Revaluation	\$1,500	-	0	\$1,500
Amenities block	\$236,000	38%	\$89,667	\$325,667
<b>TOTAL</b>				<b>\$1,058,830</b>

\* See Appendix C – Indexation Calculations for more information.

### Cost per person

$\frac{\$570,000 + \$161,663 + \$1,500 + \$325,667 + 5\% \text{ admin cost}}{1,409}$

$\frac{\$1,058,830 + 5\% \text{ admin cost}}{1,409}$

\$751.48 per person + 5% admin levy = \$789.05

### PER LOT CONTRIBUTION

	Persons	Structured Open Space Levy Base Rate 2003	Structured Open Space Levy Indexed 2009
Per person	1	\$562.37	\$789.05
Per Lot/ET	2.4	\$1,350	\$1,894
Detached dwelling	2.4	\$1,350	\$1,894
1 bedroom unit	1.3	\$731	\$1,026
2 bedroom unit	1.7	\$956	\$1,341
3 bedroom unit	2.1	\$1,181	\$1,657
4+ bedroom unit	2.4	\$1,350	\$1,894

NB: Does not apply to tourist development.

### 3.7.2 Coastal Foreshore Areas

Based on Council's standard of provision for structured open space 3.2 ha of coastal foreshore is required, provided at the rate of 1.78 ha per 1,000 persons. However as a result of extensive negotiations with the applicant of Development Application K99/1755 for Lots 194, 301 and 312, DP 755701 to enable the provision of open space at the northern and southern ends of the development site, the following is to be provided:

#### South Kingscliff Developments Pty Ltd land dedication

A dedicated area of 1.125 ha of land for open space purposes shall be provided as well as adjoining land zoned 7 (f) - Environmental Protection (Coastal Lands). Of the total, one (1) ha of land is to be located adjoining the southern boundary of

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### SALT Open Space and Associated Car Parking



the land and 0.125ha adjoining the northern boundary. The land zoned 7(f) that is to be dedicated similarly adjoins the northern and southern boundaries and adjoins the existing foreshore public reserve and the 1.125 ha proposed to be dedicated. The applicant shall submit and obtain Council approval of a plan showing the dimensions of the land to be dedicated for public open space purposes prior to the release of the construction certificate for the works.

#### Public Amenities

Prior to the dedication of the above land to Council, public amenities shall be constructed and each area landscaped as well as constructing pedestrian pathways to the beach. The location of amenities, landscaping and pedestrian access is to be consistent with the Foreshore Management Plan and the land is to be dedicated prior to the release of the occupation certificate for the future development of any of the lots created under this consent.

#### Financial Contributions

Based on Council requirements of 3.2ha there is a 1ha shortfall. A financial contribution of \$574,000 is required, made up of the following:

- Land - \$190,000 (as valued by the State Valuation Office)
- Embellishment of the open space - \$384,000

#### Works in kind

In lieu of contributing the \$574,000 to Council pursuant to Section 94A(5) of the Environmental Planning and Assessment Act, 1979, the following is required:

- i. the construction of amenities as described in Public Amenities above;
- ii. the design and construction of a coastal walkway/cycleway generally within a corridor 10 metres wide located parallel and close to the western boundary of Lot 500. The walkway/cycleway will commence a minimum of 20 metres east of the western boundary of the 7(f) zone to link up with the alignment of the southern coastal walkway/cycleway;
- iii. the construction of pedestrian access ways to the beach;
- iv. a Foreshore Management Plan for the land included on Lot 500, the land zoned 7(f) and any land proposed to be dedicated as foreshore open space. The Foreshore Management Plan shall be prepared in consultation with the Tweed Shire Council, the Department of Land and Water Conservation, NSW Fisheries, the National Parks and Wildlife Service, and the Department of Urban Affairs and Planning. The final plan is to be submitted to, and approved by Council prior to the issue of any Construction Certificate for any development of the management lots adjoining the foreshore.

The Foreshore Management Plan shall include but is not limited to the following:

- a. the removal of bitou bush and non-native species of vegetation;
- b. the rehabilitation of cleared (disturbed areas);
- c. the planting of banksia integrifolia and other native species;
- d. the location and design of the walkway/cycleway to be located parallel to the western boundary of Lot 500 as well as the location of pedestrian

access ways to the beach including maintenance and emergency vehicle access to the beach;

- e. the location, type and links with public amenities (including public toilets) proposed in the public open space areas (near the car parks);
- f. bushfire hazard reduction measure;
- g. not disturbing the Optus fibre optic cable; and
- h. measure to include the impact of the development on any threatened species within the meaning of the Threatened Species Conservation Act 1995

Should the value of the works referred to above, as assessed by a qualified Civil Engineer, not be equal to or greater than \$574,000, then the shortfall shall be contributed to the Minister for Urban Affairs and Planning for the embellishment of parkland in the locality of the land.

### 3.7.3 Associated Car Parking

As a result of the SALT development facilities such as open space and access to the beach have been created. This will attract visitors, particularly day trippers, from both within the Shire and elsewhere. This parking is therefore required for these day trippers who will visit the coast area and also be utilising the open space areas

Council's policy is that 300 car parking spaces per kilometre length of coastal foreshore be provided. However as the resort development will also be providing car parking which will be accessible to the public, a total of 200 public car parking spaces associated with the open space areas shall be identified, constructed in a manner satisfactory to Council and dedicated to Council. The car parking is to be designed and constructed in the following manner:

- a. 100 of the total car parking spaces are to be located close to the northern boundary of the land and 100 spaces located close to the southern boundary of the land. Each car parking area is to be located so as to enable easy pedestrian access to the beach and is to be clear of the 7(f) Environmental Protection (Coastal Lands) zone and generally consistent with the design standards in Tweed Council's Development Control Plan No.2;
- b. The applicant will design and construct, to a standard satisfactory to Council, pedestrian access ways from each car park to intersect with the proposed coastal walkway/cycleway. The applicant will also design and construct pedestrian access ways to the beach which are located so as to give the most direct access possible as well as being consistent with the 'Foreshore Management Plan';
- c. Each car parking area is to include landscaping and design to integrate with adjoining public foreshore open space areas and be clearly identified as public car parking by signage and management; and
- d. The two car parking areas, access roads and related pedestrian access are to be constructed and dedicated to Council, at no cost, before the release of any Occupation Certificate for any development of any future management lot.

### 3.7.4 Riparian Buffer Zone

The 20m riparian buffer zone is to be provided adjacent to Cudgen Creek, and adjacent to the adjoining 7(a) and 7(l) environmental protection zones. The 20m distance is to be measured from the mean high water mark (MHWM) of the creek and from the edge of any adjoining environmental zone, as determined by ground survey. The result will be a continuous 20m wide riparian buffer between the development site of SALT and the adjoining Cudgen Creek estuary.

It is noted that on the northern part of the South Kingscliff Developments land (Lots 301 and 312), some of the riparian zone indicated on Figure 2 may fall outside of the area owned by South Kingscliff Developments Pty Ltd. This is due to some of the 2(t) zoned land being outside of the cadastral area owned by South Kingscliff Developments Pty Ltd. This has resulted from a gradual process of land accretion in the Cudgen Creek estuary.

It is likely that as part of any future development process, this land will be resurveyed and included in the South Kingscliff Developments Pty Ltd holding, subject to approval by the Department of Land and Water Conservation. Assuming that this occurs, the riparian buffer is to be provided adjacent to the creek and land zoned environmental protection, as shown on Figure 2. If the additional land zoned 2(t) is not included with South Kingscliff Developments land, the required amount of open space must still be provided on land owned by South Kingscliff Developments Pty Ltd, in a location where it can still effectively function as part of a continuous riparian buffer zone.

The required amount of contributions are shown in Table 1 below.

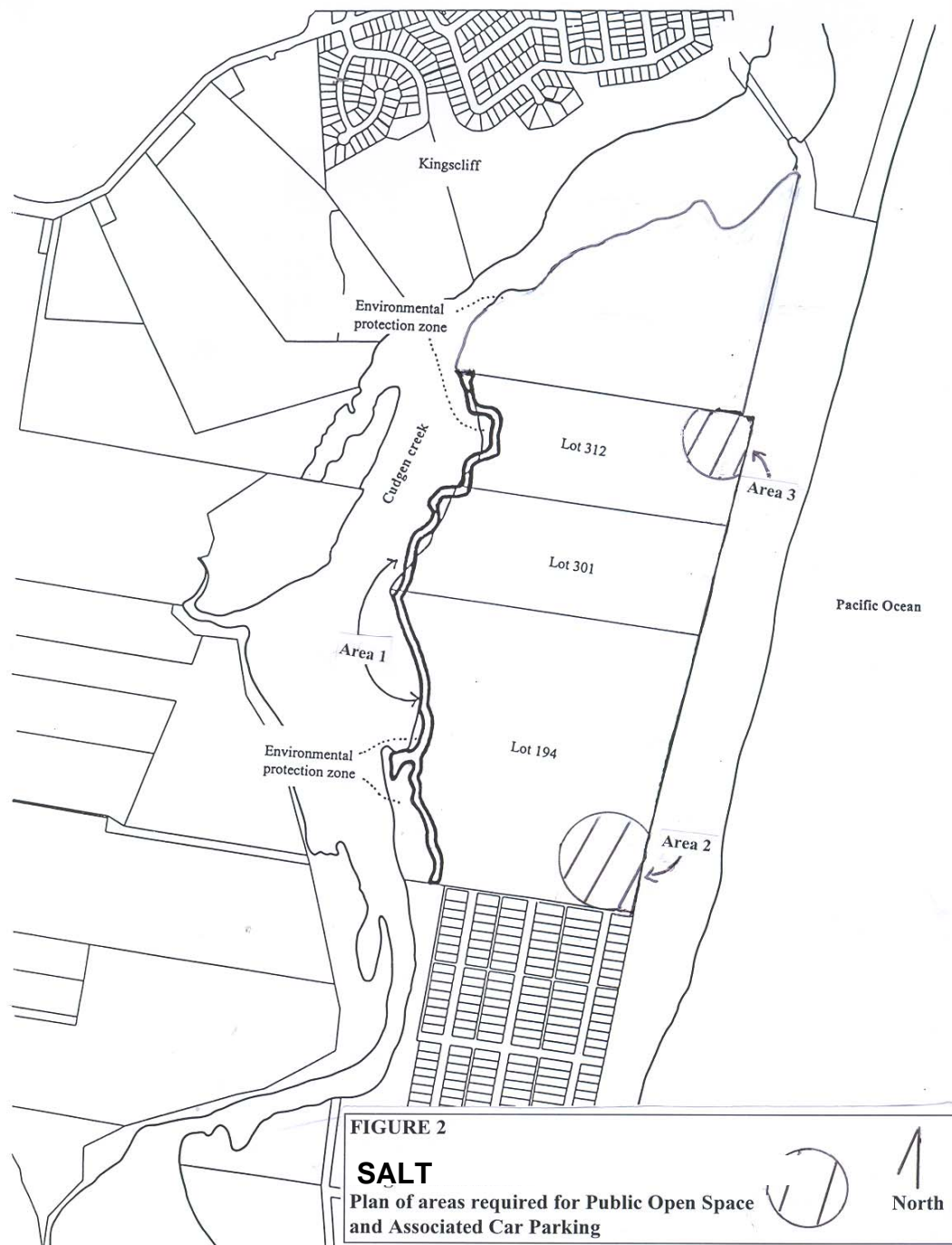
**Table 1: Required Passive Open Space Contributions**

<b>A: Land</b>	<b>B: Expected Population @ 24 persons/ha</b>	<b>C: Coastal foreshore Space Required @ 1.78ha/1000 persons</b>	<b>D: Area of 20m Riparian Buffer</b>	<b>E: Total Area required (C+D)</b>	<b>F: Open Space/person (E/B)</b>
South Kingscliff Developments Pty Ltd	1,800	1.125ha	2.9944ha	4.1194ha	22.8m <sup>2</sup>



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**Table 2: Summary of Required Passive Open Space Contributions**

Land	Area Required	Form of Contribution	Location of Dedication/ Acquisition (refer Figure 2)	Description of Contribution
South Kingscliff Developments Pty Ltd	2.9944ha	Land dedication	Area 1	Required 20m riparian buffer
South Kingscliff Developments Pty Ltd	1.125ha 7(f)- Envir.Prot.	Land dedication  Land dedication	Area 2 and 3	1ha adjoining the southern boundary of the land and 0.125ha adjoining the northern boundary

### 3.7.5 Embellishment of Open Space

Plans for the embellishment of the identified open space areas are to be submitted to Council for approval prior to the development of the land to which they relate. Any required works are to be carried out by the developer at the developer’s expense, or as agreed to otherwise by Council.

Embellishment of the riparian buffer zone will involve, where necessary, the following works:

- Removal of Bitou bush and other noxious weeds
- Removal of other exotic plant species
- Rehabilitation in accordance with an approved management plan. This would include replanting of selected pioneer and habitat trees such as coastal banksia and coastal wattle species.

The embellishment of the Coastal foreshore areas will involve, where required:

- Removal of Bitou bush and other noxious weeds
- Removal of other exotic plant species
- Rehabilitation in accordance with an approved management plan. This would include replanting of selected pioneer and habitat trees such as coastal banksia and coastal wattle species
- Provision of toilet facilities in proximity to any future public car parks provided as part of the future development of the land
- Provision of landscaped bar-be-cue areas with appropriate covered seating areas, adjacent to any future public car parks.

The embellishment of coastal foreshore areas is to be subject to design plans to be submitted to the Director of Development Services as part of the Master plan(s) for the development site. The required public facilities are to be logically interrelated with public car park areas and the public footpath/cycleway which will extend along the coastal foreshore.

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### APPENDIX A – AMENITIES

#### Passive Open Space

Works Schedule			
Proposed Amenity	Area to be Acquired/Dedicated	Land Cost	Staging
Cudgen Creek Riparian Zone (Area 2)	2.9944ha (dedication)		Dedication at development stage of South Kingscliff Development Pty Ltd land
7(f) and 2(t) land (Areas 3 and 4)	1.125ha (dedication)		Dedication at development stage of South Kingscliff Development Pty Ltd land

#### Structured Open Space

##### PER LOT CONTRIBUTION

	Persons	Structured Open Space Levy Base Rate 2003	Structured Open Space Levy Indexed 2009
Per person	1	\$562.37	\$789.05
Per Lot/ET	2.4	\$1,350	\$1,894
Detached dwelling	2.4	\$1,350	\$1,894
1 bedroom unit	1.3	\$731	\$1,026
2 bedroom unit	1.7	\$956	\$1,341
3 bedroom unit	2.1	\$1,181	\$1,657
4+ bedroom unit	2.4	\$1,350	\$1,894

NB: Does not apply to tourist development.

#### Passive Open Space

Any additional passive open space over and above the credit of 6,441m<sup>2</sup> remaining at the time of Amendment No 3 shall be provided at the following rate:

- 19m<sup>2</sup>/medium density
- 30m<sup>2</sup>/single residential
- 85m<sup>2</sup>/tourist room

If a monetary contribution is considered more appropriate than dedication of land at the proposed tourist resort (Stage 2), then the contribution to be provided shall be based on the above rate and at the value of land provided by the Department of Commerce on 25 February 2005 which is \$2,300,000 per ha.

## APPENDIX B – HISTORY OF THE PLAN

**Amendment No. 1 (2003)**

This amendment involves the inclusion of structured open space into Contribution Plan No.25 - SALT. The original plan foregoes any structured open space contribution and accepts all land dedication and contributions as passive open space due to the development being of a primarily tourist orientation. The Master Plan for the proposed development (SALT) determined by Council indicates that just over 50% of the proposed development will consist of permanent residents. This Master Plan is therefore a major change to the predominantly tourist population that was expected at the time of the drafting of Contribution Plan No.25.

The following is the estimated permanent population for the SALT development area:

**Permanent residents**

202 medium density units –	343 people
410 standard residential –	<u>1,066</u> people
	1,409

As a result of the change in the population mix at SALT, there is a requirement to amend the assumption in CP 25 to include a component of structured open space.

Council's policy is that the public open space standard of 2.83ha be provided in the following proportions:

- 60% structured open space (1.7ha/1,000 persons)
- 40% passive open space (1.13ha/1,000 persons)

However it has been agreed with the developer of SALT that the above proportion be reversed so that 40% of the public open space be structured open space (1.13ha/1,000 persons). This is a result of an excess of the minimum requirement of casual open space that has been provided, and it is also less likely that younger families with children will be purchasing in the SALT development.

Based on this new standard of provision for structured open space of 1.13ha/1,000 persons, the following is required to be provided for a projected permanent population of 1,409 at the SALT development:

- $1.13\text{ha} \times 1.409 = 1.592$ , say 1.6ha structured open space.

This open space will be located next to the proposed structured open space to be provided under Contribution Plan No. 7 West Kingscliff.

It is also proposed to amend the name of the contribution plan from Kings Beach North to SALT.

**PER LOT CONTRIBUTION**

Single residential lot:  $2.6 \text{ persons} \times \$589.15 = \$1,531.80$

Medium density:  $1.7 \text{ persons} \times \$589.15 = \$1,001.55$

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SALT Open Space and Associated Car Parking



### Version 3 (This Amendment):

This amendment

- Revises the cost of the works program in accordance with relevant indices (see Appendix C).
- Makes reference to forthcoming changes to the EP&A Act with reference to S94 and addresses part 116D regarding the 5 key considerations for a S94 Plan.
- Adjusts the occupancy rates per bedroom to those adopted by Council in the Tweed Shire Urban Release Strategy 2009.
- Includes clauses to enable future indexation of rates in the plan.
- Applies the current Department of Planning Template for a S94 plan.
- Includes a schedule enabling S94 contributions to be levied by accredited certifiers on complying development certificates in accordance with this plan, where applicable (Appendix D).
- Revises the admin component from 10% to 5%.

Calculations in this amendment result in a contribution of \$562.37 (base rate) and **\$789.05** (indexed) per person for structured open space. See *Section 1.1 - Summary schedule – contribution rates* on page 1 to view the rates in detail.

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### APPENDIX C – INDEXATION CALCULATIONS

**Original plan date: 21/07/2003**

Index	Date		difference	increase
IPD (Eng Constr)	Mar-03	78.88		
	Mar-09	108.85	29.97	38%
TSC Land Index	2002/2003	100		
	2008/2009	142.5	42.5	42.5%

See *Section 2.7 - Definitions and standards* on page 5 for definition and availability of these indices.

Item	Original cost	Indexation*	Add	Revised Total
Land	\$400,000	42.5%	\$170,000	\$570,000
Embellishment	\$117,152	38%	\$44,511	\$161,663
Revaluation	\$1,500	-	0	\$1,500
Amenities block	\$236,000	38%	\$89,667	\$325,667
<b>TOTAL</b>				<b>\$1,058,830</b>

APPENDIX D – COMPLYING DEVELOPMENT CERTIFICATES

Contributions will be levied according to the estimated increase in demand. In assessing the contribution of proposed development, the following calculation shall be used:

**For commercial and industrial development:**

$$\text{Rate x Unit or Lot} = \text{Total Charge}$$

$$\text{Total Charge} - \text{Credit} = \text{Contribution}$$

**For dwellings:**

$$(\text{Dwelling type persons x rate per person x number of dwellings of that type}) = \text{Total Charge}$$

$$\text{Total Charge} - \text{Credit} = \text{Contribution}$$

**Notes:**

Credit

A credit amount equivalent to the contribution attributable to any continuing (or approved) development on the site of a proposed new development will be allowed for in the calculation of contributions. The credit is equal to the rate (number of lots or units x rate) already paid for as evidenced in a previous development consent. For dwellings and tourist development, the credit is 1 ET which is equivalent to **2.4** persons or any approved existing persons/bedrooms onsite. Where a development consent does not exist for a continuing development, or the total rate charged for cannot be determined, they shall be determined by calculating the current chargeable rate based on existing floor area or existing households / lot.

Rate - Is specified in *Section 1.1- Summary schedule – contribution rates* on page 1.

Lots, Units and Persons – Are specified in *Section 1.1- Summary schedule – contribution rates* on page 1.

Concessions

Concessions may be applied in accordance with this plan if applicable.

Council Assistance

Should a certifying authority choose not to calculate contributions, Council officers are able to undertake calculations at the cost of Council's Enquiry Fee.

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### Contribution Fee Sheet

The certifying authority shall attach to the complying development certificate, a fee sheet which details calculations (including persons, credits and total ETs) undertaken to determine the applicable contributions.

The contribution fee sheet should use a format showing all of the details in the table below:

S94 Plan	Sector	Persons	Credit (Persons)	ETs (minus credits)	Total \$
S94 Plan No 25	CP 25	Xxx	Xxx	Xxx	\$xxx

### Condition Template

The condition must be imposed in the following format:

#	<p><b><u>Section 94 Contributions</u></b></p> <p>Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.</p> <p>The complying development shall NOT commence unless all Section 94 Contributions have been paid.</p> <p><b>A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS COMPLYING DEVELOPMENT CERTIFICATE <u>MUST</u> BE PROVIDED AT THE TIME OF PAYMENT.</b></p> <p>These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.</p> <p>A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.</p> <p>« <i>Contribution type:</i></p> <p>XXX Persons @ \$xxxx per person <span style="float: right;">\$xxxx</span></p> <p>S94 Plan No. XX</p> <p>Sector xxxx</p>
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