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Section 94 Plan

No. 7 – West Kingscliff

Version 6.0
December 2009

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

GENERAL MANAGER

DATE: 15 December 2009

SECTION 94 PLAN No 7

WEST KINGSCLIFF

(Amendment No 5)

In Force 23 December 2009

VERSION 6

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1.0 PART A – SUMMARY SCHEDULES

1.1 Summary schedule – contribution rates

Structured Open Space

	Persons	Amendment 4 (V5)	Version 6 Calculations (Base Rate)	Version 6 Indexed
Per person	1	\$1000	\$770	\$994
Detached dwelling	2.4		\$1,849	\$2,386
1 bedroom unit	1.3		\$1,001	\$1,292
2 bedroom unit	1.7		\$1,309	\$1,690
3 bedroom unit	2.1		\$1,617	\$2,087
4+ bedroom unit	2.4		\$1,849	\$2,386

Drainage

Per Ha	
Version	Levy
Amendment 4 (V5)	\$32,708
Version 6 Calculations (Base Rate)	\$29,801
Version 6 Indexed	\$42,720

- (1) See indexation calculations in SCHEDULE 4 – INDEXATION OF RATES on page 28.

1.2 Summary Works Program

Amenity	Pop. Threshold	Land Area	Land Cost	Capital Cost	Establishment Revaluation, Study Costs	Total Cost
Structured Open Space	5,366	9.12ha	\$2,280,000 ⁽²⁾	\$1,654,702	1,500	\$3,936,202
Casual Open Space	5,366	6.08ha	Dedication			
Drainage	2000 Refer to Drainage Strategy	22.2ha	\$11,100,000	\$2,607,680	30,600	\$13,738,280

- (2) Valuation of \$250,000 per ha dated March 2003.
 (3) Remainder of works program costs are dated November 2006

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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

2.0 PART B - ADMINISTRATION

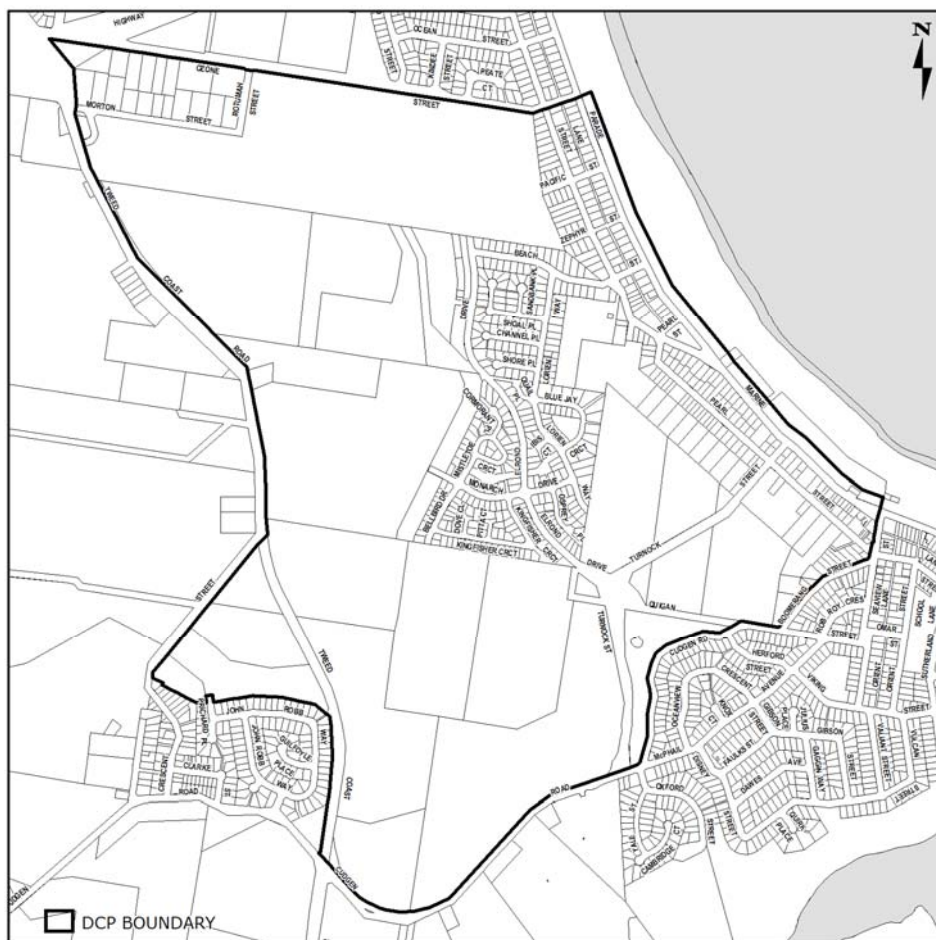
2.1 Name of this development contributions plan

The name of this Plan is *Tweed Shire Council Section 94 Contributions Plan No. 7 – West Kingscliff (Version 6)*.

The provisions of Section 94 Plan No 7 came into force on the 7th October 1993 and were subsequently amended on 9/12/95, 23/3/98, 30/5/2001, 6/12/2006 and **23 December 2009**.

2.2 Land to which this Plan applies

This Section 94 Contributions Plan applies to land the subject of Development Control Plan Section B4 for West Kingscliff. This land is illustrated below:

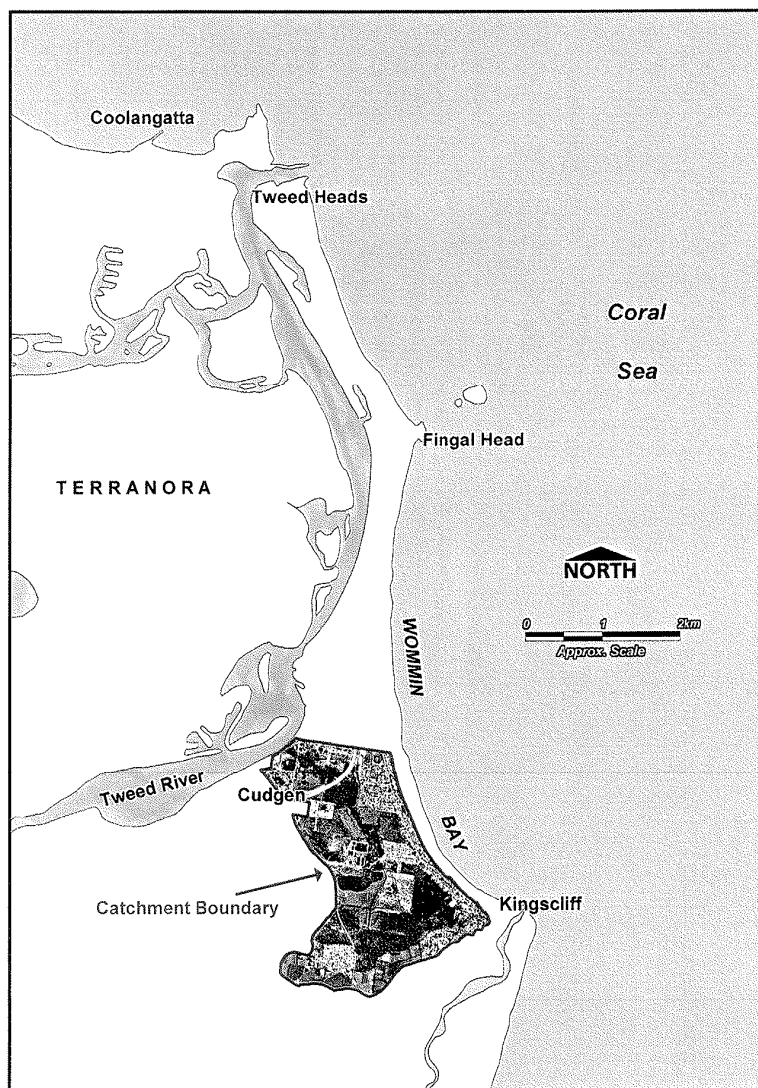


The area covered by this S94 Plan accords with the DCP Section B4 area so as to enable Council to levy contributions from development of new areas and redevelopment of existing urban areas within the plan's boundaries.

Drainage

This part of the plan applies to land the subject of Development Control Plan Section B4 for West Kingscliff that is within the West Kingscliff drainage catchment. It also applies to land outside the DCP Section B4 area which is within the West Kingscliff drainage catchment. The West Kingscliff drainage catchment is defined in figure 2.1 of "Kingscliff Catchment & Drainage Management Plan, Revision 3, 23/3/00" prepared by WBM Oceanics Australia.

Including this area in the S94 plan will enable Council to levy contributions from development of new areas and redevelopment within the West Kingscliff drainage catchment that will benefit from the works proposed.



Locality Map

Figure 2.1

2.3 The purpose of the S94 Contribution Plan

The purposes of this plan are to:

1. enable the levying of direct contributions for key community infrastructure, being services specified which will be required as a consequence of increased demand generated by development in the

West Kingscliff area and redevelopment in the existing area of Kingscliff covered by this plan in accordance with Section 116H of the *Environmental Planning and Assessment Act*,

2. ensure that adequate key community infrastructure is provided for as part of any new development;
3. 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
4. provide a comprehensive strategy for the assessment, collection, expenditure accounting and review of development contributions on an equitable basis
5. ensure that the existing community is not burdened by the provision of key community infrastructure required as a result of future development
6. enable the council to be both publicly and financially accountable in its assessment and administration of the development contributions plan.

2.4 Commencement of the plan

This development contributions plan 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, pursuant to clause 31(4) of the *Environmental Planning & Assessment Regulation*.

2.5 Relationship to other Council Plans

This contribution plan should be read in conjunction with Development Control Plan Section B4 - West Kingscliff and with Tweed Local Environmental Plan 2000. In addition the following Shirewide Contributions Plans are also applicable to the Plan area:

- Section 94 Plan No 4 – Tweed Roads Contribution Plan;
- S94 Plan No 6 – Street Tree Planting in Residential Areas;
- S94 Plan No 11 – Shirewide Library Facilities;
- S94 Plan No 12 – Bus Shelters;
- S94 Plan No 13 – Eviron Cemetery;
- S94 Plan No 15 – Developer Contributions for Community Facilities;
- S94 Plan No 16 – Emergency (Surf Lifesaving) Facilities;
- S94 Plan No 18 – Council Admin and Technical Facilities;
- Plan No 22 Cycleways; and
- S94 Plan No 26 – Shirewide Regional Open Space.

2.6 Definitions and standards

Definitions	
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.
Structured (Active) Public Open Space	<p>Sportsfields used for organised sporting activities such as cricket, rugby league, rugby union, hockey, netball, etc. These areas do not include open trunk drains and lakes.</p> <p>Cycleways will not, by themselves, be included as structured open space. They may be provided in conjunction with the provision of sportsfields.</p>
Casual (Passive) Public Open Space	<p>Public open space utilised for a variety of generally “non-organised” activities. These areas include neighbourhood parks, natural bushland parks, formal garden parks and pedestrian links. These areas do not include open trunk drains and lakes.</p> <p>Cycleways will not, by themselves, be included as casual open space. They may be provided in conjunction with the provision of neighbourhood parks, etc.</p>

Definitions	
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). Casual nexus requires that the need for the service or facility being levied must be a result of the development being levied. Physical nexus requires that the service or facility be near enough in physical terms to provide benefit to that development. Temporal nexus requires that the service or facility must be provided within a reasonable time.

Standards used in this contributions plan	
Dwelling house/lot	Equivalent to 2.4 persons (one Equivalent Tenement) Source: ABS Census 2006 and Tweed Shire Urban 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
Open space standard	2.83 hectares per 1000 persons Source: as adopted by Land and Environment Court for developing areas (Department of Planning 1992)
Local structured open space standard	1.7ha per 1,000 population Source: Tweed Shire Open Space Infrastructure Policy 2002
Local casual open space standard	1.13ha per 1,000 population Source: Tweed Shire Open Space Infrastructure Policy 2002

2.7 Timing of Contributions

Contributions will be required as a condition of development consent for subdivision and medium density, including dual occupancy, development.

Contributions are required to be paid as follows:

- for development applications including subdivision, at release of plan of subdivision;
- for applications including building work, at the time of building approval;
- for development applications where no building approval is required, at the time of development consent.

Deferred payments

Council will accept deferred payments only in special circumstances. Applicant for deferred payment of contributions must enclose a submission in writing to

accompany any Development Application setting out the reasons for deferral of payment.

If the application for deferral is accepted, the following conditions will apply:

1. A bank guarantee will be required to be lodged for the full value of the contribution(s). The applicant will be responsible for any charges involved in servicing the guarantee.
2. The amount of contributions outstanding will be indexed by the Consumer Price Index so that the value of the contribution does not diminish over time. Indexing will be calculated from the date on which the contribution was due to the date of payment.
3. Council will call up the bank guarantee if full payment of the deferred contributions is not received within six (6 months of release of linen plan/occupation of the buildings.

An alternative to deferred payments is for an applicant to request that contributions be satisfied through periodic payments. The following conditions will apply if an application for differed payments is to be accepted:

1. The application is to be made in writing and will include details of instalments and interest calculations.
2. Periodic payments will be required with each stage of a development where staged development is nominated in a development application.
3. Periodic payments will be indexed in the same manner as deferred payments and similar bank guarantee requirements will apply.

The decision as to whether to accept periodic payments solely with Council.

2.8 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 Schedule 5 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.

2.9 Dedication of land and material public benefits

A decision as to whether to accept the dedication of land or the provision of a material public benefit/works "in kind" in lieu of a monetary contribution, will be at the discretion of Council. Factors Council will take into consideration include:

- the extent to which the land/material public benefit/works satisfies a community need;
- the extent to which the land/material public benefit/works satisfies the purpose for which the contribution was sought;
- the valuation of the material public benefit or works in kind.
- a consideration of locational and other factors which may affect useability;
- an assessment of recurrent maintenance costs to Council.
- consistency with the provisions of DCP Section B4 - West Kingscliff.

2.10 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.

The contribution rates will be adjusted 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;

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- 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:

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

Where

$\$C_A$	is the contribution at the time of adoption of the plan expressed in dollars;
Current_Index IPD	is the IPD as published by the ABS available at the time of adjustment of the contribution rate;
Base Index IPD	is the IPD as published by the ABS at 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:

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

Where

$\$C_{LV}$	is the land values within the plan at the time of adoption of the plan expressed in dollars;
Current LV Index <u>TSC Land Index</u>	is the land value index as published by the 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 at 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.

Note: This clause does not cover the adjustment of a contribution between the time of consent and the time payment is made. This is covered by clause 2.11.

2.11 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. If the contributions are not paid within the quarter in which consent is granted, 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 contributions 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.

2.12 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.

2.13 Contributions register and accounting

Council has established an identifiable account for the management of S94 contributions, showing separate categories of contribution. The following separate categories have been established:

- active open space - West Kingscliff
- drainage - West Kingscliff

Contributions must be spent for the purpose for which they were levied in the time specified in the Works Program. Interest will be calculated on funds held for each category and credited a appropriate.

Council will maintain a register of all contributions received. The register will record:

- the origin of each contribution by reference to the development consent to which it relates;
- the type of contribution received, eg. money, land, works "in kind";
- the amount of the contribution and the purposes(s) for which it was levied;

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- the name of the contributions plan the contribution is being levied under;
- the date of receipt of the contribution;
- how, when and where the contribution has been used.

The register will be available for public inspection, free of charge, at any time during normal office hours.

Council may permit the short-term transfer of funds on a priority basis. This will only be done on the basis that:

- full details of the transfer and subsequent reimbursement of funds are recorded;
- the transferred funds are returned to the relevant categories by future contributions;
- there is a reasonable expectation that future contributions will be obtained to enable reimbursement of the category from which monies have been transferred;
- the purpose for which the contributions are transferred is a purpose identified in the Works Program.

Council is not permitted to transfer funds between the S94 account and other funds of Council, for example the General Fund.

2.14 Annual statement

In accordance with Clause 36 of the Regulation Council will produce an annual statement of contributions received which summarises, by purpose and area, details relating to contributions. This information will be available for public inspection, free of charge, at any time during normal office hours.

2.15 Review of plan

This contribution Plan will be subject to regular review by Council, so as to:

- monitor population trends and community needs;
- ensure that contribution levels reflect current land values and construction costs;
- enable the alteration of work schedules if development and population levels differ from original expectations.

Any material change in the plan, with the exception of the annual adjustment of contribution amounts, will require that the plan be amended in accordance with S94AB of the Environmental Planning and Assessment Act, 1979. This will require full public exhibition of the amended plan and consideration of submissions received.

3.0 PART C – STRATEGY PLAN/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 amenities specified in this plan required to meet the needs of the increased population as a result of new development, and the works program designed to provide it.

3.2 Expected Population

The occupancy rates used will be those for Kingscliff as stated in the Tweed Shire Urban Land Release Strategy 2009 . The occupancy rates are as follows:

	Persons
Per person	1
Detached dwelling	2.4
1 bedroom unit	1.3
2 bedroom unit	1.7
3 bedroom unit	2.1
4+ bedroom unit	2.4

The expected population of the area within DCP Section B4 has been derived in the following manner.

Undeveloped land-

The quantity of land in each of the low, medium and high density housing areas was calculated and the appropriate housing density applied. Occupancy rates described above have been applied to estimated yields outlined in DCP Section B4 with the following results:

Low Density: 77.48 ha

77.48 ha @ 10dw/ha = 775 dwellings

Occupancy rate 2.4

$775 \times 2.4 = 1,860$

Assume 20% dual occupancy = 155 dwellings or 372 people

$1,860 + 372 = 2,232$

Medium Density:

39.32 ha

Average occupancy rate 1.95

Average of 16 dw/ha & 24 dw/ha (20dw/ha) 1,533 persons

High Density:

24 dwellings/ha on a site of 18.7 ha (derived from dwelling yield of approved manufactured homes estate) 1,301 persons

Total Expected Population 5,066 persons

There is potential for redevelopment in the Residential 2(b) zone along Marine Parade, Kingscliff and Pearl Street and it is assumed that an additional 300 people will result from such development. **The total population is therefore expected to be 5,366 persons.**

Population Estimates will be revised during reviews of this Plan. Note the previous occupancy rates utilised in this plan were 2.83 and 2.6 for standard residential and 2.23 and 1.7 for medium density development.

3.3 The nexus between development and amenities/ services required

Residential development in the West Kingscliff area will more than double the population of Kingscliff. Facilities such as casual open space and the community meeting hall in Kingscliff are already fully utilised by the existing population and cannot absorb doubling of the population. In these circumstances additional facilities for open space (structured and casual), will be required for the West Kingscliff development.

The land is low lying and must be drained before any urban development can occur. In particular, residential and industrial land must be filled, and this filling will necessitate adequate drainage so that displaced floodwaters do not affect neighbour's land. Development which increases site impervious area will result in increased runoff and flow rates and also necessitate additional drainage capacity. The commercial area will benefit from improved stormwater drainage that results from drain design and construction.

3.4 Contribution rates for different densities of development

Contributions will be levied on the assumption that a dwelling house will be erected on each lot created by subdivision, the occupancy rate to be based on information from Council's Urban Land Release Strategy 2009. When subsequent development occurs which increases housing density, contributions will be based on per bedroom rates specified in this Plan.

Such development includes dual occupancy, residential flat buildings, duplexes, cluster housing, villas, terrace housing and integrated housing. Manufactured housing estates are also included.

The amount of contribution paid at subdivision stage will be subtracted from this amount.

3.5 Formulae for contributions

The formulae for calculating the amount of contribution will vary according to the type of facility or service in question. Each formula is based on consideration of:

- the demand for the facility or service generated by the development, based on the additional population expected.
- the current cost of acquiring the necessary land.
- the current capital cost of providing the facility or service.
- increases in land acquisition and building costs, based on the CPI (all groups, Sydney).
- 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.

3.6 Specific contribution plans

3.6.1 Open space

This contribution applies to all forms of residential development. As the population of Kingscliff is to be more than doubled additional open space will be needed for the new population.

Requirements

For the purposes of this Plan Council has classified public open space into two (2) categories:

1. Structured Public Open Space - sportsfields used for organised sporting activities such as cricket, rugby league, rugby union, hockey, netball etc. These areas do not include open trunk drains and lakes and cycleways.
2. Casual Public Open Space - Public Open Space utilised for a variety of generally "non-organised" activities. These areas include

neighbourhood parks, natural bushland parks, formal gardens, parks, and pedestrian links but do not include open trunk drains and lakes.

For the purposes of deriving the area of land set aside for public open space Council has adopted the commonly used standard of 2.83 hectares per 1000 persons. This standard has generally been adopted by the Land and Environment Court for developing areas.

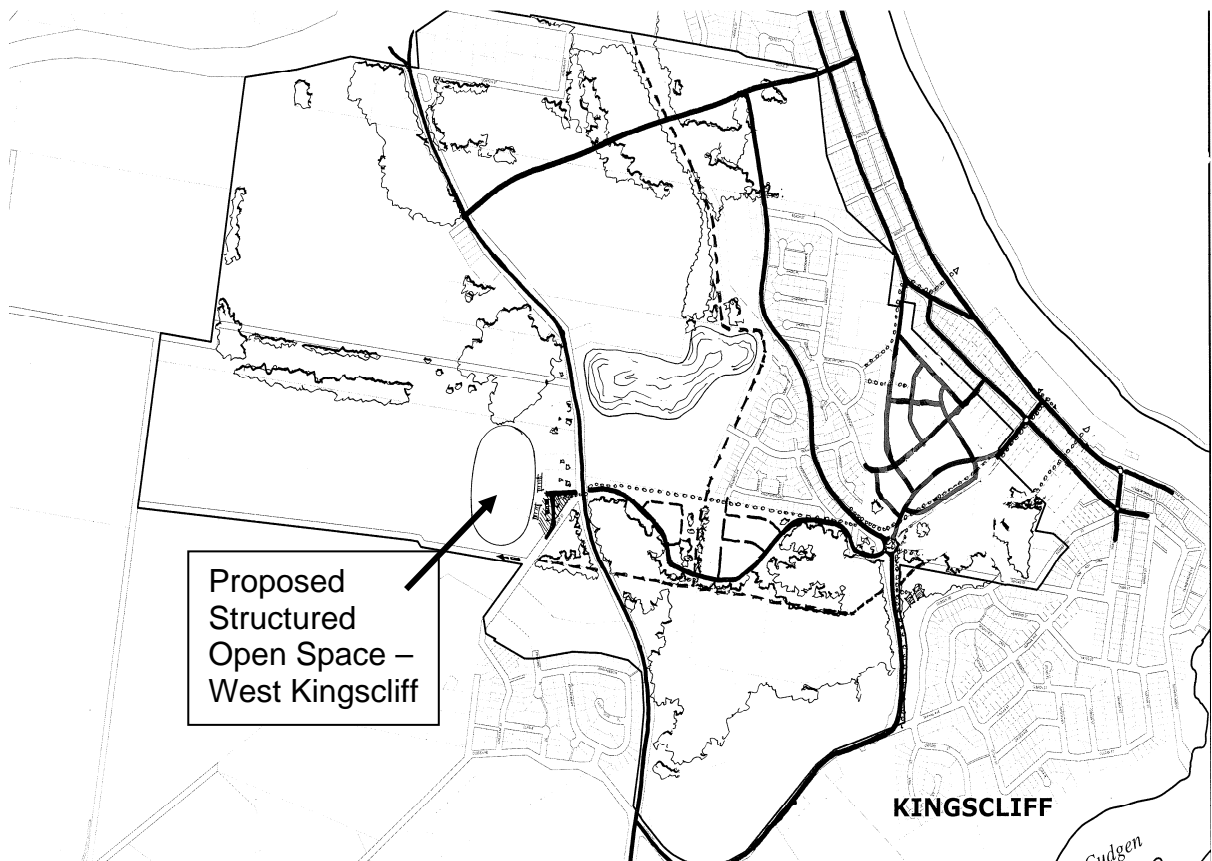
For the original expected population of 5,700, 16.1 ha of open space was required. The projected population has reduced to 5,366, and as such the amount of open space required has been reduced to 15.2 ha. Sixty percent of this is to be structured open space, i.e. 9.12 ha, and 40% is to be casual open space ie 6.08 ha. Contributions will be levied per expected person, using the occupancy rates specified in this Plan.

Structured Open Space

The site indicated below for structured open space comprises 7.3ha and will be acquired in its entirety. The land will be purchased by Council with contributions from developers for that purpose or dedicated to Council. These contributions will be levied on the basis of 17m² per person plus embellishment costs according to the formula set out below.

Contributions will be charged on the basis of a single dwelling per lot at the subdivision stage, and in the case of medium density development remaining contributions will be levied upon consent for additional dwelling units.

Figure 3.6.1



Contribution formula

where

A = land requirement per additional person generated by the development

C = current value in \$m² of land to be acquired in serviced state (filled, with road access and water supplied)

E = cost of embellishments such as landscaping as required by Council's Recreation Services Unit adjusted annually by the use of the CPI (all groups, Sydney)

P = population generated by the development

K = Revaluation costs, being

- i) initial valuation
- ii) annual revaluation

Casual open space

This will be provided by dedication to Council, on the basis of 11.3m² per person, using the latest available occupancy rates plus embellishment costs. Casual open space will comprise areas of at least 2500m², preferably greater, but this area can be made up by dedication from adjoining subdivision amalgamated to form a larger area. Dedication of "pocket parks" on one dwelling allotment will not be acceptable. Casual open space is to be dedicated at the time of subdivision.

When accepting dedication of casual open space, Council shall consider the following:

- i) Distribution and shape of open space - Council shall ensure that open space is accessible and is equitably distributed to the neighbourhood it is to serve. Long, narrow open space which does not serve as a useable cycle/pedestrian linkage will not be accepted.
- ii) Variety and complexity - where possible casual open space will incorporate features which add to its amenity, ie water features (excluding lakes and drains utilised for trunk drainage), remnant urban bushland, areas of scenic strategic location. Council will also give consideration to the required needs of the area in determining the type of casual open space required.
- iii) useability - The majority of casual open space must be able to be utilised by the general public. In determining its useability Council will have regard to its topography, soil type, scenic value, size, accessibility, hydrology, vegetation, and conservation value.
- iv) Maintenance - Council will assess the future maintenance requirements for casual open space prior to acquisition/dedication. Where more than the required amount of suitable casual open space is provided Council may consider its dedication as parkland provided the area is developed to reduce Council's maintenance costs.

Land noted in DCP Section B4 as containing significant vegetation may be accepted as a dedication but not at the expense of useable open space. If such land is proposed for dedication it will be inspected by Council officers to determine the significance of its vegetation to the locality and the Shire, and potential

maintenance costs to Council. Land with highly significant vegetation, low maintenance costs and which is contiguous with dedicated casual open space, will be acceptable but such land will be considered proportionately at a rate of one-third of the required dedication, not the entire amount.

The location of casual open space is not designated within DCP Section B4 - West Kingscliff and will instead be determined within each development application. Without prior knowledge of location it is not possible to specify the exact embellishments required.

However, embellishments of casual open space must meet the requirements of Council's Recreation Services Unit. Depending on location of casual open space this embellishment may include filling, topsoiling, grading, seeding, planting or installation of seating or playground equipment. Developers are required to consult with Council's Recreation Services Unit regarding appropriate embellishment requirements for casual open space prior to dedication and/or embellishment.

3.6.2 Drainage

This contribution applies to all development in the West Kingscliff drainage catchment as defined in figure 2.1 of "Kingscliff Catchment & Drainage Management Plan, Revision 3, 23/3/00" (*Drainage Management Plan*) prepared by WBM Oceanics Australia.

Much of the land in the catchment is within the flood plain of the Tweed River and may be developed only by filling and appropriate drainage.

Not only will the necessary filling alter natural drainage patterns, but urban development of any type changes and increases natural run off by increasing the amount of impervious surfaces. Existing natural drainage systems cannot accommodate such changes and it is necessary to construct trunk drainage systems as a result of new urban development.

The effect of raising developable areas above flood level is to reduce the storage available for stormwater runoff. Therefore a corridor needs to be established to convey floodwaters so that no inundation of other land occur greater than occurred before development of the land.

In order to complete the design for the drainage system an additional engineering study has been required. The cost of this study is \$30,000. As the study is to indicate the most efficient drainage to benefit all developers, it is reasonable that all developers bear the cost of the study through contributions.

Catchment area

Contribution rates have been based on the development potential of the catchment within DCP Section B4 area. This comprises land zoned Residential 2(b), Urban Expansion 2(c), 4(a) Industrial, 5(a) Special Uses, 1(a) Rural (on which a mobile home park is proposed) and Development Investigation 1(d) (nominated as sports fields in DCP Section B4).

The catchment therefore comprises:

4(a) zone (excluding Morton Street) + 1(a) and 1(d) Zoned land	325.8ha
2(c) zoned land	116.8ha
2(b)/3(c) zoned land total: 27.5ha - 33% (9.1)	18.4ha

Developable Land: 461.0ha

Requirements

Drainage of the area is to be achieved by the drainage system indicated on DCP Section B4 map and specified in Figure 7.3 and “Proposed Cross Sections” in the *Drainage Management Plan*. The 50 metre drainage reserve required for the drains shall be dedicated to Council free of cost, the value of the land so dedicated being credited toward the required S94 contributions for drainage. The drain shall be constructed by Council, where construction or reconstruction is necessary.

However, Council may accept the construction of works by the applicant to offset the monetary contribution payable. The works provided must be in accordance with the requirements of the adopted drainage study. The applicant will need to initiate this option by giving Council full details of the work proposed to be undertaken. Council will then consider the request and advise the applicant accordingly.

If the works-in-kind are not completed prior to the release of the linen plan, then the applicant will need to provide Council with suitable financial guarantees (normally by way of a Bank Guarantee) for the amount of the works not completed. Upon completion of the works the financial guarantee will be discharged by Council.

Works

The works required are referred to in Figure 7.3 and “Proposed Cross Sections” of the *Drainage Management Plan*.

The works shall consist of:

- (i) Acquire of land for main drain, chainage 1000m - 5000m - 50m x 4000 = 20ha
- (ii) Acquire land for side branch, chainage 1000m - 1440m - 50m x 440 = 2.2ha
- (iii) Construct main drain 1000m - 5200m and side branch 1000m - 1440m, to include earthworks (mainly filling), revetment, turf & landscaping, maintenance access track. The construction works include all those works necessary to construct the drain and adjacent berms and batters within the 50m drainage reserve and longitudinal all weather maintenance access tracks on both sides in accordance with the “Proposed Cross Sections” included at the end of the Drainage Management Plan. The works include basic landscaping of the drainage reserve, being turfing and tree planting, but, do not include pedestrian/cycle paths, park amenities or facilities.

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The works under this plan do not include any works for removal of pollutants or treatment to improve stormwater quality. All new development and redevelopment within the catchment is required to conform with *the "Tweed Urban Stormwater Quality Management Plan"*, and in particular sections:-

"5.5 Stormwater Objectives for New Urban Development"

"5.5.2 Stormwater Objectives During the Construction Phase of New Development"

"5.5.3 Stormwater Objectives During the Post Construction or Occupational Phase of Development" which includes "Table 5.4 Stormwater Treatment Objectives for Post Construction (Occupational Phase of New Development)"

All new development and redevelopment within the catchment must treat stormwater run off from each site to the above standards prior to discharge into the public drainage system.

Contribution Formula:

Contribution per ha:

Contribution per ha:

$$\frac{(A \times C) + W + K + S}{H} + 5\% \text{ (Administration Levy)}$$

H

Contribution per development

$$a \times \left\{ \frac{(A \times C) + W + K + S}{H} + 5\% \text{ (Administration Levy)} \right\} - B - D$$

H

where

- A = land required for trunk drains in ha
- B = value of land dedicated for trunk drainage reserve in each development
- C = value of land required for trunk drainage reserve in \$/ha
- D = value of completed works in kind attributed by Council to the development
- W = cost of trunk drainage works required
- H = total catchment in ha
- A = for subdivisions, where the contribution has not previously been paid, the gross area in ha of the development (including roads, open space, etc), but, excludes any residual area that has not been filled and excludes the area of any land to be dedicated as a drainage reserve under this plan.
- = for subdivisions of land that has previously paid the contribution, zero ha.
- = for other green field development where the contribution has not been paid for in a previous subdivision, the gross area in ha of the development

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- = for site redevelopment of land which has not previously paid the contribution, the marginal increase in impervious area of the site caused by this development in ha.
- = for site redevelopment of land which has previously paid the contribution, zero ha
- K = project and revaluation costs
- S = cost of drainage study

SCHEDULE 1 - CONTRIBUTION RATES

Structured Open Space

In accordance with the new revised population projection of 5,366 persons, the area of structured open space required under this Plan has been reduced to 9.12ha, based on the rate of 1.7ha/1,000 people.

The original plan nominated an area of 9.7ha for the projected population of 5,700. The projected population for the area was revised from 5,700 to 5,226 in Version 1.2 of the Plan when the nominated area reduced to 8.8ha. In Version 6 the population has again been revised and is now 5,366, using occupancy rates in the Tweed Shire Urban Land Release Strategy 2009.

This plan identifies an area of 7.3ha within the Plan area which will be acquired for the purposes of open space (Figure 3.6.1). The short fall of 1.82ha (9.12ha - 7.3ha) will need to be provided by the developer in an alternate area, or contributions paid to Council in accordance with this Plan. –.

The 8.8ha of proposed structured open space land nominated in Version 1.2 was revalued on 3 March 2003 and this revaluation has been included in the calculations below.

Calculation of levy rate

Value of land in 1(b2) zone at West Kingscliff – \$250,000 per hectare. - Cost of acquiring the 8.8ha* is \$2,200,000. Note: This land was valued by the State Valuation Office on 3 March 2003.

* 9.12ha is now identified as required for the expected population, and 7.3ha has been identified in Figure 3.6.1 and the cost of acquiring the 9.12 ha is therefore calculated to be **\$2,280,000**.

Cost of embellishments, as based on information from Council's Recreation Services Unit, and adjusted annually by the use of the Consumer Price Index

Topsoil - \$461,366 (\$35/m³ for 8.8ha, @150mm deep)

Seeding - 120kg/ha at \$6/kg = \$6,336

Irrigation - \$20,000 per ha = \$176,000

Total embellishment costs = \$643,702

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:

500m² (6 change rooms with showers and toilets, store room and separate toilets for the public)

- 500m² x \$1,350/m² = \$675,000

Parking costs: 140 car spaces

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$$140 \times 30\text{m}^2/\text{car space} = 4,200\text{m}^2 \times \$80/\text{m}^2 = \$336,000$$

Total amenities block and parking: \$1,011,000

Cost per person

$$\underline{\$2,280,000 + \$643,702 + \$1,500 + \$1,011,000} + 5\% \text{ admin cost}$$

5,366

$$\underline{\$3,936,202} + 5\% \text{ admin cost}$$

5,366

$$\$733.54 \text{ per person} + 5\% \text{ admin levy} = \$770$$

	Persons				Base Rate	Indexed
Per person	1	x	\$770	=	\$770	\$994
Detached dwelling	2.4	x	\$770	=	\$1,849	\$2,386
1 bedroom unit	1.3	x	\$770	=	\$1,001	\$1,292
2 bedroom unit	1.7	x	\$770	=	\$1,309	\$1,690
3 bedroom unit	2.1	x	\$770	=	\$1,617	\$2,087
4+ bedroom unit	2.4	x	\$770	=	\$1,849	\$2,386

Drainage

Contribution rate per ha:

Formula

$$\text{Rate per ha} = \frac{(A \times C) + W + K + S + 5\% \text{ (Administration Levy)}}{H}$$

where

A = land requirement for trunk drainage 22.2ha

C = value of land in \$/ha (\$500,000)

W = Works required, being:

- earthworks @ \$201/m = 201 x 4,640 = \$932,640
- rock revetment of batters @ 245/m = 245 x 4,640 = \$1,136,800
- turf and landscaping @ \$46/m = 46 x 4,640 = \$213,440
- maintenance access @ \$70 = 70 x 4,640 = \$324,800

Total cost of works required - \$2,607,680

H = drainage catchment area (461ha)

K = Revaluation annually (\$600)

S = Cost of drainage study = \$30,000

$$\text{Contribution per ha} = \frac{(22.2 \times 500,000) + 2,607,680 + 600 + 30,000 + 5\%}{461}$$

461

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$$= \frac{11,100,000 + 2,638,280}{461} + 5\%$$

$$= \$29,801 + 5\% \text{ per ha}$$

$$= \$31,291 \text{ per ha}$$

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SCHEDULE 2 - WORKS SCHEDULE

Amenity	Pop. Threshold	Land Area	Land Cost	Capital Cost	Establishment Revaluation, Study Costs	Total Cost
Structured Open Space	5,366	9.12ha	\$2,280,000 ⁽²⁾	\$1,654,702	1,500	\$3,936,202
Casual Open Space	5,366	6.08ha	Dedication			
Drainage	2000 Refer to Drainage Strategy	22.2ha	\$11,100,000	\$2,607,680	30,600	\$13,738,280

* Valuation of \$250,000 per ha dated March 2003

** Remainder of works program costs are dated November 2006

SCHEDULE 3 – HISTORY OF THE PLAN

Amendment No.	AMENDMENT SUMMARY
Amendment No 1	Upgrade contribution rates to June '95 and to apply section S94 Administration levy in force as at 9/12/95
Amendment No 2	Deletion of community facilities, cycleways and Collector Road, a revised drainage plan and the occupancy rates have been reduced
Amendment No 3	Revaluation of structured open space land and embellishment costs, population reduction, contribution rate increase
Amendment No 4	<p>Revaluation of structured open space land.</p> <p>Reduction in structured open space required.</p> <p>Increase in drainage costs.</p> <p>Amendment to the contribution rate.</p> <p>Inclusion of car parking at the ovals.</p> <p>Increases in the cost of the amenities block.</p>
Amendment No 5 (this version)	<p>Amend and rearrange document in line with current department template for a S94 plan</p> <p>Revise population in light of density rates from the ABS Census 2006 and Tweed Shire Urban Release Strategy 2009, recalculate rate accordingly.</p> <p>Includes Schedule for applying S94 contribution to Complying Development Certificates.</p> <p>Indexation of recalculated rates in accordance with the TSC Land Index and IPD</p> <p>Change admin levy from 10% to 5%</p> <p>Calculations in this amendment result in a base rate contribution per person of \$770 which after the application of relevant indexation equates to \$994 per person. See Section 1.1 for more detail.</p>

SCHEDULE 4 – INDEXATION OF RATES

As valuations and costings contained in Version 6 this Plan have not been updated but merely recalculated utilising revised population figures, it is appropriate to index the resulting contributions calculated as follows:

Index calculations:

Index Date	ABS IPD	% Increase
30/9/2006	97.73	
30/3/2009	108.85	11.38%

Index Date	TSC Land Index	% Increase
30/06/2003	100	
30/6/2009	142.50	42.5%
* As published in the Tweed Shire Council Revenue Policy and Statement 2009-2010		

For more information regarding these indices, please see Section 2.6 - Definitions and standards on page 6.

Structured Open Space

	Proportion of existing levy	Amendment 4 (V5) Costings recalculated			Version 6 Indexed	
		Levy per person ex admin	Index	Rate	Indexed levy ex admin	Levy per person inc 5% admin
Land component	57%	\$409.62	TSC Land Index	42.50%	\$583.72	\$612.90
Other	43%	\$309.02	IPD (Construction)	11.38%	\$344.18	\$361.39
Total		\$719			\$927.90	\$974

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	Persons	Amendment 4 (V5)	Version 6 Calculations (Base Rate)	Version 6 Indexed
Per person	1	\$1000	\$770	\$994
Detached dwelling	2.4		\$1,849	\$2,386
1 bedroom unit	1.3		\$1,001	\$1,292
2 bedroom unit	1.7		\$1,309	\$1,690
3 bedroom unit	2.1		\$1,617	\$2,087
4+ bedroom unit	2.4		\$1,849	\$2,386

Drainage

	Amendment 4 (V5) costings		Version 6 Indexed			
	Proportion of existing levy	Levy per ha ex admin	Index	Rate	Indexed levy ex admin	Levy per ha inc 5% admin
Land component	80.80%	\$24,079.21	TSC Land Index	42.50%	\$34,312.87	\$36,029
Other	19.20%	\$5,721.79	IPD (Engineering Construction)	11.38%	\$6,372.93	\$6,692
Total		\$29,801.00			\$40,685.80	\$42,720

Per Ha	
Version	Levy
<i>Amendment 4 (V5)</i>	\$32,708
<i>Version 6 Calculations (Base Rate)</i>	\$29,801
Version 6 Indexed	\$42,720

SCHEDULE 5 – 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:

Rate x Unit or Lot = Total Charge

Total Charge – Credit = Contribution

For dwellings:

(Dwelling type persons x rate per person x number of dwellings of that type)
= Total Charge

Total Charge – Credit = 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 7	CP 7	Xxx	Xxx	Xxx	\$xxx

Condition Template

The condition must be imposed in the following format:

<u>Section 94 Contributions</u> Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan. The complying development shall NOT commence unless all Section 94 Contributions have been paid. A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS COMPLYING DEVELOPMENT CERTIFICATE <u>MUST</u> BE PROVIDED AT THE TIME OF PAYMENT. 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. 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. « <i>Contribution type:</i> XXX Persons @ \$xxxx per person \$xxxx S94 Plan No. XX <i>Sector xxxx</i>



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