



TWEED SHIRE  
COUNCIL

CP21

# Terranora Village Estate Open Space and Community Facilities

21 July 1999

Section 94 Plan No 21

INFRASTRUCTURE  
PLANNING UNIT



[www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au)

**DRAFT** Version 2

October 2009

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TWEED SHIRE COUNCIL

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

| GENERAL MANAGER

DATE: ~~21/7/99~~xxx

SECTION 94 PLAN No 21

TERRANORA VILLAGE ESTATE  
OPEN SPACE AND COMMUNITY FACILITIES

| DRAFT VERSION ~~4~~2

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# SECTION 94 PLAN NO 21 – TERRANORA VILLAGE ESTATE

## 1.0 PART A – SUMMARY SCHEDULES

### 1.1 Summary schedule – contribution rates

	<u>Persons</u>	<u>Structured Open Space Base Rate 1999</u>	<u>Structured Open Space Indexed 2009</u>	<u>Community Facilities Base Rate 1999</u>	<u>Community Facilities Indexed 2009</u>
Per person	<u>1</u>	<u>\$334.40</u> <u>\$319.52</u>	<u>\$ 492.21</u>	<u>\$113.92</u> <u>\$108.75</u>	<u>\$167.53</u>
Per Lot/ET	<u>2.6</u> <u>2.4</u>	<u>\$869</u> <u>\$767</u>	<u>\$1,181</u>	<u>\$296</u> <u>\$261</u>	<u>\$402</u>
Detached dwelling	<u>2.6</u> <u>2.4</u>	<u>\$869</u> <u>\$767</u>	<u>\$1,181</u>	<u>\$296</u> <u>\$261</u>	<u>\$402</u>
<u>1 bedroom unit</u>	<u>1.3</u>	<u>\$415</u>	<u>\$640</u>	<u>\$141</u>	<u>\$218</u>
<u>Medium density dwelling</u>	<u>1.7</u>	<u>\$334.40</u> <u>\$543</u>	<u>\$837</u>	<u>\$194</u> <u>\$185</u>	<u>\$285</u>
<u>2 bedroom unit</u>	<u>1.7</u>	<u>\$543</u>	<u>\$837</u>	<u>\$185</u>	<u>\$285</u>
<u>3 bedroom unit</u>	<u>2.1</u>	<u>\$671</u>	<u>\$1,034</u>	<u>\$228</u>	<u>\$352</u>
<u>4+ bedroom unit</u>	<u>2.4</u>	<u>\$767</u>	<u>\$1,181</u>	<u>\$261</u>	<u>\$402</u>

\* See [APPENDIX B – INDEX CALCULATIONS](#) for indexation calculations.

### 1.2 Summary schedule - works program

<u>Item</u>	<u>Original Cost July 1999</u>	<u>IPD* 54.05%</u>	<u>Total</u>
<u>Structured Open Space Embellishment</u>	<u>\$85,204</u>	<u>\$46,051</u>	<u>\$131,255</u>
<u>Community Facilities</u>	<u>\$29,000</u>	<u>\$15,674</u>	<u>\$44,674</u>

\* See [APPENDIX B – INDEX CALCULATIONS](#) for indexation calculations.

### 1.3 Published indices at time of adoption

<b>Index</b>	<b>Rate</b>	<b>Index Date</b>	<b>Published</b>
<b>IPD (Engineering Construction)</b>	<b>108.6</b>	<b>March 2009</b>	<b>Released 14/07/2009 ABS</b>
<b>TSC Land Index</b>	<b>142.50</b>	<b>June 2009</b>	<b>2009/2010 Tweed Shire Council Revenue Policy</b>



## 2.0 INTRODUCTION PART B - ADMINISTRATION

### **SECTION 94**

~~This plan explains and justifies contributions levied in accordance with S94 of the Environmental Planning and Assessment Act on developments within the area described below.~~

~~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 construction 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 is -~~

- ~~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.~~

~~The development site will contribute developer charges for water and sewerage, and is included in Shire wide Section 94 Contribution Plans such as the Tweed Road Transportation Plan and Libraries.~~

### 2.1 Name of plan

The name of this Plan is Tweed Shire Council Section 94 Contributions Plan No 21 – Terranora Village Estate Open Space and Community Facilities.

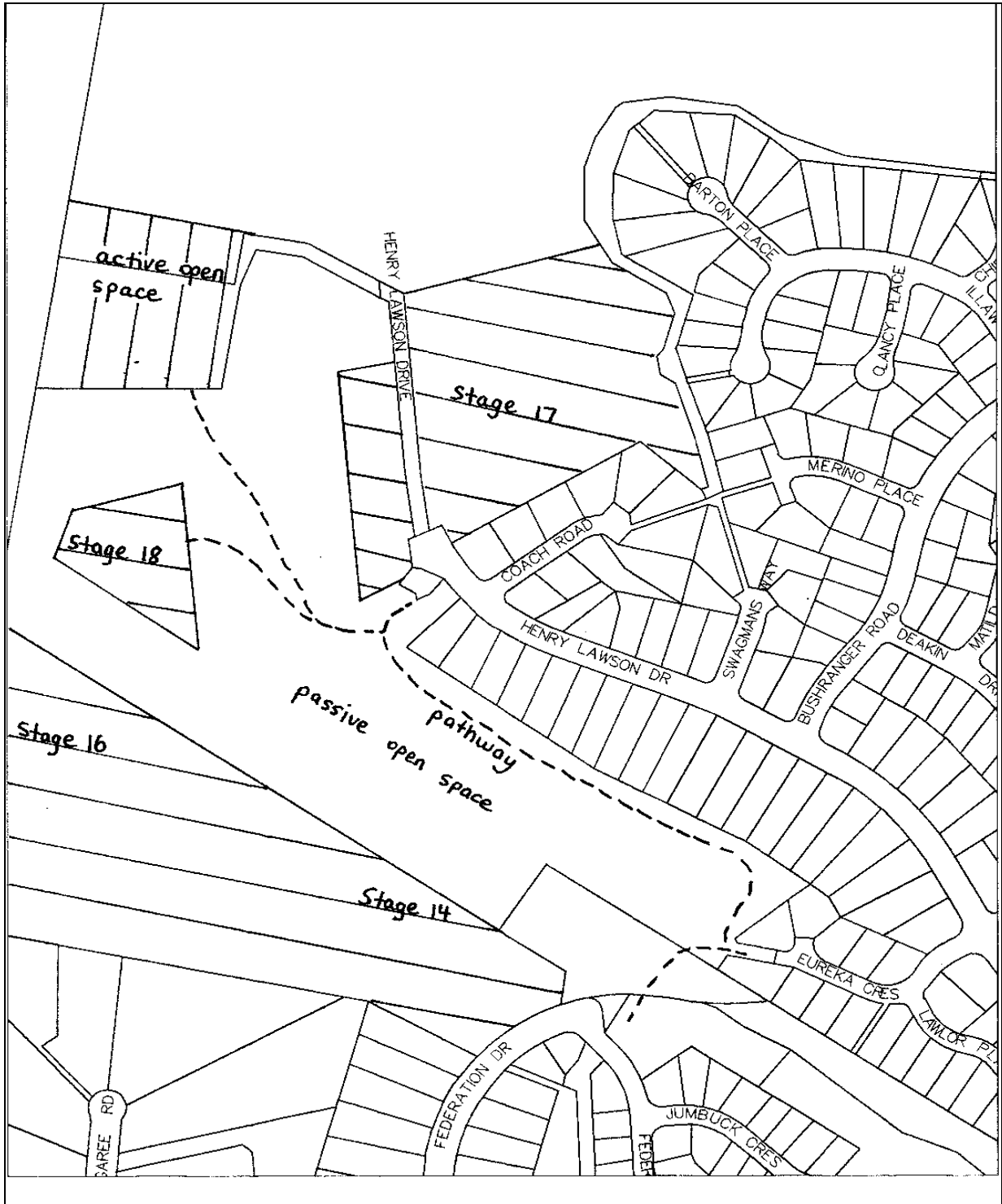
### 2.2 Land to which this plan applies

This Section 94 Contributions Plan applies to the development land area of Terranora Village Estate as illustrated on Map A.



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## Map A







### 2.3 The purpose of the s94 plan

The purposes of this development contributions plan ~~are~~ is to:

- (a) enable the levying of contributions which will be required to fund the cost of providing community facilities and the dedication of land for structured and passive open space as a consequence of increased demand generated by development in the development land;
  - (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 and community facilities 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. — establish the "nexus" between the development and the additional amenities or services required;~~
  - ~~3. — ensure that an appropriate level of service and amenity provision occurs in the development land area;~~
  - ~~4. — make clear Council's intentions regarding the type, location and timing of service and amenity provision in the area;~~
  - ~~5. — demonstrate that the contributions received will be used for the purposes for which they were levied and within a reasonable time;~~
  - ~~6. — advise the development industry of the amount of contributions that will be required for development in the area.~~

### 2.4 Commencement of the plan

The provisions of Section 94 Plan No. 20 came into force on the 21 July 1999 and were amended on xxxx.

This amended version (Version 2) 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 XXXXX, pursuant to clause 31(4) of the *Environmental Planning & Assessment Regulation*.



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### 2.42.5 Relationship to other council plans

This contribution plan should be read in conjunction with Tweed Local Environmental Plan 19872000, other Shire wide Section 94 Plans that to the development land and Development Control Plan No. Section B1 -Terranora.

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.

### 2.6 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.

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). **Causal nexus** requires that the need for the service or facility being levied must be a result of the development being levied.



**Definitions**

**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**

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

2.7 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.



2.8 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 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.

2.9 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,



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- 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.

### 2.10 "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.

### **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.~~

## 2.11 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 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;



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- 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:

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

Where

<u>\$C<sub>A</sub></u>	is the contribution at the time of adoption of the plan expressed in dollars;
<u>Current Index IPD</u>	is the IPD as published by the ABS available at the time of adjustment of the contribution rate;
<u>Base Index IPD</u>	is the IPD as published by the ABS 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:

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

Where

<u>\$C<sub>LV</sub></u>	is the land values within the plan at the time of adoption of the plan expressed in dollars;
<u>Current LV Index TSC Land Index</u>	is the land value index as published by the council available at the time of adjustment of the contribution rate;
<u>Base LV Index 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



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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.

### 2.12 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.

### 2.13 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.

### 2.14 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.

### 2.15 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.

### 2.16 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.





### **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
- casual open space
- community facilities

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;
- 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.

### **Annual statement**

In accordance with Clause 35 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.~~

### ~~Review of plan~~

#### ~~General~~

~~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.~~

~~From the date of the first review of this Plan CPI increases (all groups, Sydney) will be added to land acquisition and construction costs.~~



### 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 and community facilities to meet the needs of the increased population as a result of new development and the works program designed to provide it.

#### **THE DEVELOPMENT AREA**

A significant area of Terranora Village has already been developed, with a current population close to 1,000 people. No Section 94 Contributions have been levied on the Estate to date, however contributions have been received and open space land dedicated through agreement with the developer.

The development area of Terranora Village (the development land) subject to this Plan is to be developed in four stages comprising Stages 14,16,17 and 18 of subdivision of Lot 287 DP 860577 Henry Lawson Drive, Terranora Village Estate. It is proposed that 101 lots be developed in these four stages.

#### **PROPOSED FACILITIES**

A total of 6,512m<sup>2</sup> of structured open space has been dedicated to date, and it is proposed that following the additional dedication of land to form an extension to this land (subject of this Plan) the developer will embellish all the dedicated open space area.

For the purposes of this Plan it is proposed to provide community facilities and to provide for the dedication and embellishment of land to be used for structured and passive open space.



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The reason for the provision of facilities in only the development land is to implement the development application relating to the above subdivision.

The population for the development land is expected to be 280 persons.

### 3.2 The nexus between development and amenities/ services required

There is a fundamental requirement for a link between development and the specific need for the facility generated by the development. Where these facilities fall outside the responsibility of other levels of government, Local Government is called upon to provide them and is entitled to recover that proportion of the costs arising from demand induced by development.

The development land proposes a population of approximately 280 residents. While this development is small compared with typical release areas in the Tweed, this population will generate some need for community facilities and open space and it is reasonable that the cost of these facilities be apportioned amongst those developments which will benefit from these facilities.

It has been possible to identify a specific amenity to which contributions from this development can be allocated immediately, rather than having to wait for an accumulation of funds normally required under a contribution plan. Further the additional land being dedicated and embellished as a result of this development for the structured open space is sufficient to allow the construction of a sports field that will benefit the people of the development. This development is paying what is considered a reasonable amount when compared to the levy amounts being charged under similar Contribution Plans in other areas of the Tweed.

### 3.3 Expected population

The total population for the development land at Terranora Village is expected to be 280 persons.

The occupancy rates used will be those ~~for Kings Beach as~~ derived from the ~~1996-2006~~ [Census and the adopted Tweed Shire Urban Land Release Strategy 2009](#). The occupancy rates are as follows:

~~Separate Dwellings~~ ————— ~~Medium Density~~  
~~2.6~~ ————— ~~1.7~~

	<u>Persons</u>
<u>Per person</u>	<u>1</u>
<u>Per Lot/ET</u>	<u>2.4</u>
<u>Detached dwelling</u>	<u>2.4</u>
<u>1 bedroom unit</u>	<u>1.3</u>
<u>2 bedroom unit</u>	<u>1.7</u>
<u>3 bedroom unit</u>	<u>2.1</u>



<u>4+ bedroom unit</u>	<u>2.4</u>
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3.4 Contribution rates for different densities of development

Contributions will be levied on the assumption that a ~~dwelling house~~single dwelling or number of units will be erected on each lot, ~~the occupancy rate to be based on information from the 1996 latest Census and occupancy rates based on the number of bedrooms as published in the adopted Tweed Shire Urban Land Release Strategy 2009~~above. When subsequent development occurs, including subdivisions, which creates a housing density at or below 1 dwelling per 450m<sup>2</sup>, contributions will be based on the medium density occupancy rate from the latest Census.

~~Such development is classed as multi dwelling housing comprising two or more dwellings and includes dual occupancy, residential flat buildings, duplexes, cluster housing, villas, terrace housing and integrated housing. Manufactured housing estates are also included.~~

~~When medium density development is proposed contributions will be derived from the number of dwelling units proposed multiplied by the occupancy rate from the latest Census. 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)~~Tweed Shire Council Land Index and ABS Implicit Price Deflator (Engineering Construction).
- project costs, being valuation and annual revaluation of lands.
- a ~~10%~~5% levy applies to all Section 94 charges to cover the costs associated with administration, development and review of Section 94 Plans. ~~This levy is to be applied to Section 94 charges as of 9/12/95.~~



### **SPECIFIC PLANS**

#### 3.6 Open space

For the purposes of deriving the area of land to be set aside for active and passive public open space for the development land, Council has generally adopted the commonly used standard of 2.83 hectares per 1,000 persons, in the following proportions in order to meet community needs for open space:

- (i) 1.7 hectares (60%) “structured” open space (sportsfields) per 1,000 persons;
- (ii) 1.13 hectares (40%) “passive” open space (neighbourhood parks, natural bushland, local cycle paths etc) per 1,000 persons

This standard has generally been adopted by the Land and Environment Court for developing areas (Department of Planning, 1992).

On this basis, with a projected population of 280, 0.776 hectares (0.476 ha structured/0.3 ha passive) is required.

The proposed dedication of the land for structured open space meets the above performance standard, being 6223m<sup>2</sup> (includes the access handle). While the amount of land proposed to be dedicated is very small it will allow for the development of a purpose built sports field benefiting the population of this development land.

#### **Preamble**

Development Consent S93/28 for Stages 5(A) Terranora Village Estate requires the dedication and embellishment of 6,512m<sup>2</sup> of active open space. Development Consent S94/74 for Stage 12 of Terranora Village Estate requires the dedication and embellishment of 764m<sup>2</sup> of active open space. Development Consent S94/112 for Stage 13 of Terranora Village Estate requires dedication and embellishment of 3366m<sup>2</sup> of active open space. The total area of active open space required by the above development consents is 1.064ha.

Under the terms of the above consents the developer is required to dedicate and embellish a total of 1.064ha for active open space playing fields. Subsequent to the issuing of these consents, negotiations have continued between Council officers and the developers and their consultants in relation to the location of proposed active open space areas, the level of embellishment for these areas and the proposed access and service arrangements.

In summary, it was agreed at a meeting of 4 September, 1995 that embellishment of the 6512m<sup>2</sup> required for Stages 5A to 11 would involve topsoiling, grading and seeding only.

The area to be dedicated for stages beyond Stage 11 were to be subject to full embellishment.

It was also agreed that bonding of certain embellishment works may be acceptable and this would be further negotiated.

In pursuance of the developers obligations under the above consents the developer lodged an application to create an area of active open space described as Lot 999 on Plan No. G47/92/PP28 prepared by Heilbronn and Partners Pty Ltd and dated 10/9/96 and having an area of 1.063ha. That application was approved by Council on 21 May



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1997 following which notice of determination S96/136 was issued formally granting consent subject to various conditions. A copy of that consent is annexed to this plan marked "A".

To enable the linen plan of subdivision to be released and registered, and at the request of the applicant, Council agreed to accept a bond for the embellishment works referred to in Consent S96/136. The bond amount is \$150,000 which was based on the following works and estimates of cost:

1. Obligation Stage 8 to 11 - grading and seeding of 6512m<sup>2</sup> - estimate \$5025
  2. Obligation Stage 12, 13 and 15:
    - a. full embellishment of 4098m<sup>2</sup> - estimate \$41,879
    - b. temporary access to Henry Lawson Drive - estimate \$32,000
    - c. services(to be shared)
      - i. electricity and telephone - \$24,000
      - ii. amenities building (85m<sup>2</sup>) - \$72,250
      - iii. water - \$5,000
      - iv. temporary sewer pump station and rising main - \$16,000
      - v. 20 car parks - \$14,000
      - vi. axe handle and culvert - \$40,000
- SUB TOTAL \$171,250 (25.6% for shared services and 20% contingencies)

Subsequently the linen plan of subdivision was registered as DP873663 and that plan shows the active open space allotment as Lot No. 283 having an area of 1.177ha. Council still holds the bond amount of \$150,000 and the embellishment works required by that bond in respect of Lot 283 need to be integrated with and constructed in conjunction with any additional or similar embellishment works required by the current development application S96/66 which proposes the creation of an additional 101 allotments.

That application generates demand for an additional area of active open space of 4760m<sup>2</sup> in respect of which the applicant proposes to dedicate proposed Lot 455 having an area of 6223m<sup>2</sup> including the access handle. As a result of this application additional car parking, a bus bay and a larger amenities block are required, in addition to the embellishment of the above open space area. These additional requirements, net of the bonded works outlined above, are the subject of this Plan and listed below.

### **(c) Structured Open Space**

The developer shall dedicate 6,223m<sup>2</sup> of structured open space being lot 455 in the location nominated on Drawing No. G47/92-PP28, prepared by Heilbronn and Partners and dated 10 September 1996, at no cost to Council in conjunction with registration of the linen plan of subdivision for Stage 14. The land is to be used with adjoining land already dedicated through a previous subdivision for a sportsfield to satisfy the requirements of structured open space for the residents of the development land. The structured open space identified on the above Drawing shall be embellished by the developer to the following specifications and to Council's standards including:



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- filling of the playing fields to a design surface level of RL 2.4
- fencing
- being capable of use as playing fields (ie, level of acceptable geometric shape, and drained)
- top dressed, seeded and landscaped, including irrigation facilities

**Embellishment cost**

Topsoil - \$35/m<sup>3</sup> @ 150mm deep - 4,300m<sup>2</sup> to be topsoiled = \$22,544  
 Cut and Fill - 5,375m<sup>3</sup> @ 10m<sup>3</sup> = \$53,750  
 Seeding - 120kg/ha @ \$6/kg (approx. 4,300m<sup>2</sup> to be seeded) = \$309.60  
 Irrigation - \$20,000 per ha (approx. 4,300m<sup>2</sup> to be irrigated) = \$8,600

**Total embellishment costs: \$85,204**

**Cost per person**

$(\text{Cost of embellishment} \times \text{IPD}^*) + 10\%5\% \text{ admin levy}$   
 Population

$\frac{\$85,204 \times 54.05\%}{280}$

$\$304.468.77 \text{ per person} + 10\%5\% \text{ admin levy} = \$334.40492.21$

\* See APPENDIX B – INDEX CALCULATIONS for indexation calculations.

**PER LOT CONTRIBUTION**

**Single residential lot: 2.6 person x \$334.40 = \$869**

**Medium density: 1.7 persons x \$334.40 = \$568**

	<u>Persons</u>	<u>Structured Open Space Base Rate 1999</u>	<u>Structured Open Space Indexed 2009</u>
Per person	<u>1</u>	<del>\$334.40</del> <u>\$319.52</u>	<u>\$ 492.21</u>
Per Lot/ET	<del>2.6</del> <u>2.4</u>	<del>\$869</del> <u>\$767</u>	<u>\$1,181</u>
Detached dwelling	<del>2.6</del> <u>2.4</u>	<del>\$869</del> <u>\$767</u>	<u>\$1,181</u>
<u>1 bedroom unit</u>	<u>1.3</u>	<u>\$415</u>	<u>\$640</u>
<del>Medium density dwelling</del>	<u>1.7</u>	<del>\$334.40</del> <u>\$543</u>	<u>\$837</u>
<u>2 bedroom unit</u>	<u>1.7</u>	<u>\$543</u>	<u>\$837</u>
<u>3 bedroom unit</u>	<u>2.1</u>	<u>\$671</u>	<u>\$1,034</u>
<u>4+ bedroom unit</u>	<u>2.4</u>	<u>\$767</u>	<u>\$1,181</u>

In addition to the above embellishment the following additional works are to be included within the identified structured open space area.





### Amenities block

An additional area within the bonded amenities block is to be provided to allow for:

- . one change room and one shower each for males and females

### Car Parking

An additional ten car spaces are required

### Bus Bay

One bus bay suitably sealed and linemarked

### **(d) Passive Open Space**

The developer of the development site shall dedicate at no cost to Council the following passive open space areas:

1. Passive open space as shown on Drawing No. G47/92-PP28, prepared by Heilbronn and Partners and dated 10 September 1996 (Lots 454, 399 and 465) as public open space at no cost in conjunction with registration of the linen plan of subdivision for Stage 14.

Within this dedicated passive open space area a level 'embellished' area of at least 1000m<sup>2</sup> shall be provided and shall include filling, topsoiling, grading, seeding, planting, installation of seating and playground equipment and shade cover. This area shall be located outside of the power easement and in an area approved by Council. The developer shall prepare and submit a plan for the approval of the Director of Development Services prior to the release of the linen plan for Stage 14 for the above embellishment works.

Council will be responsible for the future maintenance requirements for passive open space.

### **(e) Pathway**

A pathway is to be constructed by the developer through the dedicated passive open space area generally as indicated on Drawing No. 1165/97/D1A, prepared by Vinnicombe and Associates and dated February 1997. The approximate length of this pathway is 720m, shall be 1.2 metres wide and constructed in a hard surface. The developer shall prepare and submit a plan of the pathway for the approval of the Director of Development Services prior to the release of the linen plan for Stage 14.

## 3.7 Community facilities

The development land at Lot 287 Terranora Village proposes a population of approximately 280 residents. While this development is very small compared with typical release areas in the Tweed, the population will generate some need for community facilities and it is reasonable that the cost of these facilities be apportioned amongst those developments which will benefit from these facilities.

The objective of the community facilities program is to provide an adequate standard of community facilities to satisfy social and cultural needs of the future residents of the development land.



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The Terranora area has received some community facility benefit through development undertaken to date and this was in the form of a contribution towards the provision of the public school hall for use as a community facility when not used by the school. It has been possible to identify a specific amenity to which contributions from this particular development can be allocated towards immediately, rather than waiting for an accumulation of funds for a larger facility for a greater population. The proposed contributions will be focussed on the upgrading of the community hall, with expenditure primarily towards equipment and storage. The items and costing of these items are listed below. The Work Schedule is at Appendix A.

This development will be contributing what is considered a reasonable amount for a community facility when compared to the amounts charged under similar Contribution Plans in other areas of the Tweed.

### Proposed equipment and storage

Sound system including cordless microphones	\$5,000
Stage curtains and back drop	\$6,000
Stage lighting	\$4,000
Additional electrical work associated with power outlets	\$2,000
Community storage and associated facilities	\$12,000
<b>Total</b>	<b>\$29,000</b>

### **Cost per person**

$\frac{(\text{Cost of facility} \times \text{IPD}^*)}{\text{Population}} + 10\%5\% \text{ admin levy}$

$$\frac{\$29,000 \times 54.05\%}{280}$$

$$\underline{\$159.55} \text{ per person} + 10\%5\% \text{ admin levy} = \underline{\$113.92} \underline{\$167.53}$$

\* See [APPENDIX B – INDEX CALCULATIONS](#) for indexation calculations.

### **COMMUNITY FACILITIES**

**single residential lot: 2.6 persons x \$113.92 = \$296**

**medium density: 1.7 persons x \$113.92 = \$194**

### **PER LOT CONTRIBUTION**

	<u>Persons</u>	<u>Community Facilities Base Rate 1999</u>	<u>Community Facilities Indexed 2009</u>
Per person	<u>1</u>	<u>\$113.92</u> <u>\$108.75</u>	<u>\$167.53</u>
Per Lot/ET	<u>2.6</u> <u>2.4</u>	<u>\$296</u> <u>\$261</u>	<u>\$402</u>



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Detached dwelling	<del>2.6</del> <u>2.4</u>	<del>\$296</del> <u>\$261</u>	<u>\$402</u>
<u>1 bedroom unit</u>	<u>1.3</u>	<u>\$141</u>	<u>\$218</u>
<del>Medium density dwelling</del>	<del>1.7</del>	<del>\$194</del> <u>\$185</u>	<u>\$285</u>
<u>2 bedroom unit</u>	<u>1.7</u>	<u>\$185</u>	<u>\$285</u>
<u>3 bedroom unit</u>	<u>2.1</u>	<u>\$228</u>	<u>\$352</u>
<u>4+ bedroom unit</u>	<u>2.4</u>	<u>\$261</u>	<u>\$402</u>

### **PER LOT CONTRIBUTION**

#### **COMMUNITY FACILITIES**

~~single residential lot: 2.6 persons x \$113.92 = \$296~~

~~medium density: 1.7 persons x \$113.92 = \$194~~

#### **STRUCTURED OPEN SPACE**

~~Single residential lot: 2.6 person x \$334.40 = \$869~~

~~Medium density: 1.7 persons x \$334.40 = \$568~~



**SECTION 94 PLAN NO 21 – TERRANORA VILLAGE ESTATE**

**APPENDIX A – ESTIMATED FACILITY REQUIREMENTS, COSTS AND TIMING**

**TERRANORA VILLAGE**

<b>Item</b>	<b>Details</b>	<b>Estimated Expenditure</b>	<b>Population Threshold</b>	<b>Anticipated Date</b>
<b>Passive Open Space</b>	<b>Passive open space area as agreed, including at an area of at least 1,000m<sup>2</sup> which is level and embellished</b>	<b>to be dedicated and embellished by developer</b>	<b>Dedication at release of linen Plan for Stage 14</b>	<b>2001</b>
<b>Structured Open Space</b>	<ol style="list-style-type: none"> <li><b>1. Playing field of size 6,223m<sup>2</sup>, to be filled, levelled and embellished to a standard suitable for sporting activities</b></li> <li><b>2. Change rooms and showers to be included in the amenities block</b></li> <li><b>3. An additional ten car spaces are to be provided</b></li> <li><b>4. A sealed and line marked bus bay</b></li> </ol>	<p><b>\$85,204</b></p> <p><b>to be constructed by the developer</b></p> <p>“</p> <p>“</p>	<b>Dedication at release of linen Plan for Stage 14</b>	<b>2001</b>
<b>Pathway</b>	<b>Approximately 720 metres in length and to be constructed in a hard surface</b>	<b>to be constructed by developer</b>	<b>280</b>	<b>2002</b>
<b>Community Hall</b>	<b>Community Hall equipment and storage</b>	<b>\$29,000 (by contribution)</b>	<b>280</b>	<b>2000/2002</b>



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### APPENDIX B – INDEX CALCULATIONS

The following table shows the index calculations on rates in the original plan (adopted 21 July 1999) which have been applied to the contribution calculation in Version 2 of this Plan (October 2009):

<u>Index</u>	<u>Year</u>	<u>Value</u>	<u>Difference</u>	<u>Increase</u>
TSC Land Index:	2002/2003*	100		
	2008/2009	142.5	42.5	42.50%
IPD	Mar-99	70.66		
	Mar-09	108.85	38.19	54.05%

\* First available published date for TSC Land Index.

See Section 2.6 - Definitions and standards for more information about these indices.



APPENDIX C – HISTORY OF THE PLAN

Version 1 (in effect from 21 July 1999):

PER LOT CONTRIBUTION

COMMUNITY FACILITIES

single residential lot: 2.6 persons x \$113.92= \$296

medium density: 1.7 persons x \$113.92 = \$194

STRUCTURED OPEN SPACE

Single residential lot: 2.6 person x \$334.40 = \$869

Medium density: 1.7 persons x \$334.40 = \$568

DRAFT Version 2 (This Amendment)

This amendment

- Revises the cost of the works program in accordance with relevant indices (see Appendix B).
- 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.
- Revises the admin component from 10% to 5%.

Calculations in this amendment result in a contribution of \$108.75 (base rate) and \$167.53 (as indexed) per person for community facilities and \$319.52 (base rate) and \$492.21 (as indexed) per person for structured open space. See Section 1.1 - Summary schedule – contribution rates on page 1 to view the rates in detail.



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:

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.



## SECTION 94 PLAN NO 21 – TERRANORA VILLAGE ESTATE

### 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:

<u>S94 Plan</u>	<u>Sector</u>	<u>Persons</u>	<u>Credit (Persons)</u>	<u>ETs (minus credits)</u>	<u>Total \$</u>
<u>S94 Plan No 21</u>	<u>CP 21</u>	<u>Xxx</u>	<u>Xxx</u>	<u>Xxx</u>	<u>\$xxx</u>

### Condition Template

The condition must be imposed in the following format:

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