

CP10

DRAFT

Section 94 Plan

No 10. – Cobaki Lakes

Public Open Space and Community Facilities

Version 4.0

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

GENERAL MANAGER

DATE: xxx

DRAFT SECTION 94 PLAN No 10
 COBAKI LAKES PUBLIC OPEN SPACE AND COMMUNITY FACILITIES
 Version 4

Version	Date Effective	Comments	Approved by Council
3	23/9/2009	Implements Council decision re SGS Report, updates occupancy rates and works program	15/9/2009
4	Xx	<u>Applies latest template for a S94 plan, updates community facilities construction cost per square metre</u>	xxx

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1.0 PART A – SUMMARY SCHEDULES

1.1 Summary schedule – contribution rates

	Persons	Rate
Per person	1	\$204.93 <u>\$461</u>
Detached dwelling	2.4	\$492 <u>\$1,106</u>
1 bedroom unit	1.3	\$266 <u>\$599</u>
2 bedroom unit	1.7	\$348 <u>\$783</u>
3 bedroom unit	2.1	\$430 <u>\$968</u>
4+ bedroom unit	2.4	\$492 <u>\$1,106</u>

1.2 Summary schedule - works program

	Funded by this plan	Funded from other sources
Multiuse hall	\$234,555 \$535,800	
Main stage community centre	\$906,870 \$2,036,040	
Branch Library		\$445,480 \$1,000,160
Neighbourhood Centre	\$636,400 \$1,428,800	
Youth/multipurpose Centre	\$954,600 \$2,143,200	
Community Health Centre		\$954,600 \$2,143,200
	\$2,732,425 \$6,143,840	

1.3 Published indices at time of adoption

Index	Rate	Index Date	Published
IPD (Engineering Construction)	103.29	Dec 2011	Released 18/4/2012 ABS
TSC Land Index	195.12	June 2010	2010/2011 Tweed Shire Council Revenue Policy

2.0 PART B - ADMINISTRATION

2.1 Name of plan

Council's ability to obtain contributions from developers for the provision of community facilities is contained in Section 94 of the Environmental Planning and Assessment Act 1979 (as amended). Council can authorise such contributions in accordance with its adopted overall Section 94 contribution plan prepared in accordance with the Act and its Regulations.

This enables Council as the consent authority to require:

- the dedication of land;
- the payment of a monetary contribution;
- or a combination of both;

Where it is satisfied that a proposed development will or is likely to require the provision of or increase in the demand for public amenities or services within the area. Council will also accept "works in kind"; that is, actual facilities provision in the form of material public benefits in part or full satisfaction of a condition imposed requiring the dedication of land and/or payment of money (S94 (2C)).

2.2 Land to which this plan applies

The Plan applies to residential development on land affected by Tweed Shire Council Development Control Plan (DCP) Section B7 - Cobaki Lakes (formerly known as DCP 17).

2.3 The purpose of the s94 plan

The purpose of this Plan is to:

- (a) enable the collection of direct contributions for key community infrastructure, being the provision of local open space in accordance with Section 116H of the *Environmental Planning and Assessment Act*
- (b) ensure that adequate key community infrastructure is provided for as part of any new development
- (c) 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
- (d) provide a comprehensive strategy for the assessment, collection, expenditure accounting and review of development contributions on an equitable basis
- (e) ensure that the existing community is not burdened by the provision of key community infrastructure required as a result of future development
- (f) enable the council to be both publicly and financially accountable in its assessment and administration of the development contributions plan.

- (g) present Council's strategy for the provision of structured and unstructured open space and community facilities in the Cobaki Lakes area.
- (h) set detailed contribution standards for residential land development in the Cobaki Lakes area in order to finance the provision of structured and unstructured public open space and community facilities pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 to meet the need generated by the residential development of that area in terms of open space and community facilities.
- (i) create a Contribution Plan pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979.

2.4 What are the objectives of the plan?

- (a) The key elements of the public open space network include:
 - the provision of structured open space areas (sportsfields) conveniently located for each precinct in the DCP area yet sufficiently integrated with each other to form a major "linear" suburban parkland;
 - the creation of structured public open space that is flexible to the sporting needs of the future Cobaki Lakes community;
 - the provision of unstructured (casual) open space distributed within or adjacent to the residential areas which meets standards of quality and quantity and includes linkages via a pedestrian/cycle path system;
 - the incorporation of environmentally sensitive areas into the overall development pattern for Cobaki Lakes;
 - the integration, where appropriate, of stormwater detention and water quality control features into the structured and unstructured open space network.
- (b) The key elements of the Community Facilities requirements include:
 - the provision of centrally located, socially just, equitable and accessible community services and facilities to meet the needs of the future Cobaki Lakes community, including a community centre, youth activity centre, a health centre, and an elderly persons' activity centre;
 - timely provision of facilities as population grows, with initial priority to encouraging community social bonding and youth activities;
 - clustering of facilities in the town centre, where appropriate, for economy, convenience, easy identification and more viable provision of public transport;
 - design of facilities, furnishings and equipment in consultation with service providers and user groups in order to ensure successful operation;
 - integration of facilities with open space where possible.

- (c) The key elements for dual use of land include
- the obtaining of benefits from dual use of the land for either the facility or the open space use;
 - no reduction in standard of open space provision results.

2.5 How does this contribution plan relate to other plans and what is its status?

This plan supplements Tweed Shire Development Control Plan (DCP) Section B7 - Cobaki Lakes. This plan has been prepared in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979 and attendant Regulations.

2.6 When did the Plan come into force?

The provision of this S94 Contribution Plan for Public Open Space and Community Facilities came into force on 16 August, 1997 and were amended on 27 August 2002, 13 July 2005 and 23 September 2009.

2.7 Acceptance of Material Public Benefits

2.8 DCP Section B7

This Plan sets out, amongst other things, the contributions required to meet the demand generated by the CLCD scheme as proposed in Tweed Shire Development Control Plan (DCP) Section B7, formerly known as DCP 17. Section 94(2C) of the Environmental Planning and Assessment Act 1979 permits the Council to accept the provision of a material public benefit (other than the dedication of land or payment of money) in part or full satisfaction of a condition imposed requiring the dedication of land or payment of money.

2.8.1 Facilities

A material public benefit may comprise either the nominated public amenity itself or some other facility. It must consist of physical components (other than land) and be of benefit to the general community.

Each of the facilities in Appendices 1 and 2 may constitute a material public benefit. Council will consider accepting provision of the facilities identified in Appendices 1 and 2 in part or full satisfaction of contributions required for community facilities by this Plan.

2.8.2 Scope

Because the CLCD is a community development scheme, as set out in paragraph 3.2, there is considerable scope for Council to accept material public benefits (in the form of the provision of the facilities set out in Appendices 1 and 2) in satisfaction of monetary contributions specified in this Plan.

2.8.3 Alternatives

The developer may submit to Council an alternative scheme to that required by this plan as material public benefit. The Council in considering such a proposal shall have regard to the alternative facility proposed, the shortfall in the facility required by this plan if any which would result from the alternative scheme, and the overall provision to community facilities. The Council reserves the right not to accept a particular scheme and instead to impose a levy.

2.8.4 Works in Kind

Where a facility is to be provided as “works in kind” so as to comprise a material public benefit, whether built by the developer or a sub-developer, the Council shall agree on detailed specifications and building plans for the buildings and works prior to the commencement of development of the facility.

2.8.5 “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:

- (a) 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
- (b) the standard of the works is to council’s full satisfaction; and
- (c) the provision of the material public benefit will not prejudice the timing or the manner of the provision of public facilities included in the works program.

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

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

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

2.8.52.8.6 Specifications and Plans

The specifications and plans are to provide a facility which meets commonly accepted standards for facilities of that type, and are to be in accordance with any

requirements of relevant State or Commonwealth Government Agencies in respect of those facilities.

2.8.62.8.7 Transfer

The facility and an appropriate site area must be transferred to Council ownership free of cost on completion; development of facilities may include landscaping, footpaths, cycle and car parking as necessary.

2.9 Policy Concerning Timing of Payments, Deferred and Periodic Payments

2.9.1 Timing

Council requires contributions to be made in accordance with this Plan prior to the release of the final plans of subdivision.

2.9.2 Agreements

Where Council accepts a material public benefit in satisfaction of a condition imposed under this Plan, then subject to agreement between the developer and Council, where completion of any community facility, unstructured open space or structured open space cannot occur or be reasonably expected to occur before the commencement of subsequent development phases, the developer may enter into a bond or works completion agreement with the Council securing the completion and dedication of such facilities.

The value of the works to be dedicated 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.

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.

Any area of land to be dedicated will not be accepted by Council unless embellished or rehabilitated to a minimum maintenance state to the satisfaction of Council's Recreation Services Unit. This will include the land being drained, improved, topsoiled, turfed, provided with amenities, irrigation, vehicular access and with weed management and fire management measures in place. A maintenance agreement will be required between Council and the subdivider to accommodate establishment costs for new open space, and where Council nominates the purchase of land for public open space in the Works Program, establishment costs will be included in total project costs.

The determination of the suitability of land and acceptable "hand-over" state will involve compliance with the guiding principles and performance criteria and will occur at the Development Application (DA) stage.

Council may permit developers to embellish dedicated open space within a subdivision under Council supervision and subject to approval / costing of an embellishment plan, equivalent to the value of the monetary contribution. This will also be assessed at the DA stage.

In summary, Council will generally require either land dedication or a monetary contribution towards the capital costs of acquiring, embellishing and augmenting structured and / or casual local open space in lieu of dedication based on the formulae provided below.

2.10 Community Facilities/Public Open Space Surplus

- (a) The Cobaki Lakes development is capable of providing in excess of the stipulated land needed to meet the requirements of this Plan. Each development application for residential development shall include details of:
- the amount of land to meet the requirements for that proposal; and
 - where the land is part of a larger area which is eventually to be dedicated to Council as unstructured open space, the extent of that larger area shall be indicated.
- (b) In the event that surplus land is available for open space, that land may be utilised (and developed) by and for the open space requirements of other sites in the district on the proviso that the land component is deducted from Section 94 costs for open space/community facilities on the balance of the Cobaki Lakes site. In the event that the Section 94 contributions have been paid or provided in full, or the cost of remaining components of Cobaki Lakes Section 94 contributions is less than the land cost for the unstructured open space, a cash credit shall be forwarded to the Cobaki Lakes developer.

2.11 Definitions and standards

Definitions	
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

Definitions	
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>
Nexus	<p>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. 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.</p>

Standards used in this contributions plan	
Dwelling house/lot	<p>Equivalent to 2.4 persons (one Equivalent Tenement)</p> <p>Source: Tweed Shire Urban Land Release Strategy 2009</p>
1 bedroom unit	<p>Equivalent to 1.3 persons</p> <p>Source: Tweed Shire Urban Land Release Strategy 2009</p>

Standards used in this contributions plan	
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
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

2.12 Adjustment of contribution rates

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

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;
- 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

<u>$\\$C_A$</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, being March 2009.

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

<u>$\\$C_{LV}$</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, being June 2009.

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

For changes in salary costs and changes in the costs for studies and other activities associated with the plan, council will publish at least on an annual basis

the revised indices that are to be used to change the base costs of salaries and the costs of studies and associated activities in administering the plan.

2.13 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.

1.9 Public Accountability

~~(a) Section 94 Accounting for Contributions~~

~~Council has established an identifiable account for the management of Section 94 contributions showing separate categories of contribution. The following separate categories have been established:~~

- ~~• structured open space~~
- ~~• unstructured open space~~
- ~~• community facilities~~

~~Contributions must be used for the purpose for which they were levied. Interest will be calculated on funds for each category and credited as appropriate.~~

~~(b) Contributions Register (see CI 41M of the Regulations)~~

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

- ~~• the extent of contributions required;~~
- ~~• the origin of each contribution by reference to the development consent to which it relates;~~
- ~~• the type of contribution and the purpose(s) for which it was levied;~~
- ~~• the name of the contributions plan and the contribution is being levied under;~~
- ~~• the date of receipt of the contribution.~~

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

~~(c) Annual Statement (see CI 41N of the Regulations)~~

~~Council will produce an annual statement of contributions received which summarises, by purpose and area, details relating to contributions, in accordance with CI 41N of the Regulations. This information will be available for public inspection, free of charge, at any time during normal office hours.~~

~~(d) Review of Plan~~

~~Any material change to the Plan, with the exception of the annual adjustment of contribution amounts will require that the plan be amended in accordance with S94 AB of the Environmental Planning and Assessment Act 1979. This will require full public exhibition of the amended plan and consideration of submissions received.~~

~~**(e) — Contribution Plan**~~

~~Council will have available for public inspection the current Public Open Space and Community Facilities Contribution Plan.~~

2.14 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 4](#) 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.

2.15 Deferred/periodic payments

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

- (a) compliance with the provisions of Clause 2.9.1 is unreasonable or unnecessary in the circumstances of the case,
- (b) 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,
- (c) 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,
- (d) 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.

2.16 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.

2.17 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.

2.18 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.

2.19 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.

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 suitably embellished open space to meet the needs of the increased population as a result of new development and the works program designed to provide it.

3.2 How does this plan work?

The development of Cobaki Lakes is proposed to be managed by the principal developer group or its agent or successors in title (“**developer**”) as an integrated project in accordance with the Management Plan. The developer will retain control of broad based infrastructure development (in particular, structured open space and community facilities). Other facilities required in each residential precinct (in particular, unstructured open space) shall be the responsibility of the “sub-developer”.

Should parties other than the developer or its successors in title necessarily seek development approval from Council for development which will require a contribution for open space, then the format of this plan may have to be amended.

3.3 Relationships between Development and Demand

The type of development anticipated in the Cobaki Lakes area is the Cobaki Lakes Community Development (“CLCD”) described in DCP Section B7.

DCP Section B7 identifies the CLCD as a community development of a maximum of 4741 residential lots, falling within 10 urban precincts.

The residential development will generate the need for, amongst other things, classes of public open space and community facilities.

3.3.1 Scope of Contributions and Formulae to be used for Determining Contributions

The structure of this contribution plan relates to the principal categories of those contributions and their nature and scope as set out below.

3.3.2 Public Open Space

- (a) For the purpose of this Plan, Council has classified open space into two categories
 - (i) Structured (Active) Public Open Space - sportsfields used for organised sporting activities such as cricket, rugby league, rugby union, hockey and netball. These areas do not include open trunk drains and lakes, which are designated primarily for drainage purposes, golf courses or the pedestrian and cycle path system.
 - (ii) Unstructured (Casual) Public Open Space - open space utilised for a variety of generally “non-organised” activities. These areas include neighbourhood parks, natural bushland parks and formal gardens. These areas do not include open trunk drains and lakes; the golf course; or the trunk pedestrian and cycle path system connecting the south western community centre with the town centre and entrance path system.

Formulae to Be Used for Different Categories of Public Amenities

- (b) For the purposes of deriving the area of land to be set aside for public open space, Council has adopted the commonly used standard of 2.83 hectares per 1,000 persons. This standard has generally been adopted by the Land and Environment Court for developing areas (Department of Planning, 1992).

Public open space shall, therefore, be provided 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%) “casual” open space (neighbourhood parks, natural bushland, local cycle paths etc) per 1,000 persons.

On the basis of a total population of 14,000 persons a total of 39.62 hectares of open space is required.

Open space dedications will be levied assuming that a detached dwelling house will be erected on each residential allotment at any one occupancy rate of 2.4 persons per lot (Tweed Urban Land Release Strategy 2009).

For other residential development dedications will be levied assuming an occupancy rate of 1.95 persons per dwelling (Tweed Urban Land Release

Strategy 2009). Council will discount any contributions previously required at subdivision stage (see Table 1).

(Note: The master plan forming part of this Contributions Plan which may be amended from time to time by agreement between the principal developer and the Council having regard to the principal objectives of the Plan, nominates indicatively the location of structured and unstructured open space areas).

3.3.3 Community Facilities

- (a) These encompass a range of buildings or facilities which are of benefit to and will be used by the future residents of the Cobaki Lakes site.

Facilities which will be required for the benefit of the residents of the CLCD are:

- multi-use hall;
- youth activity centre;
- community health centre;
- aged persons centre.

Formulae to be used for Different Categories of Public Amenities.

- (b) The formula to be used for levying contributions for community facilities is:

$$C = \frac{F}{N} + 5\% \text{ (administration levy)}$$

where:

C = amount of contribution per lot

F = actual cost of providing the facility

N = population

$$\begin{aligned}
 &= \frac{2,732,4256,143.840}{14,000} \\
 &= \$195.17\$438.85 \text{ per person} + 5\% \\
 &= \$204.93\$460.79
 \end{aligned}$$

	Persons	Rate
Per person	1	\$204.93 \$461
Detached dwelling	2.4	\$492 \$1,106
1 bedroom unit	1.3	\$266 \$599
2 bedroom unit	1.7	\$348 \$783
3 bedroom unit	2.1	\$430 \$968
4+ bedroom unit	2.4	\$492 \$1,106

The schedule of facilities is set out in Appendix 1 and provide details as to:

- the anticipated cost of providing each identified facility
- the type of facility
- the anticipated level of demand as outlined [in](#) the Whole of Shire Community and Cultural Facilities Plan prepared by SGS (October 2007) (the SGSC Plan).

in accordance with the planning objectives and assumptions contained in the DCP and below.

- (c) The town centre community facilities by 2015 as indicated in the SGSC Plan, with progressive expansion in step with population growth dictated by the creation of further allotments.
- (d) Subsidiary centres, upon which the location of some community facilities is based, are to be nominated on the master plan (as amended from time to time).

Note: DCP Section B7 – Cobaki Lakes states the Management Plan for Community Facilities as:

- To ensure that appropriate sites are reserved for the provision of community facilities to adequately service the social and recreational needs of the community.

This Plan to date has not included a cost component for land for the community facilities. It has always been assumed that the land will be dedicated to Council free of cost. This Amendment No 2 reaffirms that the development will provide appropriate sites for the community facilities to Council free of charge.

3.3.4 Structure

The extent and nature of contributions which lie within the respective categories are addressed in specific terms in the following sections.

3.4 Structured Public Open Space

3.4.1 General

- (a) The location of structured open space has been indicated on the master plan.

3.4.2 Structured Open Space Requirements

- (a) In each of the locations to be nominated on the master plan, the developer shall dedicate to Council a multi-purpose sportsfield, or other structured open space benefits to satisfy the requirements of structured open space for the residents of the CLCD. The facility will be required to be provided to the following specifications and to Council's standards including:
 - being capable of use as playing fields (ie, level of acceptable geometric shape, and drained)
 - top dressed, seeded and landscaped
 - preferably a minimum size of 4 hectares for each facility

(Council will also require, by way of contributions for community facilities provision of an amenities block, with appropriated vehicular parking and pedestrian access, the size of which is to be agreed between Council and the Developer).

- (b) Full details of the required works for the first structured open space to provide for 1,000 lots in accordance with the formulae identified in paragraph 9.1 shall be submitted with the first development application for subdivision of residential development of Cobaki Lakes, and approved prior to the commencement of any works. That open space shall subsequently be prepared as required and dedicated to Council.
- (c) Full details for structured open spaces for the residential phases shall be approved prior to the linen release for lots 2,000 3,000 4,000 and 4,700 respectively.

3.5 Unstructured Open Space

3.5.1 General

- (a) The majority of unstructured open space, unlike structured open space, shall be provided within or adjoining each development parcel. Where this is not the case, a contribution may be required instead of dedication, and arrangements shall be as agreed with Council.
- (b) Contributions will be determined at the current market value of land within the development site.

3.5.2 Unstructured Open Space Requirements

- (a) Unstructured open space will be required throughout the Cobaki Lakes area to be generally within 500 metres of each household.
- (b) When requiring dedication of unstructured (casual) open space, Council shall consider the following criteria:
 - (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 may not be accepted unless it serves as a useable cycle/pedestrian linkage. Pedestrian and cycle links should generally conform with those nominated in the Development Control Plan, with appropriate seating, lighting and playground facilities.
 - (ii) Size - Preferred minimum 5,000m² or able to form part of existing/future casual open space, although Council will give consideration to smaller areas where appropriate (eg, interconnecting spaces/trails and finger open space).
 - (iii) Variety and complexity - where possible and subject to financial considerations, unstructured open space will incorporate features which added to its amenity ie, water features (excluding lakes and drains utilised from trunk drainage), remnant urban bushland, strategic scenic areas.

- (iv) Useability - the majority of unstructured 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.
- (v) Maintenance - Council will be responsible for the future maintenance requirements for unstructured open space. Where more than the required amount of suitable unstructured open space is provided, Council may consider its dedication as parkland.
- (c) Unstructured open space requirements for the town centre shall be based only upon the extent necessary for the residential components therein, or residential precincts within 500m of the town centre.

3.6 Community Facilities

- ~~(a)~~ Community Facilities proposed to be provided under this Plan, their building floorspace and the timeframe in which they become available, are set out in ~~the attached Tables 2 and 3.~~Appendix 1. Those tables show the cost rates for residential development in the Cobaki Lakes Area.

3.7 Works Schedule

- The schedule of works is contained in ~~Appendices Appendix 1 and 2.~~

APPENDIX 1 - COBAKI LAKES - S94 COMMUNITY FACILITIES

FACILITY	FLOOR AREA	FUNCTION	TIMING	COST/M ²	ESTIMATED COSTS	Funded by this S94 Plan	LOCATION
Multi-purpose Community Centre/Civic Centre: (Integrated with open space and recreation facilities)							
Initial Stage Multi-use Hall –	150m2	Meeting Room Activity Area Office Kitchen Toilets Storage	2010	\$ 3,5721,591 /m2	\$234,555 \$535,800	\$535,300	Town Centre (minimum 15 minute interval transport service)
Main Stage Community Centre/Civic Centre	570m2	Meeting Rooms Activity Areas Art/Craft Area Staff Offices NGO Office Kitchen/Storage Toilets/Change Circulation	60% capacity or 2015 (3-year planning lead time commencing 2012)	\$ 3,5721,591 /m2	\$906,870 \$2,036,040	\$2,036,040	
Branch Library (Subject to review of S94 Plan No.11)	280m2 (maximum rate: 20m2/1000 population)	Branch Library Study Area Meeting Space	60% capacity or 2015 (3-year planning lead time commencing 2012)	\$ 3,5721,591 /m2	\$445,480 \$1,000,160	\$0	
Neighbourhood Centre (Option for South West location)							
Neighbourhood Centre	400m2	Neighbourhood Meeting Hall Kitchen/Toilets	60% capacity or 2015	\$ 3,5721,591 /m2	\$636,400 \$1,428,800	\$1,428,800	South West
Youth Centre co-located and integrated with Multi-purpose Community Centre (Integrated with open space and recreation facilities, eg, skate park. Child safe areas)							
Youth Centre co-located and	600m2	Casual Drop-in Multiple Spaces	60% capacity or 2015 (3-year planning lead	\$ 3,5721,591 /m2	\$954,600 \$2,143,200	\$2,143,200	Town Centre (minimum 15 minute

APPENDIX 2 – HISTORY OF THE PLAN

Version 4 (this version):

- Applies the latest template for a S94 Plan;
- updates the works program construction cost per square metre to \$3,572 based on actual adjusted cost of construction of the Murwillumbah Community Centre in December 2009, indexed to December 2011 rates as detailed in Appendix 3 of this plan.
- Updates the works program resulting in a revised contribution rate per person of \$461. See Section 1.1 Summary Schedule - Contribution Rates.

Version 3 ~~(this version)~~:

Version 3 contains the following changes to the plan:

- amends the plan in accordance with the Council resolution of the meeting held 3 June 2008 with reference to the SGS Report;
- calculates the per lot and per medium density unit rates in accordance with currently accepted occupancy estimates per bedroom as specified in the Tweed Shire Urban Release Strategy 2009;
- includes definitions and detail to allow for future indexation in line with the IPD and Tweed Shire Land Index (see section 1.7.1);
- reorganises the plan in terms of the current template for a S94 Plan and adds a summary schedule for ease of reference; and
- Reduces administration levy from 10% to 5% to be consistent with Minister's S94E direction of 10 July 2009;
- Results in a rate per person of \$204.93.

Amendment No 2: The changes in this Plan are as follows:

1. Delete the second stage extension to the youth facilities as it is considered that the proposed first stage area of 400m² is a sufficient size.
2. The lot threshold stages of 1,000, 3,000 and 4,000 lots has been reduced to the 1,000 and 4,000 lot threshold for the staging of the Community Centre.
3. The estimated costs to construct the buildings has been increased to reflect current building costs.
4. A separate allocation of \$40,000 towards furnishings and equipment for the community buildings.

As a result of the above the new Contribution rates are:

Single Residential: \$391

Medium Density Residential: \$256

APPENDIX 3 - INDEXATION CALCULATIONS

Indexation applied to December 2009 Construction cost per square metre for Community Centre, Murwillumbah.

<u>Index Date</u>	<u>IPD (Engineering Construction)</u>	<u>% increase</u>
<u>December 2009</u>	<u>99.85</u>	
<u>June 2011</u>	<u>103.29</u>	<u>3.45%</u>

Construction cost per square metre:

The benchmark construction cost used in this plan is \$3,453 per square metre, as sourced from the adjusted construction cost of building the Murwillumbah Community Centre in December 2009 and adopted in CP 15 (Shirewide Community Facilities) Version 6, derived as follows:

<u>Project Budget</u>	<u>Estimate December 2009</u>
<u>Construction, landscaping, consultants and design costs based on QS Report Simon Torney and Associates dated 2 December 2009</u>	<u>3,000,000</u>
<u>Area of Building sq Metres</u>	<u>695</u>
<u>Cost Per Square Metre</u>	<u>\$ 4,316.55</u>
<u>Reduction based on Architectural Difficulty and intrinsic issues with this site</u>	<u>20%</u>
<u>Adjusted Cost per Square Metre</u>	<u>\$ 3,453</u>

<u>Benchmark cost per square metre December 2009</u>	<u>\$3453</u>
<u>+3.45% Increase to December 2011</u>	<u>\$119</u>
<u>Construction cost per sq metre indexed to December 2011 rates</u>	<u>\$3572</u>

APPENDIX 34 – 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 Table 1.1

Lots, Units and Persons – Are specified in Table 1.1

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.

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.

Section 94 Plan No. 10

Cobaki Lakes

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 10	CP10	Xxx	Xxx	Xxx	\$xxx

Condition Template

The condition must be imposed in the following format:

Section 94 Contributions

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 MUST 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.

« *Contribution type:*

XXX Persons @ \$xxxx per person \$xxxx

S94 Plan No. XX

Sector xxxx



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