

CP01

Section 7.11 Plan (formerly Section 94)

No. 1 – Banora Point West/Tweed Heads South Open Space Contribution

Version 10.1.10
December 2009
Indexed 1 July 2023

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



GENERAL MANAGER

DATE: 15 December 2009

SECTION 7.11 PLAN No 1

BANORA POINT WEST/TWEED HEADS SOUTH
 OPEN SPACE CONTRIBUTION

(Amendment No 9.1)

VERSION 10.1.10

Version	Approved	Comments	Date Effective
9 (amendment 8)		Amend contribution rates to reflect increase in land acquisition and other costs for structured open space	8 March 2006
10 (amendment 9)	16 June 2009	Amend contribution rates in line with IPD and Tweed Shire Land Index, include section on applicable indices to enable updating of rates between formal amendments, change references to DCP Section B3	24 June 2009
10.1 (amendment 9.1)	15 December 2009	Reduces the admin levy from 10% to 5% to be consistent with the Minister for Planning's Direction of 10 July 2009	23 December 2009
10.1.7		Indexes the contribution rates in accordance with Clause 2.7.1 and references the renaming of S94 to Section 7.11 of the EP&A Act.	1 July 2018
10.1.1, 10.1.2, 10.1.3, 10.1.4, 10.1.5, 10.1.6, 10.1.8, 10.1.9, 10.1.10		Indexes the contribution rates in accordance with Clause 2.7.1.	July 2012-July 2023

Table of Contents

1.0	PART A – SUMMARY SCHEDULES.....	1
1.1	Summary schedule – contribution rates	1
1.2	Casual (Passive) Open Space levy (including 5% admin)	1
1.3	Published indices at time of adoption	3
	EXECUTIVE SUMMARY	4
2.0	BANORA POINT WEST/TWEED HEADS SOUTH PUBLIC OPEN SPACE	5
2.1	Introduction.....	5
2.2	Where does this plan apply?	5
2.3	What is the purpose of this Plan?	5
2.4	What are the objectives of the Plan?	5
2.5	How does this Contribution Plan relate to other Plans and what is its status?	6
2.6	When did the Plan come into force?	6
2.7	How does the Plan work?	6
	2.7.1 Review of contribution rates.....	8
2.8	Structured Public Open Space	10
	2.8.1 Introduction	10
	2.8.2 Structured Open Space Requirements	10
	2.8.3 The Structured Open Space Levy	10
	2.8.4 Dedication of Structured Open Space.....	12
2.9	Casual Open Space	13
	2.9.1 Casual Open Space.....	13
	2.9.2 Casual Open Space Requirement	13
	2.9.3 The Casual Open Space Levy	14
	2.9.4 Dedication of Casual Open Space	14
2.10	Public Accountability.....	15
	SCHEDULES	16
	SCHEDULE 1 – Calculations	16
	Structured Open Space Calculation.....	16
	Casual Open Space Calculation	17
	SCHEDULE 2 – Banora Point Open Space Embellishments – indicative costs.....	20
	Figure 1 22	
	SCHEDULE 3 – History of the Plan.....	24
	Calculations for indexation of contribution rates in this version	26

1.0 PART A – SUMMARY SCHEDULES

1.1 Summary schedule – contribution rates

Structured (Active) Open Space levy (including 5% admin)

Version	Per Person	Per Lot		Per Medium Density Unit	
	Levy	Prevailing Occupancy rate	Levy	Prevailing occupancy rate	Levy
9	\$936	2.6	\$2,433	1.7	\$1,591
10	\$1,043	2.4	\$2,504	1.95	\$2,034
10.1.1	\$1,061	2.4	\$2,546	1.95	\$2,069
10.1.2	\$1,083	2.4	\$2,599	1.95	\$2,112
10.1.3	\$1,092	2.4	\$2,621	1.95	\$2,129
10.1.4	\$1,096	2.4	\$2,630	1.95	\$2,137
10.1.5	\$1,117	2.4	\$2,681	1.95	\$2,178
10.1.6	\$1,165	2.4	\$2,797	1.95	\$2,272
10.1.7	\$1,297	2.4	\$3,113	1.95	\$2,529
10.1.8	\$1,389	2.4	\$3,334	1.95	\$2,709
10.1.9	\$1,462	2.4	\$3,510	1.95	\$2,852
10.1.10	\$1,923.67	2.4	\$4,616.80	1.95	\$3,751.15

1.2 Casual (Passive) Open Space levy (including 5% admin)

Levy rate where developer dedicates and embellishes passive open space

Version	Per Person	Per Lot		Per Medium Density Unit	
	Levy	Prevailing occupancy rate	Levy	Prevailing occupancy rate	Levy
9	\$196.92	2.6	\$512	1.32	\$388.80
10	\$224	2.4	\$537	1.95	\$436
10.1.1	\$225	2.4	\$540	1.95	\$439
10.1.2	\$231	2.4	\$554	1.95	\$450
10.1.3	\$234	2.4	\$562	1.95	\$456
10.1.4	\$235	2.4	\$564	1.95	\$458
10.1.5	\$237	2.4	\$570	1.95	\$463
10.1.6	\$240	2.4	\$576	1.95	\$468
10.1.7	\$270	2.4	\$647	1.95	\$525.8
10.1.8	\$285	2.4	\$683	1.95	\$555
10.1.9	\$291	2.4	\$698	1.95	\$567
10.1.10	\$333.90	2.4	\$799.97	1.95	\$649.16

Contribution Plan No. 1

Banora Point West/Tweed Heads South Open Space Contribution

Levy rate where developer does not dedicate or embellish passive open space

Version	Per Person	Per Lot		Per Medium Density Unit	
	Levy	Prevailing occupancy rate	Levy	Prevailing occupancy rate	Levy
9	\$604.23	2.6	\$1,059	1.32	\$803
10	\$686	2.4	\$1,647	1.95	\$1,338
10.1.1	\$691	2.4	\$1,658	1.95	\$1,347
10.1.2	\$710	2.4	\$1,704	1.95	\$1,385
10.1.3	\$718	2.4	\$1,723	1.95	\$1,400
10.1.4	\$721	2.4	\$1,730	1.95	\$1,406
10.1.5	\$728	2.4	\$1,747	1.95	\$1,420
10.1.6	\$737	2.4	\$1,768	1.95	\$1,436
10.1.7	\$827	2.4	\$1,986	1.95	\$1,613
10.1.8	\$873	2.4	\$2,096	1.95	\$1,703
10.1.9	\$893	2.4	\$2,142	1.95	\$1,741
10.1.10	\$1,021.47	2.4	\$2,451.53	1.95	\$1,991.87

Total levy rate where developer does not dedicate or embellish passive open space (add to rate where developer does embellish)

Version	Per Lot		Per Medium Density Unit	
		Levy		Levy
9	\$512 + 1,059	\$1,571	\$388.80 + \$803	\$1,192
10	\$537 + \$1,647	\$2,184	\$436 + \$1,338	\$1,774
10.1.1	\$540 + \$1,658	\$2,198	\$439 + \$1,347	\$1,786
10.1.2	\$554 + \$1,704	\$2,258	\$450 + \$1,385	\$1,835
10.1.3	\$562 + \$1,723	\$2,285	\$456 + \$1,400	\$1,856
10.1.4	\$564 + \$1,730	\$2,294	\$458 + \$1,406	\$1,864
10.1.5	\$570 + \$1,747	\$2,317	\$463 + \$1,420	\$1,883
10.1.6	\$576 + \$1,768	\$2,344	\$468 + \$1,436	\$1,904
10.1.7	\$647 + \$1,986	\$2,633	\$525 + \$1,613	\$2,139
10.1.8	\$683 + \$2,096	\$2,779	\$555 + \$1,703	\$2,258
10.1.9	\$647 + \$2,142	\$2,840	\$525 + \$1,741	\$2,308
10.1.10	\$798.97 + \$2,451.53	\$3,250.50	\$649.16 + \$1,991.87	\$2,641.03

Contribution Plan No. 1

Banora Point West/Tweed Heads South Open Space Contribution

1.3 Published indices at time of adoption

Index	Rate	Index Date	Published
IPD (Engineering Construction)	103.29*	December 2011	Released 18/4/2012 ABS
TSC Land Index	192.68	June 2011	2012/2013 Tweed Shire Council Revenue Policy

* When using ABS IPD figures to calculate levy increases, the actual index number for June 2011 must also be obtained from the current IPD publication to replace the above base number because the IPD base year is revised every September quarter and this base index could therefore be different.

EXECUTIVE SUMMARY

Amendment No 9 (Version 10)

This amendment:

- Increases the contribution rate per person in line with the ABS IPD (being 18.95%) (non-land component) and Tweed Shire Council Land Index (being 9.52%).
- Calculates the per lot and per medium density unit rate in accordance with currently accepted occupancy estimates, being 2.4 persons per lot or dwelling, and 1.95 persons per medium density unit.
- Includes definitions and detail to allow for future indexation in line with the IPD and Tweed Shire Land Index (see section 1.7.1).
- Includes a summary schedule for ease of reference.

Amendment No 9.1 (Version 10.1)

Reduces the admin levy from 10% to 5% to be consistent with the Minister for Planning's Direction of 10 July 2009

Version 10.1.1-Version 10.1.6

Indexes contribution rates in accordance with section 2.7.1 of this plan using current ABS IPD and Tweed Shire Council Land Value indices.

Version 10.1.7

- Indexes contribution rates in accordance with section 2.7.1 of this plan using current ABS IPD and Tweed Shire Council Land Value indices.
- Adds reference to new section name: s7.11 on page title.

Version 10.1.8-10.1.9

Indexes contribution rates in accordance with section 2.7.1 of this plan using current ABS IPD and Tweed Shire Council Land Value indices.

2.0 BANORA POINT WEST/TWEED HEADS SOUTH PUBLIC OPEN SPACE

2.1 Introduction

Council's ability to obtain contributions from developers for the provision of recreation facilities is contained in Section 94 of the Environmental Planning and Assessment Act 1979 (as amended).

This enables Council as the consent authority to require:

- * the dedication of land free of cost; or
- * the payment of a monetary contribution;
- * or both;

where it is satisfied that a proposed development will or is likely to require the provision of or increase the demand for public amenities or services within an area.

This section represents the Section 94 Contribution Plan for Structured Open Space (Sportsfields) and Casual Public Open Space (Neighbourhood Parks, etc) pursuant to the requirements of Section 94 and associated Regulations of the Act. The name of this Contribution Plan is Plan 1 Banora Point West/Tweed Heads South Open Space Contribution Plan. The plan provides information on the provision of public open space in the DCP 3 area.

2.2 Where does this plan apply?

The Public Open Space Contribution plan applies to residential development on land affected by Development Control Plan No. 3 - Banora Point West/Tweed Heads South (as amended).

2.3 What is the purpose of this Plan?

The purpose of this Plan is:

- (a) to present Council's strategy for the provision of structured and casual open space in the Banora Point West/Tweed Heads South area.
- (b) to set defined contribution standards for residential land development in order to finance the provision of structured and casual public open space pursuant to Section 94 of the Environmental Planning and Assessment Act.
- (c) to create a Contribution Plan pursuant to Section 94 of the Environmental Planning and Assessment Act.

2.4 What are the objectives of the Plan?

The key elements of public open space network include:

- * creation of an east-west open space system based on a network structured and casual open space adjacent to a network of artificial lakes;

- * the provision of structured open space areas (sportsfields) centrally located 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 community now and in the future;
- * the provision of casual open space distributed within the residential areas which meets standards of quality and quantity.

2.5 How does this Contribution Plan relate to other Plans and what is its status?

This plan has been prepared in accordance with Section 94 and 72 of the Environmental Planning and Assessment 1979 and attendant Regulations. It replaces the previous open space contribution requirements for the Banora Point West/Tweed Heads South release area outlined by Development Control Plan No. 3.

2.6 When did the Plan come into force?

Plan 1 Banora Point West/Tweed Heads South Public Open Space Contributions Plan (Version 10) has been prepared pursuant to the provisions of s94 of the *Environmental Planning & Assessment Act* and Part 4 of the *Environmental Planning & Assessment Regulation* and takes effect from the date on which public notice was published, pursuant to clause 31(4) of the *Environmental Planning & Assessment Regulation*.

2.7 How does the Plan work?

- (a) For the purposes of this Plan Council has classified public open space into two (2) categories:
1. Structured (Active) Public Open Space - sportsfields used for organised sporting activities such as cricket, rugby league, rugby union, hockey, netball etc. These areas do not include open trunk drains and lakes.

Cycleways will not, by themselves, be included as structured open space. They may be provided in conjunction with the provisions of sportsfields.
 2. Casual (Passive) Public Open Space - Public Open Space utilised for a variety of generally "non-organised" activities. These areas include neighbourhood parks natural bushland parks, formal gardens parks, and pedestrian links. These areas do not include open trunk drains and lakes.

Cycleways will not, by themselves, included a casual open space. They may be provided in conjunction with the provision of neighbourhood parks etc.
- (b) For the purposes of deriving the area of land set aside for public open space Council has adopted the commonly used standard of 2.83 hectares per 1000 persons. This standard has generally been adopted by the Land

and Environment Court for developing areas (Department of Planning 1992).

Public open space (excluding lakes and drains used for the Trunk Drainage network) shall be provided in the following proportions:

- i. 1.7 hectares (60%) "structured" open space (sportsfields) per 1000 persons);
- ii. 1.13 hectares (40%) "casual" open space (neighbourhood parks, etc) per 1000 persons.

The projected population for the DCP 3 area is 12650. This equates to approximately 35.80-hectares of embellished public open space. The Contribution levy is based on this anticipated population.

- (c) 24.255 hectares of structured open space has been identified in the DCP 3 area (see Figure 1) Contribution levies for structured open space have been based on the cost of acquiring land at market value, the cost of embellishment, administration cost, interest earned on fund credits or interest accrued on overdrafts (see Section 1.8).
- (d) The majority of the casual open space is to be provided within each development parcel and must meet certain criteria regarding minimum size and quality. Where more than the required amounts of suitable passive open space is provided (normally due to topographic constraints) Council may consider its dedication as parkland, although not at the expense of structured open space and provided the area is developed to reduce Council's maintenance costs.

Where passive open space cannot be provided or where it is unacceptable due to quality constraints Council will impose a contribution levy based on current land valuations in the development area to enable Council to acquire suitable land or request dedication of an alternative site.

- (e) Open space contributions will only apply to the Residential "A", "B" and "C" areas outlined in Development Control Plan No. 3 (as amended) plus any residential component within the residential/tourist area designation.
- (f) Contributions/dedications will be collected on a pro rata basis at the time of:
 - Subdivision release (for all residential subdivisions)
 - Development application approvals (optional)
 - Building application approval and prior to the release of Building plans
- (g) Contributions will be required as a condition of development consent for subdivision and medium density development. Council will apply the current levy adopted by Council at the time of releasing the subdivision linen plan or release of the Building Plans.
- (h) If the initial stage of development is subdivision contributions will be levied assuming that a dwelling house will be erected on each allotment created at the prevailing occupancy rate derived from the current ABS Census. (2.6 persons per single dwelling). This will apply to subdivisions created in

conjunction with integrated housing, cluster housing, community titles, and dual occupancy and duplexes.

- (i) Where development is medium density development Council will levy contributions based on the number of dwellings created and the prevailing occupancy rate derived from the current ABS Census (1.7 persons per dwelling) less any previous contribution paid.
- (j) For the purposes of this plan medium density development includes any residential flat building containing three (3) or more dwellings and mobile home parks.
- (k) For the purpose of this plan the definitions adopted by the Environmental Planning and Assessment Act 1979 and Amendments are adopted by this plan.
- (l) Council, on dedication or purchase of public open space, may require the developer to enter a maintenance contract over the land for a period of not less than three months to ensure satisfactory performance of the open space area (Recreation Resources Unit).
- (m) A 5% levy applies to all section 94 charges to cover the costs associated with administration, development and review of section 94 plans.

2.7.1 Review of contribution rates

To ensure that the value of contributions are not eroded over time by movements in the **Implicit Price Deflator for Engineering Construction (IPD)**, 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 review the contribution rates.

The contribution rates will be reviewed by reference to the following specific indices:

- construction costs by the **IPD** as published by **Australian Bureau of Statistics (ABS)** (*implicit price deflator*); *Chain Volume Measures; Engineering Construction; ABS Reference A405071T, ABS Product Number 8782.0.65.001.*
- land acquisition costs by reference to average land valuation figures 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.

Contribution Plan No. 1

Banora Point West/Tweed Heads South Open Space Contribution



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

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

Where

\\$C_A	is the contribution at the time of adoption of the plan expressed in dollars;
Current _ Index (IPD)	is the IPD as published by the ABS available at the time of review of the contribution rate;
Base Index _ (IPD)	is the IPD for March 2009 being the index current at the date of adoption of this plan, as published by the ABS <u>available at the time of review of the contribution rate</u> ⁽²⁾

Notes: (1) 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.

_____ (2) When using IPD figures to calculate levy increases, the actual index number, must also be obtained from the current IPD publication because the base year for the IPD is revised every September quarter and this base index is likely to be different.

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

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

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

Where

\\$C_{LV}	is the land values within the plan at the time of adoption of the plan expressed in dollars;
Current LV Index _ (TSC Land Index)	is the land value index as published by the council available at the time of review of the contribution rate;
Base LV Index _ (TSC Land Index)	is the land value index as published by the council at the date of adoption of this Plan.

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

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

2.8 Structured Public Open Space

2.8.1 Introduction

Embellished Structured Public Open Space shall be provided at the rate of 1.7 hectares per 1000 persons or 17m² per person. 24.255 hectares of structured open space has been identified in the DCP 3 area.

Council has predetermined the location of structured open space which is illustrated in Figure 1. It is proposed to use part of this area for the construction of a multipurpose community facilities building which shall incorporate a sports centre. The cost of the buildings associated with the multi-purpose community facilities centre are subject to a separate community facilities levy and are not included in this plan.

Cash contributions will be required from the majority of developers within DCP 3 (residential development only) to enable Council to acquire structured open space and to embellish the land (topsoiling of sportsfields, seeding, irrigation equipment and amenities buildings).

For the purposes of determining a contribution levy Council has determined the amount of structured open space that will need to be acquired by Council based on the amount of structured open space that will be dedicated. This is based on the lot potential from Residential 'A' development (10 lots per hectare) and does not include population potential of Residential 'B' or 'C' areas in DCP 3.

2.8.2 Structured Open Space Requirements

- (a) Council has adopted standards for each of the seven (7) structured open space areas which are outlined in Schedule 1.
- (b) All land must be filled and graded to a minimum RL of 1.75m AHD to Council's satisfaction. Council reserves the right to request higher fill levels depending on the circumstances (eg Area 6).
- (c) The construction of drainage (including interallotment drainage), earthworks, subsoil drainage and fill material must be in accordance with approved plans submitted by a qualified engineer prior to dedication or acquisition.

2.8.3 The Structured Open Space Levy

- (a) Where Embellished Structured Open Space cannot be dedicated or can only be partly dedicated in lieu of development a cash contribution will be required. This cash contribution will be annually determined and based on the following items:
 - cost of acquiring land currently in private ownership at current market values;
 - cost of embellishing the land, ie topsoiling, amenities buildings etc;
 - Project costs including development and supervision of facilities, ie acquisitions and land valuations etc, embellishments.
 - interest earned on contributions received (if any);
 - overdraft (if any);

Contribution Plan No. 1

Banora Point West/Tweed Heads South Open Space Contribution



- remainder of projected population in which contributions have not been levied;
 - IPD and TSC Land indices.
 - A 10% administration levy on all Contributions.
- (b) The contribution levy will be based on a contribution per person as a proportion of the overall (annually/biannually revised) cost of remaining land acquisitions and embellishments based on criteria outlined in Schedule 1. Land is valued at current market values because Council will have to pay the full market price to acquire the land.
- (c) The current years levy will be based on the following formula (Council reserves the right to review the levy biannually if necessary).

$$\text{Levy (\$/person)} = \frac{(R + \text{Nett Fund Balance})}{P} + 10\% \text{ Administration Levy (Clause 1.7(m))}$$

where R = estimated cost of remaining acquisitions and cost of embellishments at beginning of time period (yearly/biannually). Land revaluations and Consumer Price Index used when appropriate.

where P = the remaining number of persons in the release area yet to be levied in persons at the beginning of the time period (yearly/biannually). This can be determined by subtracting levied development (excluding dedications) in persons from original population to be levied for cash contribution (8765 persons).

Nett Fund = The Nett Fund Balance is determined from a monthly debit/credit ledger kept by Council. It incorporates project costs, developers contributions, overdraft/interest rate. The Fund can either be in debit or credit. If in debit the amount is added to "R". If in credit the amount is subtracted from "R".

Administration Levy = (see clause 1.7(m))

- (d) Where land required to be dedicated is not embellished or is only partly embellished Council may:
1. impose an embellishment levy based on the remaining embellishment requirements (per person) and the population generated by the proposed development. The embellishment rate per 1,000 persons is:
 - 10,500 square metres of topsoiled sportsfield (seeded, topsoiled)]
 - 3150 cubic metres of topsoil
 - 40% of one (1) amenities block (32m²)
 - irrigation equipment for 3,150m² of sportsfields
 - car parking (Area 1 embellishment)
 - and will include a 10% Administration Levy.
 2. accept a greater dedication of land (unembellished) equal in value to the cost of embellishments deficiency provided by Council is satisfied

with the quality of the land and the work that will be required to bring the land to an adequate standard (see Section 1.8.4(b)).

2.8.4 Dedication of Structured Open Space

- (a) Council may only accept dedication of areas outlined in Figure 1 and listed in Section 1.8.2(a) as structured open space.
- (b) Embellished structured open space which is to be dedicated to Council must be provided at the rate of 17m² per person. Embellishments must be to Council's satisfaction ie. Recreation Services Unit. For the purpose of this plan unembellished land is land filled to the appropriate level (does not include topsoiling and incorporates drainage works as outlined by approved plans (see Section 1.8.2(c)).
- (c) If the initial stage of development is subdivision dedications will be levied assuming that a dwelling house will be erected on each residential allotment created at an occupancy rate based on the prevailing ABS Census (2.6 persons per lot). For medium density development contributions will be also based on the prevailing ABS occupancy rate for medium density development (1.7 persons per lot).

Example

$P \times 17m^2 =$ land dedication

where P = expected population in residential subdivision based on 2.98 persons per lot (ABS 1986 or expected population in medium density development based on 2.26 persons per lot.

Generally, Council will not accept structured open space in lieu of passive open space.

- (d) Where structured open space can only be partly dedicated a cash contribution will be required based on the levy derived from Section 1.8.3.
- (e) Where structured open space has been dedicated to Council without or partly without embellishments Council will levy a cash contribution for embellishments. For the purposes of this plan embellishments include topsoiling, seeding, irrigation equipment and amenities buildings (see section 1.8.3(d)).
- (f) Where structured open space cannot be provided immediately at the end of a current stage of subdivision, but it is intended to provide structured open space at the end of future stages, Council may accept and hold a Bank Guarantee equal to the open space contributions plus 10% until such a time as the structured open space has been dedicated and embellished to Council's satisfaction. The final stage of subdivision will not be released (linen plan) until all structured open space commitments have been met. Developers are required to apply in writing to Council if this procedure is requested. Applicants must indicate the location and area of structured open space to be dedicated and the embellishments proposed, for all future subdivisions under the Clause.
- (g) Where a dedication and/or embellishments of structured open space is greater than required for subdivision release Council can either:

1. Register a credit to the developer/landowner which can be utilised in future stages of subdivision or future medium density development designated by the developer; or
2. Acquire the residual area of structured (embellished) open space from the developer from monies derived from the Section 94 Open Space Fund.
3. Accept the land as a material public benefit in lieu of other Section 94 Contributions, eg Community Facilities. Council shall not approve this procedure until it has assessed the status of the other Contribution Fund and the value of the material public benefit.

In each of the above situations Council will determine the quality of land dedicated and the level of embellishments on the site. Developers may with Council's approval, dedicate additional land in lieu of embellishments which have not been carried out. (See Section 1.8.3(d)).

2.9 Casual Open Space

2.9.1 Casual Open Space

Casual Open Space shall be provided at the rate of 1.13 hectares per 1,000 persons or 11.3m² per person.

The majority of casual open space, unlike structured open space, shall be provided within each development parcel. Where this is not the case, a contribution will be required.

Contributions will be determined at the current market value of land within the development site.

2.9.2 Casual Open Space Requirement

Council has not predetermined the exact location of casual open space. Casual open space however will be required throughout the DCP area within at least 500 metres of each household.

Where possible Council will endeavour to consolidate casual open space to areas 5,000m² or greater. This may involve incorporating dedications to existing or future casual open space areas.

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

- i. **Distribution and shape of open space** - Council shall ensure that open space is accessible and is equitably distributed to the neighbourhood it is to serve. Long, narrow open space which does not serve as a useable cycle/pedestrian linkage will not be accepted.
- ii. **Size** - Minimum 5,000m² or ability to form part of existing/future casual open space.
- iii. **Variety and complexity** - where possible casual open space will incorporate features which add to its amenity, ie water features (excluding lakes and drains utilised for trunk drainage), remnant urban bushland, areas of scenic strategic locations. Council will also give

consideration to the required needs of the area in determining the type of casual open space required.

- iv. **Useability** - The majority of casual open space must be able to be utilised by the general public. In determining its useability Council will have regard to its topography, soil type, scenic value, size, accessibility, hydrology, vegetation, and conservation value.
- v. **Maintenance** - Council assess the future maintenance requirements for casual open space prior to acquisition/dedication. Where more than the required amount of suitable casual open space is provided Council may consider its dedication as parkland provided the area is developed to reduce Council's maintenance costs.

2.9.3 The Casual Open Space Levy

Where casual open space cannot be dedicated or can only be partly dedicated a cash contribution will be required.

The cash contribution will be based on the following formula:

$$((P \times 0.0013) - A) \times C + 10\% \text{ Administration Levy (Section 1.7(m))} = \text{Total Contribution}$$

where

- P = expected population in the proposed development applying the relevant occupancy rates
- A = area of passive open space provided within the individual development
- C = valuation of 2(c) zoned land per hectare within the area (market value)

2.9.4 Dedication of Casual Open Space

- (a) Casual open space which is to be dedicated to Council must be provided at the rate of 11.3m² per person. Council will not accept casual open space in lieu of structured open space.
- (b) If the initial stage of development is subdivision dedications will be levied assuming that a dwelling house will be erected on each residential allotment at an occupancy rate of 2.6 persons per Lot (ABS 1996).
- (c) For medium density development dedications will be levied assuming an occupancy rate of 1.7 persons per dwelling (ABS 1996). Council will discount any contribution previously paid at subdivision stage.
- (d) Developers may dedicate casual open space in lieu of future medium density development at the time of initial subdivision provided that such dedications are not less than:
 - Residential 'A' - 33.7m² lot for dwelling entitlement including assumed 20% dual occupancy approval.
 - Residential 'B' - 614m² per hectare based on a housing density of 24 dwellings per hectare.
 - Residential 'C' - 766m² per hectare based on a housing density of 30 dwellings per hectare.

- (e) Where a dedication of casual open space is greater than required, Council can register a credit to the development which can be utilised in future stages of development designated by the developer.
- (f) Where more than the required amount of suitable open space is provided Council may consider its dedication as parkland, although not at the expense of providing structured open space and provided the area is 'developed' to reduce Council's maintenance costs.
- (g) Council will not acquire residual casual open space unless Council considers the land has strategic open space value, meets the performance criteria outlined in Section 1.9.2 and there are or will be sufficient Section 94 contributions collected for acquisition of casual open space. Acquisitions by Council of any passive open space will be subject to negotiations with Council.
- (h) Developers are required to consult with Council's Recreation Resources Unit regarding appropriate embellishment requirements for casual open space prior to dedication and/or embellishment.
- (i) Where casual open space cannot be provided immediately at the end of a current stage of subdivision, but it is intended to provide casual open space at the end of future stages, Council may accept and hold a Bank Guarantee equal to the open space contribution plus 10% until such a time as the casual open space has been dedicated and embellished to Council's satisfaction. The final stage of subdivision will not be released (linen plan) until all casual open space contributions have been met. Developers are required to apply in writing to Council if this procedure is requested. Applicant must indicate the location and area of casual open space to be dedicated and the embellishments proposed for all future subdivisions under the Clause.

2.10 Public Accountability

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.

SCHEDULES

SCHEDULE 1 - Calculations

Structured Open Space Calculation

Council has adopted the following standards for the seven (7) structured open space areas outlined in Figure 1.

Area 1	-	Multi purpose sports fields - existing fields (18,900m ²) plus access road and carparking area (6,000m ²)
4.5ha	-	One (1) amenities block (existing)
Area 2 (7,740m ³)	-	Multi purpose sports fields - 25,800m ² x 300mm topsoil
3.175ha	-	One (1) amenities block (80m ²)
Area 3	-	Multi purpose sports fields - 4,400m ² x 300mm topsoil (13,200m ³)
7.28ha	-	Four (4) amenities block (826m ²), carparking (4,800m ²)
Area 4	-	Multi purpose sports field - 22,000m ² x 300mm topsoil (6,000m ³)
2.2ha	-	One (1) amenities block (80m ²)
Area 5 (6,600m ³)	-	Multi purpose sports fields - 22,000m ² x 300mm topsoil
4.0ha	-	One (1) amenities block (80m ²)
Area 6 AHD. 1.00ha	-	Multi purpose sports fields. Filled to RL 2.65 metres
Area 7 2.1ha	-	Multi-purpose sportsfields 21,000m ² x 300mm topsoil (6,300m ³) and Amenities block (80m ²)
TOTAL	=	24.255ha

Amendment No 9 – Contribution Levy Structured Open Space

The estimated remaining population in the DCP3 area at the time of this amendment is 2,000. The current balance as at October 2005 for structured open space is \$2,493,000. The remaining commitments under this plan at this date are:

• Purchase of Area 3	\$990,000
• Embellishment of Area 3	\$2,422,196
- Topsoil & Seeding 6.8ha	\$361,896
- Irrigation @ \$2.50m ²	\$176,000
- Lights 50% of fields (\$40,000/field)	\$140,000
- Amenities 826m ² x \$1,350m ²	\$1,115,100
- Carparking 140 car spaces	\$630,000

Contribution Plan No. 1

Banora Point West/Tweed Heads South Open Space Contribution



• Area 1 Dave Burns	- upgrade facilities	\$220,000
	- change rms	
	- access/parking etc	
• Area 2 field upgrade		\$85,000
• Area 5 Banora Green	- lights	\$65,000
	- carpark	\$15,000
	- amenities	\$40,000
• Area 4	- amenities	\$76,800
• Area 7	- amenities	\$76,800
• Contribution towards Lake Kimberley -		<u>\$205,000</u>
		\$4,195,796

Therefore the remaining commitment under this Plan is \$1,702,796. Based on this amount and the estimated remaining population, the new levy rate is:

$$\frac{\$1,702,796}{2,000}$$

= **\$851.39** per person + 10% administration = \$936

Levy per lot: \$936 x 2.6 = \$2,433

Levy per medium density: \$936 x 1.7 = \$1,591

Casual Open Space Calculation

Contribution Levy Passive Open Space

Amendment No.6 involves two interlinked facilities in Banora Point and has involved consultation with the local community. These facilities are the provision of passive open space and its embellishment and the proposed community centre adjacent to the Salvation Army building.

During the discussions regarding the community centre in Banora Point the residents identified concerns with the quantity and quality of casual open space in the Banora Point area. Consequently an audit of the passive open space areas in the DCP3 of Banora Point was undertaken which involved mapping the existing data base of passive open space in the study area, visiting all passive open sites, rating them against a set of criteria and developing a set of recommendations for current and future passive open space.

In summary it found that there is a requirement to improve a number of the parks through embellishment and provision of facilities and play equipment, although the links between the open space areas are well developed. The estimated cost to undertake the improvements is approximately \$740,000. The opportunity to address any shortfall in the provision of passive open space through securing more land is limited because of the cost involved. The Work Program for the passive open space embellishment in Banora Point is at Schedule 2.

With respect to the community centre, an Establishment Committee was formed to oversee the detailed planning of the functions of the centre. The Committee

concluded that the appropriate size of the community centre be smaller than that planned in Contribution Plan No.3. As there are sufficient funds in that plan for the reduced sized centre, it is proposed that contributions for this centre cease. Therefore the remaining population in the DCP3 area (the same population contributing under CP1) will not be required to contribute \$512 per lot (single residential) and \$388.80 (medium density).

These two rates are the equivalent rates that have been levied under Contribution Plan No.3 (Community Facilities) in the DCP3 area. Contributions have now ceased under this plan.

Levy rate where developer dedicates and embellishes passive open space

- **\$512 per lot for single residential**
- **\$388.80 for medium density dwellings.**

In addition to the above levy that has been transferred from CP1, the passive open space contribution that has to date been levied under CP1 will continue to be charged where there is no dedication or embellishment of passive open space. It is assumed that most of the passive open space land to be dedicated and embellished will be on the remaining development land known as Sullivans land. The rate is as follows: For the purpose of determining the contribution levy for passive open space, the value of 'C' in the formula $(P \times 0.00113) - A) \times C$ (see Section 1.9.93) is \$285,891 (based on the averaged value of Areas 2 and 4).

For the purpose of determining the contribution levy for passive open space, the value of 'C' in the formula $(P \times 0.00113) - A) \times C$ (see Section 1.9.93) is \$285,891 (based on the indexation of the averaged value of Areas 2 and 4).

The passive open space levy where a developer does not dedicate or embellish passive open space is as follows:

Levy rate where developer does not dedicate or embellish passive open space

The remaining financial commitments under this Plan for passive open space are:

- \$255,000 for Lake Kimberley (passive open space component)
- \$740,000 for embellishment of existing passive open space in Banora Point.
- $\$512 + \$1,059 = \$1,571$ per lot for single residential
- $\$388.80 + \$803 = \$1,192$ per lot for medium density dwellings

Assumptions

- 2.6 persons per single detached dwellings (ABS 1996)
- 1.7 persons per medium density dwelling (ABS 1996)
- 10 lots per hectare - Residential "A" (Council survey 1992)
- 24 dwellings per hectare - Residential "B" (Council survey 1990)
- 30 dwellings per hectare - Residential "C" (Council survey 1992)

Land Valuations

Land valuations (not including embellishments) have been derived from the Valuer General's Department on the following basis:

- That sites 1 to 5 and 7 (future sportsfields) are filled to a minimum height of RL 1.75 metres AHD. Where land is above this level, the valuation to be based on existing levels.
- That site 6 is filled to a minimum height of RL 2.65 metres AHD (community facilities centre and sports area).
- That sites 1-7 are generally level and drained, suitable for use as sports fields. Valuations do not include provision of quality topsoil (300mm) which will be costed separately as embellishments. (site 3 does not include cost of clearing and levelling approximately 2.25ha of bushland which is to remain as a landscape/amenity/habitat/STP buffer).
- That all parcels have road access in situ and services provided to the boundaries by the developer.
- That future development within the area will proceed as outlined in Development Control Plan No. 3 (as amended).

Ten percent value has been added (contingency). Previous land valuations in the DCP 3 area for open space were derived from both Valuer General's values and private valuations. The ten percent contingency takes into account private valuations which have been higher than Valuer General's values, fund leakages resulting from such factors as time lags in Plan review and miscellaneous acquisition costs (ie, legal fees).

Contribution Plan No. 1

Banora Point West/Tweed Heads South Open Space Contribution

SCHEDULE 2 - Banora Point Open Space Embellishments – indicative costs

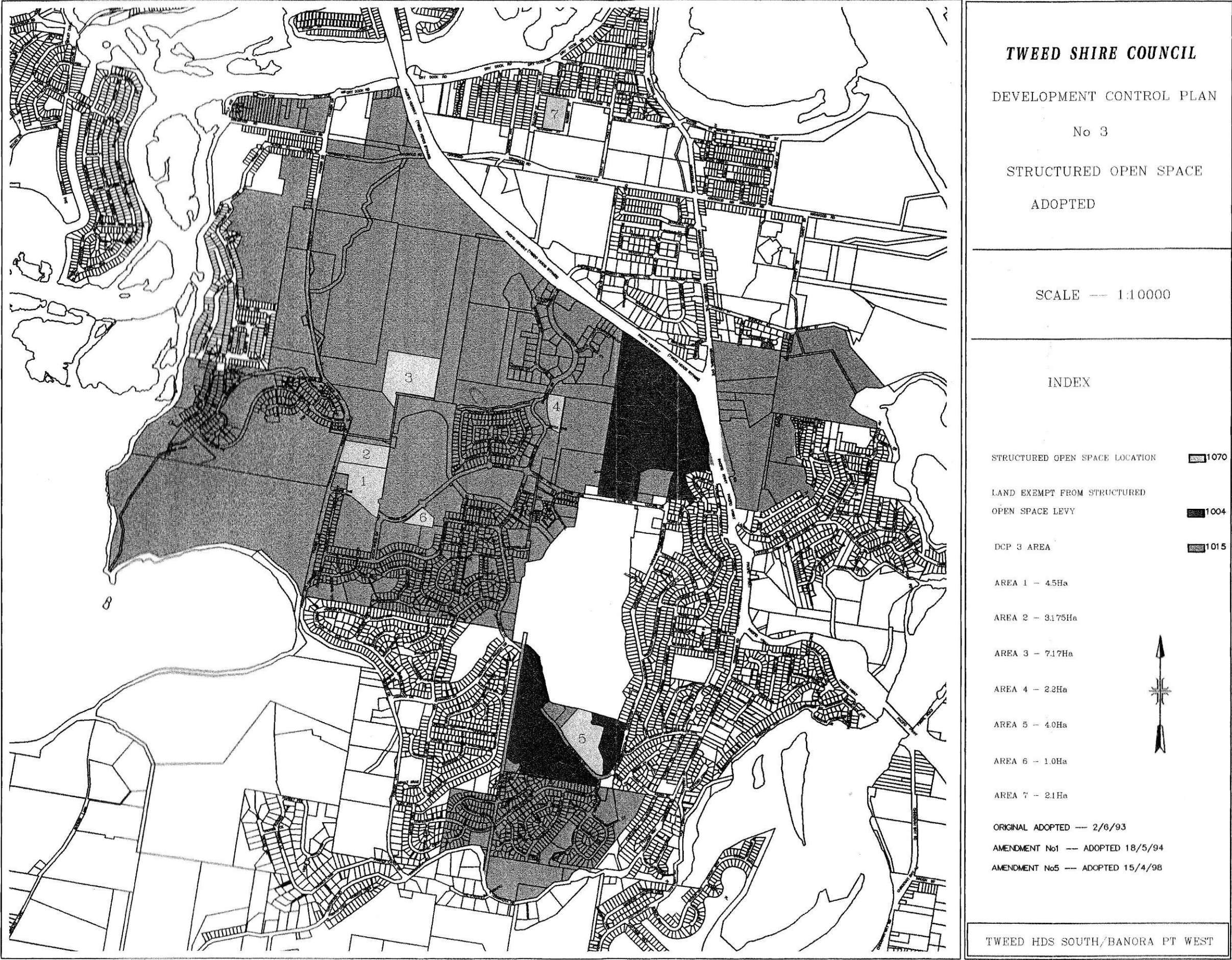
Project	Cost/Unit	Cost
Banora Green		
Playground/equipment	\$25,000	\$25,000
Kildare Drive		
Tree Planting	\$10	\$500
Clonakilty/Glen Ayre		
Bridge and walkway	Bridge \$15,000 Concrete path \$35/sqm	\$15,000 \$55,000
West side of Darlington Drive		
Playground equipment	\$85,000	\$85,000
Picnic tables and shelter	\$30,000	\$30,000
BBQ facilities	\$20,000	\$20,000
35 sq m amenities block	\$50,000	\$50,000
Boardwalk and viewing platform	\$30,000	\$30,000
Skate park	\$100,000	\$100,000
Carpark	\$71.5/sqm (70mx20m)	\$100,000
Bike and Pedestrian track	\$35/sqm	\$30,000
Rainforest walk	\$5000	\$5,000
Landscaping	\$30,000	\$30,000
Fill and level	\$15,000	\$15,000
Consultancy	\$10,000	\$10,000
Nandina Terrace		
Seating	\$500	\$1500
Woodlands Drive		
Playground equipment	\$25,000	\$25,000
basketball court	\$30,000	\$30,000
Seating	\$5,000	\$5,000
Shading	\$5000	\$5,000
BBQ facilities	\$10,000	\$10,000
Between Leisure and Avondale Drives		
Seating	\$500	\$1,000
Meron/Rosway Court		
Seating	\$500	\$1,000
Walkway opposite Avondale Dr		
Level and fill	\$5,000	\$5,000

Contribution Plan No. 1

Banora Point West/Tweed Heads South Open Space Contribution

Project	Cost/Unit	Cost
Paths	\$35/sqm	\$40,000
Seating	\$500	\$5000
Medoc Place		
Shading over play equipment	\$6,000	\$6,000
The Grange in Vintage Lakes		
Seating	\$500	\$5,000
Total		\$740,000

Figure 1



Contribution Plan No. 1

Banora Point West/Tweed Heads South Open Space Contribution

SCHEDULE 3 - History of the Plan

Amendment	Council Resolution	In Force
Amendment No 1	23/3/94	
- Relocate Area 1(Structured open space)	18/5/94 (re-confirmed)	19/5/94
- Add area 7(Structured open space)		
Arkinstall Park ext.	1/2/95	1/2/95
Amendment No. 2		9/12/95
- Section 94 Administration Levy		
Amendment No. 3	21/2/96	29/2/96
Repayment of Contributions dedication of Area 2		
Amendment No. 4	19/3/97	8/4/97
Review of contribution levy		
Amendment No.5	24/8/98	15/4/98
Review area 3		
No change to contribution levy		
Amendment No.6	24/3/2003	21/8.02
1. Amendment to the passive open space costs		
2. An increase in the passive open space levy from \$1,059 per single residential lot to \$1,571 for undedicated or unembellished land		
3. Amendment to the Work Program for Area 1		
4. Expenditure on Area 6 has been reduced by		
5. \$40,800 to account for a new work program		
6. Occupancy rate per lot reduced		
7. Reduction in the levy rate for structured open space from \$2,407 per lot to \$2,075 per lot		
8. Allocation of \$205,000 towards the purchase of open space surrounding Lake Kimberley (structured open space)		
Amendment No.7		
Amendment to the structured open space costs:		

Contribution Plan No. 1

Banora Point West/Tweed Heads South Open Space Contribution

Amendment	Council Resolution	In Force
Area 2 – \$85,000 field upgrade		
Area 3 revalued		
Embellishment cost for Area 3 revised		
Car park and additional amenities block added to Area 3		
\$205,000 allocated to facilities (canteen, dressing sheds) at this sports ground		
Area 5 – Banora Green \$85,000 for lighting, carparking and amenities improvements		
<u>Amendment No 8</u>		8/3/2006
Revision of structured open space levy.		
<u>Amendment No 9 (Version 10)</u>		
This amendment:		
<ul style="list-style-type: none">increases the contribution rate per person in line with increases in the ABS IPD index since the plan was last amended in June 2006 being 18.95% (non-land component), and Tweed Shire Council Land Index being 9.52% (land component);calculates the per lot and per medium density unit rate in accordance with currently accepted occupancy estimates, being 2.4 persons per lot or dwelling, and 1.95 persons per medium density unit;includes definitions and detail to allow for future indexation in line with the IPD and Tweed Shire Land Index (see section 1.7.1); andadds a summary schedule for ease of reference.		
<u>Amendment No 9.1 : (This version) (Version 10.1)</u>		
This version:		
<ul style="list-style-type: none">Reduces the admin component from 10% to 5% to be consistent with the Direction from the Minister for Planning dated 10 July 2009.Makes no other changes to the plan.		

Contribution Plan No. 1

Banora Point West/Tweed Heads South Open Space Contribution

Calculations for indexation of contribution rates in this version

Index calculations:

Index Date	IPD*	% Increase
30/06/2006	74.29	
1/12/2022	113.86	77.10%

* IPD are calculated from ABS Chain Volume Measures for Engineering Construction Activity December 2022.using the formula below:.

$$IPD = \frac{\text{Table 03 value of work done Column G}}{\text{Table 01 Value of work done Column G}} \times 100$$

Index Date	TSC Land Index*	% Increase
30/06/2006	163.9	
30/3/2023	550.4	237.79%

Structured Open Space

Version 9			Version 10.1.10 July 2023			
	Proportion of existing levy	Levy per person ex admin	Index	Rate	Indexed levy ex admin	Levy per person inc 5% admin
Land component	24%	\$204.33	TSC Land Index	235.79%	\$686.12	
Other	76%	\$647.06	IPD (Engineering Construction)	77.10%	\$1,145.94	
Total		\$851.39			\$1,832.06	\$1,923.67

Version	Per Person	Per Lot		Per Medium Density Unit	
	Levy	Prevailing Occupancy rate	Levy	Prevailing occupancy rate	Levy
9	\$936	2.6	\$2,433	1.7	\$1,591
10	\$1,043	2.4	\$2,504	1.95	\$2,034
10.1.1	\$1,061	2.4	\$2,546	1.95	\$2,069
10.1.2	\$1,083	2.4	\$2,599	1.95	\$2,112
10.1.3	\$1,092	2.4	\$2,621	1.95	\$2,129
10.1.4	\$1,096	2.4	\$2,630	1.95	\$2,137
10.1.5	\$1,117	2.4	\$2,681	1.95	\$2,178
10.1.6	\$1,165	2.4	\$2,797	1.95	\$2,272
10.1.7	\$1,297	2.4	\$3,113	1.95	\$2,529
10.1.8	\$1,389	2.4	\$3,334	1.95	\$2,709
10.1.9	\$1,462	2.4	\$3,510	1.95	\$2,852
10.1.10	\$1,923.67	2.4	\$4,616.80	1.95	\$3,751.15

Contribution Plan No. 1

Banora Point West/Tweed Heads South Open Space Contribution

Casual Open Space

Levy rate where developer dedicates and embellishes passive open space

Version 9			Version 10.1.10 July 2023			
	Proportion of existing levy	Levy per person ex admin	Index	Rate	Indexed levy ex admin	Levy per person inc 5% admin
	100%	\$179.02	IPD (Engineering Construction)	77.10%	\$317.05	
Total		\$179.02				\$332.90

Version	Per Person	Per Lot		Per Medium Density Unit	
	Levy	Prevailing occupancy rate	Levy	Prevailing occupancy rate	Levy
9	\$196.92	2.6	\$512	1.32	\$388.80
10	\$224	2.4	\$537	1.95	\$436
10.1.1	\$225	2.4	\$540	1.95	\$439
10.1.2	\$231	2.4	\$554	1.95	\$450
10.1.3	\$234	2.4	\$562	1.95	\$456
10.1.4	\$235	2.4	\$564	1.95	\$458
10.1.5	\$237	2.4	\$570	1.95	\$463
10.1.6	\$240	2.4	\$576	1.95	\$468
10.1.7	\$270	2.4	\$647	1.95	\$525.8
10.1.8	\$285	2.4	\$683	1.95	\$555
10.1.9	\$291	2.4	\$698	1.95	\$567
10.1.10	\$332.90	2.4	\$798.97	1.95	\$649.16

Contribution Plan No. 1

Banora Point West/Tweed Heads South Open Space Contribution

Levy rate where developer does not dedicate or embellish passive open space
No-dedication component

Version 9			Version 10.1.10 July 2023			
	Proportion of existing levy	Levy per person ex admin	Index	Rate	Indexed levy ex admin	Levy per person inc 5% admin
	100%	\$549.30	IPD (Engineering Construction)	77.10%	\$972.83	
Total		\$549.30				\$1,021.47

Version	Per Person	Per Lot		Per Medium Density Unit	
	Levy	Prevailing occupancy rate	Levy	Prevailing occupancy rate	Levy
9	\$604.23	2.6	\$1,059	1.32	\$803
10	\$686	2.4	\$1,647	1.95	\$1,338
10.1.1	\$691	2.4	\$1,658	1.95	\$1,347
10.1.2	\$710	2.4	\$1,704	1.95	\$1,385
10.1.3	\$718	2.4	\$1,723	1.95	\$1,400
10.1.4	\$721	2.4	\$1,730	1.95	\$1,406
10.1.5	\$728	2.4	\$1,747	1.95	\$1,420
10.1.6	\$737	2.4	\$1,768	1.95	\$1,436
10.1.7	\$827	2.4	\$1,986	1.95	\$1,613
10.1.8	\$873	2.4	\$2,096	1.95	\$1,703
10.1.9	\$893	2.4	\$2,142	1.95	\$1,741
10.1.10	\$1,021.47	2.4	\$2,451.53	1.95	\$1,991.87

Total levy rate where developer does not dedicate or embellish passive open space (add to rate where developer does embellish)

Version	Per Lot		Per Medium Density Unit	
		Levy		Levy
9	\$512 + 1,059	\$1,571	\$388.80 + \$803	\$1,192
10	\$537 + \$1,647	\$2,184	\$436 + \$1,338	\$1,774
10.1.1	\$540 + \$1,658	\$2,198	\$439 + \$1,347	\$1,786
10.1.2	\$554 + \$1,704	\$2,258	\$450 + \$1,385	\$1,835
10.1.3	\$562 + \$1,723	\$2,285	\$456 + \$1,400	\$1,856
10.1.4	\$564 + \$1,730	\$2,294	\$458 + \$1,406	\$1,864
10.1.5	\$570 + \$1,747	\$2,317	\$463 + \$1,420	\$1,883
10.1.6	\$576 + \$1,768	\$2,344	\$468 + \$1,436	\$1,904
10.1.7	\$647 + \$1,986	\$2,633	\$525 + \$1,613	\$2,139
10.1.8	\$683 + \$2,096	\$2,779	\$555 + \$1,703	\$2,258
10.1.9	\$698 + \$2,142	\$2,840	\$567 + \$1,741	\$2,308
10.1.10	\$798.97 + \$2,451.53	\$3,250.50	\$649.16 + \$1,991.87	\$2,641.03



Customer Service | 1300 292 872 | (02) 6670 2400

tsc@tweed.nsw.gov.au
www.tweed.nsw.gov.au

Fax (02) 6670 2429
PO Box 816
Murwillumbah NSW 2484