

B3 - BANORA POINT WEST - TWEED HEADS SOUTH

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B3 - BANORA POINT WEST - TWEED HEADS SOUTH

B3.1 INTRODUCTION

B3.1.1 Aims of this Section

- Present Council's objectives with regard to development of Banora Point West - Tweed Heads South;
- Provide more detailed provisions than that contained in the Tweed Local Environmental Plan 2000;
- Provide guidelines for determination of the merits of developments within Banora Point West - Tweed Heads South as required by Section 90(1)(a) of the Environmental Planning and Assessment Act, 1979; and
- Give detailed guidance to those wishing to develop within the Banora Point West - Tweed Heads South Area, to indicate Council's policies with respect to development, and to form a basis for negotiations should a departure from the provision of this plan be requested.

B3.1.2 Land to which this Section applies

This Section applies to all that land within the Shire of Tweed generally referred to as Banora Point West - Tweed Heads South, its location as shown on Map B3 – Map 1 Locality Plan.

B3.1.3 How to use this Section

Where a development is proposed in respect of land to which this Section applies, Council shall take the provisions of this Section into consideration in determining the application.

Compliance with the provisions of this Section does not necessarily imply that Council will grant consent to an application. Council must, in relation to development applications, also take into consideration those matters listed under Section 90(1) of the Environmental Planning and Assessment Act 1979.

In special circumstances, Council may consent to an application which departs from the provisions of this Section.

In preparing an application for development there are a number of specific steps that should be followed:

- Step 1:** Check the zoning of the site under Tweed LEP 2000 to ensure that the proposed development is permissible and to determine what related provisions apply.
- Step 2:** Establish what other Sections of this DCP or Policies apply to the site.
- Step 3:** Discuss your final application with Council staff then lodge it for determination.

B3.1.4 How does this Section relate to other Sections and Environmental Planning Instruments?

Where an inconsistency arises between this Section and any environmental planning instrument applying to the same land, the provisions of environmental planning instrument prevails. An environmental planning instrument means a

State Environmental Planning Policy, a Regional Environmental Plan or a Local Environmental Plan.

Where there is an inconsistency between this Section and any other Sections, the provision of this Section shall prevail.

This Section contains development objectives and other provisions in respect of "Banora Point West - Tweed Heads South: and relates to Tweed Local Environmental Plan 2000 which is the principal planning instrument governing development in the Shire.

This Section makes reference to other Council documents which may be relevant to certain applications.

These documents include:

- Section A1 - Residential and Tourist Development Code
- Section A2 - Site Access and Parking Code
- Section A4 - Advertising Signs Code
- Section A3 - Development of Flood Liable Land
- Section A5 - Subdivision Manual
- Section A12 - (Repealed 29 April 2008)

Water Supply and Sewerage Contributions Plans

State Environmental Planning Policy – Seniors Living

Tweed Heads South Planning Report

Section 94 Plan No 1 – Banora Point West/Tweed Heads South Open Space

Section 94 Plan No 2 – Banora Point West Drainage Scheme

Tweed Heads South Community Development Contribution

Section 94 Plan No 4 - Tweed Road Contributions Plan

Copies of these documents may be obtained on request from Council.

B3.1.5 Conditions of Development Consent

a. Section 94 Contributions

In assessment and determining a development application under Section 90 and 91 of the Environmental Planning and Assessment Act 1979, Council may impose conditions requiring the undertaking of certain works or improvements by developers, the dedication or transfer of land to Council, or the payment of monetary contributions towards public amenities and services, which are needed as a result of the development. The methods for determining these S.94 contributions are detailed in the Council's Section 94 Contributions Plans, some of which are outlined in this Plan.

b. Contributions, Land Dedication or Works

Subject to paragraph (d) nothing in this plan shall limit Council's ability to:

- i impose contributions;
- ii require dedication or transfer of land to Council; or

- iii require construction of works.

As a condition of consent to a development based on Council's assessment of the application under Section 90 of the Environmental Planning and Assessment Act 1979 or its consideration of an application under the Local Government Act 1919.

- c. Section 94 of the Act requires that there must be a 'nexus' between conditions imposed on a development consent relating to public services and the amenities demanded by the development. The Section 94 criteria for contributions is:
 - i It must be for, or relate to a planning purpose;
 - ii It must fairly and reasonably relate to the subject development; and
 - iii It must be such as a reasonable planning authority, duly appreciating the statutory duties, could have properly imposed.

Section 94 of the Act requires Council to prepare Contribution Plans to outline the 'nexus' and cost apportionment (where relevant) of the public facilities and/or services to be provided.

B3.2 DESIGN PHILOSOPHY AND DEVELOPMENT PRINCIPLES

The Banora Point West - Tweed Heads South project is essentially a residential development with associated recreational, tourist, community/educational facilities and industrial/trade activities. The site's proximity to the Gold Coast, Tweed River and the Shire's beaches resulted in the area being designated a living/holiday theme.

As a consequence of this theme, site planning for the Banora Point West - Tweed Heads South Project has integrated conventional residential development with holiday oriented facilities (eg motels, caravan/mobile home parks, sports clubs, golf courses, resort hotels, tourist condominiums etc) whilst incorporating an industrial/trade area to service the lower Tweed catchment.

B3.2.1 Design Philosophy

The design of the area has taken into account the following five (5) broad considerations:

- i The need to retain the current identities of both Banora Point West (living area) and Tweed Heads South (township/holiday area);
- ii The need to integrate the development whilst providing neighbourhoods of residential development and buffering possible incompatible land uses;
- iii The need to ensure that development is in harmony with the natural environment;
- iv The need to take into account constraints inhibiting development; and
- v To ensure that urban subdivision design has regard to slope, drainage patterns, geological hazards, landscape features; road hierarchy; open space networks and the provision of public facilities and services.

B3.2.2 Development Principles**General**

- a. To identify land which is suitable for residential, tourist residential, open space, recreational, commercial, industrial and community purposes which complements adjacent areas;
- b. To create a community facilities precinct within the development to provide a focus for commercial, community and educational activities;
- c. To create a series of artificial lakes that provide a major visual focus; contribute towards flood mitigation and drainage; provide a focal point for recreational, community and open space activities; and, contribute to the amenity of adjoining residential development;
- d. To create a visual/open space buffer between the suburbs of Tweed Heads South and Banora Point;
- e. To provide generally for low and medium density housing whilst at the same time providing for flexibility in housing choice and density by allowing for the erection of a variety of residential forms in appropriate areas;
- f. To focus intense uses in that area near the Twin Towns Sports Complex. Plan for lower intensity uses where development adjoins areas of high landscape value and natural areas of conservation and recreational significance;
- g. To establish a limited access distributor road which runs east-west from Darlington Drive to Fraser Drive. Organise collector roads to access development areas north and south of this proposed distributor road;
- h. To provide roads and pathways for effective, convenient and safe access and efficient servicing by public transport and to ensure an efficient overall road system for Tweed Heads South-Banora Point;
- i. To enable development for retail, commercial and community purposes for the local neighbourhood in appropriate locations within the site;
- j. To provide for Industrial and Commerce/Trade activities which are to be significantly buffered from residential areas;
- k. To provide for a range of tourism development forms offering different standards and types of accommodation, recreation opportunities and hospitality services;
- l. To allow for a wide range of public and private recreational and leisure activities to service the future residential community both within the study area and for the Tweed Heads South-Banora Point locality;
- m. To ensure the provision of an adequate, efficient and environmentally safe drainage system;
- n. To ensure that development does not take place unless adequate provision is made for utility services (such as electricity, drainage, water, sewerage and telephone) and community services;
- o. To establish the parameters for the efficient provision and utilisation of public facilities and infrastructural services and an equitable contribution system for cost sharing the delivery of such services.

Specific Objectives

The specific design objectives with regard to utilities, business, industry, housing, tourism, recreation - open space, environmental protection, drainage, traffic and transport and community facilities are detailed in the following sections.

B3.3 LAND USES AND COMPONENTS OF THIS SECTION

Development of the subject locality must generally comply with the "layout plan" (see B3 – Map 2 – Layout Plan). The various land use components of the layout plan are as follows.

B3.3.1 Residential

These will accommodate a variety of residential housing types, the nature and overall proportion of which are stated below. Table 1 (Page 9) provides a breakdown of the various housing types by precinct (see B3 – Map 3 – Precinct Plan). In determining yields cognisance was taken of the various development proposals in addition to the standard densities which are as follows:

Detached dwellings	10 per hectare
Duplexes	20 per hectare
Townhouses etc	24 per hectare
Special (integrated, mobile homes)	30 per hectare

It should be noted that the standard densities are indicative only and are not a statutory requirement.

Residential 'A' Areas

In these areas (approximately 145 hectares) a predominantly conventional detached housing character and amenity is envisaged although dual occupancies may be permitted within this land use category in accordance with Section A12 of this DCP.

Total detached residential allotment stock will be in the order of 1,160 thereby accommodating a population of approximately 3,460 persons for this component. The anticipated number of dual occupancy allotments is 290 (ie 580 dwellings) with an expected population of approximately 1,300.

Limited local open space may be required in these areas for linkages or neighbourhood parks in addition to the major open space system identified in this Section.

Residential 'B' Areas

In this category the housing form is medium density with attached buildings such as are commonly known as villas or townhouses. Duplexes, cluster and integrated housing development may also be accommodated within this area, provided the density of any proposed development is similar to the townhouse density.

Unless exceptional circumstances exist, these areas preclude the development of conventional detached dwellings.

Within the area to which this Section applies, provision has been made for approximately 120 hectares, which equates to 2,880 dwellings accommodating up to 6,500 persons.

Limited local open space may be required in these areas for linkages or neighbourhood parks in addition to the major open space system identified in this Section.

Residential 'C' Areas

In these areas a higher density housing configuration permitting more affordable housing types could be accommodated. The type of special residential forms include integrated residential development, cluster development and mobile home parks.

In these special residential areas it is envisaged that all stages (ie subdivision, building, provision of utilities etc) are undertaken by the developer.

Provision has been made for approximately 18 hectares which would accommodate 540 dwellings with a population of approximately 1,220 persons.

Limited local open space may be required in these areas for linkages or neighbourhood parks in addition to the major open space system identified in this Section.

Residential/Tourist Areas

A small area has been identified as a residential/tourist site. This land use category is intended to accommodate certain uses including:

- Tourist accommodation including hotels, motels, caravan parks; and
- Medium density housing for both permanent residents and visitors.

It is envisaged that approximately fifty (50) percent of this area will be devoted to permanent residential accommodation. Thus, total population should be in the order of 180 persons.

B3.3.2 Commercial

Within the area to which this Section applies, provision has been made for one (1) neighbourhood business and two (2) local shops.

The shop (located in Precincts 2 and 5) will service the convenience needs of the immediate local residents.

The neighbourhood business located in Precinct 3 (being larger in size than the local shops) will service the area to which this Section applies.

B3.3.3 Commerce and Trade/Industrial

Precinct No 4 contains the nominated area for Commerce and Trade/Industrial Development in accordance with the current zonings for the site. The major open space system surrounds this site to the west and south.

It is anticipated that the estate will provide for approximately thirty five (35) trade and commerce allotments and thirty five (35) industrial allotments.

Development should occur in a landscaped 'park-like' setting.

A further Trade and Commerce area is planned within Precinct No 7 to complete the Linear development of this section of the Pacific Highway.

B3.3.4 Tourist Development

Two areas have been identified for absolute tourist development.

The eastern site has been identified as a resort hotel which will operate separate to, yet interdependently with the Tweed Heads-Coolangatta Golf Course.

The western area is to provide an integrated tourist accommodation and retreat complex providing for the following land use components:-

- Hotel/Convention Centre to be located on the central hill;
- Tourist Villas/Condominiums to be provided adjacent to the Hotel/Convention Centre and overlooking the Tweed Heads Rowing and Aquatic Club;
- Corporate Lodges to be located south of the Hotel/Convention Centre;
- Golf Course to be provided on the low lying land between the ridge and Banora Point Sewage Treatment Plant; and
- Equestrian Facilities and Cabins as a continuation of the existing Pioneer Park complex.

B3.3.5 Educational Institutions

Two areas have been set aside in Precinct No 5 to provide for a Roman Catholic School and State Primary and Secondary School.

B3.3.6 Special Purposes

Institutional and specific uses will be included within the area, namely:

- Banora Point Sewage Treatment Plant;
- Nursery;
- Hostel;
- Motel;
- Retirement Village (2);
- Community Centre; and
- Lakeside Restaurant.

B3.3.7 Electricity Transmission Line Corridor

Provision has been made for an Electricity Transmission Line Corridor to accommodate the service provision requirements of this Section area and the Tweed South locality in general.

B3.3.8 Open Space/Lake System

The open space - lake system is a very important aspect of the Tweed Heads South project from both a landscape and engineering point of view. This system forms one of the major structural elements of this Section and should:

- provide a visual focus for the development and unite different land uses;
- provide a major focal point of recreational and community based activities;
- provide a delineation boundary between Banora Point and Tweed Heads South;
- provide buffers between incompatible land uses;

- provide an economical and visually positive method of flood mitigation and drainage for the site; and
- provide protection for important ecological areas.

A total area of open space (excluding lakes) of 2.83 hectares per 1,000 people is required. Without limiting the merits of each individual application approximately sixty (60) percent of this area (1.7 hectares) should be devoted to structured (active) open space (eg playing fields, tennis courts, netball courts etc) whereas about forty (40) percent (1.13 hectares) should be allocated to casual (passive) recreation (eg walking, picnic areas, neighbourhood parks).

The major 'open space' system represents a substantial part of the total site area. Therefore some open space will be private in ownership (eg South Tweed Rugby League Club etc).

Where open space land is not to be provided within individual developments a cash contribution to Council will be required.

The construction of lakes, canals and artificial waterways is 'designated development' under the provisions of the Tweed Local Environmental Plan and consequently specifications from the Department of Planning must be obtained prior to the commencement of the Environmental Impact Study.

Furthermore, this type of development is governed by a Section 101 direction only empowering the Minister for Planning to approve any development application for the construction of Lakes, Canals, or artificial waterways.

Table 1: Residential Housing Types and Estimated Population

Precinct No	Detached Dwellings	Duplex & Dual Occupancy	Medium Density	Special Residential	Total
1	-	-	180	-	180
2	140	55	540	-	735
3	1020	385	2210	-	3615
4	-	-	-	-	-
5	930	350	2180	1200	4650
6	1120	420	720	-	2260
7	250	90	860	-	1200
TOTAL	3460	1300	6690	1200	12650

* Occupancy Rates

Dwellings 2.98

Medium Density Dwellings 2.26

* The estimated population does not include the anticipated population with the stippled area referred to in section 14(d). This could conceivably increase the population by 330 persons (Residential A) or 540 persons (Residential B).

B3.4 UTILITIES

This Clause establishes the general principals relating to the provision of water, sewerage, electricity and telephone services.

The Tweed Heads South Project will be a fully serviced development the costs of which are to be borne by the developers in the area and Tweed Shire Council where appropriate.

Where possible, services should be staged to suit the varying rates of development by each developer.

In general terms, contributions will be levied on a pro rata basis for services external to the site whilst all services within the site will be provided by the developer.

B3.4.1 Objectives

- to provide for appropriate and efficient utility services, the costs of which are to be equitably shared between all developers and Council where appropriate;
- through the implementation of reasonable contributions facilitate the economic construction of utility services.

B3.4.2 Water Supply

Summary of Headworks Requirements

Water supply will be from the existing 600mm and 450mm diameter mains that run through the area along Fraser Drive and the Pacific Highway respectively. Also, a new reservoir and trunk main will be constructed south of the Terranora Road/Fraser Drive intersection to service this development.

The construction of the new reservoir and trunk main will be undertaken by Council via Council's headworks charges.

Guidelines

- (a) All lots shall be connected to an approved reticulated domestic water supply;
- (b) Water supply contribution charges shall be in accordance with Council's headworks charges nominated in the annually revised "Fees and Charges";
- (c) Water supply construction shall be in accordance with Section A5 – Subdivision Manual of this Section.

B3.4.3 Sewerage

Summary of Headworks Requirements

All of the development will be connected to the Banora Point Sewage Treatment Plant via a series of pump stations and rising mains the cost of which shall be shared between all developers. The augmentation of the treatment works will be funded through Council's headworks charges.

Guidelines

- (a). All lots shall be connected to a reticulated outfall sewerage system and treated at the Banora Point Sewage Treatment Works;

- b. Sewerage contribution charges shall be in accordance with Council's headworks charges nominated in the annually revised "Fees and Charges"; and
- c. The sewerage outfall system shall be constructed in accordance with Section A5 – Subdivision Manual of this DCP.

B3.4.4 Electricity

Summary of Headworks Requirements

Headworks charges will be levied by the relevant electricity supply authority as part of the sub-transmission System Augmentation Cash Contribution (SSACC) System). This is applied on the basis of a charge per lot or per dwelling unit or per estimated power demand for other developments such as retail, commercial, resort or educational activities.

Guidelines

Arrangements are to be made with the relevant electricity supply authority for the provision of underground reticulation of electricity throughout the area covered by this Plan.

B3.4.5 Telephone

Arrangements are to be made with the relevant telecommunications supply authority for the provision of an underground telecommunications supply throughout the area covered by this Plan.

B3.5 BUSINESS

One (1) Neighbourhood Business and two (2) Local Shops have been located within the DCP area to which this Section applies to service the daily shopping and other needs of the future population.

To ensure that such centres do not outgrow their neighbourhood function (given the proximity of residential areas) single shops should be of a size compatible with the function of the centre.

In addition to retailing, commercial premises such as banks, professional offices, real estate agencies, doctors' surgeries and community facilities are envisaged, particularly within the larger local centre.

B3.5.1 Objectives

- To provide for commercial activity at both a local and neighbourhood level;
- To ensure the appropriate location of retail and commercial facilities in terms of accessibility, residential amenity and traffic circulation;
- To promote the integration of other community activities with retail and commercial uses to encourage a focus of community activities.

B3.5.2 Guidelines

- a. No buildings are to be erected within:-
 - i. 18 metres from the street alignment of a distributor road or public reserve (proposed or otherwise);
 - ii. 9 metres from the street alignment of a collector road;

- iii. 6 metres from the street alignment of a local road.

Within these minimum building setbacks areas at least 3 metres must be landscaped (immediately adjacent to the street frontage), except where frontage is to a distributor road or public reserve where the minimum landscape area is to be increased to 6 metres.

- b. Fencing is permissible within the minimum setback area provided.
 - i. it is located behind the landscaped areas (immediately adjacent to the street frontage) where such fronts a distributor road or public reserve;
 - ii. where it is located adjoining a distributor road such fencing must act as a pedestrian barrier and be of a similar type to adjoining development;
 - iii. in all other areas open type or low (ie less than 500mm) fencing which does not obstruct the view of landscaping from the street is required.
- c. Areas to be landscaped and/or fenced are to be identified on development application plans. As a condition of development consent, developers will be required to submit plans and details of proposed landscaping/fencing for approval prior to release of building plans. Landscaping proposals should generally be in accordance with the following requirements:-
 - i. All landscaped areas are to be separated from vehicular areas by means of a kerb, dwarf wall or other effective physical barrier;
 - ii. Earth mounding is encouraged within the landscaped area;
 - iii. Trees to be planted are to have a minimum height of 1 metre at the time of planting;
 - iv. Landscaping is to harmonise with buildings and should be in the form of ground cover, trees and shrubs;
 - v. It is recommended that proposed trees and shrubs be native species due to their low maintenance characteristics, relative fast growth, aesthetic appeal and suitability to natural habitat, and also in order to achieve continuity in streetscape.
- d. Public toilets for both male and female must be provided.
- e. A bus stop (including shelter and seating) must be provided on the collector road side of the development to the requirements and satisfaction of the Director Engineering & Operations.
- f. Advertising signs are to be designed, submitted for approval, constructed and licensed in accordance with State Environmental Planning Policy No 64 – Advertising and Signage and Section A4 – Advertising Signs Code of this DCP.

It is suggested that applicants submit full details of proposed advertising signs with development applications for new development to avoid the necessity for separate and subsequent development applications for approval of signs.
- g. Adequate vehicular entrance and exits (suitably sign posted) to the site are to be provided via the collector roads only and designed in order to ensure safety for pedestrians and vehicles using the site and adjacent roadways.
- h. Parking is to be provided in accordance with Section A2 – Site Access and Parking Code, as adopted at the time a development application is lodged.

The parking area, if possible should be located immediately behind the landscaped area and in front of the activity on the site, thus encouraging the use of off-street carparking.

All vehicular parking and manoeuvring areas are to be designed, constructed and maintained to prevent, as a minimum requirement litter, grease, oil, floatables and coarse sediment entering the public stormwater drainage system.

For design purposes the abovementioned drainage treatment may be achieved with the use of grated drains and by installing and maintaining a suitable interception pit and/or grease arrester traps.

- i. No building within the neighbourhood/local business area should exceed two (2) storeys in height.

B3.5.3 Special Requirements (Flame Tree Park)

- a. This clause relates to development of the “Neighbourhood Business” site within Flame Tree Park Estate Stage 4 (Lot 433) on the approved Plan G248 – CP18.
- b. Any development application for the development of this land is to include the following design principles:
 - i. Orientate the proposed service station and shop layout so that at least one of the businesses is capable of providing a suitable “public area” located on the (quiet) side road frontage. That business should be set back sufficiently to allow an intervening treed outdoor area that has no included parking between the development and the street, the parking for it being off the service station concourse. Freestanding frontage advertising is acceptable subject to obtaining any necessary consents;
 - ii. Provide an integrated public transport stop and shelter;
 - iii. Integrate safe separated pedestrian and cycle movement into and through the site;
 - iv. Control design, façade design advertising and lighting to minimise the adverse visual impact of the development on Fraser Drive and provide effective landscaping on the perimeter and through the site;
 - v. Confine security lighting spill within the site.

B3.6 INDUSTRY - COMMERCE AND TRADE

One major industrial/commerce and Trade Zone has been located adjacent to the Banora Point Sewage Treatment Plant. This trade area is an extension of the existing Tweed Heads South Trade and Commerce Area and will be buffered from nearby residential areas by part of the major open space network.

B3.6.1 Objectives

- To enable the development of an industrial area in a location which is highly accessible to the population yet sufficiently buffered to minimise any adverse affect on the surrounding community;
- To minimise any inconvenience resulting from the proximity of the Banora Point Sewage Treatment Plant;

- To minimise the transportation of possible pollutants via the stormwater drainage system.

B3.6.2 Guidelines

- a. No buildings are to be erected within 9 metres from the street alignment. However, this requirement may be relaxed at the discretion of the Director, Planning & Development if a proposed development has balanced landscaping and/or desirable architectural features or shape on the street alignment elevation.
- b. No buildings are to be erected within 3 metres from a public reserve (including drainage reserves or the like).
- c. Within this minimum building setback area at least 3 metres must be landscaped where a boundary is to the street alignment.
- d. Fencing is permissible within the setback area provided that where such fencing is of the "closed type" it must be located behind the landscaped area immediately adjacent to the street frontage.
- e. Areas to be landscaped and/or fenced are to be identified on development application plans. As a condition of development consent, developers will be required to submit plans and details of proposed landscaping/fencing for approval prior to release of building plans. Landscaping proposals should generally be in accordance with the following requirements:
 - i. All landscaped areas are to be separated from vehicular areas by means of a kerb, dwarf wall or other effective physical barrier;
 - ii. Earth mounding is encouraged within the landscaped area;
 - iii. Trees to be planted are to have a minimum height of 1 metre at the time of planting;
 - iv. Landscaping is to harmonise with buildings and should be in the form of ground cover, trees and shrubs;
 - v. It is recommended that proposed trees and shrubs be native species due to their low maintenance characteristics, relative fast growth, aesthetic appeal and suitability to natural habitat, and also in order to achieve continuity in streetscape.
- f. Advertising signs are to be designed, submitted for approval, constructed and licensed in accordance with Section A4 – Advertising Signs Code of this DCP.

It is suggested that applicants submit full details of proposed advertising signs with development applications for new development to avoid the necessity for separate and subsequent development applications for approval of signs.
- g. Adequate vehicular entrance and exits (suitably sign posted) to the site are to be provided and designed in order to ensure safety for pedestrians and vehicles using the site and adjacent roadways.

Where large/heavy vehicles are anticipated to use a particular site on a regular basis it may be a requirement that the road in front on the access points be concrete reinforced to prevent wheel scour.

- h. Parking is to be provided in accordance with Section A2 – Site Access and Parking Code of this DCP, as adopted at the time a development application is lodged.

The parking area, if possible, should be located immediately behind the landscaped area and in front of the activity on the site, thus encouraging the use of off-street car parking.

All vehicular parking and manoeuvring areas are to be designed, constructed and maintained to prevent, as a minimum requirement litter, grease, oil, floatables and coarse sediment entering the public stormwater drainage system.

For design purposes the abovementioned drainage treatment may be achieved with the use of grated drains and by installing and maintaining a suitable interception pit and/or grease arrester traps.

Water from degreasing/washdown areas are to be discharged to the sewerage system via a silt trap and oil/water separator. All loading/unloading and storage areas shall drain to an interceptor capable of containing all spilled materials.

External tanks containing liquids should be enclosed by an impervious bund having a volume of 110% of the largest tank. The floor of the bund should be graded to one corner where a collection sump is provided to allow removal of collected wastes by bucket or pump. Drain valves on bunded areas will not be permitted. A bunded area may be covered and screened to exclude rainwater. All pipe work from tanks and pumps within the bunded area should pass over the bund, not through it. Filling points for bunded tanks should be positioned so that spillages and leaks fall within the bund area.

- i. In considering Development Applications for the erection of buildings and/or occupation of developments Council will require that potential developers investigate possible noise consequences of the proposed development.
- j. Any open storage area shall be screened from view from any public place to the requirements and satisfaction of the Director, Planning & Development.
- k. Provision must be made within all developments for the accommodation of waste disposal facilities and for adequate vehicular access to remove same. The waste disposal facilities shall not occupy approved parking or landscaped areas. All waste disposal facilities shall be screened from view from any public place to the requirements and satisfaction of the Director, Planning & Development.

- l. Development within Sewerage Treatment Works Buffer

The objectives of this policy are:

1. To permit the development of the land while reducing risks to the health of employees of industrial development;
2. To prevent any intensification of residential development in the buffer zone;
3. To ensure the continued use of an essential community facility is not jeopardized.

No additional dwellings will be permitted within the established buffer area for the Treatment Works.

Industrial development within the buffer area is to be designed so that uses not requiring permanent or prolonged work station occupation (such as parking, open air storage) will be at that part of the lot closest to the Treatment Works. Open air ventilation of all buildings must be from the opposite side to the Works, and air conditioning must be provided in any commercial or office component of the building.

In respect of buildings for the processing and storage of foodstuffs or other materials likely to be contaminated or tainted by exposure to airborne odours, Council will require a formal statement from a suitably qualified consultant that there are no adverse public health impacts arising from the location of the building within the nominated buffer area”.

B3.7 TOURISM

Within the area to which this Section applies there are two (2) areas designated for tourism only purposes and two (2) areas designated as a residential - tourist area. These tourism areas will be catering for both family oriented accommodation together with 'resort type' facilities.

B3.7.1 Objectives

- To encourage the establishment of a range of development forms offering different leisure and hospitality activities.
- To promote the complementary and simultaneous development of:
 - i. resort hotels;
 - ii. budget family style resorts; and
 - iii. caravan parks, cabins etc.

B3.7.2 Guidelines

Whilst no specific guidelines or requirements are specified within this Section Council will, when dealing with any development application, consider the following matters:

- i. The circulation system within the development provides for safe and convenient pedestrian and vehicle movements;
- ii. Intersections with distributor and collector roads are safety designed and adequately spaced;
- iii. The provision of adequate car parking;
- iv. Noise abatement;
- v. Privacy to adjacent or adjoining residential development;
- vi. The provision of public access, pedestrian and open space linkages;
- vii. The existing amenity of the neighbourhood;
- viii. Visual amenity;
- ix. The effects of lighting; and
- x. The effects of the proposed hours of operation on the surrounding environment.

B3.8 HOUSING

Three (3) type of Housing designations are provided for within this plan, namely:-

- i. Residential A - predominantly single detached dwellings with 20 percent dual occupancy development;
- ii. Residential B - predominantly medium density housing of the type generally known as Townhouses and villa homes;
- iii. Residential C - special residential areas eg integrated housing, cluster development mobile home parks, etc.

B3.8.1 Objectives

- Encourage sufficient variety of housing forms, sizes and locations so that residential choice in the area is possible within the limitations of market forces;
- Ensure convenient access from dwellings to destinations outside the area and to all necessary resources within the area;
- To preserve existing landscape features and to use these features harmoniously; and
- To encourage efficient use of land to facilitate more economical arrangement of buildings, circulation systems and utilities.

B3.8.2 Guidelines

- a. The development standards relating to residential development are contained within Section A5 - Subdivision Manual and Section A1 – Multi-Dwelling Housing of this DCP.
- b.
 - i. No building within the residential area shall exceed two (2) storeys in height;
 - ii. The provisions contained within State Environmental Planning Policy No 6 – Number of Stories in a Building should be used when designing residential flat buildings on sloping sites.

B3.8.3 Non-Residential Development in the Residential Areas

- a. Whilst the 2(c) zone within the LEP permits a range of non-residential uses, it is to be generally understood that the primary purpose of the residential areas is for residential development whereas the designated commercial and special uses areas will provide for non-residential development. As a consequence, only in special circumstances, will Council permit non-residential development within the residential areas.
- b. In determining any application for non-residential development within the residential areas, Council will generally -
 - i. advise adjoining property owners and others who may be affected by the development and advertise the application in the local newspaper;
 - ii. allow the public 14 days to comment on the proposal; and
 - iii. consider any comments made by the public on the proposal before determining the application.

An additional fee may be required to cover the costs of advertising.

Furthermore, Council will be particularly concerned that these non-residential developments.

- i. do not create a noise or lighting nuisance;
- ii. are located on roads appropriate to the expected volume of traffic generated by the development;
- iii. provide adequate car parking;
- iv. provide measures to ensure the privacy of adjacent dwellings; and
- v. do not adversely affect the amenity of the neighbourhood.

B3.9 TRAFFIC AND TRANSPORT

B3.9.1 Objectives

- create opportunities for traffic circulation and movement through the development while discouraging the use of internal roads as an alternative route for through traffic;
- allow for convenient and safe access to public transport from all development areas and activity centres; and
- create opportunities for pedestrian pathways/cycleways which minimise both walking/cycling distances to activity destinations and conflicts with traffic routes.

B3.9.2 Guidelines

- a. The "Layout plan" shows the preferred/existing location of the distributor and collector roads within the area to which this Section applies and these roads shall be opened generally in accordance with the location shown on the "layout plan". Council will only permit changes to the location of these roads arising from the detailed design of these roads.

To approve a change in the location of the roads proposed by this Section, Council would need to be satisfied that:-

- i. the roads provide for a safe movement system (eg proximity of intersections);
- ii. intersections are safely designed (eg adequate sight distance);
- iii. other property owners are not unduly disadvantaged by the change;
- iv. the requirements of servicing authorities are met; and
- v. drainage paths are adequately maintained.

For changes to the proposed road system which Council considers major, Council may seek to amend this Section before determining the application.

Applicants who wish to change the proposed road system should discuss the matter with officers of Council's Planning & Development Division at an early stage before lodging a formal development application.

- b.
 - i. Except as provided by subclause (ii), all roads are to be designed and constructed in accordance with Section A5 – Subdivision Manual of this DCP.
 - ii. The design of the Leisure Drive extension is to provide for the following cross section (from southern road reserve boundary):-

- three (3) metre landscaping area;
- two (2) metre concrete footpath/cycleway;
- two (2) metre grassed hard standing area;
- eight (8) metre carriageway measured from the face of the kerb which shall be of the roll-top type;
- two (2) metre grassed hard standing area; and
- three (3) metre landscaping area.

Details of landscaping should generally be in accordance with the following requirements:

- i. Earthmounding/battering is encouraged within the landscaped area;
- ii. Trees to be planted should have a minimum height of one (1) metre at the time of planting;
- iii. Landscaping is to be massed and be in the form of ground cover, shrubs and trees;
- iv. Proposed vegetation should be native species due to their low maintenance characteristics, relative fast growth, aesthetic appeal and suitability to natural habitat, and also in order to achieve continuity in streetscape.

All hard standing areas are to be gravelled to 150 mm thick, graded, top dressed to 25mm thick, sown with seed, and left in a mowable condition, to the requirements and satisfaction of the Shire Engineer.

- iii. A "T" intersection (for local access) may be constructed with Fraser Drive east of Ocean Avenue, provided such is designed to the requirements of a Collector Road/Distributor Road intersection.
- c.
 - i. For all proposed roads the developer will be responsible for the construction of the roads to Council's standards. These roads are to be dedicated to Council as public roads in any subdivision or other development. After the roads have been dedicated and the on-maintenance period completed, Council will be responsible for the maintenance of these roads;
 - ii. For existing roads, the developers will be responsible for upgrading and associated traffic management measures provided the development creates a need for the upgrading or traffic management measure. A pro rata cash contribution may be substituted for actual construction.
 - d. The distributor roads (Leisure Drive, Fraser Drive, Terranora Road, Kirkwood Road and Dry Dock Road) are expected to carry large volumes of traffic in the future. To increase traffic safety and to avoid the need for wide road reservations, vehicular access to a distributor road may only be made by way of another road. Thus, direct access from individual private properties to a distributor road is prohibited.

Subdividers creating allotments adjoining distributor roads are required to prepare restrictions as to user under Section 88B of the Conveyancing Act to effectively prevent direct vehicular access to and from allotments across the distributor road.

Internal subdivisional roads will need to be opened before development of properties with frontage to a distributor road may take place. In the early years of development some applicants may not be able to develop. To overcome this problem Council may grant temporary access to a distributor road, provided:

- i. the development complies with all other development standards;
- ii. any subdivisional roads generally conform with the road pattern shown on the "Layout Plan";
- iii. the development is designed so that access can be obtained via a future road, not being a distributor road;
- iv. Council is satisfied that the carrying out of development will not compromise traffic safety.

Where Council grants consent, the temporary access shall be constructed to Council's standards and Council will impose a condition and/or restriction as to user requiring that access to a distributor road by a temporary access shall cease when alternative access becomes available.

Where properties currently gain access to a distributor road, they may continue to do so. When an application is lodged to develop or redevelop such a property, Council will generally require that direct access from the property to the distributor road cease.

- e. Where temporary roads are proposed it shall be a requirement that a restriction as to user under Section 88B of the Conveyancing Act 1919 prohibiting sale, lease or any other matter be imposed on the lot or lots comprised in the temporary road.
- f. A continuous pedestrian/cycle path system throughout the DCP area should be provided to afford the opportunity for safe, pleasant and convenient access from residential areas to major destinations such as schools, shops, community facilities and recreation areas. The design of the system should minimise conflicts with major traffic routes and minimise walking/cycling distances.

The path - cycleways may in some case perform a drainage function and/or provide access for servicing authorities.

- g. Development constituting 'Traffic Generating Development' (see State Environmental Planning Policy No 11) requires consultation with both Council and the Department of Planning.

Applicants proposing 'Traffic Generating Development' should discuss their proposals with either the Council or Regional Development Committee prior to formally lodging a Development Application.

- h. To provide for the safe construction of the Electricity Transmission lines along Fraser Drive, an additional 10 metre road reservation is required. This road widening is to be dedicated as Public Road at the subdivision stage.

- i. To provide for the safety of pedestrians and cyclists and to provide a pedestrian cycle link north and south of Leisure Drive. An underpass or overpass must be provided over/under Leisure Drive in close proximity to the proposed high school/primary school.

B3.9.3 Roadworks and Road Dedications/Contributions

As a condition of development consent, an applicant may be required to dedicate any part of a site affected by proposed roads, road widening and pedestrian pathways at no cost to Council.

Applicants may be required to provide full width road construction to the appropriate standard including sealed road pavements, drainage and footways along the frontage of both new and existing roads to the land being developed, at no cost to Council.

Council may also require the upgrading of or monetary contribution towards the upgrading of roads not immediately fronting the development to provide suitable access to the development. Each case will be considered on its individual merits.

Developers are referred to the Tweed Road Contribution Plan in regards to determining the applicable contribution levy under this Plan. This plan has been produced to provide a cost recovers mechanism for financing, in part the construction of distributor roads within the Lower Tweed area. The contribution plan outlines the costs of providing the distributor road network in 1990 costs and apportioning these costs to Council and future users. The catchment of the Tweed Road Contribution Plan incorporates the South Tweed Heads/Banora Point release area. All forms of development which potentially generates traffic is liable to a development levy including residential, commercial and industrial development.

B3.10 COMMUNITY FACILITIES

B3.10.1 Introduction

Section 94 of the Environmental Planning and Assessment Act 1979 (as amended) enables Councils to require land dedication and/or monetary contributions from developers to provide community services and facilities.

Contributions may only relate to services and facilities appropriately provided by local government. They cannot be applied to recurrent costs, which will predominantly be sought from state and federal government funding sources.

Community facilities encompass buildings operated for public use. They may include privately owned buildings for public use which are operated on a commercial basis, such as childcare centres. Examples of facilities which are commonly levied by Councils under Section 94 of the Act include:

- community halls and centres;
- neighbourhood houses;
- offices for community workers and community groups;
- specialist centres - for children, youth and the ageing, for example; and
- libraries and resource centres.

There are, however, precedents for Section 94 levies for a wide range of community facilities and services such as community transport, community plans and emergency or low cost accommodation.

Human service provision requirements identified in the Tweed Heads South Planning Report include a multipurpose community centre for residents of the Banora Point West/Tweed Heads South new release catchment area.

This Community Centre has been constructed.

B3.11 DRAINAGE

B3.11.1 Introduction

Much of the land included in the Banora Point West Drainage Scheme Area is subject to the provisions of this Section. The provisions of this Section allow the development of the South Tweed Floodplain by filling and draining and the creation of a floodway corridor, including a series of lakes which is capable of providing an adequate, efficient and environmentally safe drainage system.

In this Section, a drainage corridor for the West Banora Point Basin is identified running north along the western boundary of the Twin Towns Sports Club and then generally west and south west to Trutes Bay in the Terranora Broadwater. This Section provides for the implementation of a cooperative drainage scheme, financed and constructed by developers. However, after nearly a year of meetings, draft proposals, legal and technical argument, and extensive correspondence, no scheme acceptable to all interested parties was able to be formulated. Consequently, Council resolved to prepare a Section 94 Contributions Plan to enable the Banora Point West Drainage Scheme to be implemented.

In 1992, Council commissioned consultants, Gutteridge Haskins & Davey, to prepare a Section 94 Contributions Plan for the implementation of the Banora Point West Drainage Scheme. The boundaries of this Drainage Scheme are outlined in Figure 11.1. The Banora Point West Drainage Scheme came into effect in 1992 with subsequent amendments.

B3.11.2 Legislative Framework

Section 94 (S94) of the Environmental Planning and Assessment Act 1979 (the Act) permits Councils to require developers to pay monetary contributions and/or dedicate land in order to fund the increased demand for public amenities and public services generated by the carrying out of development. The Land and Environment Court has determined that S.94 is the exclusive method by which Councils can require contributions from developers. The three general principles to be satisfied in validly requiring S.94 contributions are:

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

Council may require a contribution by way of the payment of monies, and/or either or both of the following methods:

- a. The dedication of land, free of cost to Council;
- b. The carrying out of works approved by and free of cost to Council;

where such contribution is for the carrying out of public works and/or provision of public facilities which are reasonably required by the particular development.

Internal drainage in subdivisions and other developments is normally accepted as part of the works associated with the development. This work will generally be wholly provided by the developer, and no S.94 contribution will be required.

In determining a reasonable trunk drainage contribution, the necessary land reservation and construction costs need to be identified. The costs may relate to any or all of the following:

- Studies;
- Acquisition of land;
- Construction of drainage facilities;
- Pipelines;
- Culverts;
- Pollution control measures;
- Formation of detention and retention basins;
- All ancillary works; and
- Topdressing and grassing.

Ecological mechanisms which help drainage, such as appropriate planting and measures to reduce potential downstream impacts, may also be taken into account in assessing the contribution.

It is proposed that works from all of these nine categories be included in the works for which S94 contributions are to be obtained, to the extent that they are required for the Banora Point West Drainage Scheme.

B3.11.3 Objectives

- a. To provide for the recovery of the balance of the costs of implementing the Banora Point West Drainage Scheme;
- b. To determine the costs of providing the Drainage Scheme;
- c. To establish the area of land that will benefit from the provision of the Drainage Scheme;
- d. To determine a reasonable and equitable rate of contribution to be paid by developments in the Scheme Area.

B3.11.4 Guidelines

Methods of Payment

Council will accept payment of S94 contributions under this Plan as a cash contribution. When a development consent is issued that involves the payment of a S94 contribution, it will contain a condition outlining the amount payable in monetary terms subject to indexation by the IPD. While a monetary payment is likely to be the most usual form of contribution, the cash payment can be offset by either or both of the following methods of payment.

a. Dedication of Land

Where appropriate, Council will permit the dedication of the land required for the Drainage Scheme to offset the monetary contribution payable. If consent is issued for a development, then the applicant needs to contact Council in order to receive a valuation of the land proposed to be dedicated. Upon agreement being reached as to the land's value, and exchange of contracts subsequently occurring, Council will offset the value of the land against the monetary contribution payable.

b. Works Agreement

Council may accept the construction of works by the applicant to offset the monetary contribution payable. The works provided must be in accordance with the Schedule of Works contained in the contribution Plan. The applicant will need to initiate this option by giving Council full details of the work proposed to be undertaken. Council will then consider the request and advise the applicant accordingly.

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

Timing of Payment

a. Council will accept S.94 contribution payments under this Plan generally at the following times:

- i. For development applications involving subdivision, prior to the release of the linen plan;
- ii. For development applications involving building work, prior to approval of the building application;
- iii. For other development applications, prior to commencement of use.

b. A contribution in respect of development of any land shall be required to be paid:

- i. in full where no contribution has previously been paid, or
- ii. only for the balance amount where a part contribution has previously been paid,

in respect of that land.

Further Information

For determination of the contribution levy or more specific details, refer to the Section 94 Contributions Plan No 2 - Banora Point West Drainage Scheme.

B3.11.5 Contribution Provisions

Contribution Formula

The formula to be used to determine the S.94 contribution for trunk drainage in the Banora Point West Drainage Scheme Area is as follows:

$$\text{Contribution Rate (\$/ha)} = \frac{[(L1 + L2 + C1 + C2) \times S] - C}{1}$$

A

Where:

L1= The actual cost to Council to date of acquiring land for trunk drainage purposes adjusted to current day values by the Implicit Price Deflator (IPD).

L2= The estimated future cost of acquiring land for trunk drainage purposes.

C1= The actual cost to Council to date of constructing works for trunk drainage purposes adjusted to current day values by the IPD.

C2= The estimated future cost of constructing trunk drainage works.

A = The total developable area in the contribution catchment (in hectares).

S = The area of the land which is subject to the development application (in hectares).

C = The amount recorded in the 'Register of Developer Contributions' as being the contribution previously paid towards the Drainage Scheme in respect of the subject land.

A central point of contention that has been evident in attempts to implement the Drainage Scheme to date has been whether all owners in the catchment would benefit equally from the Scheme and if not, how to achieve a defensible cost recovery scheme biased in favour of some owners and against others. The difficulties in achieving such a recovery scheme favour a uniform land-area based levy (ie. dollars per hectare) to ensure that cost recovery is more predictable as it is not subject to uncertain development type and density outcomes.

Case history in the Land and Environment Court of New South Wales recognises the sufficiency of a catchment-based levy for equity purposes. The most relevant Court judgement is found in "*Trustees of the Roman Catholic Church -v- Blacktown City Council 1991*".

This judgement supported the application of a general levy for drainage on a catchment wide basis irrespective of the fact that not all properties benefited to exactly the same extent. The grounds were that the drainage program enabled a general development of the catchment and its infrastructure which would not have otherwise been possible.

The decision also required that Council accept its proportional financial responsibility for that part of the catchment already developed.

B3.11.6

Any development of land that directs stormwater runoff through a Stormwater Treatment Area into environmentally sensitive wetlands identified in State Environmental Planning Policy No 14 must ensure that water quality controls will adequately reduce the sedimentary runoff and improve the urban water quality flowing into these sensitive wetlands. To achieve this landowners applying for development consent shall ensure sufficient water quality control techniques and consideration to native vegetation within the buffer are incorporated into an approved water quality control plan which fully satisfies the Tweed Urban Stormwater and Management Plan.

B3.12 MAJOR OPEN SPACE SYSTEM

B3.12.1 Introduction

Council's ability to obtain contributions from developers for the provision of recreation facilities is contained in S.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 Clause provides a general outline of the S94 Contribution Plan for Structured (Active) Public Open Space (Sportsfields) and Casual (Passive) Public Open Space (Neighbourhood Parks, etc) pursuant to the requirements of S94 and associated Regulations of the Act.

B3.12.2 Objectives

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 meet standards of quality and quantity.

B3.12.3 Guidelines

- 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, ruby 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 provision 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 be, by themselves, included as 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 - Open Space Guidelines).

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 1,000 persons;
- ii. 1.13 hectares (40%) "casual" open space (Neighbourhood parks, etc) per 1,000 persons.

The projected population for the area to which this Section applies is 12,650. This equates to approximately 35.80 hectares of embellished public open space.

- c. 21.5 hectares of structured open space has been identified in the area to which this Section applies. Contribution levies for structured open space have been based on the cost of acquiring land at market value, the cost of embellishment, administration costs, interest earned on fund credits or interest accrued on overdrafts.
- 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 outlined in the open space contribution plan for the area.

- e. Open space contributions will only apply to the Residential 'A', 'B' and 'C' areas outlined in the layout plan (B3 – Map 2 – Layout Plan) 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 approval (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 (eg 1986 - 2.98 persons per single dwelling). This will apply to subdivisions created in conjunction integrated housing, community titles, and dual occupancy.

- 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 (eg 1986 - 2.26 persons per dwelling) less any previous contribution paid.
- j. For the purposes of this plan, medium density development is any residential flat building containing three (3) or more dwellings and mobile caravan 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. For further details on the requirements for the provision of structured (active) and casual (passive) open space refer to Contribution Plan No 1 – Banora Point West/Tweed Heads South Open Space.

B3.12.4 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;
 - cost of embellishing the land, ie topsoiling, amenities buildings etc;
 - Council expenditure, ie acquisitions;
 - administration costs, ie land valuations etc;
 - developers contributions;
 - interest earned on contributions received (if any);
 - overdraft (if any);
 - remainder of projected population in which contributions have not been levied.
- 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 the Contributions Plan. 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).

$$\text{Levy (\$/person)} = \frac{R + \text{Nett Fund Balance}}{P}$$

Where:

R = estimated cost of remaining acquisitions and cost of embellishments at beginning of time period (yearly/biannually).

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 8,765 (original population to be levied for cash contribution).

Nett

Fund = The Nett Fund balance is determined from a monthly debit/credit ledger kept by Council. It incorporates Council's expenditure, developers' contributions, overdraft/interest rate and administration charge. 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'.

- 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 1000 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 3150m² of sportsfields.
 2. accept a greater dedication of land (unembellished) equal in value to the cost of embellishments deficiency provided 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 12.8.4(b)).

B3.12.5 Casual Open Space

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:

$$[(P \times 0.0013) - A] \times C = \text{Total Contribution Levy}$$

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).

B3.12.6 Further Information

For further information on the requirements and guidelines for provision of open space in this Section, refer to Contribution Plan No 1.

B3.12.7 Miscellaneous

Where it is intended that residential development will abut a water feature, Council may consent to a percentage of that development having direct water frontage, provided:

- i. the construction of revetment walling is within the private property boundary;
- ii. the need for public access to waterfront areas, particularly as linkages to other open space areas has been assessed;
- iii. residential amenity considerations have been adequately addressed; and
- iv. Council maintenance costs are minimised.

B3.13 ENVIRONMENTAL PROTECTION

B3.13.1 Objectives

- Protect significant environmental areas in their natural state, particularly those surrounding Terranora Broadwater, Trutes Bay and Shallow Bay;
- Within and around the environmentally sensitive areas limit public access to specific areas;
- Restrict development of the immediate foreshores of Trutes Bay, Terranora Broadwater and Shallow Bay;
- Retain existing strands of trees to enhance the visual appearance of the development;
- Ensure the development takes account of the existing physical constraints of the land;
- Protect existing hydrological conditions in Terranora Broadwater, Trutes Bay and Shallow Bay;
- Protect the nest and the surrounding habitat of the internationally endangered Osprey.

B3.13.2 Guidelines

- a.
 - i. All development should incorporate soil conservation measures to minimise soil erosion during and following completion of development. Large scale development should be staged so that soil disturbance at any one time and soil erosion is minimised;
 - ii. As part of any development application, details shall be included showing measures to be taken to ensure the control of erosion and sediment during construction and as a long term control measure.
- b.
 - i. In determining a development application, Council may consider whether any trees or other vegetation on the land should be preserved;
 - ii. Existing trees should be preserved wherever possible. The siting and layout of a development at the initial design stage should consider the location of trees with a view to their preservation;
 - iii. All applications for development should indicate the location of existing vegetation and should note the measures to be taken to protect existing vegetation against damage and destruction during construction;
 - iv. Plan B3 – Map 4 shows those remnant vegetation areas Council considers worthy of conservation. In determining a development application containing these areas Council will consider:

- a. requiring such land to be dedicated as public (passive) open space; or
- b. incorporated in the development as private/common open space.
- c. In all subdivisions or development adjoining "foreshores" Council will require that a foreshore reserve be dedicated to Council. In determining the size of this reserve, the following matters will be considered:
 - a. the preservation of the scenic quality of foreshores;
 - b. minimising the risk of pollution of waterways;
 - c. the protection of foreshore ecosystems;
 - d. required public access;
 - e. potential for flooding; and
 - f. the intended or planned use for the foreshore.
- d. A water quality report shall be submitted to and approved by Council before:
 - i. Land is subdivided; and/or
 - ii. Development is commenced.

The water quality report should provide sufficient information for Council to evaluate the potential and predicted impacts of the proposed activity on waterways and the effectiveness and acceptability of any proposed measures for reducing any adverse impacts.

- e. The Department of Environment and Conservation (DEC) have suggested that there are probably unrecorded Aboriginal Relics within the area to which this Section applies. Thus, applicants are advised to ensure that they do not contravene the National Parks and Wildlife Service Act.

In particular:

- i. Anyone who discovers an Aboriginal Relic must report it to the Director of the DEC;
- ii. No one is permitted to destroy, deface or damage an aboriginal site or relic without the Director's consent.
- f. Council shall not consent to the carrying out of the development of land within those areas nominated as Potential Osprey Nest on Plan B3 – Map 4 without having regard to any representations made by the DEC.
- g. i. Applicants are reminded that any study should not be limited to the direct effects within the site proposed to be developed, but include consideration of the cumulative effects of lake/drainage development.

B3.13.3 Special Requirements (Elsie Street)

- a. This clause relates to land identified as Conservation Area No 1 on Plan No B3 – Map 4.
- b. Buffer zones of 10-20 metres which have been incorporated into the 7(l) Habitat Zone as shown in Plan No B3 – Map 4 have been implemented to ensure ongoing protection of the remnant forest area by requiring the

implementation of design and ongoing control measures when land is developed.

- c. Any development applications for the development of land which is affected by Conservation Area No 1 and, which includes a buffer zone of 10-20 metres (See B3 - Map 4) must be accompanied by a satisfactory management/design plan for the ongoing protection of the conservation area, to be approved with the development application.
- d. The management plan in (c) above should incorporate, but not necessarily be restricted to the following matters:
 - i. No buildings should occur within the buffer zone. The toe of any filling that may be required for proposed development may extend into the buffer zone provided it is adequately stabilised with vegetation and does not have a significant detrimental effect on existing endemic vegetation and hydrological requirements of the remnant forest;
 - ii. Erection of appropriate fencing to clearly define the forest boundary (including buffer zone if appropriate) to act as a physical barrier to human access and intrusion by domestic and feral animals. If it is intended to use water bodies, eg open drains, within the buffer zone to act as a physical barrier, the fence should be erected along the forest side of the waterbody to enable easy, continued maintenance of the waterbody. Fencing may not be necessary if the proposed waterbody will be permanently filled with water at sufficient depth to discourage intrusion into the forest. The demarcation and protection of the forest boundary must be in place prior to any earthworks. As a suggestion, fencing may consist of a shade cloth and ring-lock wire combination fence secured with copper/chromium/arsenic (CCA) treated poles at approximately 3 metre spacing erected along the forest boundary. The height of the fence will be determined by the necessity of providing a physical barrier to human/animal intrusion into the remnant forest;
 - iii. The buffer zone must be planted with native local tree species. Generally native trees should be selected and planted in such a manner as to allow them to develop wide deep crowns. The developer has the option of planting understorey species of native shrubs/trees etc or maintaining a mown grass area between larger existing or planted trees. Mown grass areas for example may be desirable adjacent to buildings at the edge of the Habitat area identified on B3 - Map 2, where planting of trees may be undesirable.

A. smithii (lily pily)

Alectryon coriaceus

Banksia integrifolia (white honeysuckle)

Cryptocarya triplinervis

C. foetida (stinking cryptocarya)

Flindersia bennettiana

Harpulia pendula (tulipwood)

Podocarpus elatas (plum pine)

Sterculia quadrifida

Syzygium leuhmannii (small leaved lily pily)

Archidendron hendersonni (white lace flower)

Acnena hemilampra

Tree plantings are not restricted to those listed above. Other plants chosen however should be native local trees/shrubs which enhance the existing forest area;

- iv A strategy must be lodged for proposed landscaping (including fencing/drainage) and the ongoing management of the remnant forest (ie weed control, maintenance of buffer zone etc). Where appropriate, this may involve the incorporation of the strategy into future residential corporate bodies or on existing or proposed land titles, eg Section 88B instruments. Such restrictions may include prohibiting the erection of buildings/structures and dumping of rubbish, including lawn clippings, within the Habitat area identified on B3 - Map 2 and prohibition of domestic animals for entering the conservation zone;
- v Any development application lodged with Council must include details of run-off and erosion control measures during and after development. This should include details on the utilisation of existing and proposed drains, velocity reducing devices and settlement ponds where necessary.

Protective fencing, water management strategies and erosion control strategies must be in place prior to any earthworks where appropriate.

- e. A management/design plan submitted as part of an approved development application must be accompanied by specific design details ie detailed landscaping plans, run-off control measures, areas identified for ongoing maintenance etc, either as part of the development application, with the Development Application or prior to release of the subdivision linen plan, whichever is appropriate.

B3.13.4 Special Requirements (Sullivans Land)

- a. This clause relates to land west of Fraser Drive, South of James Road, identified as Conservation Area No 2 on B3 - Map 4.
- b. Any development application for the residential subdivision of the land shall maximise the opportunity to retain the vegetation directly to the east of SEPP 14 identified as Conservation Area No 2 on B3 - Map 4, subject to being able to provide adequate water quality devices and subject to adequate buffering of the vegetation.
- c. Any such development application shall include a flora investigation.

B3.14 MISCELLANEOUS

- a. Council shall not consent to the carrying out of development on land within the areas shown cross-hatched on B3 – Map 2 – Layout Plan for any purpose until it has received and approved an entomological report relating to the affect of biting midge.

The entomological report must provide sufficient information for Council to evaluate the effect of biting midge on any proposed activity and the effectiveness and acceptability of any proposed control measures.

Any person submitting a Development Application should also ensure that they have met the requirements of Section A6 - Biting Midge and Mosquito Control of this DCP.

- b. Council shall not consent to the carrying out of development on land within the area shown hatched on B3 – Map 2 – Layout Plan until geotechnical evidence is submitted verifying slope stability and suitability of the proposed development and determining what (if any) constraints are necessary on cuts, fills and foundations.
- c. Council shall not consent to the carrying out of development of land within an Electricity Transmission Line Corridor without having regard to any representations made by the relevant electricity supply authority.
- d. In the event that the area shown stippled on B3 – Map 2 – Layout Plan is not developed for private recreational purposes (eg. golf course) Council may consent to development as if the land were designated either Residential A or Residential B or both.
- e. Council shall not consent to the carrying out of development on land adjacent to the southern boundary of the Pacific Highway unless a landscaped buffer area is proposed which keeps to a minimum the conflicting consideration of noise and visual impact of any proposed development and the Pacific Highway.
- f. Council shall not consent to the carrying out of development of land requiring approval under the Rivers and Foreshores Improvement Act or relating to such activities as dredging, reclamation, river bank stability or those that may change the existing hydraulic behaviour of the estuary without having regard to any representations made by the Public Works Department.
- g. Council shall not consent to the carrying out of development of land where a building and/or structure (including aerials etc) exceeds the Heights Limitations shown on the current OLS drawing adopted by the Gold Coast Airport Master Plan without the express written permission of the Federal Airports Corporation.
- h. Council shall not consent to the carrying out of development on land designated as "Catholic School" unless a condition is imposed requiring a Section 88B Instrument be registered over the site regarding multiple use of the school playing fields.
- i. Council shall not consent to the carrying out of development on land within the area greater than 25dB+ Contour identified on the current ANEF Contours Map adopted by the Gold Coast Airport Master Plan until acoustic evidence is submitted examining building noise reduction requirements and any necessary noise control features are included in the design of the building.

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