

CONTRIBUTIONS PLAN NO. 42A

COMMUNITY AND RECREATION FACILITIES

ERINA / GREEN POINT / TERRIGAL



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**CONTRIBUTIONS PLAN NO. 42A
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ERINA / GREEN POINT / TERRIGAL**

LIST OF CONTENTS

1 INTRODUCTION

- 1.1 History of Contributions Plan Area
- 1.2 Name of Contributions Plan
- 1.3 Abbreviations within Contributions Plan
- 1.4 Land to which Contributions Plan applies
- 1.5 Relationship to other Plans
- 1.6 Purpose of Contributions Plan
- 1.7 Operation of Contributions Plan
- 1.8 Application of Contributions Plan
- 1.9 Review Process for Contributions Plan
- 1.10 Complying Development and the obligation of Accredited Certifiers
- 1.11 Construction Certificates and the obligation of Accredited Certifiers

2 OBJECTIVES

3 CONTRIBUTIONS

- 3.1 Introduction
- 3.2 Nexus
- 3.3 Apportionment
- 3.4 Community Facilities & Recreation / Background
- 3.5 Timing of payment of contributions
- 3.6 Medium Density Residential Development

4 FORMULA

APPENDICES

- i Works Schedule
- ii Indexation Figures
- iii Current Valuations
- iv Contribution Rates
- v Accounts

1 INTRODUCTION

1.1 History of Contributions Plan Area

The majority of the land within the Erina/Green Point/Terrigal Urban Release Area was rezoned to residential under Sydney Regional Environmental Plan (SREP) No 6 on 6 May 1983. SREP 6 was a broad brush approach to rezoning and the finer details of drainage, roads, servicing, open space, lot layouts etc, were left to Council to determine. The initial Development Control Plan for the area was adopted by Council on 11/7/84, with revisions coming into effect on 13/2/92 and 28/12/92.

On 14/2/92 the amendments to Section 94 of the Environmental Planning and Assessment Act, 1979, came into force with the proclamation of the Environmental Planning and Assessment (Contributions Plans) Amendment Act, 1991, and its accompanying regulations. This amendment required the preparation of Contributions Plans under Section 94, for the purpose of imposing conditions under Section 94 of the Act on development.

As Development Control Plan No. 42 has existed for a number of years, Section 94 contributions have already been used by Council to provide new facilities and services and upgrading of existing facilities and services, to cater for the additional demand generated by the new development and population.

The Contributions Plan came into effect on 28 December 1992.

Subsequent amendments came into effect on 26 June 2002, 23 February 2005, 1 July 2005, 21 December 2005 and 19 April 2006.

The Contributions Plan has also been amended to include those properties subject to Local Environmental Plan No. 469. This amendment will come into effect on the date of gazettal of the local environmental plan.

1.2 Name of Contributions Plan

This plan is called Contributions Plan No. 42A - Community and Recreation Facilities - Erina/Green Point/Terrigal and consists of this document and map marked Contributions Plan No 42A -Erina/Green Point/Terrigal.

1.3 Abbreviations within Contributions Plan

"DCP" means Development Control Plan No. 42 - Erina/Green Point/Terrigal the document, prepared under the Environmental Planning and Assessment Act, 1979, as amended.

"DCP Map" means the map marked Development Control Plan No. 42 - Erina/Green Point/Terrigal, a copy of which may be obtained from Council.

"LEP" means the deemed Local Environmental Plan, the Gosford Planning Scheme Ordinance, as amended by subsequent Local Environmental Plans.

**CONTRIBUTIONS PLAN NO. 42A
COMMUNITY AND RECREATION FACILITIES
ERINA / GREEN POINT / TERRIGAL**

"EPA Act" means the Environmental Planning and Assessment Act, 1979, as amended.

"CP" means Contributions Plan No. 42A - Community and Recreation Facilities - Erina/Green Point/Terrigal the document, prepared under the EPA Act, as amended.

"CP Map" means the map marked Contributions Plans No. 42A - Community and Recreation Facilities - Erina/Green Point/Terrigal, a copy of which may be obtained from Council.

1.4 Land to which Contributions Plan applies

The CP applies to land to which Gosford Planning Scheme Ordinance (as subsequently amended) applies, as outlined by a bold black line on the adopted CP map.

1.5 Relationship to other Plans

The CP is made under, and generally conforms to the provisions of the deemed Local Environmental Plan, the Gosford Planning Scheme Ordinance (as subsequently amended), which contains the legal planning controls for the development of the area to which the CP applies.

The CP is to be read in conjunction with the following documents:

- Social Plan Erina/Green Point/ Terrigal 1992
- Development Control Plan No. 42 - Erina/Green Point/Terrigal
- Contributions Plan No. 42B – Drainage – Erina/Green Point/Terrigal
- Contributions Plan No. 42C - Roadworks and Traffic Management – Erina/Green Point/Terrigal

This CP must also be read in conjunction with any other Development Control Plan or Contribution Plan that may apply to the area affected by this plan.

1.6 Purpose of Contributions Plan

The purpose of the CP is to enable the levying of developer contributions for the provision and upgrading of public services and amenities which will be required as a result of the increased demand generated by development in the CP area.

1.7 Operation of Contributions Plan

This CP has been prepared in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and Part 4 of the Environmental Planning and Assessment Regulation, 2000.

This CP will come into force on the date of public notification pursuant to Clause 31 of the Environmental Planning and Assessment Regulation, 2000, being 18 April 2012.

1.8 Application of Contributions Plan

When a development application is lodged which relates to land to which this CP applies, Council shall take the provisions of the CP into consideration in determining that application.

Compliance with the CP does not necessarily imply that Council will consent to any application.

1.9 Review Process for Contributions Plan

The CP will be reviewed when considered appropriate having regard to the rate of subsequent development of the area since the last review and the degree of development potential outstanding.

For practical reasons areas are generally considered to be fully developed in respect of their subdivisional potential, when approximately 90% - 95% of the potential residential lots have current Council development consent, are registered or are existing.

1.10 Complying Development and the obligation of Accredited Certifiers

In accordance with section 94EC (1) of the Environmental Planning and Assessment Act 1979, accredited certifiers must impose a condition requiring monetary contributions for any complying development which satisfies the requirements of this contributions plan. The amount of the contribution is to be determined in accordance with the formulae contained within the contributions plan and the current contributions' rate.

The conditions imposed must be consistent with Council's section 94 conditions relating to complying development in accordance with this development contributions plan. It is the professional responsibility of accredited certifiers to keep up to date with any amendments or changes to the plan (including changes to contributions' rate arising from indexation) accurately calculate the contributions and to apply the section 94 condition correctly.

1.11 Construction Certificates and the obligation of Accredited Certifiers

In accordance with section 94EC of the Environmental Planning and Assessment Act and Clause 146 of the Environmental Planning and Assessment Regulation, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it has verified that each condition requiring payment of monetary contributions has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that contributions have been fully paid and copies of such receipts must be included with copies of the certified plans provided to the council in accordance with clause 142(2) of the Environmental Planning and Regulation. The only exceptions to the requirement are where works in kind, material public benefit, dedication of land or a deferred payment arrangement has been agreed by the council. In such cases, council will issue a letter confirming that an alternative payment method has been agreed with the applicant.

**CONTRIBUTIONS PLAN NO. 42A
COMMUNITY AND RECREATION FACILITIES
ERINA / GREEN POINT / TERRIGAL**

2 OBJECTIVES

- 2.1 To ensure, that infrastructure and works associated with urban and environmental enhancement are funded under Section 94 of the Environmental Planning and Assessment Act, 1979 (as amended).
- 2.2 To identify the additional services and facilities required to satisfy the needs of the future population,
- 2.3 Council to manage the CP implementation and Section 94 funds to ensure provision of services and facilities to meet demand;
- 2.4 To take account of services and facilities already provided in the Urban Release Area whilst planning for future needs;
- 2.5 To provide a basis for determining fair and reasonable developer contributions;
- 2.6 To establish a nexus between anticipated development and contributions sought;
- 2.7 To enable the early provision of services;
- 2.8 To encourage public participation in the formulation of the plan;
- 2.9 To provide the development industry with early advice as to the amount of contributions which will be required for a particular development;
- 2.10 To facilitate proper financial management and accountability for the expenditure of contributions received;
- 2.11 Where a proposed service/facility will provide for population outside the DCP area, to apportion costs accordingly;
- 2.12 To identify approximate locations and estimated costs of services and facilities to be provided;
- 2.13 To outline a proposed schedule/priority list identifying when services/facilities are to be provided in consideration of development rates;

3 CONTRIBUTIONS

3.1 Introduction

The Section 94 contributions were derived using the information and formulae outlined in this document. The contributions per lot were derived from the relevant formulae. Subsequently, all the components of the formulae are considered to be constant in respect of future indexation adjustments, except those contributions relating to land acquisition/purchase. Every three months the derived per lot contribution will be indexed.

Council has determined that the total theoretical potential of this DCP area is approximately 2900 lots. Most existing undeveloped properties have current development consents which can be acted upon or have development applications before Council which will be subject to existing contributions. The Section 94 contributions on these current development consents are indexed in accordance with the quarterly adjusted Consumer Price Index figures, however, they cannot legally be subject to increased Section 94 contributions resulting from subsequent reviews.

**CONTRIBUTIONS PLAN NO. 42A
COMMUNITY AND RECREATION FACILITIES
ERINA / GREEN POINT / TERRIGAL**

This forms part of Council's consideration of "reasonableness", when reviewing DCPs/CPs and their needs and subsequent ability to pay for facilities and services based upon past decisions and circumstances.

3.2 Nexus

Section 94 of the Environmental Planning and Assessment Act, 1979 (as amended) grants Councils the power to levy contributions from developers for facilities and services required as a consequence of development. This power relies upon there being a clear link or nexus between the development being levied and the need for the facility or service for which the levy is being required.

This nexus has been determined for the facilities and services proposed in the Works Schedule in this document and within the Erina/Green Point/Terrigal Social Plan. Assessment of the required facilities and services is not repeated here. Details of the types of facilities and services proposed and the land requirements are contained in the Social Plan. This plan covers both community and recreation facilities and services.

In terms of the facilities and services proposed to be provided, it has been established that:

- * 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 as a reasonable planning authority, duly appreciating its statutory duties, could have properly imposed.

Additionally, it has generally been accepted that Section 94 contributions may be sought only for services and facilities which Councils have a responsibility to provide; and that Section 94 contributions can be levied only for capital, not recurrent or operating costs.

The community and recreational facilities and services for which Council has determined to levy in the Erina/Green Point/Terrigal DCP area are contained in the Works Schedule.

3.3 Apportionment

The Section 94 Contributions Plans Manual states that where a facility is developed not entirely to meet the needs of the new development contributing Section 94 (ie in this case, the Erina/Green Point/ Terrigal DCP area), but would also serve an adjacent area, contributions should be apportioned between all users. Council would then have to cover any 'shortfall' by other means such as rates, grants and subsidies.

Council's approach to apportionment is determined on facility by facility appraisal of the extent to which the facility is justified and required, based on the needs of the new population. The extent to which the new development area population will be served by existing facilities (relieving the need for new facilities to be provided under Section 94) is considered only qualitatively, not quantitatively, in determining whether the apportionment of costs between the new development area and other users is fair and reasonable. This is considered a more rational approach than constructing a 'balance sheet' which attempts to impute costs for all facilities available in a local area.

**CONTRIBUTIONS PLAN NO. 42A
COMMUNITY AND RECREATION FACILITIES
ERINA / GREEN POINT / TERRIGAL**

The apportionment of costs in the case of proposed facilities and services to serve the Erina/Green Point/Terrigal Urban Release Area is as shown on the following table.

TABLE 1: PRINCIPLES OF APPORTIONMENT: ERINA/GREEN POINT/TERRIGAL

FACILITY / SERVICE	TOTAL NEED IN CATCHMENT	EXISTING PROVISION	REQUIRED FOR RELEASE AREA POP.	PROPOSED TO BE PROVIDED	BASIS OF APPORTIONMENT
Neighbourhood Centre/ Community Centre	2.25	1 Public Hall	1.5	2	*Apportioned in relation to other residents in the locality (URA: other residents i.e. 86%:14%)
Erina Hall contribution towards upgrading	1	1	1	50% upgrading	Apportioned in relation to population served
Child Care Centre/ Children's Service	3-4	1 LDC 1 Occ Care 3 Private	2.5	2-3 1 LDC (40 place) 2 multi purpose (40 place)	*LDC to be provided under National Child Care Strategy. *Provided in relation to population served.
Youth Centre	1.5	-	1	2	*Apportioned in relation to population served.
Community Initiatives Program	1	-	1	1	*Full cost to S94 (must benefit release area) to be provided if funds permit.
Playing Fields	7-8	4	4-5	2	*Full cost to S94 as to serve needs of release area only.
Structured Recreation	7-8	4	4-5	4	*Full cost to S94 as to serve needs of release area only.

**CONTRIBUTIONS PLAN NO. 42A
COMMUNITY AND RECREATION FACILITIES
ERINA / GREEN POINT / TERRIGAL**

FACILITY / SERVICE	TOTAL NEED IN CATCHMENT	EXISTING PROVISION	REQUIRED FOR RELEASE AREA POP.	PROPOSED TO BE PROVIDED	BASIS OF APPORTIONMENT
Playgrounds	14	2	11	8	*Full cost to S94 as to serve needs of release area only.
Contribution to <u>site</u> for Library	1	-	9%	9%	Not funded.

From the table, Council is required to contribute an amount equivalent to 0.5 of a neighbourhood centre, 1 of a youth centre plus 0.5 of a childcare centre plus 50% for Erina Hall upgrading. The provision of children's services and other facilities proposed are required to serve the new release area population. However it is intended to provide one long day care centre funded under the National Child Care Strategy.

Council's contribution from other sources such as grants, rates and taxes on behalf of residents outside release areas should amount to approximately \$670,000. It is considered that this contribution will be more than made in terms of the share of costs to Council of provision of land and the design, documentation and supervision of construction of the above community and recreation facilities.

Additionally, no value has been placed on the existing facilities in the area provided by both Council and private organisations. It is consequently considered that the contribution toward community and recreation facilities from other funding sources will be fair and reasonable.

3.4 Community and Recreation Facilities - Background

In determining contributions:

- * the occupancy rates adopted are derived from the preliminary 1991 census data applying to the release area.
- * the valuations of land are those currently adopted by Gosford City Council.
- * the number of lots adopted is as indicated by the most recent urban capability assessments within Council.

The per lot contribution has been determined for remaining lots in the release area after subtracting the amount of contributions already collected within the release area. Previous Social Plans were prepared and contributions determined on the basis of a set formula previously recommended by the then Department of Planning under Circular 42. This method of determination of contributions is no longer acceptable. Hence contributions may vary from that previously required.

It should also be noted that some variation may apply in the distribution of funds previously collected under Circular 42. Circular 42 specified different formulae for land and capital components of community facilities, and for recreation facilities. Contributions previously collected have been placed jointly into one undifferentiated fund.

**CONTRIBUTIONS PLAN NO. 42A
COMMUNITY AND RECREATION FACILITIES
ERINA / GREEN POINT / TERRIGAL**

The existing funds have been apportioned using the following formulae:

- Community Facilities Capital and Land Contribution is apportioned as 30.5 % for Land and 69.5 % for Capital.
- The land component is totally for Community Facilities.
- Recreation land is obtained through the Open Space Contributions.
- The capital component is then apportioned as 10.8 % for Recreation and 89.2 % for Community Facilities.

Most of the areas set aside for future open space were zoned 6(e) Open Space Proposed under the original LEP which rezoned the remainder of the land in the DCP area to residential. Most of the land zoned 6(e) was actually steep and densely vegetated land or flood liable land. Council at the time wished to rezone these areas to a zone which reflected their topography and constraints to development, such as "steep land" and "flood liable land". The then Department of Environment and Planning chose to rezone these lands to 6(e) Open Space Proposed which meant that Council must acquire the land, if requested by the owner.

Consequently, over the intervening years much of the open space development contributions received in the DCP area was spent on purchasing steep or flood liable land. This land has passive recreation value but limited active open space potential. The result was that limited funds were available to purchase land that would be more suitable for some active open space use. This land forms part of the visual amenity of the area whether privately or publicly owned.

In an attempt to rectify this situation Council was successful in getting the Minister to make LEP's which rezoned most of the remaining land zoned 6(e) into more appropriate zones.

As a consequence, the open space / recreation plans for these areas are limited both in funds and suitable land available for use.

Open Space land is provided on the basis of the following standard which has been in use and accepted throughout Australia and United Kingdom since 1927. This standard has been validated as being reasonable in numerous court appeals:

- 2.83 hectares of open space/public reserve land for every 1000 persons;

This represents 28.3 square metres of open space per person. The amount of open space required to satisfy the general needs of each new lot/dwelling-house is simply calculated by multiplying the standard 28.3 sq m by the density. Traditionally the figure used was 4 persons per dwelling-house, which resulted in standard requirement of 113 square metres of public reserve/open space per new lot/dwelling-house. With reference to Census information, and acknowledging that over the life of the development of a DCP area that the densities will vary considerably, Council has derived a density figure of 3.7 persons per dwelling-house, as the density of persons living in each dwelling in developing DCPs.

**CONTRIBUTIONS PLAN NO. 42A
COMMUNITY AND RECREATION FACILITIES
ERINA / GREEN POINT / TERRIGAL**

Generally, unless the property to be developed contains land which Council has identified as required for the open space needs, a contribution in lieu of dedication is required to be paid by the developer of the land. The resulting amount of land dedication is multiplied by the current valuation of englobo (undeveloped urban land) land in the area, to obtain the current contribution. This allows Council to purchase the land required at current market prices. It should be noted that the plan identifies more open space land to be acquired than generated by the URA population based upon the standard of 28.3 m² per person.

The embellishment of open space land, ie; the capital required to construct the recreation facilities such as children's playgrounds, tennis courts or playing fields, is a separate contribution. The perceived needs of the area future and current population are translated into the required facilities. These facilities are costed and the total number of potential lots then pay an equal share of this amount.

The number and location of the children's playgrounds has been determined by considering a combination of the following factors; topography, existing public reserves, future public reserves, the location and proximity of existing playgrounds within and adjacent to the CP area, existing and future open space capital / embellishment funds and by trying to provide one playground within 500 metres of each dwelling-house in the CP area.

The table below indicates Council's assumed occupancy rates.

TABLE 2 - ASSUMED OCCUPANCY RATES

Density Required	Development	Persons	Open Space
Each allotment/dwelling house		3.7	105m ²
Other dwellings (eg medium density/semi-detached, town houses, secondary dwellings etc)			
Small dwelling - less than 70m ²		1.5	42m ²
Medium dwelling - 70m ² - 110m ²		2.5	70m ²
Large dwelling - greater than 110m ²		3	85m ²

3.5 Timing of payment of contributions

Contributions levied under this plan will be payable as follows:

- (a) development applications involving subdivision - payment prior to the release of the subdivision certificate by Council.
- (b) development applications involving building - payment prior to the release of construction certificate.
- (c) development applications not accounted for in (a) or (b) above - payment prior to the release of development consent.
- (d) Complying Development Certificates prior to the release of the complying development certificate.

**CONTRIBUTIONS PLAN NO. 42A
COMMUNITY AND RECREATION FACILITIES
ERINA / GREEN POINT / TERRIGAL**

3.6 Medium Density Residential Development

Special conditions will apply to any development consent granted for medium density residential development. Medium density residential development includes units, villas, dual occupancies, town-houses, residential flat buildings, apartments, secondary dwellings and the like.

In respect of Section 94 development contributions and this CP, reference should be made to the Table - "Assumed Occupancy rates" in Section 3.4.

The open space contribution that will be applied to each medium density dwelling-house, is calculated by multiplying the "Required Open Space" area by the current Open Space value per square metre.

The community-recreation facilities contribution for medium density residential development is calculated as the proportion of the "density of persons", per small, medium or large dwelling-house (as outlined in the "Assumed Occupancy Rates"), as compared to the single lot/dwelling-house density of persons". For example, in the case of a "small dwelling":

Community and Recreation Contributions:

- Small dwelling = 1.5 persons
- Lot/dwelling-house = 3.7 persons

Therefore, $\frac{1.5}{3.7}$ multiplied by the Contribution = \$ /small dwelling

Open Space Contributions:

- Small dwelling = 42m² open space

Therefore, 42 multiplied by \$value/ m² = \$ /small dwelling.

4 FORMULA

The funds required for the community/recreation facilities proposed, are sought under the proposed contribution rates which came into effect from 28/12/92, as indexed to today's values.

The formula adopted to determine contributions per lot for the required facilities and services is as follows:

* Community/capital $\frac{\{C-(EC + DC + S)\}}{F}$ = Per lot

* Recreation / embellishment $\frac{R - (ER + DR)}{F}$ = Per lot

The contribution per lot is adjusted quarterly by multiplying it by (I1/I2) indexation figures.

* Open Space contribution (Land Component) = A x V = per lot

* Community/land CL - (EL + DL) = S

**CONTRIBUTIONS PLAN NO. 42A
COMMUNITY AND RECREATION FACILITIES
ERINA / GREEN POINT / TERRIGAL**

Where,

- V = The current Council valuation estimate of open space land, appropriate to the land to be acquired, in dollars per m².
- A = Area of open space land required to satisfy need of higher density of development proposed, ie; 2.83 ha/1000 persons, which represents 28.3 m²/person, using an occupancy rate for occupied dwellings of 3.7 persons/dwelling, therefore, (28.3 x 3.7 = 105 m² / lot). = 105m²/lot
- CL = Cost of purchasing community facilities land = \$296,100
- C = Cost of community facilities capital as identified in the Works Schedule
= \$ 2,120,000
- R = Cost of embellishing with recreation facilities open space land as identified in the Schedule of Expenditure. = \$ 1,100,000
- ER = Existing funds held in trust for recreation facilities embellishment = \$133,863.
- EL = Existing funds held in trust for community facilities land = \$543,939
- EC = Existing funds held in trust for community facilities capital = \$1,105,606
- S = Surplus funds from Community Facilities/land after allocation per this Plan
= \$422,215
- DR = Estimation of recreation contributions payable for sites with development consents or applications before Council = \$109,502
- DL = Estimation of community facilities land contributions payable for sites with development consents or applications before Council = \$174, 376
- DC = Estimation of community contributions payable for sites with development consents or applications before Council = \$354,435
- I1 = Current quarter "Consumer Price Index (All Groups Index) for Sydney" issued by the Australian Statistician.
- I2 = Original quarter "Consumer Price Index (All Groups Index) for Sydney" issued by the Australian Statistician.
- F = Forecast remaining lot/ET potential of plan less approved developments and those before Council. = 815 ETs/lots

Contributions will be required as a condition of consent at the initial stage of development.

Credit is given for existing lots except in relation to where the development is for a secondary dwelling.

**CONTRIBUTIONS PLAN NO. 42A
COMMUNITY AND RECREATION FACILITIES
ERINA / GREEN POINT / TERRIGAL**

APPENDICES

1 WORKS SCHEDULE

Community and Recreation Facilities

The specific facilities and services proposed to be provided are outlined in the table below. After a review of methodology and assessment of issued consents, together with increased lot yield and therefore an increased potential pool of funds derived from developer contributions, the draft plan has been amended and additional funds allocated to community and recreation facilities.

SCHEDULE OF WORKS

COMMUNITY FACILITIES & RECREATION FACILITIES

TO BE CONSTRUCTED	ESTIMATED COST
Recreation Facilities	
Amenities, Duffys Road	\$ 300,000
Playing Fields	\$1,684,500
Total	\$1,984,500
Community facilities	
Lift Installation, Gosford City Sports Stadium, Terrigal	\$ 70,000
Capital Improvements at Youth and Community Centre, Erina Fair	\$ 333,300
Total	\$ 403,300
Purchase of Lot 1 DP 656616 Terrigal Drive	\$ 113,850
COMPLETED WORKS	
Playgrounds	
Beveridge Drive	White Cedar Cl/Cooper Road
Greenvale Road	Bembooka Road
Mobbs Road	Thames Drive
	Katherine Crescent
	Golden Grove Cct
	Bronzewing Drive
Structured Recreational Facility - Sun Valley Rd Green Point	
Community Centre & Childrens Service Green Point	
Papalya Child Care Centre (DCP apportionment)	
Community Facilities Land acquisition	
Community Initiative Program	
Erina Child Care Centre (DCP apportionment)	
Multi Purpose Community Centre, Erina Fair	

NB: proposed playground at Karalta Road/Ilya Avenue is utilising non-Section 94 contributions.

Open Space/Recreation land to be acquired - see Contributions Plan No. 42A Map.

CONTRIBUTIONS PLAN NO. 42A COMMUNITY AND RECREATION FACILITIES ERINA / GREEN POINT / TERRIGAL
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II INDEXATION FIGURES - CURRENT FROM 4/10/05

* CRc x $\frac{I1}{I2}$

* CRr x $\frac{I1}{I2}$

I1 = Current quarter "Consumer Price Index (All Groups Index) for Sydney" issued by the Australian Statistician.

I2 = Original quarter "Consumer Price Index (All Groups Index) for Sydney" issued by the Australian Statistician = 107.4 (December 1992)

CRc = Original Contribution Rate : community capital = 292

CRr = Original Contribution Rate : recreation embellishment = 1051

III CURRENT VALUATIONS APPLYING TO LAND - CURRENT FROM 23 FEBRUARY 2005

Contribution	Englobo \$/m ²	Developed \$/m ²
Open Space/Recreation	75	140
Community	42	140

IV CONTRIBUTION RATE - CURRENT FROM 4/10/05

	Original Rate \$/lot	Current Rate \$/lot
Community facilities capital (Account No D9042.830)	292	409
Open Space Land (Account No D9042.825)	2310	7875
Recreation embellishment (Account No D9042.828)	1051	1472
Total	3653	9756

V ACCOUNTS

A Register is kept by Council which outlines the following information:

- funds received from the date of the CP coming into effect in accordance with the Environmental Planning and Assessment Regulation, 2000;
- funds levied under this plan will be accounted for separately (that is, funds levied under this plan shall have a separate account);
- the source of all funds received from the date of the plan coming into effect shall be separately identified (that is, identifying which specific development paid which specific contribution);
- expenditure of all funds received, identifying works on which the funds were spent, and timing of expenditure
- full details of disbursement to other accounts which have previously paid for the cost of studies.

These records are kept in accordance with the Environmental Planning and Assessment Regulation, 2000 as amended. These records are available for public perusal at the ground floor counter.

In accordance with the Regulations, an annual statement will be prepared and be available for public perusal, along with the register of accounts.

