

CONTRIBUTIONS PLAN NO. 42B

DRAINAGE

ERINA / GREEN POINT / TERRIGAL



This Page Intentionally Left Blank

**CONTRIBUTIONS PLAN NO. 42B
DRAINAGE
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/Instruments
- 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 Drainage - 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. A 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 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. 42B - Drainage - Erina/Green Point/Terrigal and consists of this document and map marked Contributions Plan No. 42B Drainage - 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.

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

**CONTRIBUTIONS PLAN NO. 42B
DRAINAGE
ERINA / GREEN POINT / TERRIGAL**

"CP" means Contributions Plan No. 42B - Drainage - Erina/Green Point/Terrigal the document, prepared under the EPA Act, as amended.

"CP Map" means the map marked Contributions Plan No. 42B - Drainage - 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/Instruments

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 Contributions Plan is to be read in conjunction with the following :

- Erina Creek Flood Study Review 1990/1991, Webb, McKeown Consultants.
- Erina Creek Floodplain Management Plan 1991, Webb, McKeown Consultants.
- Nunns Creek Trunk Drainage Strategy Study 1990, Webb, McKeown Consultants.
- Worthing Creek Trunk Drainage Strategy 1991 and Addendum, Webb, McKeown Consultants.
- Sun Valley Catchment Trunk Drainage Strategy 1990, Kinhill Consultants.
- Development Control Plan No. 42 - Erina/Green Point/Terrigal.
- Contributions Plan No. 42A - Community and Recreation Facilities - 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 Contributions 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 s94 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. 42B
DRAINAGE
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 works/services 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 works/services to meet demand;
- 2.4 To take account of works/services 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/works will provide for population outside the DCP area, to apportion costs accordingly;
- 2.12 To identify approximate locations and estimated costs of works/services to be provided;
- 2.13 To outline a proposed works schedule/priority list identifying when services 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 CP 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. 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 works/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 works/services proposed in the Works Schedule in this document.

In terms of the works/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/works which Councils have a responsibility to provide; and that Section 94 contributions can be levied only for capital, not recurrent or operating costs.

The drainage works 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.

3.4 Drainage - Background

The trunk drainage strategy for the area has been designed using a residential development density of approximately 12 lots per hectare, which equates approximately to minimum lot areas of 550 square metres with 10% of the total lots with minimum lot areas of 450m². This lot area was the minimum statutory lot area at the time of DCP formulation land rezoning, taking place.

Any proposed increase in this development density (developing more than one dwelling-house per lot, such as a dual occupancy, cluster development, secondary dwelling or the like) will necessitate additional drainage measures to ensure that the additional drainage requirements (which the system has not been designed to cater for), will be treated on site so that the increased density proposed will not affect the trunk drainage system. All developments will be required to comply with the conditions set out in Council's draft "Stormwater Detention Policy".

**CONTRIBUTIONS PLAN NO. 42B
DRAINAGE
ERINA / GREEN POINT / TERRIGAL**

Areas required to convey drainage are generally defined as such on the adopted DCP map. These areas are required as part of the proposed development to cater for drainage requirements generated. These are subject to change based upon detailed survey and design information at the development stage.

These areas are to be dedicated either to Council as a drainage reserve or are to be covered by a Section 88 B Instrument (under the Conveyancing Act, 1919), restricting their use for drainage purposes only, or a contribution in lieu of the land dedication, may be required to be paid to Council for the purchase of such land to accommodate the needs of the subject development and the development of the DCP (including the construction of necessary drainage structures).

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.

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 to Section 94 development contributions and this CP, Council's policy for medium density development is to apply 67% of the contribution for a single lot/dwelling-house to each medium density dwelling-house in respect of drainage contributions.

4 FORMULA

The funds required for the drainage works, 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:

The contributions are determined as follows:

* Drainage/capital $\frac{C}{F}$ = Per lot

**CONTRIBUTIONS PLAN NO. 42B
DRAINAGE
ERINA / GREEN POINT / TERRIGAL**

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

$$* \quad \text{Drainage/land} = \frac{(A \times V)}{F} = \text{per lot}$$

Where:

- T = Total cost of constructing drainage works identified within the CP = \$ 4,368,188
- C = The estimated funds required to construct the remaining drainage works within the CP., ie: C = T - (E+D+A) = \$ 1,910,744.
- E = Existing funds available for drainage works = \$479,326.
- D = Estimation of contributions payable for sites with development consents or applications before Council = \$1,848,118.
- B = Funds expended on Section 94 works to date = \$ 130,000
- F = Forecast remaining lot/et potential of plan less approved developments and those before Council = 815 ETs/lots
- A = Area of land required to be acquired for drainage purposes in m² = 94,234 m².
- V = The current Council valuation estimate of drainage land, appropriate to the land to be acquired, in dollars per m².
- 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.

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

General areas for drainage reserves/easements have been delineated on the DCP. Variations to these locations may be considered at the development stage based upon detailed survey and design information.

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

**CONTRIBUTIONS PLAN NO. 42B
DRAINAGE
ERINA / GREEN POINT / TERRIGAL**

APPENDICES

I WORKS SCHEDULE

TRUNK DRAINAGE WORKS

| WORKS TO BE CONSTRUCTED | | ESTIMATED COST |
|--------------------------------|--|-----------------------|
| 1 | Drainage Works, Milperra Road and Koolang Road | \$1,064,000 |
| 2 | Drainage Works, Broadlands Caravan Park | \$ 275,000 |
| 3 | Selective Clearing, Worthing Creek | \$ 140,000 |
| 4 | Selective Clearing Nunns Creek | \$ 12,000 |
| 5 | Channel Works ,Terrigal Creek, Kings Avenue | \$ 150,000 |
| | Total | \$1,641,000 |
| | Drainage Land | \$ 130,400 |

COMPLETED WORKS

Broadlands Caravan Park (easement acquisition) *

Trunk Drainage (Broadlands part complete) *

Selective clearing (part Sun Valley Rd) *

Drainage Study (Sun Valley Rd Creek)

Terrigal Dr/Brunswick Rd Culvert

Duffys Rd Culvert

Duffys Rd Retarding Basin (Charles Kay)

Worthing Creek Retarding Basin

Tingari Caravan Park (easement acquisition)

Terrigal Creek Channel Works *

Kings Ave Retarding Basin

Terrigal Dr/Worthing Creek Culvert

Terrigal Creek Caravan Park Culvert (Tingari Village)

Expenditure prior to 1992

* Denotes under acquisition / construction / design

Drainage lands to be acquired - see Contributions Plan No. 42B Map

When to be acquired - as subject land developed or upon request of the owner

| |
|---|
| CONTRIBUTIONS PLAN NO. 42B DRAINAGE ERINA / GREEN POINT / TERRIGAL |
|---|

II INDEXATION FIGURES

$$* \quad CR \quad \times \quad \frac{I1}{I2}$$

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)

CR = Original Contribution Rate = 2344

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

| Contribution | Englobo \$/m ² | Developed \$/m ² |
|--------------|---------------------------|-----------------------------|
| Drainage | 7.5 | 140 |

IV CONTRIBUTION RATE - CURRENT FROM 4/10/05

| | Original Rate \$/lot | Current rate \$/lot |
|--|-------------------------|------------------------|
| Drainage capital (Account No D9042.834) | 2344 | 3284 |
| Drainage land (Account No D9042.835) | 462 | 867 |
| Total | 2806 | 4151 |

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.

