

CONTRIBUTIONS PLAN NO. 7A

DRAINAGE

NIAGARA PARK



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**CONTRIBUTIONS PLAN NO. 7A
DRAINAGE
NIAGARA PARK**

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 Current Valuation
- iii Indexation Figures
- iv Contribution Rate
- v Accounts

1 INTRODUCTION

1.1 History of Contributions Plan Area

Most of the land within the Niagara Park Development Control Plan (DCP) area was rezoned to residential under Local Environmental Plan No. 49 on 22 January 1982. Council adopted a DCP for the area on 25 May 1982 with a revision coming into effect on 28 December 1992.

On 14 February 1992 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 (CPs) under Section 94, for the purpose of imposing conditions on development under Section 94 of the Act.

As this DCP has existed for a number of years, some of the 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 21 October 1999 and 19 April 2006.

1.2 Name of Contributions Plan

This plan is called Contributions Plan No. 7A - Drainage - Niagara Park and consists of this document and map marked Contributions Plan No. 7A - Drainage - Niagara Park.

1.3 Abbreviations within Contributions Plan

"DCP" means Development Control Plan No. 7 - Niagara Park the document, prepared under the Environmental Planning and Assessment Act, 1979, as amended.

"DCP Map" means the map marked Development Control Plan No. 7 - Niagara Park Council Plan, 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.

"CP" means Contributions Plan No. 7A - Drainage - Niagara Park the document, prepared under the EPA Act, as amended.

"CP Map" means the map marked Contributions Plan No. 7A - Drainage - Niagara Park, 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 CP is to be read in conjunction with the following:

- Niagara Park Social Plan
- Development Control Plan No. 7 - Niagara Park
- Contributions Plan No. 7B - Roadworks and Traffic Management - Niagara Park
- Contributions Plan No. 7C - Community and Recreation Facilities - Niagara Park
- Siletta Road Weir Investigation 1998 by Robert Payne and Dr Michael Mahoney

This Plan must also be read in conjunction with any other DCP or CP 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 are registered and 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.

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.

**CONTRIBUTIONS PLAN NO. 7A
DRAINAGE
NIAGARA PARK**

- 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 locations and 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 (3) months the derived per lot contribution will be indexed.

Council has determined that the total theoretical potential of this DCP area is approximately 363 lots. Most existing 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.

**CONTRIBUTIONS PLAN NO. 7A
DRAINAGE
NIAGARA PARK**

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 Niagara Park 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 Niagara Park 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".

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 the construction certificate; or

**CONTRIBUTIONS PLAN NO. 7A
DRAINAGE
NIAGARA PARK**

- (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 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 December 1992 as indexed to today's values.

The formula adopted in 1992 to determine contributions per lot for the required facilities and services is as follows:

* Drainage/capital $\frac{C - E}{F} = \$ \text{ per lot}$

Where:

- C = Total estimated cost of constructing the drainage system = \$426,888
- E = Existing funds available for drainage works = \$341,799.
- F = Forecast remaining lot/ET potential of plan less approved developments and those before Council = 84 ETs/lots.
- 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.

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

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 CP. 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. 7A DRAINAGE NIAGARA PARK
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APPENDICES

I WORKS SCHEDULE - CURRENT FROM 9/8/99

TRUNK DRAINAGE WORKS

Works to be Constructed	Estimated Cost
Siletta Road Retarding Basin	\$450,000 (part funded by S.94)
Completed Works	
Awaba Street to Railway Crescent	

II CURRENT VALUATION - CURRENT FROM 17/12/91

Contribution	Englobo \$/m2	Developed \$/m2
Drainage	3	140

III INDEXATION FIGURES

- I1 = Current quarter "Consumer Price Index (All Groups Index) for Sydney" issued by the Australian Statistician.
- I = Original quarter "Consumer Price Index (All Groups Index) for Sydney" issued by the Australian Statistician = 107.4 (December 1992).

IV CONTRIBUTION RATE - CURRENT FROM 4/10/05

	Original Rate	Current Rate
	\$/lot	\$/lot
Drainage / capital (Account No D9007.834)	1013	1419

**CONTRIBUTIONS PLAN NO. 7A
DRAINAGE
NIAGARA PARK**

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; and
- 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.

**CONTRIBUTIONS PLAN NO. 7A
DRAINAGE
NIAGARA PARK**



WORKS SCHEDULE - NIAGARA PARK

DRAINAGE & ROADWORKS		
ITEM		ESTIMATED \$M COST
1	SLETTA RD RETARDING BASIN	\$371,820 *
2	ALAN STRAILWAY CR INTERSECTION	\$96,400 *
* (REMAINING FUNDING FROM OTHER SOURCES)		

LEGEND

	EXISTING DRAINAGE EASEMENT		SUBJECT TO GEOTECHNICAL SURVEY AT TIME OF SUBDIVISION		C.P. BOUNDARY
	EXISTING DRAINAGE RESERVE			①	DRAINAGE WORK
	PROPOSED DRAINAGE RESERVE			②	ROADWORKS
	EXISTING PUBLIC RESERVE				
	SCENIC PROTECTION - CONSERVATION				

COMPLETED WORKS - NIAGARA PARK

COMMUNITY & RECREATION FACILITIES	DRAINAGE	ROADWORKS & TRAFFIC MANAGEMENT
COMMUNITY / RECREATION EXPENDITURE PRIOR TO 1982 - UNCLASSIFIED CONSULTANT SOCIAL PLAN CHAMBOURNE OVER PLAYGROUND PERRATT D. PLAYGROUND STRUCTURED RECREATION MULTI-PURPOSE COMMUNITY CENTRE COMMUNITY INITIATIVE PROGRAMS	DRAINAGE WORKS EXPENDITURE PRIOR TO 1982 - UNCLASSIFIED AREAS BY 10-15-84 WAY OVER PLAN BY CLAUDETTE RECONSTRUCTION	

* DENOTES UNDER ACQUISITION / CONSTRUCTION / DESIGN
** DENOTES EXPENDITURE PRIOR TO DECEMBER 1982

PREPARED BY: [Name] DATE: [Date]	CHECKED BY: [Name] DATE: [Date]	APPROVED BY: [Name] DATE: [Date]	DRAWN BY: [Name] DATE: [Date]	SCALE: 1:500	NIAGARA PARK CONTRIBUTIONS PLAN No.7A DRAINAGE
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