

CONTRIBUTIONS PLAN NO. 7C

# COMMUNITY AND RECREATION FACILITIES

NIAGARA PARK



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COMMUNITY AND RECREATION FACILITIES  
NIAGARA PARK**

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## **1 INTRODUCTION**

### **1.1 History of Contributions Plan Area**

Most of the land within the Niagara Park Development Control Plan (DCP) 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 94B, for the purpose of imposing conditions under Section 94 of the Act on development.

As this DCP 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 20 October 2004 and 19 April 2006.

### **1.2 Name of Contributions Plan**

This plan is called Contributions Plan No. 7C - Community and Recreation Facilities - Niagara Park and consists of this document and map marked Contributions Plan No. 7C - Community and Recreation Facilities - 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 maps marked Development Control Plan No. 7 - Niagara Park, 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. 7C - Community and Recreation Facilities - Niagara Park the document, prepared under the EPA Act, as amended.

"CP Map" means the maps marked Contributions Plan 7C - Community Facilities and Recreation - Niagara Park, a copy of which may be obtained from Council.

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**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 documents:

- Niagara Park Social Plan 1992
- Development Control Plan No. 7 - Niagara Park
- Contributions Plan No. 7A - Drainage - Niagara Park
- Contributions Plan No. 7B - Roadworks and Traffic Management - Niagara Park

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.

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**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.

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## **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 To enable Council to manage the Contributions Plan 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 CP area is approximately 363 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

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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 facilities and services proposed in the Works Schedule in this document.

In terms of the facilities, works 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 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, the 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.

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 S94) 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.

The apportionment of costs in the case of proposed facilities and services to serve the Niagara Park Urban Release Area is as shown on the following table.

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**TABLE 1: PRINCIPLES OF APPORTIONMENT: NIAGARA PARK**

<b>FACILITY/ SERVICE</b>	<b>TOTAL NEED IN CATCHMENT</b>	<b>EXISTING PROVISION</b>	<b>REQUIRED FOR RELEASE AREA POP.</b>	<b>PROPOSED TO BE PROVIDED</b>	<b>BASIS OF APPORTIONMENT</b>
Community Centre/ Hall/ Meeting Place	2	-	0.25	1	Apportioned in relation to other residents in the locality (DCP : other residents in locality i.e. 25%:75%)
Community Initiatives Program	1	-	1	1	Full cost to S94 (must benefit release area)
Structured Recreation	2-3	-	1	2	Half cost to S94
Playgrounds	2	-	2	2	Full cost to S94 as serve needs of release area only

From the table, Council is required to contribute an amount equivalent to 0.75 of a community centre and one (1) structured recreation facility. Other facilities and services proposed are required to serve the new release area population.

Council's contribution from other sources such as grants, rates and taxes on behalf of residents outside release areas should amount to approximately \$121,000. 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 derived from other funding sources is 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.

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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 which 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. 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 Local Environmental Plan 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;

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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.

Generally, unless the property to be developed contains land which Council has identified is 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 Urban Release Area population based upon the standard of 28.3m<sup>2</sup> 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 pays 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 DCP 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 DCP area.

The table below indicates Council's assumed occupancy rates.

**TABLE 2 - ASSUMED OCCUPANCY RATES**

<b>Development</b>	<b>Density Persons</b>	<b>Required Open Space</b>
Each allotment/dwelling house	3.7	105m <sup>2</sup>
Other dwellings (eg medium density/ semi-detached, town houses, secondary dwellings etc)		
Small dwelling - less than 70m <sup>2</sup>	1.5	42m <sup>2</sup>
Medium dwelling - 70m <sup>2</sup> - 110m <sup>2</sup>	2.5	70m <sup>2</sup>
Large dwelling - greater than 110m <sup>2</sup>	3.0	85m <sup>2</sup>

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**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 of Section 94 development contributions and this Contributions Plan, 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, 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 (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= 42m<sup>2</sup> open space
- therefore, 42 multiplied by \$ value / m<sup>2</sup> = \$ / small dwelling.

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**4 FORMULA**

The funds required for the community/recreation facilities proposed, are sought under the proposed contribution rates, which came into effect from 28 December 1992, as indexed to today's values.

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

- Community / Recreation Capital / Embellishment

- $(C + R) - (EC + EL + ER) = \text{Per lot}F$

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

- Open Space contribution (Land Component) =  $A \times V = \text{per lot}$

Where,

V = The current Council valuation estimate of open space land, appropriate to the land to be acquired, in dollars per m<sup>2</sup>.

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 m<sup>2</sup>/person, using an occupancy rate for occupied dwellings of 3.7 persons/dwelling, therefore, (28.3 x 3.7 = 105 m<sup>2</sup> / lot) = 105m<sup>2</sup>/lot.

C = Cost of community facilities capital as identified in the Works Schedule = \$240,000.

R = Cost of embellishing with recreation facilities open space land as identified in the Schedule of Expenditure = \$195,000

ER = Existing funds held in trust for recreation facilities embellishment = \$26,901.

EC = Existing funds held in trust for community facilities capital = \$222,178.

EL = Existing community land contributions held in trust = \$109,308

F = Forecast remaining lot/ET potential of plan (not registered). = 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.

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.

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**APPENDICES**

**I WORKS SCHEDULE - CURRENT FROM 3/08/04**

**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**

<b>RECREATION FACILITIES</b>	<b>ESTIMATED COST</b>
Reimbursement for Works Constructed	
Carrington Street Playing Field (apportionment) (reimburse Strategic Strategy)	\$ 106,200
<b>To be Constructed</b>	
Lighting at Paddy Clifton Oval, Showground Road	<u>\$ 46,400</u>
	<b>\$ 152,600</b>
<b>Completed Works</b>	
Playgrounds - Perratt Close - Cambourn Drive	
Structured Recreational Facility	
<b>COMMUNITY FACILITIES</b>	
<b>Completed Works</b>	
Multi Purpose Community Centre	

**II INDEXATION FIGURES**

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

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**III CURRENT VALUATIONS APPLYING TO LAND - CURRENT FROM 28/12/92**

<b>Contribution</b>	<b>Englobo \$/m<sup>2</sup></b>	<b>Developed \$/m<sup>2</sup></b>
Open Space/Recreation	22	140

**IV CONTRIBUTION RATE - CURRENT FROM 4/10/05**

	<b>Original Rate \$/lot</b>	<b>Current Rate \$/lot</b>
Open Space Land (Account No D9007.825)	1575	1575
Recreation Embellishment (Account No D9007.828)	912	n.a.
Community Facilities Capital (Account No D9007.830)	912	n.a.
<b>TOTAL</b>	<b>3399</b>	<b>1575</b>

**V ACCOUNTS**

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

- funds received from the date of the Contributions Plan coming into effect in accordance with the Environmental Planning and Assessment Regulation, 2000;
- funds levied under this plan will be accounted for separately (ie, 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 Act, 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.

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PRIORITY	WORKS SCHEDULE	ANTICIPATED TIMING (% of lots developed)	ESTIMATED EXPENDITURE
HIGH	MULTI-PURPOSE COMMUNITY CENTRE	75%	\$230,000
HIGH	PERRATT PLAYGROUND	75%	\$70,000
MEDIUM	CAMBOURN PLAYGROUND	80%	\$10,000
HIGH	COMMUNITY INITIATIVES PROGRAMME	75%	\$10,000
LOW	STRUCTURED RECREATION	100%	\$125,000

BASE INFORMATION AS OF 1/3/92

SUPERVISING DRAFTSPERSON *[Signature]* DATE 2/1/92

No.	DETAILS OF AMENDMENTS	DATE

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THIS PLAN COMES INTO FORCE FROM 28/12/92 TO THE EXTENT TO WHICH IT IS CONSISTENT WITH THE GOSFORD PLANNING SCHEME ORDINANCE, THE GOSFORD LOCAL ENVIRONMENTAL PLAN NO. 200 OR ANY OTHER SUBSEQUENT LOCAL ENVIRONMENTAL PLAN WITHIN THE AREA

COUNCIL FILE NO. 377.50  
CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AND REGULATIONS.  
TOWN CLERK *[Signature]* DATE *[Date]*

SCALE  
**1:4000**  
COUNCIL REGISTERED PLAN NO.  
**31/92**