

**Smiths Lane Local Road
and
Traffic Infrastructure
Developer Contribution Plan 2010**

September 2010

Nambucca Shire Council
Administration Centre
Princess Street
Macksville.

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Notes and Corrections to this Issue.

Please note the following and corrections:

There are no corrections

Amendments and Revisions

Issue No	Date	Issue Title	Amendment
1	02.07.10	Draft for Review	
2	07.07.10	Public Exhibition Draft	
3	16.09.10	Adopted	
4	30.09.10	Commencement	Amended drafting error to catchment map

Part A

Introduction, Administration and Operation of the Contribution Plan

1 Introduction

1.1 Name of this Plan

This section 94 Developer Contribution Plan is prepared in accordance with the provisions of section 94 of the *Environmental Planning and Assessment Act (1979) (EP&A Act)* and Part 4 of the *Planning and Assessment Regulation (2000) (Regulation)*.

The Plan is named the “**Smiths Lane Local Road and Traffic Infrastructure Developer Contribution Plan 2010**”.

1.2 Commencement of Contribution Plan

This contribution plan is prepared pursuant to the provisions of section 94 of the *EP&A Act* and Part 4 of the *Regulation* and is effective from 30th September 2010

1.3 What area does this Plan apply to?

This Plan applies to all land within the Nambucca Shire as described in **Section C: Map C1 Contribution Catchment** ,of this plan.

This development contribution plan applies to applications for development consent and applications for complying development certificates under Part 4 of the Act.

1.4 What is a section 94 contribution plan?

Section 94 of the Act authorises Council to levy contributions from developers as a condition of consent for the provision of public infrastructure, facilities and services that are required as a result of increased development. The section 94 plan remains a public document and describes Council’s policy on developer contributions.

A section 94 contribution plan details the expected increase in demand as a result of new development and links this to an increased demand for local public services, facilities and infrastructure to be provided through developer contributions. This 'nexus' is one of the underlying core principles of section 94 and is the key factor in deciding if a contribution can be sought.

A contribution plan must contain a description of how the contribution rate has been determined, and the formulae for determining the rate; the contribution rates; the works schedule; and, timeframe for expenditure and project delivery.

The Plan should be flexible, it should be able to respond to the changing needs of an area, and it should allow for the planned, efficient provision of facilities and infrastructure expected to be required as a result of, or to assist, new development.

The plan should operate over a specific period of time, which in this case is 20 years, for determining both the rate of development and the infrastructure, facilities and services to be provided within that period. The plan should be reviewed and amended periodically every 5 years, however the plan may be reviewed at any time during the period.

Council can only demand a contribution if it is satisfied the development, the subject of the development application, will or is likely to require the provision of or increase the demand for, public facilities within the area. Contributions may be in the form of monetary payments, dedication of land at no cost to council, the provision of a material public benefit, or a combination of these.

The ability to fund new works facilities and the embellishment of existing infrastructure in the community through the use of section 94 contributions is highly important for Nambucca Shire Council. Through the use of developer contributions Council reduce the cost and impact of existing residents in the LGA for the provision of additional services and infrastructure generated by new development. The utilisation of section 94 contributions guarantees the service level for the existing population is maintained while ensuring an equivalent level is provided for the incoming population.

1.5 Purpose of this contribution plan

This plan satisfies the requirements of the EP&A Act and Regulation. This Plan authorises Nambucca Shire Council to require payment of a monetary contribution, a dedication of land or in lieu of, to accept the provision of material public benefit, including the dedication of land, or the carrying out of a works in kind agreement, towards provision, extension or

augmentation of public road infrastructure that will, or are likely to be, required or have an increased demand, as a consequence of development in the catchment area covered by this plan.

The purpose of this Plan is to:

- Provide the framework for the efficient and equitable determination, collection and management of development contributions towards the provision of new local road and traffic infrastructure
- Ensure that all new development that benefits from these public facilities and infrastructure contribute towards their provision
- Determine the likely development patterns and needs of the population which will result from that development
- Ensure that the existing Nambucca Shire community is not unreasonably burdened by the provision of public facilities and infrastructure required as a result of the ongoing development and redevelopment undertaken within the area described in this contribution plan
- Provide an overall strategy for the coordinated delivery of public facilities and infrastructure consistent with Councils strategic plan and management plan.
- Provide a comprehensive and transparent strategy which is implemented for the assessment, accounting and review of development contributions made under section 94 of the Act and regulation for the Nambucca LGA; and
- Indicate a program of works and capital expenditure for the provision of public works required as a result of development within the LGA.

1.6 Relationship to other Plans

Contributions raised and paid under the authority of this Plan will be directed towards the respective facility and infrastructure described in the Work Schedule of this Plan.

This Plan incorporates the outstanding fund balance of the superseded plan current at the time of this plan's introduction.

Contributions levied under the previous plan may be adjusted according to movements in the Consumer Price Index (CPI). This would arise where the timing of the payment of the contribution is at least one (1) year from the date of development consent, which contains the condition imposing the section 94 contribution/s.

1.7 For what infrastructure will contributions be levied?

This contribution plan establishes strategies that allow section 94 contributions to be levied towards the provision of the following categories of infrastructure or service provided these relate to the need generated through increased development demands:

- *Local Road Upgrade to Smiths Lane*
- *Intersection Upgrade at Smiths Lane and Wilsons Road*

1.8 Contribution plan structure

The contribution plan is structured in three (3) parts:

Part A: details essential components of the Plan, including the basis for preparing a development contribution plan, describes the Plans operation and administration, defines the area affected by the Plan and its relationship to other plans.

Part B: provides details of the need for public facilities planned, including the expected development and population characteristics of the catchment and the plan for the delivery of required facilities and infrastructure. Additionally details on the strategies to deliver each of the categories of facilities and infrastructure, including the causal, spatial and temporal link between the expected development and the facilities required, and the philosophy, standards and manner of facility and service delivery is provided

Part C: details work schedules, catchment maps, contribution summaries and references.

2 Administration and Operation of the Plan

2.1 Operation of the Plan

Section 94 permits Council to require developers to provide or assist in the provision of new facilities and infrastructure required as a result of new development. The mechanism to require the contribution is through the development assessment process.

In determining a development application or issuing a complying development certificate, Council may impose a condition of consent requiring the payment of a monetary contribution, dedication of land and / or works in kind, in accordance with the provisions of the plan.

This plan identifies the quantum of contribution to be levied on an individual development, and what facilities and infrastructure the contribution may be directed towards. Such details are to be included in the respective development approval. The parameters and assumptions used to identify contributions and the works as a result of development occurring are dynamic. As a result this plan will be reviewed periodically.

Information on the contributions received, and details of how these contributions have been applied towards the provision of the public amenities and services described in this Plan, will be reported in Council's annual financial statements. A register of contributions received under this Plan will also be maintained and made publicly available by Council.

2.2 What is the life of this Plan?

This Plan seeks development contributions for facilities and infrastructure required as a result of population increases occurring over the next ten (10) year period. The time frame selected accords with the estimated rates of development and population projections completed to identify growth from 2009.

2.3 What is the contribution formula?

The formula used to determine the contributions regarding each type of facility and service are set out in Part B of this Plan. The formulas have been based on a generic contribution formula that applies to each facility or infrastructure item.

The contribution rate will be indexed according to the CPI set out in section 2.10.

A summary of the contribution rate is provided in this plan.

The contribution rates for residential development are calculated per person, and then converted to a per dwelling bedroom occupancy and per new lot.

Commercial contribution rates are determined on Gross Floor Area measured on a square metre basis, or on car parking spaces required under Councils development control plan for car parking, and will be levied on the greater of the two.

2.4 When are contributions payable?

The amount of developer contributions will be determined as a part of the assessment of a development application and will appear as a condition of approval on the respective development consent issued under section 80 of the EP&A Act. The notice will include a condition indicating the timing, amount of payment and the specific public amenity or service in respect of which a condition is imposed.

Dedication of land, provision of material public benefits or works in kind, or payment of a monetary contribution is to be made prior to the issue of a construction certificate. In the case of subdivision, the contribution is to be made prior to the issue of the subdivision certificate. Where a developer negotiates a material public benefit, works in kind or dedication of land in lieu of paying a monetary contribution required under this Plan, the developer must also pay Council's reasonable costs for the management of this contribution plan.

The amount of monetary contribution to be paid will be the contribution payable at the time of consent, and depending on when the development consent is acted upon, may be subject to reasonable adjustment due to movements in the financial indices and rates in section 2.10

2.5 Are contributions payable for complying development?

Under section 94E contributions are payable on complying development. It is the responsibility of the principal certifying authority to accurately calculate and apply the section 94 contribution conditions where applicable. It is the responsibility of any person issuing a construction certificate to certify that the contributions have been paid to Council prior to the issue of

the certificate. Deferred payments of contributions required by a condition of complying development certificate will not be accepted.

Payment of a monetary contribution is to be made prior to the issue of the construction certificate. In the case of subdivision, the contribution is to be made prior to the issue of a subdivision certificate.

Where a developer negotiates a material public benefit, works in kind or dedication of land in lieu of paying the monetary contribution required under this Plan, the developer must also pay Council's reasonable costs for the management of this contributions Plan.

2.6 Offer to enter into a voluntary planning agreement

If an applicant does not wish to pay a levy in connection with the carrying out of a development, the applicant may offer to enter into a voluntary planning agreement with Council under s.93F of the EP&A Act in connection with making a development application.

Under the planning agreement, the applicant may offer to pay money, dedicate land, carry out works or provide other material benefits for public purposes.

The applicant's provision under a planning agreement may be additional to or instead of paying a contribution in accordance with a condition of development consent authorised by this Plan. This will be a matter of negotiation with Council.

The offer to enter into the planning agreement together with a copy of the draft agreement should accompany the relevant development application.

Council will publicly notify the draft planning agreement and an explanatory note relating to the draft agreement along with the development application and will consider the agreement as part of its assessment of that application.

If council agrees to enter into the planning agreement, it may impose a condition of development consent under s.93I(3) of the EP&A Act requiring the agreement to be entered into and performed. If Council does not agree to enter into the planning agreement, it may grant consent subject to a condition authorised by this Plan requiring the payment of a contribution.

2.7 Works in Kind and Material Public Benefits

Council may allow applicants to make a contribution by way of a material public benefit, (for items NOT included in the Works Schedule) or by works in kind (for items included in the Works Schedule) as referred to in section 94(5) of the Environmental Planning and Assessment Act 1979.

Council may, but is not obliged to, accept material public benefits or works in kind when:

- Agreement is reached between the developer and Council as to the proposed material public benefit or works in kind
- A monetary contribution in accordance with the Section 94 plan is unnecessary or unreasonable in the circumstances
- The value of the material public benefit or works in kind is at least equal to the value of the monetary contribution assessed in accordance with the plan, and
- The material public benefit of all works in kind will not prejudice the timing or the manner of the provision of the public facility for which the contribution was required.

It may also accept a material public benefit for an item not included on the contribution plan work schedule where it considers the acceptance of that material public benefit will not create an unacceptable shortfall in contributions collected which may lead to difficulty in providing other items on the work schedule.

The offer from an applicant or any other entitled to that consent must be made in writing as part of the development application and include details of the extent and nature of the works proposed to be undertaken.

Council will require the applicant to enter into a written agreement for the provision of the works.

Acceptance of any such alternative is at the sole discretion of Council. Valuation of any land to be dedicated will be obtained by Council at the applicant's expense. The cost of the dedications are to be borne by the applicant. The terms of the offer as accepted by Council will be included in the development consent.

2.8 Monitoring and Review of Contributions

Nambucca Shire Council acknowledges the need to continually monitor and review this Contribution Plan. The contribution plan will be subject to review that will account for such matters as community need, provision costs, development rates, contribution affordability and performance of provision of works.

In the event of Council identifying changes as a result of the review process, amendments to the contribution plan, (apart from the periodic adjustment of contributions that is provided for in s.2.10 of this Plan, based on published indices), will be publicly exhibited in accordance with the requirements of the EP&A Regulation 2000.

Pursuant to Cl 32(3) of the Regulation 2000, Council may make certain minor adjustments or amendments to the Plan without prior public exhibition and adoption by Council.

2.9 Adjustment of Contributions.

To ensure that the values of the contributions are not eroded over time by movements in the Consumer Price Index (CPI), Council will amend the contribution rates. The contribution rates listed in Part C will be amended annually from 1st July and increased according to the previous March Quarter CPI to allow for increases in the cost of provision for facilities. Contributions required as a condition of development consent will be adjusted at the time of payment in accordance with the latest CPI (All Groups – Sydney) as published quarterly by the Australian Bureau of Statistics (ABS), using the following formula.

$$\text{Contribution at the time of payment} = C \times \frac{\text{CPI 2}}{\text{CPI 1}}$$

Where:

- C = The original contribution amount as shown on the consent
- CPI 2 = The CPI Number (All Groups – Sydney) currently available from the ABS at the time of payment
- CPI 1 = The CPI Number (All Groups – Sydney) last published by the ABS at the time of coming into effect of the Plan, or subsequent amendment of the Plan.

2.10 Accountability

Financial management and accountability are important components of section 94, and Council is obliged to maintain an accurate and up to date register of all section 94 contributions.

Monetary contributions received under the authority of this Plan must be recorded and kept through a separate account specifically established for this Plan. The records must indicate the contributions received, contributions expended and must include the interest, if any, earned on invested funds for each account.

These records are updated on a monthly basis.

Separate accounting records are maintained for all Council's section 94 contribution plans. Information on section 94 accounts and funds relating to this plan will be provided in a condensed format within Nambucca Shire Council's Annual Report/s in accordance with requirements of the EP&A Regulation 2000. Information is also available in Council's contribution register relating to this plan, which can be inspected at Council during normal business hours.

2.11 Deferment of Payments

Council's policy on deferment of section 94 contributions is:

- Council will accept deferred or periodic payment.
- Council will require the applicant to provide a bank guarantee by a bank for the full amount of the contribution or the outstanding balance on the condition that:
 - a. indexing will be calculated from the date the contribution was due until the date of payment
 - b. the bank guarantee be by a bank for the amount of the total contribution, or the amount of any outstanding contribution, plus an amount equal to twenty four (24) months interest plus any charges associated with establishing or operating the bank security
 - c. the bank unconditionally pays the guaranteed sum to the Council if the Council so demands in writing not earlier than twenty four (24) months from the provision of the guarantee or completion of the work

- d. the bank must pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development
- e. the banks obligations are discharged when payment to the Council is made in accordance with this guarantee or when Council notifies the bank in writing that the guarantee is no longer required
- f. where a bank guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the original contribution and accrued interest has been paid.

2.12 Pooling of Contributions

This plan authorises monetary section 94 contributions paid for different purposes to be pooled and used progressively or otherwise for those purposes, and are described in the works schedule.

Monetary contributions collected under previous issues of this contribution plan, or under equivalent contribution plans to be extinguished or repealed on adoption of this contribution plan, are authorised to be pooled and used for purposes outlined in this plan where those uses are consistent with the purpose for which the contributions were originally collected, and the intended original purpose has been either completed, abandoned or provided for by other means and/or the contributions are surplus.

2.13 Savings and Transitional Arrangements

A development application submitted prior to the adoption of this plan but not determined shall be determined in accordance with the provisions of the Plan, which applied at the date of determination of the application.

Part B

Contribution Plan Nexus, Development Profile and Projected Infrastructure Works

3 Basis for Levying a Contribution

The underlying principle of section 94 legislation requires a contribution plan to meet the tests of reasonableness and accountability. It is the responsibility of Council to determine what is reasonable, however the concepts of fairness, equity, sound judgement and moderation are seen to underpin the definition.

Reasonableness is demonstrated in terms of *nexus* between the contributing development and the infrastructure being provided through that contribution, and *apportionment* of costs

3.1 Nexus

Legislation requires that in order to demand a contribution for the road and traffic projects detailed in this plan, the plan must meet the three separate conditions of connectivity:

- Causal nexus
- Physical nexus, and
- Temporal nexus

3.1.1 Causal Nexus

Anticipated new residential development in, or close to, existing urban centres will place new demands on the established local road and traffic network. Greater capacity will be required at key local intersections and on local roads to meet the expected demand from the predicted increase in vehicles.

3.1.2 Physical Nexus

Contribution catchments have been identified and determined with regard to the collective nexus between the projects and the community being served by the works.

3.1.3 Temporal Nexus

The schedule of works identifies projects being planned to be provided to satisfy the future demands on the local traffic network. The work schedule details the type, cost and timing of projects to be provided within a specified time frame related to expected contributions.

3.2 Apportionment

The approach and rate of apportionment will vary in each circumstance, however the critical tests of apportionment are that it is:

- practical
- equitable
- based on best available information at the time
- reasonable in the circumstance, and
- publicly accountable

The rate of apportionment for each project is clearly detailed in Part C Work Schedules. The rate of apportionment is in part calculated on the predicted rate of growth across the catchment, measured against the existing road infrastructure capacity.

3.3 Developer Contribution Schedule of Works

The road and traffic infrastructure projects detailed in this plan will attract a contribution from development occurring within the catchment. The projects fall into the following categories and attract an apportioned contribution dependent on scale and type of works and level of need. That is, where a works project is required to provide increased traffic capacity or to service the needs solely or uniquely to a development catchment, in all cases the development within that catchment will be required to pay 100% of the cost of provision. Where the improvement will be shared with the existing community, such as where an existing intersection within an established area is upgraded to meet demands from new infill development, then the cost of that provision will be apportioned between the development and the existing community. The level of apportionment will vary on catchment population and degree of population demand.

Local infrastructure projects attracting a contribution under this plan provide for road and traffic improvements on the existing Smiths Lane alignment and formation, and include:

- Existing formation widening, sealing and shoulder improvements
- Intersection improvements
- Signage

The catchment contribution schedules provided in Part C of this plan detail the contribution apportionment percentage for each project, including the distribution of cost between residential and commercial development types.

Given that the nature of residential development is guided by a combination of particular market factors, which in turn are directed by broader political and financial influences such as employment, migration (external and internal) and age of the population, the forecast development timeframes may be affected. The increase in population is forecast to be gradual over the life of this plan, however growth spikes may occur within some sectors during the period.

As a result a gradual increase in local traffic volumes will be experienced on Smiths Lane requiring improvements to key local traffic infrastructure to provide greater capacity.

3.4 Predicted Development

The basis for levying a developer contribution is predicated on the predicted population increase and the future demand for new infrastructure to meet the needs of that population. This contribution plan authorises Council to demand a monetary contribution towards the design and construction of new road and traffic infrastructure required to service the needs of the local community as a result of new residential developments within the designated development catchment.

3.5 Development Profile

The proposed development profile for the catchment provides for:

- a total lot yield of 30 new large residential lots,

Lot take up is predicted to average 5 lots per year.

Based on data provided from the 2006 Australian Bureau of Statistics Census, the assumed occupancy rates in the Nambucca Local Government Area for an average sized 3 bedroom detached dwelling is 2.4 persons.

3.6 Projected Infrastructure Works

3.6.1 Upgrade to Smiths Lane

Increased traffic volumes generated by new large lot residential development will require Smiths Lane to be upgraded along the entire length south from the intersection with Wilsons Road.

Estimated Total Project Cost **\$ 702,000.**

3.6.2 Contribution Cap

In accordance with **Direction S.94E [1(1)]**, commencing **16th September 2010**, contributions levied under this plan are not to exceed \$20,000 for each dwelling authorised by the consent or residential lot created by subdivision, unless an increase in the maximum amount above \$20,000 has been approved by the Minister, [1(3)].

3.6.3 Program of Works

Works are scheduled to be undertaken post 2010.

3.6.4 Road Infrastructure Provided Ahead of Development – Recoupment of Costs

Council may choose to provide local road infrastructure ahead of development, whereby costs will be recouped through the provisions of this contribution plan.

3.7 Contributions Collected Under the Previous Plan

There are no previous development contributions collected for this project/s

3.9 Contribution Base Rate Calculation

The contribution base rate detailed in the contribution plan Work Schedule Table C.1 is calculated as follows.

3.9.1 Table C.1: Residential Contribution Base Rate Calculation

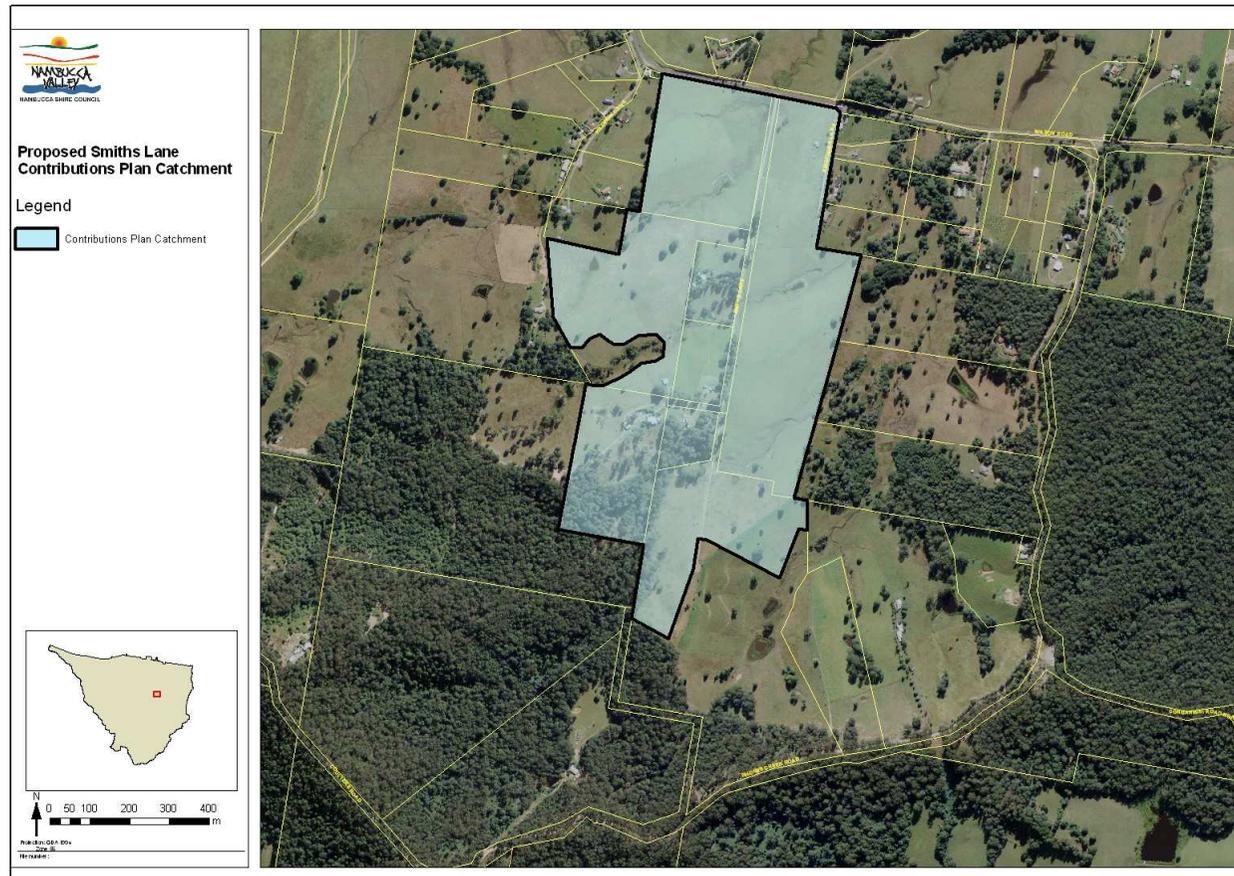
$$\text{Per Person Contribution} = \frac{(\text{Total Cost of Infrastructure} - \text{Previous Contributions Balance})}{\text{Increase in population due to development}} \times \text{Apportionment}$$

$$\text{Contribution per lot} = \text{Contribution per person} \times 2.4$$

Part C

Catchment Map, Work Schedule and Summary of Contribution Rates

Map C.1 Contribution Catchment



**Table C.1 Residential Contribution Rates and Schedule of Works
Smiths Lane Local Road Contribution Plan 2010**

Item	Description	Unit	Qty	Rate	Sub Total	Cost		App/Cost	App' Total	Adjusted	Total	Rate/ Person	Rate/ NewLot	Delivery Threshold
						Contingency	Total Project Cost							
	Reconstruction, pavement sealing and intersection improvements of Smiths Lane 1 to Council Specification	lin.m	1300	\$ 480.00	\$ 624,000.00	\$ 78,000.00	\$ 702,000.00	100.00%	\$ 702,000.00	\$ 702,000.00	\$ 9,360.00	\$ 22,464.00	2010	
TOTAL					\$ 624,000.00		\$ 702,000.00		\$ 702,000.00	\$ 702,000.00	\$ 9,360.00	\$ 22,464.00		

Table C.2 Contribution Summary

**Smiths Lane Local Road and Traffic Infrastructure
Contributions Plan 2010 Summary**

Applies to all determinations from 30th September 2010

Application Type		Total Plan Contribution	
Residential			
Per Person Rate	\$	9,360.00	\$ 9,360.00
Subdivision/New Lot: [eqv 2.4 persons]ea	\$	22,464.00	\$ 22,464.00
Detached [Dual Occupancy]			\$ -
1 BR [1.6]	\$	14,976.00	\$ 14,976.00
2BR [1.9]	\$	17,784.00	\$ 17,784.00
3BR [2.4]	\$	22,464.00	\$ 22,464.00
Semi/Row/Twnhouse/Unit			\$ -
1BR [1.2]	NA		NA
2BR [2.3]	NA		NA
3BR [2.3]	NA		NA
Additions/Increased Capacity/Additional BR [eqv 0.3 persons] ea	\$	2,808.00	\$ 2,808.00
			\$ -
Self Contained / Independent Seniors Living each			\$ -
1BR[0.6]	NA		NA
2BR[0.8]	NA		NA
3BR[1.0]	NA		NA
Tourist per Bed [eqv 0.3 persons]	\$	2,808.00	\$ 2,808.00
Aged Care per Bed [eqv 0.3 persons]	\$	2,808.00	\$ 2,808.00
Commercial			
Per GFA sq.m Rate	NA		NA
per car space	NA		NA

References

Australian Bureau of Statistics 2006 Census: Nambucca (A)(LGA 15700) Commonwealth of Australia, 2007