

# Policy

## Business Investment Policy

Version 2.0

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Minute No: 396

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Division: General Manager  
Section: Business and Economic Development  
File Reference: Business, Industry and Economic Development  
Historical Reference:

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# **Business Investment Policy**

## **Policy Objective**

This policy encourages the development of a robust Tweed economy which is resilient to fluctuations in the economic cycle, has a broad range of business activities and supports the growth and development of sustainable employment opportunities for Tweed Shire's population.

Council will provide leadership and support as well as advocating on behalf of new or existing businesses to the other levels of government to attract funding and any other applicable incentives.

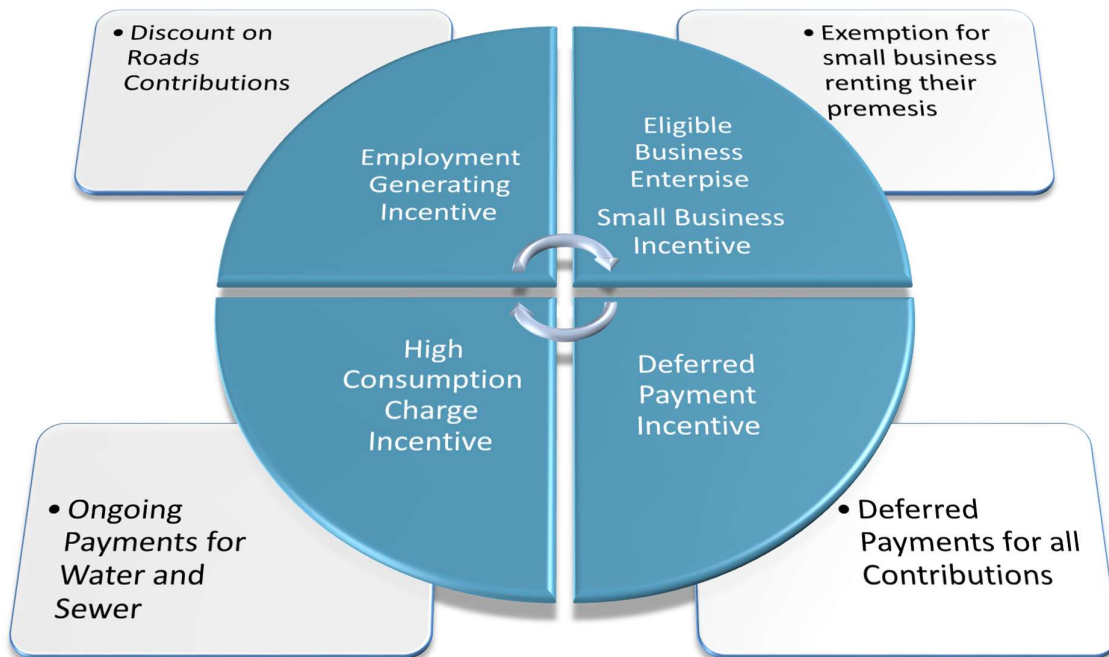
This Policy provides a holistic approach to support business investment and reinvestment in the regional economy, when the investment would not otherwise occur. It also encourages diversification of the economy.

This Policy provides the strategic context and governance platform to support Council's economic development strategies as outlined in the Tweed Economic Development Strategy and the Tweed Community Strategic Plan ~~2013/2023~~.

## **Policy Background**

Tweed Council supports business development and growth and has prepared this Policy to offer a range of incentives to encourage new businesses and the expansion of existing businesses. This Policy is aimed at facilitating the development of businesses as they go through the difficult development phase.

The Policy provides a range of solutions to deal with developer charges and contributions arising from the development process. This range of incentives allows for all size of businesses to take advantage of this Policy. Depending on their eligibility businesses will be able to choose from the incentives shown below.



## Guiding principles

~~Assistance from Council to new business developments under this Policy will comprise a non-cash incentive package which allows for payment by instalments of developer contributions for water supply and/or sewer services infrastructure, pursuant to section 64 of the Local Government Act 1993 (Infrastructure Charge) and section 94 of the Environmental Planning and Assessment Act.~~

This Policy provides assistance from Council to new business developments through a non-cash incentive towards developer contributions and developer charges for water supply, sewer services and roads infrastructure resulting from development approvals.

Any development relying on the incentive mechanisms under this Policy accepts that the incentive program is offered in good faith and that Council reserves the right to accept or refuse any application for assistance. An application under the minimum threshold may be considered by Council provided the applicant can demonstrate extenuating circumstances.

New investment and reinvestment should result in significant economic gain. This Policy tries to encourage a diversity of small businesses to develop and grow, especially in our CBDs. It also encourages businesses, developers and investors who will foster support services, employment and growth.

Under Council's Community Strategic Plan, Tweed Shire Council must demonstrate ecological sustainability through all aspects of its operations. In its endeavours to become a community leader in ecological sustainability Council encourages all developers and businesses to consider optimising the level of sustainability in their proposed developments.

## **Developer Contributions Developer Charges and ~~Development Contributions~~**

Development Contributions are payments made by developers to enable Council to provide public amenities and services required for new residents and businesses. Section ~~94-7.11~~ of the Environmental Planning and Assessment Act ~~1979~~ is the principal legislation enabling Councils to levy contributions for public amenities and services. Section ~~94-7.11~~ Contributions are imposed by way of a condition of development consent or complying development. Currently there are ~~23-28~~ Developer Contribution plans but only three of these apply to commercial / employment generating developments. These are car parking, roads and Council administration offices.

Developer Charges are levied to assist in funding water and sewer infrastructure capital works required for growth. These capital works include water treatment plants, water reservoirs, pumping stations sewer treatment plants etc. ~~These~~ Developer Charges are levied ~~through-under~~ Section 64 of the Local Government Act which refers to and administered through the Water Management Act.

## **Policy**

### **Developer Contributions – Incentives**

The Policy provides incentives for the establishment or reinvestment in employment generating businesses.

#### Employment Generating Incentive

<b>Name:</b>	Employment Generating Incentive
<b>Type:</b>	Discount
<b>Delegated Approval:</b>	Director Planning and Regulation
<b>Applies to:</b>	<ul style="list-style-type: none"> <li>Tweed Roads Contributions Plan (TRCP) (S.<del>94-7.11</del> Plan No.4)</li> </ul>
<b>Eligibility:</b>	An incentive is offered to all job creating Business Premises across the Shire.
<b>Ineligible</b>	<p>Residential development, including residential components of mixed use developments.</p> <p>The concession is not available for developments exploiting 'existing use rights' as defined in Clause 3.6.1 of the TRCP, and nor can Local Area Contributions be discounted by the concession.</p>
<b>Security:</b>	Nil
<b>Min. Threshold:</b>	Nil

<b>Incentive:</b>	Forty percent (40%) discount. Council may review the concession on an annual basis at 1st July each year.
<b>Application:</b>	Applicants will need to nominate their development as an Employment Generating Development in their Development Application to Council.

### Eligible Business Enterprise - Small Business Incentive

The Policy provides incentives for the establishment or reinvestment of small businesses.

<b>Name:</b>	Eligible Business Enterprise
<b>Type:</b>	Discount
<b>Delegated Approval:</b>	Director Planning and Regulation
<b>Applies to:</b>	<ul style="list-style-type: none"> <li>• Tweed Roads Contributions Plan (TRCP) (<del>S.94-7.11</del> Plan No.4)</li> </ul>
<b>Eligibility:</b>	A permitted change of use within established rented premises for business use.
<b>Ineligible</b>	Development initial construction
<b>Security:</b>	Nil
<b>Min. Threshold:</b>	Nil
<b>Incentive:</b>	<p>Less than 500m<sup>2</sup> (Total GFA): 100% (Full Exemption)            501m<sup>2</sup> to 750m<sup>2</sup> (Total GFA): 75% discount            751m<sup>2</sup> to 1,000m<sup>2</sup> (Total GFA): 50% discount            Up1,001m<sup>2</sup> to 1,500m<sup>2</sup> (Total GFA): 25% discount            Over 1,500m<sup>2</sup> (Total GFA): 0% (No Exemption)</p> <p>Note: These discounts are based on the Total Gross Floor Area of the development and are not cumulative.</p> <p>Note: This discount is in addition to any applicable Employment Generating Incentive (currently 40% discount).</p>
<b>Application:</b>	Applicants will need to nominate their development as an Eligible Business Enterprise in their Development Application to Council.

### **Developer Charges - Incentives**

#### High Consumption Charge (Water / Sewer) Incentive

The policy provides an incentive to businesses undertaking further development of sites within Tweed for the establishment or expansion of that business.

<b>Name:</b>	High Consumption
<b>Type:</b>	Payment of <del>High Consumption</del> <u>high consumption and/or high sewer use charges</u> Charges in lieu of Developer Charges
<b>Delegated Approval:</b>	Director Engineering
<b>Applies to:</b>	<ul style="list-style-type: none"> <li>• Developer Charges (s.64) <ul style="list-style-type: none"> <li>○ Water Development Servicing Charge</li> <li>○ Sewer Development Servicing Charge</li> </ul> </li> </ul>
<b>Eligibility:</b>	<p><del>A incentive is offered to all commercial and industrial development where there is a change of use.</del></p> <p><u>All non-residential developments after the subdivision of land.</u></p>
<b>Ineligible</b>	Subdivisions <del>Development initial construction</del>
<b>Security:</b>	Nil
<b>Min. Threshold:</b>	Nil
<b>Incentive:</b>	<p><del>The offer by Council is to provide an opportunity for proponents to reduce their upfront establishment costs. Where a proponent of a non-residential development, with the consent of the property owner, elects to do so and it is approved by Council or where required by Council, a high water consumption charge and or a high sewerage usage charge will apply to any consumption of water or sewerage usage by the non-residential property, above the Equivalent Tenement (ET) Entitlement, in lieu of Section 64 Developer Charges.</del></p> <p><u>Applicants have the opportunity to reduce the upfront costs of establishing a new business or developing an existing business by electing to pay high water consumption and/or sewer usage. These charges are based on actual consumption on an ongoing basis instead of an upfront charge S.64 Developer Charges.</u></p>
<b>Application:</b>	<p><del>Applicants will need to provide the land owners consent to allow as the charge is levied against the water and sewer rates of the property.</del></p> <p><u>Lodge a S.305 Application for a Certificate of Compliance. Property owners consent is required.</u></p>

## General

### Deferred Payments Incentives

<b>Name:</b>	Deferred Payments
<b>Type:</b>	Deferral

<b>Delegated Approval:</b>	Resolution of Council
<b>Applies to:</b>	<ul style="list-style-type: none"> <li>• Tweed Roads Contributions Plan (TRCP) (S.94-7.11 Plan No.4)</li> <li>• Offsite Carparking (S.94-7.11 Plan No. 23)</li> <li>• Council Admin Offices (S.94-7.11 No.18)</li> <li>• Developer Charges (s.64) <ul style="list-style-type: none"> <li>○ Water Development Servicing Charge</li> <li>○ Sewer Development Servicing Charge</li> </ul> </li> </ul>
<b>Eligibility:</b>	Business Premises
<b>Ineligible:</b>	<ul style="list-style-type: none"> <li>• Residential Accommodation</li> <li>• Subdivisions</li> <li>• Community or not for profit groups</li> <li>• Deferred Payment Incentive of Developer Charges and Developer Contributions will only be considered for Business Premises that do not require immediate upgrading (i.e. within the terms of the instalment period) of infrastructure for the business to operate.</li> </ul>
<b>Security:</b>	Agreement and Security over Assets
<b>Min. Threshold:</b>	\$25,000 (S.94-7.11 & S.64 Developer Contribution Amount from <u>a</u> specific DA)
<b>Incentive:</b>	<p>Combined developer contributions (S. 94-7.11 and S.96) form a specific eligible development approval;</p> <p>Up to \$20,000: 0 Years  Up to \$50,000: 2 Years  Up to \$100,000: 4 Years  Over \$100,000: 6 Years</p>
<b>Application:</b>	Applicants will need to request Council to consider a deferred payments plan for their Development when they lodge a development application.

### Process

The applicant will be required to enter into a written agreement with Council for -deferred payments. This agreement will outline milestones, claims and deliverables that are in line with the business case originally provided as part of the application for assistance under this policy.

An investment which does not meet these thresholds may only be approved if it:

- provides a major opportunity to enhance Tweed Shire's investment reputation,
- fills a critical gap in the supply chain for a priority sector of the economy, or
- provides broader economic and social value for a specific location.

This policy recognises and facilitates major investments that require a staged/incremental development process. The applicant must disclose all grant funds or investment incentives offered by other agencies for the same development.



## Security over Assets

Council will require protection of ratepayer funds as a result of any business incentive offered under this Policy ~~by seeking security over the assets of the business entity benefiting from the incentive. Refer to Security of Assets section below.~~

Specifically, all deferred payments approved by Council will require the recipient to provide a bank guarantee for the full amount of any outstanding deferred monies. ~~Alternatively Council may choose to enter into a general or specific security agreement/deed under the Personal Property Securities Act 2009.~~

The bank's 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:-

- 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 are paid, or-
- the bank guarantee is provided by an Australian bank or recognised financial institution.

## Agreement

Council requires that in some instances an agreement will be required to formalise the conditions of the incentives package being offered. Any agreement will need to be sealed under the common seal of Council. Entering into an agreement will require a formal resolution of Council. Any report dealing with an application under this Policy will be dealt with as a confidential report to Council. Council will only enter into an agreement with the applicant of the Development Application.

All development contribution amounts are subject to annual indexation. Prior to a report going to Council to consider entering into an agreement all eligible amounts will be reviewed to ensure that the indexation is up to date. The developer contribution amount identified in the draft agreement will be made available to the applicant for a 12 month period.

## Bankruptcy

Council will check to determine if an applicant under this Policy is currently declared bankrupt. Council will not make any offer to enter into long term financial arrangements with applicants who are currently identified as bankrupt.

## Commencement

This policy will come into force at such time as appropriate amendments have been made to all relevant S.94-7.11 Developer Contribution Plans to cause these incentives to become effective.

This Policy will only be applicable to all development applications lodged from the date of commencement.

## Review Period

A report will be provided to Council in two (2) years reviewing this Policy making recommendations for amendment.

## Definitions

**Business Premises:** means a building or place at which commercial, industrial or professional activities are undertaken. A business can be any legal entity including, an individual, a partnership, a private company, a public company, a not for-profit entity or a trust.

**Developer Charges:** Developer Charges in this Policy refers to charges levied on approved commercial developments to contribute towards water and sewer infrastructure within the Tweed. These charges are levied in accordance with S.96 of the Local Government Act and the Water Management Act.

**Developer Contributions:** Developer Contributions in this Policy refers to charges levied on approved commercial developments to contribute towards the road and car parking infrastructure of the Tweed. These charges are levied in accordance with [S94-S.7.11](#) of the Environmental Planning and Assessment Act.

**Residential Accommodation:** means a building or place used predominantly as a place of residence including serviced apartments and caravan parks.

## **Related Legislation**

*Local Government Act 1993*

*Roads Act 1993*

*Crown Lands Act 1989*

*Environmental Planning and Assessment Act 1979*

*Water Management Act 2000*

## **Useful Links**

[\*\*Tweed Shire Council website\*\*](#)

[Division of Local Government](#)

**Version Control:**

Version #	Summary of changes made	Date changes made
2.0	<i>Major Re-write to revise incentive packages and consolidate exceptions available in S94 plus new high use water charge into single document.</i>	20/8/2016
2.0	<i>Minor amendment to include S94 amendments and Policy commencement date of 1 December 2016</i>	22/11/2016
<u>2.1</u>	<u><i>Remove option for security deed under Personal Property Securities Act 2009. Included a 12 month offer period to enter into an agreement. Other minor grammatical amendments.</i></u>	<u><i>XX/XX/2019</i></u>

