



TWEED
SHIRE COUNCIL

Policy

Business Investment Policy

Version 2.2

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See version control

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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 that are appropriate to the Tweed's internationally significant environment and clean and green desired reputation.

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.

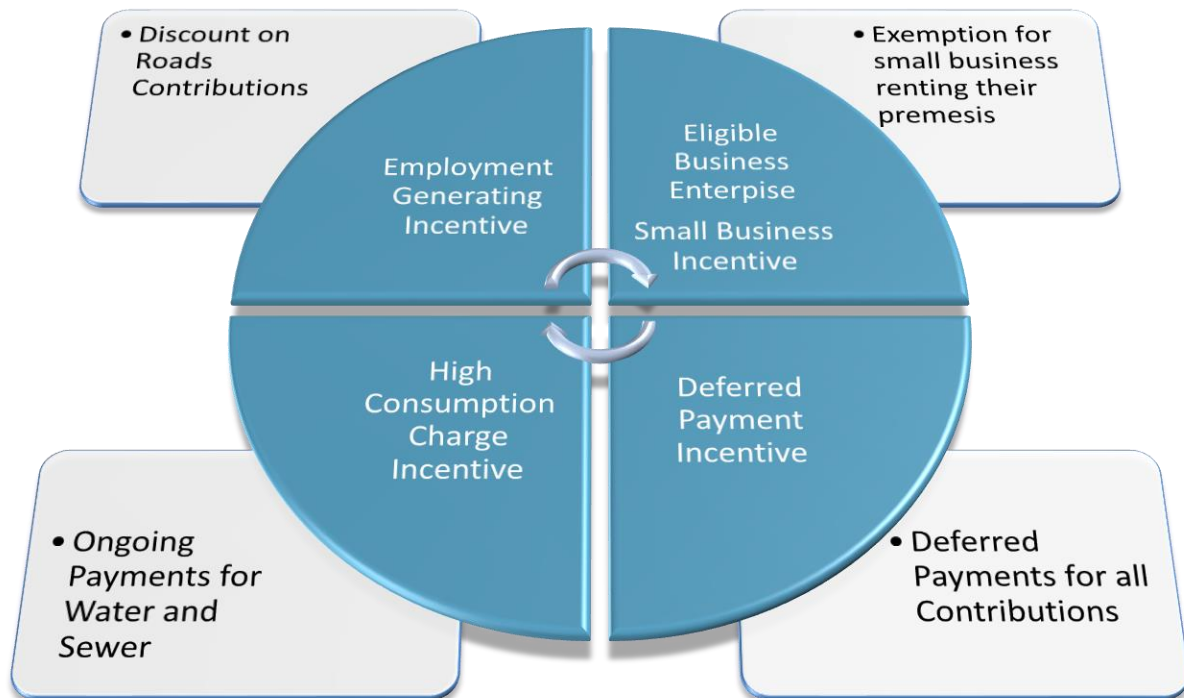
This Policy provides a holistic approach to support business investment and reinvestment in the regional economy, when the investment would not otherwise occur. It also encourages diversification of the economy.

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.

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

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 and Developer Charges

Development Contributions are payments made by developers to enable Council to provide public amenities and services required for new residents and businesses. Section 7.11 of the Environmental Planning and Assessment Act is the principal legislation enabling Councils to levy contributions for public amenities and services. Section 7.11 Contributions are imposed by way of a condition of development consent or complying development. Currently there are 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. Developer Charges are levied under Section 64 of the Local Government Act which refers to administered through the Water Management Act.

Policy

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.

Name:	High Consumption
Type:	Payment of high consumption and/or high sewer use charges in lieu of Developer Charges
Delegated Approval:	Director Engineering
Applies to:	<ul style="list-style-type: none">• Developer Charges (s.64)<ul style="list-style-type: none">○ Water Development Servicing Charge○ Sewer Development Servicing Charge
Eligibility:	All non-residential developments after the subdivision of land.
Ineligible	Subdivisions
Security:	Nil
Min. Threshold:	Nil
Incentive:	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.
Application:	Lodge a S.305 Application for a Certificate of Compliance. Property owners consent is required.

Developer Contributions – Incentives

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

Employment Generating Incentive

Name:	Employment Generating Incentive
Type:	Discount
Delegated Approval:	Director Planning and Regulation
Applies to:	<ul style="list-style-type: none"> • Tweed Roads Contributions Plan (TRCP) (S.7.11 Plan No.4)
Eligibility:	An incentive is offered to all job creating Business Premises across the Shire.
Ineligible	<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>
Security:	Nil
Min. Threshold:	Nil
Incentive:	Forty percent (40%) discount. Council may review the concession on an annual basis at 1st July each year.
Application:	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.

Name:	Eligible Business Enterprise
Type:	Discount
Delegated Approval:	Director Planning and Regulation
Applies to:	<ul style="list-style-type: none">• Tweed Roads Contributions Plan (TRCP) (S.7.11 Plan No.4)
Eligibility:	A permitted change of use within established rented premises for business use.
Ineligible	Development initial construction
Security:	Nil
Min. Threshold:	Nil
Incentive:	<p>Less than 500m² (Total GFA): 100% (Full Exemption) 501m² to 750m² (Total GFA): 75% discount 751m² to 1,000m² (Total GFA): 50% discount Up1,001m² to 1,500m² (Total GFA): 25% discount Over 1,500m² (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>
Application:	Applicants will need to nominate their development as an Eligible Business Enterprise in their Development Application to Council.

Deferred Payments Incentives

Name:	Deferred Payments
Type:	Deferral
Delegated Approval:	Resolution of Council
Applies to:	<ul style="list-style-type: none"> • Tweed Roads Contributions Plan (TRCP) (S.7.11 Plan No.4) • Offsite Carparking (S.7.11 Plan No. 23) • Council Admin Offices (S.7.11 No.18) • Developer Charges (s.64) <ul style="list-style-type: none"> ○ Water Development Servicing Charge ○ Sewer Development Servicing Charge
Eligibility:	Business Premises
Ineligible:	<ul style="list-style-type: none"> • Residential Accommodation • Subdivisions • Community or not for profit groups • 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.
Security:	Agreement and Security over Assets
Min. Threshold:	\$25,000 (S.7.11 & S.64 Developer Contribution Amount from a specific development application)
Incentive:	<p>Combined developer contributions (S. 7.11 and S.96) form a specific eligible development approval;</p> <p>Up to \$25,000: 0 Years Up to \$50,000: 2 Years Up to \$100,000: 4 Years Over \$100,000: 6 Years</p>
Application:	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.

Complying Development Certificate

To ensure compliance with the Environmental Planning and Assessment Regulations the Business Investment Policy, this Policy, cannot not include Complying Development Certificate applications under the Deferred Payment Incentive scheme. Please refer to the relevant section of the Regulations below.

Section 156

(2) A complying development certificate that authorises development for a relevant purpose must be issued subject to the following conditions—

- (a) the condition required by the Act, section 4.28(9) requiring payment of a monetary section 7.11 contribution or a section 7.12 levy,*
- (b) the contribution or levy must be paid before the work authorised by the certificate commences.*

(Environmental Planning and Assessment Regulation 2021 Version current for 16 December 2022)

Security over Assets

Council will require protection of ratepayer funds as a result of any business incentive offered under this Policy.

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.

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.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.

Savings Provisions

This version of the Policy will not be applied retrospectively to applications lodged before the commencement date of the current version.

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 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
2.1	<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>	20/02/2020
2.2	<i>Reflect Council’s resolution of 15/12/2022 where it “acknowledges that the Business Investment Policy will not include Complying Development Certificate applications under the Deferred Payment Incentive scheme”. Other minor amendments.</i>	15/12/2022