

POLICY NAME: Developer Contributions Investment Incentive Policy
POLICY REF: D02
MEETING ADOPTED: 27 September 2018
Resolution No. 270918/16
POLICY HISTORY:



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OBJECTIVE

- To establish a framework for Council to assist the development and expansion of certain investment activities through the waiver of developer contributions
- To set out the eligibility and terms for incentives under the policy

POLICY

Ballina Shire Council has prepared this policy to document the basis upon which developer contributions may be waived for developments that Council wishes to provide additional encouragement, or incentives, to assist those developments occurring within the shire.

This policy applies to:

- a waiver of developer contribution charges for permitted changes of use within established premises located within the Shire's business zones, as Council wishes to encourage small businesses to operate and evolve within the business zones
- a discount of developer contributions and charges for the construction of secondary dwellings, as Council wishes to encourage affordable housing and maximise land use and essential infrastructure within the urban areas.

BACKGROUND

The principal purposes of this policy are to:

- 1) provide an incentive for small businesses to proceed in the central business district locations, which are undergoing minor changes in use; and
- 2) provide an incentive in relation to residential development, in certain circumstances, to support housing affordability in the form of secondary dwellings.

Any development relying on the incentive mechanisms provided for under this policy accepts that the incentive program is offered in good faith and that Council reserves the right to vary its policy should circumstances so require.

An application that is narrowly outside the criteria may be considered by Council provided the applicant can demonstrate extenuating circumstances.

Developer Contributions and Charges

Developer contributions are payments made by developers to enable Council to provide public amenities and services required for new residents and businesses.

The *Environmental Planning and Assessment Act 1979* is the principal legislation enabling councils to levy contributions for public amenities and services (including roads and community facilities).

Developer contributions are imposed by way of a condition of development consent or complying development in accordance with Section 7.13 of the Act (formerly s.94).

Developer charges are also levied to assist in funding water and sewer infrastructure capital works required to accommodate growth.

These capital works include water treatment plants, water storage reservoirs, pumping stations, wastewater treatment works etc.

These Developer Charges are levied through Section 64 of the *Local Government Act 1993* and administered through the *Water Management Act 2000*.

DEFINITIONS

Business Premises: Business Premises in this policy refers to 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.

Business Zones: Business Zones in this policy refers to land subject to the following zones as per the Ballina Local Environmental Plan 2012:

- Zone B1 Neighbourhood Centre
- Zone B2 Local Centre
- Zone B3 Commercial Core
- Zone B4 Mixed Use
- Zone B5 Business Development
- Zone B6 Enterprise Corridor

Developer Charges: Developer charges in this policy refers to charges levied on approved commercial developments to contribute towards water and sewer infrastructure within Ballina Shire.

These charges are levied in accordance with s.64 of the *Local Government Act 1993* and with the *Water Management Act 2000*.

Developer Contributions: Developer contributions in this policy refers to charges levied on development to contribute towards the provision of open space, road network improvements and car parking infrastructure.

These charges are levied in accordance with Section 7.13 (formerly s.94) of the *Environmental Planning and Assessment Act 1979*.

Gross Floor Area (GFA): Gross floor area under this policy refers to the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
 - (b) habitable rooms in a basement or an attic, and
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
- (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

SCOPE OF POLICY*Developer Contributions – Business Incentives*

This policy provides incentives to support small business as outlined as follows.

Name:	Small Business Incentive
Type:	Discount
Delegated Approval:	General Manager
Applies to:	<ul style="list-style-type: none"> • Ballina Shire Roads Contribution Plan • Development services charges for water and sewerage (s64)
Eligibility:	A permitted change of use within established commercial premises for business use in a business zone where the existing floor space is equal to or less than 200m ² GFA.
Ineligible:	<ul style="list-style-type: none"> • Development applications relating to initial building construction. • Development applications involving the expansion of commercial floor space.
Incentive:	<p>100% discount of roads contributions and water and sewerage charges for eligible small businesses.</p> <p>Rous Water charges still apply.</p>
Application:	Applicants need to nominate their business as eligible for small business incentive in their Development Application.

Developer Contributions – Residential Development Incentives

This policy provides incentives associated with promoting the supply of appropriate and affordable housing, as outlined as follows.

Name:	Secondary Dwellings Incentives
Type:	Discount
Delegated Approval:	The General Manager
Applies to:	<ul style="list-style-type: none"> • Developer Contributions • Developer Charges
Eligibility:	<p>Secondary dwellings where:</p> <ul style="list-style-type: none"> • The total floor area of the secondary dwelling (excluding any area used for car parking) is restricted to a maximum of 60m². • The floor space ratio of the principal and secondary dwelling (when combined) does not to exceed 0.5:1. • A maximum of 2 bedrooms are contained within the secondary dwelling and 5 bedrooms, 3 water closets and 2 laundries on the total site. • The secondary dwelling is attached to, or located within, the principal dwelling on the site and has been designed as a visually integrated addition (through use of a common wall and similar roof design).
Ineligible:	Residential development comprising part of multi-unit development or Strata subdivision.
Incentive:	<ul style="list-style-type: none"> • 100% discount where the secondary dwelling is attached to, or located within, the principal dwelling on the site and has been designed as a visually integrated addition (through use of a common wall and similar roof design). • 50% discount where the secondary dwelling is detached from the principal dwelling on the site or is otherwise not visually integrated with the principal dwelling.
Application:	Applicants are to nominate their development as an 'Eligible for Secondary Dwelling Incentive' in their Development Application.

Note: Developments that meet the eligibility criteria above do not exceed additional Equivalent Tenements (ETs) and therefore do not trigger the need to pay additional Rous Water developer charges.

Process

Applicants are to nominate their eligibility under this policy when making a development application.

RELATED DOCUMENTATION

Related documents, policies and legislation:

- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*
- *Environmental Planning and Assessment Act 1979*
- *Water Management Act 2000*

REVIEW

This policy is to be reviewed 12 months following adoption.



3 August 2020

Mr Paul Hickey
Ballina Shire Council
40 Cherry Street
BALLINA NSW 2478

Dear Paul

Waiver of Council Contributions
Shop 1, 9 Moon Street, Ballina
ST Foods Pty Ltd T/A Lennox Smokin Barrel

We are writing this letter to ask yourself and the current councillors to consider an aspect of our recent Development Application for our new shop located at 1 – 9 Moon Street, Ballina.

In our initial Development Application, we submitted a seating plan (attached) for the use of the space on the non-council owned property bordering Winton Lane.

During the DA process, we were advised that this small parcel of private land measuring approx. 1.5m wide and approx. 16m long, had never had council contributions paid on it from when the original building was built decades prior. Previously the contributions were only paid on the portion of the land within the building walls.

This would mean that in order for our seating plan be approved we would have to now pay the contributions on this small parcel of approx. \$23,000.

Given this extraordinary amount of money and the time this DA application had already spent within council we agreed to withdraw the Seating Plan from the application in order to get our doors open as quickly as we could.

Also, the fact that this on-premises seating for the consumption of hot food would only benefit one segment of our business, we believe it would be uneconomical for us to make this sort of financial commitment given the estimated return it would deliver.

This brings us to where we are now, and after discussions with numerous people regarding the unusual circumstances that has come about, we are writing to request that council consider to give us grounds for a contribution waiver based on the following;

**Prior Usage of Space**

The previous tenant to this shop had already utilised this space for outdoor seating and the consumption of food, and we had no idea that this fee would apply, especially since it is such a small area of land. So obviously it was unlawfully being used as a seating area for many years prior.

Beautification of Winton Lane

We believe by adding timber bars/benches and a few tables and chairs again to the area, it increases the attractiveness and atmosphere to a Lane way that is starting to see signs of recovery from a once was highway of delivery drivers and unsavoury characters walking between pubs.

Encouraging outdoor dining experiences

We believe that having outdoor dining that is visible to all, attracts others and encourages people to interact within the environment and CBD. We would love to see many more proprietors in the future filling River Street to create an atmosphere that people would be attracted to and deliver an economic benefit to all.

CBD Workers Lunch Destination

We have noticed that a lot of the workers within the CBD will generally head out into the town at lunch, grab and few things and return to their office to eat. We see a great cultural benefit in offering these type of people a small area where they can socialise and consume their hot meal before going back to their work. If this seating does not go ahead, this is what they will be forced to do, or maybe go consume it at one of the few seats available down on the river.

Proven Crowd Attraction

Our business has had prior success with making Sharpe's Beach a destination that was sought out for our food. We now want to bring that same attraction factor to the Ballina CBD and have people drive to us and also support other businesses in town while they are there.

Given the above, we request that you considering waiving these contributions fees and approve our seating plan, then we will look forward to delivering the above benefits to the community.

Thank you for your consideration on this matter.

Regards

A handwritten signature in black ink, appearing to be "AS".

Ashley Stafford – Owner

A handwritten signature in black ink, appearing to be "M. Turner".

Mark Turner – Owner/Landlord

OUTDOOR SEATING PLAN

MOON ST ↑

M235 2042-3

