

# BUSINESS IMPROVEMENT DISTRICT POLICY

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## 1. Change history

<b>Amendment (s)</b>	<b>Date</b>	<b>Updated by and authority</b>
<b>Draft Version 1</b>	<b>27 June 2018</b>	<b>Lee Neville</b>
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<b>Draft Version 7</b>	<b>9 August 2018</b>	<b>Lee Neville</b>
<b>Version 8</b> Minor grammatical / consistency amendments only – 8.3 (removal of independent election service reference) and 8.4 (land valuation)	<b>5 Dec 2018</b>	<b>Raoul Oosterkamp</b>

## **2. Purpose of this policy**

A Business Improvement District (BID) is a partnership between a local authority and a defined local business community to develop projects and services that benefit the trading environment and which align with the local authority's objectives. A BID is supported by a targeted rate, levied on and collected from non-residential properties within the defined boundary.

BIDs enable local business groups, which have a clear mandate from their communities, to develop a range of services that complement existing Council services and improvements.

BIDs can also help districts speak with a more effective collective voice, giving them more influence on the development of Council strategies and projects to achieve better outcomes for their community.

Establishing a BID does not mean districts will look after their own repaving or street cleaning – the council will continue to provide its normal services covered by general rates.

However it might allow a district to develop a website or other promotional tools to attract customers or businesses to their town centre.

The Council will provide support and advice to groups looking to establish BIDs in their community – however groups might also benefit from using a third-party organisation to help them develop their proposal.

There is no minimum size for a BID; however any proposed BID must demonstrate that it is viable and fit for purpose.

The requirements for a successful BID include a clear policy and process, buy-in from the local business community, legally constituted organisation to host the BID, and a democratic process for its adoption.

### 3. Definitions

Term	Definition
<b>BID</b>	Business Improvement District
<b>BID Association</b>	a legal entity constituted to administer the BID
<b>Council</b>	Hastings District Council
<b>Executive Committee</b>	the body elected by businesses in the BID area to govern the operations of the BID
<b>BID Manager</b>	a person recruited or contracted to manage the BID programme

### 4. Scope

This policy provides guidance for prospective BIDs, and describes the role of Council which is required to approve any BID and collect the associated targeted rates.

The policy addresses:

- i. the responsibilities of the Council and BID Associations
- ii. the objectives that a BID must meet
- iii. the process to establish a BID
- iv. the operation of a BID
- v. managing the performance of a BID

### 5. Policy statement

All BID programmes should develop an in-depth understanding of the particular needs of their business community. The BID policy allows for a wide range of activities that could be undertaken with the provisos that the activities:

- a) Align with the Council's strategic objectives and priorities
- b) Are relevant for their business community.
- c) Are not already being undertaken as part of the Council's responsibilities under the general rating provision. There is no prohibition of BIDs where a particular business group wishes to provide services additional to those provided by the Council through general rates or through the targeted rate.
- d) Partnerships between Council and Business Improvement Districts.

## 6. Framework for partnership between Council and Business Improvement Districts

### 6.1. Accountability of BID Association and Council

The BID Association is accountable to its eligible voters. It is also accountable to the Council for the use of the BID targeted rate and alignment with the Council BID Policy.

This accountability is supported by the development of a business plan, the measurement of key performance indicators, production of an annual report with audited accounts for its members, and reporting to the Council as agreed.

The Council is accountable for the collection and payment of the BID targeted rate amount to individual BID Associations, and ensuring the targeted rate collected is spent as intended. The BID targeted rate may only be applied to the agreed activities of the BID Association unless otherwise agreed with Council.

Where the Council has serious concerns in relation to the business plan and the key performance indicators of a specific BID Association, the BID targeted rate may be withheld until specific improvements or alterations have been made by the BID Association.

In accordance with the provisions of the Local Government Act 2002 and the Local Government (Rating) Act 2002, the Council will make the final decisions on what BID targeted rates, if any, to set in any particular year (in terms of the amount and the geographic area to be rated).

### 6.2. Alignment with Council strategies

BIDs have been identified as important elements that can contribute towards delivering Council's Economic Development outcomes and City Centre Strategy.

#### ***Economic Development outcomes:***

- Increase the number of jobs.
- A larger and a more sustainable production base.
- To have greater business diversity.
- Improved business productivity.

#### ***Hastings City Centre Strategies:***

- Strengthen our City Centre identity
- Improving the vibrancy of our City Centre
- Promoting the things that make our City Centre great

The business plan of each BID will clearly set out how it supports the priorities underpinning these strategies. The planning of the BID programme should take account of key Council planning and policy documents.

Role	Responsibility
<b>The Council</b>	<ol style="list-style-type: none"> <li>1 Provide information and advice as appropriate</li> <li>2 Consider whether to set a targeted rate for the purpose of BID programmes</li> <li>3 Set a targeted rate, providing the Association has complied with the terms of this policy</li> <li>4 Monitor and review the performance of BIDs.</li> </ol>
<b>BID Association</b>	<ol style="list-style-type: none"> <li>1 Comply with its constitution and the BID policy</li> <li>2 Comply with all other relevant laws and regulations</li> <li>3 Maintain proper meeting and accounting records demonstrating how the targeted rate and grant money is used, and make such records available to the Council on request.</li> </ol>

## 7. Establishing a Business Improvement District

The following steps must be taken by any group proposing to establish a Business Improvement District:

- A. Undertake initial consultation with the business community on the potential range of services a BID could undertake to determine its level of support for forming a BID. If there is sufficient interest (indicatively >25 percent support of the business community) then the following steps would be undertaken:
  - Confirm the district boundaries where the targeted rate would apply.
  - Develop a business plan outlining the proposed activities that will be funded by the targeted rate and which comply with BID policy.
  - Agree the level of targeted rate required to support the BID budget and the basis for its collection.
  - Agree a constitution and establish a legal entity to administer the BID. The Council should be consulted on the constitution.
  - Develop a voting register of eligible businesses within the district.

- B. Undertake full consultation on the targeted rate and the planned activities and complete an establishment vote with a majority vote supporting the BID.
- C. Undertake an initial AGM, adopting the constitution, appointing board members and approving the business plan.
- D. Apply to the Council for a targeted rate, with the following supporting documents:
  - Evidence of a mandate from voters
  - A business plan which is aligned with Council priorities
  - An approved constitution for the entity.
- E. Gain approval of the targeted rate for the BID in the Council Annual Plan process. Note that the previous steps need to be completed in sufficient time so that steps 24 and 25 can be completed to meet the Annual Plan timelines. This would be expected to be submitted to the Council before November of any year to be included in the following year's Annual Plan process.

Timelines of the following in References:

- Policy development and approval
- Consultation and communication
- BID creation process

### 7.1. Considering a Business Improvement District

Discussions to explore the establishment of a BID may be initiated at any time by any interested party. A key factor to support these discussions will be evidence that there is sufficient support from the community to sustain the challenge of establishing and operating a BID.

### 7.2. Initial consultation

One of the first steps is to undertake initial consultation with key stakeholders within (and potentially outside) the proposed area. These stakeholders might include, for example, owners of businesses, land owners and ratepayers, local or central government agencies within the proposed BID, or interested community groups.

This consultation could include a public meeting to communicate the proposal to establish a BID, the area that it is proposed to cover, and its potential objectives and activities.

Following this initial consultation, the group proposing the BID will give feedback to the Council on the response received, and whether they wish to proceed with the establishment of a BID.

### 7.3. BID boundaries

In the first instance, the Council will allow those proposing a BID to determine the boundaries within which the targeted rate would be collected. However, should the Council disagree on the proposed boundaries; the Council's decision is final, as it is the Council which takes responsibility for the targeted rate.

### 7.4. Setting the targeted rate

The Local Government (Rating) Act 2002 gives the Council authority to set a targeted rate for an activity such as a BID. The level of the rate needs to be sufficient to support the BID programme of activities. The BID must agree the total budget required for the programme with its members (at an AGM), and advise the Council that the BID targeted rate be included in the Annual Plan of the Council.

#### **Rating options**

There are three options for calculating the targeted rate collection. Targeted rates can be established by the:

- i. proportional value method
- ii. flat rate method
- iii. Hybrid method (which is a combination of both the proportional value and flat rate methods)

Council staff will work through the different options with BIDs on a case-by-case basis.

#### **Proportional value method**

Under the proportional value method, the total amount of the targeted rate to be collected is divided by the land value of the properties within the collection area. As a result, larger land value properties pay a greater proportion of the targeted rate. Every property will therefore be paying a different BID targeted rate amount. This method is preferable where owners owning or renting more valuable areas of land or businesses will gain significantly more from the BID programme than owners with less valuable areas of land or businesses.

#### **Flat rate method**

Under the flat rate method, the Council applies a flat rate for every rateable business within the BID programme area. This method is used where there is little difference between the size of the businesses within the boundary or the likely benefits from the BID programme.

#### **Hybrid rate method**

The hybrid method involves setting a flat rate per business and then, above this amount, applying a proportional rate based on land value.

This method is most appropriate where there are a large number of small businesses balanced by a smaller number of large businesses operating within the

BID area. The advantage of this approach is that it evens out the impact of the targeted rate across all businesses and ensures the larger businesses pay a higher amount proportional to their value.

The hybrid rating method is often the preferred approach for a BID targeted rate.

#### 7.5. Constitution of a legal entity

Before a BID can be set up, a legal entity to administer the BID must be established and registered. In many cases an incorporated society structure is used. The Council will not set a rate without evidence that the BID Association has been legally constituted and a constitution has been developed in consultation with the community. The Council should be consulted on the BID Association's constitution before registration.

#### 7.6. Developing a list of owners and occupiers

A list must be compiled of owners and occupiers within the agreed boundaries of the BID. Businesses occupying, but not owning property, will need to be identified. The Council will assist in compiling property owner details. The list will form the basis of the voter register.

The following are not covered under this policy, will not be on the voter register and will not become liable for the targeted rate:

- i. private (non-business) residents
- ii. properties owned by either local or central government (wholly or proportionally) including educational facilities, government offices and any property not attracting a commercial rate
- iii. business owners who operate their businesses from residentially rated property within the BID
- iv. business owners who give a business address which is a commercial property within the BID, but who do not physically run their businesses from that address (for example, businesses who use their accountant's address, or businesses who have mail delivered to a relative or friend running a business within the BID).

Those proposing the BID have the final decision over eligibility, in consultation with the Council.

New properties or redeveloped properties liable to pay the BID targeted rate and appearing in the BID area during any financial year will not be rated until the following financial year. These properties have the impact of redistributing the existing total BID targeted rate collected.

### 7.7. Creating the voter register – eligible voters

Those proposing a BID must contact every owner and occupier within the proposed district to determine who will be registered as a voter on the final voter register.

This policy is based on the principle of 'one person, one vote'.

If the owner and/or occupier is an individual, that person should be registered as the voter unless they nominate someone else to act on their behalf. All future communication from those proposing the BID or the eventual BID Association must be addressed to that nominated individual, unless the owner or occupier subsequently communicates a desire to nominate a different representative to the BID Association.

If the owner and/or occupier is not an individual, those proposing a BID must communicate with the owner's management and request the name of a nominated representative to register as a voter.

All registered voters automatically qualify to become members of the BID.

Once established, it is the responsibility of the BID to maintain and update the membership register.

## 8. Polling in a Business Improvement District

### 8.1. Types of polls

Those proposing a BID should consult with Council on the timing of BID voting. Polls must be completed in sufficient time so that they can be ratified by the Council and any changes included in the Annual Plan process (refer to section 7 of this policy).

BID polls must be run in the following circumstances.

#### **Establishing a BID**

A poll is held when the BID is being established to ensure that the rateable businesses within the district boundaries support the proposal.

#### **Increasing or decreasing the boundary**

A BID may be expanded to include adjoining areas not included in the original proposal.

Where the BID is to be expanded, the BID Association can apply to the Council for a list of property owners in the new area, and arrange for a poll to be conducted in the expansion area only. In the event of a BID boundary being reduced, a poll is conducted for the whole BID area because this change implies a reduction in budget for the whole programme.

## **Dissolving a BID programme**

Dissolving a BID programme may be called by the BID Association at any time, in this case Council does not need a disestablishment poll to stop setting a targeted rate.

### **8.2. Informing voters**

The BID Association must inform all registered voters of any poll and ensure voters are aware of the key issues to be decided. Such issues include, but are not limited to:

- i. the boundaries of the proposed BID
- ii. the total budget and approximate targeted rate to be assessed
- iii. the objectives of the BID strategic and business plans
- iv. the contacts for those proposing the BID.
- v. to achieve these aims, those proposing a BID must:
  - give advance notice and hold at least one information meeting, open to all interested parties, no less than 10 days before the poll closes
  - place at least two advertisements about the poll in local newspapers, at least seven days apart, with the last advertisement a minimum of three days before the poll closes.

Additional methods may be used to inform eligible voters of the vote, such as face-to-face meetings, email, fax or newsletters.

### **8.3. Sending out the ballots**

The Council will provide the services of its returning officer or recommend one for the group to use. The group will contact the returning officer as soon as the voter register has been finalised to enable the election service to begin preparing for the poll. Material prepared for the poll will include:

- i. a copy of the register of voters
- ii. a copy of an easy-to-understand information sheet outlining the BID proposal
- iii. a copy of an approved ballot form
- iv. a copy of a contact update form which includes the name of the nominated representative of the business
- v. boundary information if the poll includes an increase or decrease of the BID boundary area.

The Council's returning officer will send out an envelope including the information sheet, the ballot form, the contact update form and a prepaid return envelope.

### **8.4. The goals of the poll**

It is a goal of the Business Improvement District poll to achieve a 25% voting return from the eligible voters for that poll; and with the majority of those votes to be in favour of the proposition. (This majority must be by number of eligible voters voting

in the poll, and those voting in favour must also represent the majority of land valuation of those voting). This ensures that the vote has a high level of participation and has majority support by both larger and smaller entities within the district.

The higher the level of the voting return achieved by the poll, the greater the level of assurance for the Council in any decision to support, or not support, a targeted rate.

#### **8.5. Proxy and absentee voting**

Proxy voting is not permitted for BID polls. Registered voters who will be absent from their registered addresses during the period of the poll, but who wish to vote, should provide a forwarding address to the BID.

#### **8.6. Non-registered eligible voters**

Those proposing a BID should attempt to ensure all eligible voters in a BID area are registered. In the event that an individual believes he or she is entitled to vote, but does not appear on the register of voters, the returning officer shall determine the status of the individual and whether a ballot should be issued to that individual.

#### **8.7. Confirming the result**

The independent election service will receive, count and verify all returned ballot papers. It will then report the result of the poll to those proposing the BID/Association and the Council.

#### **8.8. Final decision on BID changes to be made by the Council**

The final decision about whether to establish, extend, reduce or dissolve a BID shall be made by the Council because, under the Local Government (Rating) Act 2002, it is the Council alone which can set the targeted rate. In making that decision, the Council will take into account the poll result.

### **9. Accountability processes of the BID Association**

The BID Association will be required to have processes in place to ensure that it can demonstrate accountability to the levy payers.

This will include having:

- i. an appropriate constitution including membership rights for any eligible voting business within the boundary area (and any associate membership types) and entitlements of the individual member
- ii. meeting processes including for the initial annual general meeting following a successful establishment poll and subsequent annual general meetings
- iii. processes for the appointment of any officers and Executive Committee and

- their rights and responsibilities
- iv. processes for the development, approval and updating of the BID Association budget, strategic and business plans, and performance measures.

The Council must be advised of any changes to the constitution and the contact details of elected officers and committee members.

## **10. The relationship with the Council**

### **10.1. Applying for the targeted rate**

Once confirmation of legal incorporation has been received, the BID Association can apply to the Council for a targeted rate. The BID Association must present the following information to the Council:

- evidence of a mandate
- evidence of incorporation
- the agreed BID boundaries
- the budget that has been ratified at the AGM
- the business plan that has been ratified at the AGM

Any payment to the BID Association from the targeted rate will be by a conditional BID Funding Grant under the Local Government Act 2002. Consistent with the Local Government Act 2002, the grant must be separately accounted for in the BID Association's financial records. The funding generated from any BID targeted rate will be paid to the BID Association after the end of each financial quarter.

### **10.2. Council – Executive Committee relationship**

The BID Association and the Council will at all times communicate with each other in such a way as to most effectively further the strategic objectives of the stakeholders and to protect and enhance the partnership relationship between the BID Association and the Council.

The Council's Annual Plan and budget process provides a mechanism for reviewing BID budgets and existing programme boundaries. In order for the Council to change the targeted rate, the Executive Committee must submit a detailed programme, budget and performance reports.

By the end of November each year, the Executive Committee must provide the Council with the following information:

- i. a copy of the audited accounts and annual report for the previous financial year (including statements that the association has acted in compliance with its constitution and all other relevant laws and regulations)
- ii. any proposed changes to the boundaries

### 10.3. Council review

In the Council's planning processes, it will review the performance of the BID against the stated strategic and business plans, KPIs, audited accounts and any reporting.

Where the Council has concerns with the progress or success of a BID, the targeted rate may be withheld until specific improvements or alterations have been made to business, communication or strategic plans, or implementation processes. In accordance with the provisions of the Local Government Act 2002 and the Local Government (Rating) Act 2002, the Council will make the final decisions on what targeted rate, if any, to set in any particular year (in terms of the amount and the geographic area to be rated).

The Council may initiate a review of all or any particular BID programme outside the annual and three-yearly reviews. Such a review will be funded through general rates.

### 10.4. BID Performance Survey

The Council may request a BID performance survey. The results of the survey will be used to analyse the performance of individual BIDs as well as the success of the BID programme on a citywide basis.

The survey process and delivery will be formulated in collaboration with all of the BID programmes to ensure a high rate of return and clarity of objectives. An approach of continuous improvement will be used for the survey to ensure that latest technology and best-practice methods are considered and used where possible.

The cost of the survey will be funded proportionally (based on BID programme budgets) by the city's BIDs through the targeted rate.

The primary focus of the survey will be on the business community's perception of the effectiveness of the BID programme in each district. The survey will cover such aspects of the BID programme as: overall satisfaction; the ability of eligible voters to influence the programme; the results achieved; the communication processes used; and other such matters agreed between the Council and the associations administering BID programmes.

## 11. Dispute Resolution

### 11.1. Resolution between the Council and the BID Association

Any decisions about whether or not to set a targeted rate, the amount of that rate, to provide for an additional rate or alter the boundaries of the area subject to the rate, and whether or not to establish, disestablish, reduce or extend the BID, are

within the discretion of the Council to make as part of its annual funding and rating decision-making process.

Any other disputes between the BID Association and the Council will be settled in accordance with the following procedure:

- i. Having exhausted normal means of resolving a dispute or difference (by engaging in a process of good faith negotiation and information exchange), either party may give written notice specifying the nature of the dispute and its intention to refer such dispute or difference to mediation.
- ii. If a request to mediate is made then the party making the request will invite the chairperson of the New Zealand Chapter of Lawyers Engaged in Alternative Dispute Resolution (LEADR) to appoint a mediator to enable the parties to settle the dispute.
- iii. All discussions in the mediation will be without prejudice and will not be referred to in any later proceedings. The parties will bear their own costs in the mediation and will equally share the mediator's costs.
- iv. If the dispute is not resolved within 30 days after appointment of a mediator by LEADR, any party may then invoke the following provisions:
  - the dispute will be referred to arbitration by a sole arbitrator in accordance with the Arbitration Act 1996
  - the award in the arbitration will be final and binding on the parties

#### 11.2. Resolution between owners and BID Associations

Disputes between owners or their nominated representatives (ONR) and the BID Associations will be settled in accordance with the following procedure:

- i. Unless matters can be resolved quickly and informally, ONR are obliged to bring their concerns to the attention of the BID Association's Executive Committee in writing. An initial written response is required within seven working days, outlining the manner and the timeframe in which the concerns will be addressed. The Council as major fund provider should be made aware of any such issues.
- ii. Having exhausted reasonable means of resolving the dispute, the BID Association may approach the New Zealand Chapter of Lawyers Engaged in Alternative Dispute Resolution (LEADR) to appoint a mediator to enable the parties to settle the dispute. All discussions in the mediation will be without prejudice and will not be referred to in any later proceedings. The parties will bear their own costs in the mediation and will equally share the mediator's costs.
- iii. If the dispute is not resolved within a further 30 days after appointment of a mediator by LEADR, any party may then invoke the following provisions:
- iv. The dispute will be referred to arbitration by a sole arbitrator in accordance with the Arbitration Act 1996.
- v. The award in the arbitration will be final and binding on the parties.

## 12. Review

## 13. Reference

13.1. The Hastings City Centre strategy - A collective vision

13.2. Timeline BID development





