

Transport  
for NSW

# Enabling Local Business Improvement Districts

September 2022



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OFFICIAL



## Acknowledgement of Country

Transport for NSW acknowledges the traditional custodians of the land on which we work and live.

We pay our respects to Elders past and present and celebrate the diversity of Aboriginal people and their ongoing cultures and connections to the lands and waters of NSW.

Many of the transport routes we use today – from rail lines, to roads, to water crossings – follow the traditional Songlines, trade routes and ceremonial paths in Country that our nation's First Peoples followed for tens of thousands of years.

Transport for NSW is committed to honouring Aboriginal peoples' cultural and spiritual connections to the lands, waters and seas and their rich contribution to society.

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## Minister's foreword

### **Message from The Hon. Rob Stokes, Minister for Infrastructure, Cities and Active Transport**

The NSW Government is investing in transforming public spaces and growing local economies. Since the start of the COVID-19 pandemic, we have heavily invested in streets and public spaces to support placemaking and activation for local communities. Now, we're turning our attention to helping local business grow and flourish.

Streamlining the establishment of Business Improvement Districts in NSW is an incredible opportunity for local business to participate in place activation. They offer a seat at the table for business to work with the community for a common goal of improving our local places.

Businesses can play a valuable role in the activation of local spaces, driving long-term prosperity and positive impacts for the community. Through Business Improvement Districts we can help improve the local trading environment, encourage economic growth, and deliver civic pride.

This paper outlines what could be done to make it easier to set up Business Improvement Districts across NSW. Building on experiences in other countries, such as the United Kingdom and New Zealand, we investigate what we can do to support the wider roll-out in our own context.

I look forward to discussing this opportunity further with both our business and local communities. On behalf of the NSW Government, I am excited to investigate how we can make local place activation easier through Business Improvement Districts to grow local enterprise, town centres and main streets and deliver more for neighbourhoods across NSW.

“The failures of urban renewal reflect a failure at all levels of government to realize that people, not structures, really determine a city’s success.”

Edward L. Glaeser, 2011, Triumph of the City

## 1. Partnerships for places

Business Improvement Districts (BIDs) are an internationally recognised tool for businesses and the community to work together to create great neighbourhoods. BIDs help businesses contribute to the economic, social, or cultural life of their local commercial centre or high street. While some BIDs have been set up in NSW, they are not nearly as common as in other parts of the world. This paper explores why that is, and what can be done to make it easier for BIDs to contribute to neighbourhood place making.

After all, great neighbourhoods don’t happen by chance. They happen when they get the balance right between the social, economic, and environmental needs of their local community. They have good access and amenity, making them places where people want to visit and hang out in. They are safe and inviting, providing a place where people can socialise and meet people. And importantly, they serve an economic purpose, providing goods, services and jobs for the local community. They are not just happy accidents but the result of a partnership between the local community, government, and local businesses.

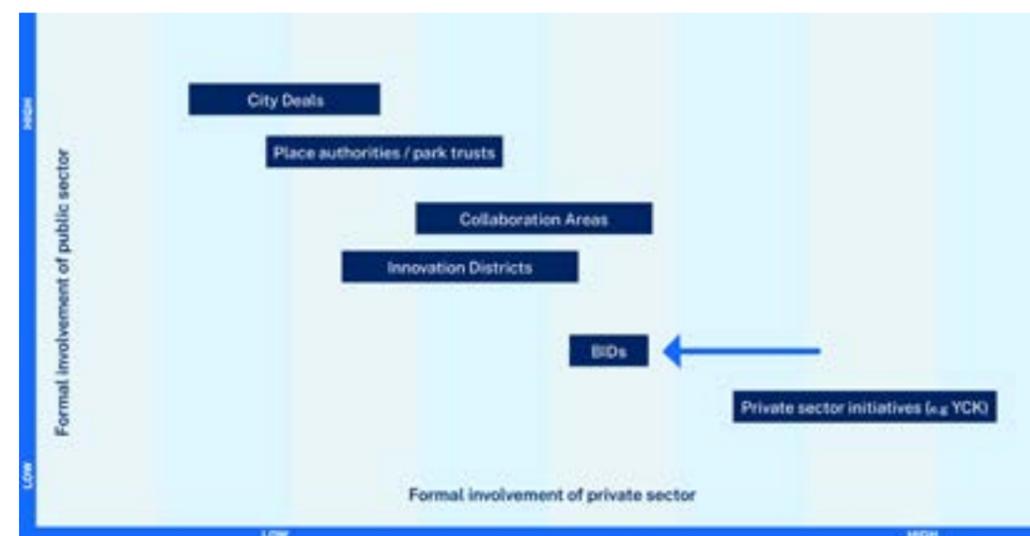
In responding to the COVID-19 pandemic, the NSW Government has renewed its focus on improving local neighbourhoods across NSW. We’ve partnered with local councils to improve access by expanding and improving cycle ways and footpaths. We’ve invested in civic improvements and activations to improve the amenity and vitality of local centres and highstreets. We’ve elevated the importance of good urban design and place making. And we moved to cut red tape and regulations that limit local business operations and stifle local economies.

However, place making and government-led improvements can only achieve so much. The places that were the most successful in responding to the pandemic were those that managed to combine the efforts of government, business, and the community to help a place to flourish - a partnership to keep the local economy humming. Yet in most places in NSW, businesses have only a limited role in how their local district functions. The contribution of local businesses stops at their front door and their expertise, skills and experience is excluded from place making initiatives or curating economic growth.

Local neighbourhoods have always played an important part in the life of our citizens. They are not only where we live, they are a fundamental part of our identity and the site of our most important social and economic interactions. At the heart of every neighbourhood, is a business district. This might be a suburban highstreet, with a string of shops. A small commercial centre in a town or village, catering for the needs of the local region. Or it could be one of the larger business districts in our cities, where major service industries cluster.

We believe that getting local businesses more involved in driving these local centres is a crucial if we are to build on our investments in place making and drive local economies. We are seeking feedback on the best way to achieve this and are exploring whether BIDs model used in other countries should be encouraged in NSW.

The **NSW Public Spaces Charter**, released in December 2021, identifies 10 principles for quality public space, developed through evidence-based research and discussions with public space experts and the community. It is expected that Business Improvement Districts in NSW will become signatories to the Charter, to demonstrate their commitment to embed the 10 principles when they plan for, design, manage or activate public spaces. The Charter is supported by the **NSW Activation Guides** which support a place-based and community-focused approach to public space activation – visitation, dwell time, and diversity.



**“Non-governmental alliances can balance and enhance public power... Shared strength in the twenty-first century will require more collaborative, private effort.”**

Edward Glaeser and David Cutler, 2021, Survival of the City

## 1.1 What is a Business Improvement District?

Business Improvement Districts (BIDs) are a mechanism to bring local business together to support and grow local economies, town centres and main streets. While common around the world, particularly in North America, the United Kingdom, and New Zealand, they are rarely used in NSW.

BIDs are business-led, place-based partnerships, created to support local economies and to deliver services to local businesses that are additional to those provided by councils or government agencies.

They allow the business community and government to work together to improve the local trading environment, drive economic growth and provide civic improvements. The partnerships enable collective action from businesses to address issues impacting the local economy and form a powerful tool for involving local businesses in local activities.

BIDs come in all shapes and sizes and forms. However, a BID is usually a defined area in which a local levy or charge imposed on all commercial properties in addition to their usual property rates and taxes. This levy is used to fund projects and activities which benefit businesses in the area and improve the vitality of the local economy.

A wide variety of projects or services can be provided through a BID. They can be a powerful tool for involving local businesses in local activities and allow the business community and government to work together to improve the local trading environment, drive economic growth and provide civic improvements. The only requirement is that a BID should be additional to services provided by local authorities or government. Improvements may include, but are not limited to:

- extra safety/security, cleaning, environmental and amenity improvements
- marketing and promotions to support a local business centre and attract visitation
- place making and activations to attract footfall and increase dwell times
- data analytics and market research
- improving access and mobility within the district including supporting a shift to active transport, by workers, customers, and visitors.

Typically BIDs do not fund major capital works (eg. transport infrastructure). BIDs may, however, play an important role in providing input for the design and function of government or private-sector capital works.

For councils, BIDs can be an opportunity to bring business experience and funding together to create local jobs or provide services they can't deliver. Industry groups want a seat at the table when determining and curating the local trading environment. They are keen to provide services above and beyond those usually provided by government and they are prepared to pay for it.

Both councils and business groups have complained that the process for forming a BID in NSW is cumbersome, costly and lacking regulation. Where they do exist, they are mostly legacies of earlier government policies and programs, or ad hoc voluntary associations. Few have been established in recent years which suggests the complaints from councils and industry groups are well-founded.

We are investigating whether NSW needs a simpler policy framework for how BIDs should be created, their governance arrangements, purpose and role.

### Newcastle Business Improvement Associations

Newcastle City Council has had a long history partnering with local BID's (though they called them BIAs). For decades, Council has charged a special business rate to fund BIDs in four commercial centres - Hamilton, Mayfield, Wallsend, and the CBD. Each BID operates as an independent, not for profit organisation, and has its own board.

Following concerns that some of the BIDs had strayed into activities not strictly about improving the local business environment, Council commissioned a review into their operations and to assess whether they were still providing value for the community. This review concluded they were indeed worthwhile, however suggested their future activities be guided by a Service Agreement with the Council before money from the levy is disbursed. The Service Agreement sets out the range of activities the BIDs can undertake, including:

- Identifying and developing strategic directions for the promotion of local businesses
- Managing local marketing and promotion initiatives
- Prioritising and managing beautification projects
- Coordinating and promoting community events and activities aimed at encouraging local business demand.

Each BID operates under its own independent Deliverables Plan which includes targeted projects for its precinct. However, they also unite to work on initiatives that have a city-wide focus.

Newcastle CBD, New South Wales



## Typical BID structure-establishment



1 Business and property owners in a local place

2 Agree to create a new BID entity

3 BID entity delivers services and initiatives that will improve the place in which the BID operates

This Paper outlines the roles BIDs might play in growing NSW's economy and improving local commercial neighbourhoods. It examines the barriers and obstacles preventing communities and businesses forming a local BID and asks whether these can be removed, or the process streamlined. It explores policy and legislative options, how they should be structured and governed and the policy framework to guide how they should function.

**Question: What are the current barriers to BIDs being established in NSW?**

### Smart Places:

BIDs could play an important role in delivering the **NSW Smart Places Strategy**. Smart places bring together the physical and digital environments. They deploy technology to help capture information about the physical and natural environment and how it is used. This in turn drives decisions which improve the productivity, liveability, sustainability and resilience of our cities, towns, and communities.

The government recently released a **Smart Places Customer Charter** which set out six principles to guide the creation and management of smart places. These include:

1. Co-creating smart places
2. Respecting local character
3. Advancing digital inclusivity
4. Keeping information safe
5. Creating an open and fair environment
6. Delivering benefits that last.

A partnership between State and Local Government and a local BID would be an ideal mechanism to implement the Charter's principles and tailor technology to local conditions and needs.

## 1.2 Place making and economic vitality

In a highly globalised world, places intensely compete for investment, employment, knowledge, events, and people. To attract, retain, and enhance human and social capital, we must create livable, enriching, and desirable places.

At a local level, and particularly in the COVID-19 recovery era, there is a renewed focus on maximising the vitality and quality of local town centres and high streets.

In both this global and local context, the activation of public spaces and neighbourhood centres is a key economic priority.

The NSW Government has prioritised investment in local places and spaces as part of our post-COVID-19 recovery plan. We've partnered with local councils to improve the amenity and accessibility of local centres and provided guidance on how they can be activated, welcoming and vibrant.

But for all the investment in improving public spaces and local centres, if local businesses are not thriving, these places might still struggle. It is local commerce and services that drive the visitation and makes a precinct vibrant and interesting. Without a strong local economy providing what the community want, people are unlikely to visit, and if they do, they won't stay for long. Good place making can improve the economic performance of a neighbourhood and strong local businesses provide the reason to visit them. The two go hand in hand.

**"Neither the state nor the market has been uniformly successful in solving common-pool resource problems."**

Elinor Ostrom, 1990, *Governing the Commons*

### Times Square Alliance, NYC

In 1990, a coalition of city government and local businesses was established to improve the amenity and cleanliness of the midtown business district of Times Square. After decades of neglect and decline, Times Square had become a hot bed of crime, antisocial behavior and was shunned by locals and tourists. Focusing first on graffiti removal and safety, the Alliance set out to make the precinct more attractive to visitors. Pedestrian safety was improved, and pop-up activations and events sponsored by local businesses were encouraged. With more people on the street, safety increased, visitors stayed longer and spent more. Local businesses found it easier to attract and retain staff. Building on the precinct's historic neon signs and nearby theatres, the place was rebranded as an exciting nighttime precinct. Times Square is now one of the most visited neighbourhoods in New York. This was only possible through a sustained and genuine partnership between government, local businesses, and property owners.

Times Square, New York



A local BID can complement public investments in public spaces in ways that improve both the local business environment and the attractiveness of a place to local residents and visitors. Local businesses have insights into what makes a place tick. They understand their local markets and what brings the customer through the door. They wouldn't last long if they didn't.

BIDs provide businesses with a seat at the table when decisions are made about how a neighbourhood performs. They provide a mechanism for collective action to address economic issues and pursue opportunities that grow the local economy and create jobs; actions not usually done well by government. Finally, they can provide an extra source of funding to support the efforts of government and community in place making.

### Lessons learnt from BIDs internationally

BIDs have been proliferating in cities and towns across the world, providing significant opportunities and improvements for many communities. Like any policy it is also important, however, that we manage any risks or unintended consequences.

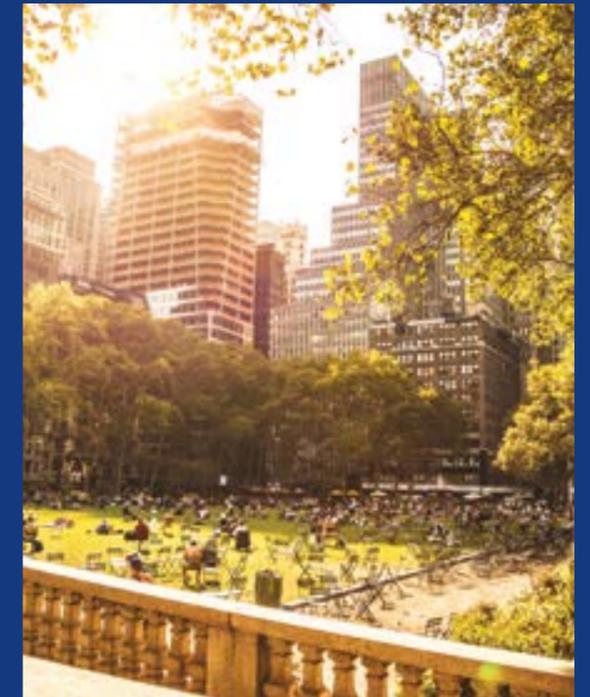
For example, a central theme of BIDs is that they are democratic, with power shared fairly between participants and stakeholders in a place. This includes ensuring that BIDs empower the local places they are meant to support, and that all members of the community are made to feel welcome.

It is also important that when improving the quality of places, BIDs do not inadvertently contribute to the impacts of 'gentrification'. Creating great places is a core aim of this policy, but it is important that the risk of businesses or residents being 'priced out' of, or excluded from, a place is minimised.

International experience is that BIDs can make a positive and responsible contribution to local places, particularly where they are subject to regular review and evaluation. The NSW Government is committed to appropriate governance and regulation to ensure that the benefits of BIDs for local communities are maximised.

### Bryant Park, New York

The Bryant Park Corporation was BID founded in 1988 to rescue the historic park, which had fallen into disrepair and become unsafe and unsightly. The BID raised a levy on neighbouring businesses to renovate the park and support greater activation through events and public concerts. The BID also collaborates with local corporations, schools, and community groups to offer interesting amenities, education programs and free entertainment. Bryant Park has now become a focal point for the community and attracts 6 million visitors annually who spend more time (and money) in the district.



Bryant Park, New York

### Falmouth, Cornwall

Falmouth is a popular tourist town and occasional port of call for passing cruise ships. Local businesses created the Falmouth BID as a not-for-profit company responsible for executing a number of innovative projects aimed at improving the trading environment, such as better visitor signage and putting more marketing into local festivities. Working with Falmouth Town Council, they wanted to find a solution that would support high usage during peak visitor periods and carry the highstreet in the off-season. With cruise visitors sporadic, Falmouth wanted to solidify its position as a tourist destination by investing in free public Wi-Fi for visitors and better parking management during peak season. Falmouth is now established as a 'digitally smart' town and even won the UK's Best Digital High Street award. Reaping the benefits of increased dwell time from visitors, the BID now offers the data to local businesses, helping them to gain insight into their needs and wants of customers and honing their marketing strategies.<sup>1</sup>

Falmouth, Cornwall



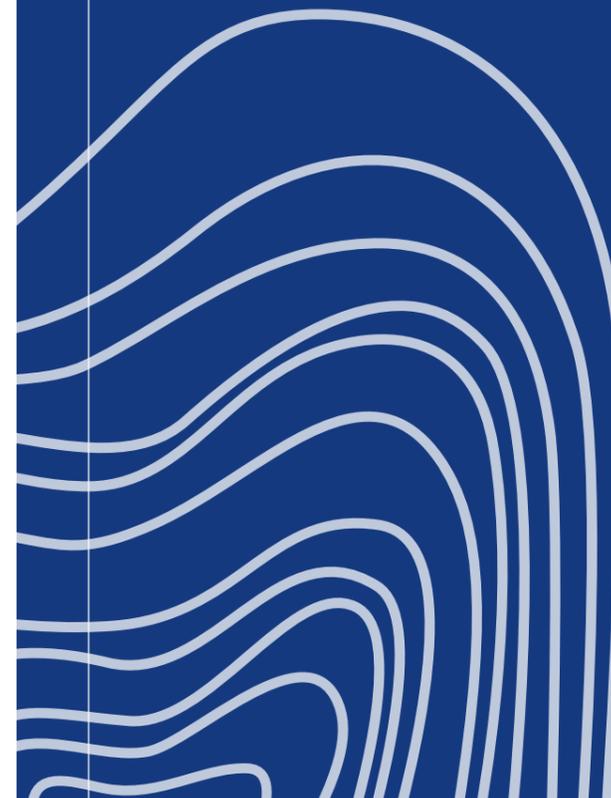
1. <https://www.wifispark.com/blog/what-are-the-most-successful-business-improvement-districts>



Nelson Street Cycleway, Auckland

### Newtown, Auckland

The Uptown Business Precinct is one of 50 BIDs operating in Auckland. Formed in 2012, it aims to transform the Newtown area from a peripheral part of the central city into a thriving creative hub. Since 2012, the 650 businesses and 500 property owners within the Newtown BID have seen many benefits, including the establishment of regular security patrols, graffiti removal, networking events, and the establishment of the Uptown brand and website, which provides a central place to market local businesses.





### 1.3 How are Business Improvement Districts governed and funded?

While BIDs come in all shapes and sizes, they all have a few things in common. They only operate in defined area, usually a main street or town centre. They have a clear role and a defined set of objectives they are trying to achieve. They also have a properly constituted governance arrangement to coordinate their activities and hold monies raised - usually a not-for-profit corporation or company.

BIDs are usually funded through an additional levy on local commercial properties or a fee on participating businesses. In other jurisdictions, the extra levy is usually quite small, usually only one to two per cent increment of their existing council rate or property tax. While each business makes a small annual contribution, the combined levy across an entire district or centre provides a stable and predictable funding stream to support their activities. Once established, BIDs can secure secondary sources of income through grants, promotions, and voluntary contributions. In some jurisdictions BIDs operate for a set term, usually five years, before they are dissolved or conduct a fresh ballot of affected businesses so they can demonstrate ongoing value to members.

#### Typical BID structure-finance mechanism



**Organisational Structure**

BIDs need a formal organisational structure to coordinate their activities, hold and dispense monies raised, and provide a mechanism for members to have input into decision making. This structure also needs to be legally recognised and regulated, with formalised reporting to members and stakeholders, and some oversight by a government agency, non-profit board, or a combination of the two.

The day-to-day activity of the BID is typically determined by a board and decisions are recorded and reported annually to members, relevant government agencies and affected local councils.

There are several existing options to achieve this, including:

- unincorporated associations
- incorporated associations
- not-for-profit companies
- co-operative societies.

**Question: Which organisational structure is best suited for BIDs in NSW? How should they be held to account for their activities?**

**Who contributes - landowners or businesses?**

BIDs provide predictable and long-term funding stream to local improvement. This funding is paid by all commercial businesses in the defined district so there are no free riders. How this funding stream is determined and who pays varies from jurisdiction to jurisdiction.

In the UK model, the levy is paid by commercial ratepayers which operate in the district. This reflects the existing UK business tax regime and how they fund local and parish councils. In the US, BIDS are commonly funded either through an incremental increase in property tax or through a surcharge on local sale taxes. In New Zealand, BIDs are funded through a small increase in council rates.

In NSW we don't have the option of levying a surcharge on our sales tax (GST) as this is a Federal Government tax. Taxing businesses directly is problematic. Unlike the UK, we don't currently register businesses on where they operate. In addition, some businesses, such as a retail chains, have several outlets across Australia, which makes it difficult to apportion an appropriate levy. Establishing a new tax regime to capture local businesses is likely to be expensive.

In NSW levying BID levies on the landowner appears to be the simplest approach. Property owners will benefit from the improvements a local BID will bring through increased rents or property values. Likewise, most businesses will benefit from improved trading conditions and in turn will pay more in rent over time. In NSW levies and charges paid by the owner of a commercial property are usually passed on to the business tenant through rents.

**Question: We think the BID levy will need to be applied to the property owner. Are we right?**

**Who should administer BIDs in NSW?**

In most jurisdictions local government is responsible for the administration of BIDs including holding ballots, collecting levies, and overseeing compliance. Councils have oversight of the BIDs in this area, and ensure that funds are being appropriately acquitted. A benefit of this approach is that it draws on the detailed local knowledge held by councils. It also can be a streamlined administration by allowing the BID levy to be bundled with other charges administered by council (eg. rates).

Consideration has been given, however, to whether it may be more appropriate for the state government to undertake this role in NSW rather than councils. In order for councils to have oversight of BIDs in the manner that occurs in other jurisdictions an amendment to the local government legislation may be required. Consideration would also need to be given to how to resource councils appropriately to undertake the administration necessary.

Consideration also needs to be given to the simplest model to administer BIDs where the BID spans more than one LGA. Many business districts and high streets straddle council boundaries. In these cases there may be complexities in multiple LGAs being responsible for administration of the BID.

**Question: Are BIDs best administered by the NSW Government or local councils in NSW?**

**1.4 How are Business Improvement Districts established?**

A common feature of BID policy in most countries is that broad support from a majority of property owners or businesses is necessary before a levy can be considered. Demonstrating this is usually done by way of a ballot or plebiscite with a majority, or super majority, required before the BID is established. This ballot is usually conducted by a third party such as a council or government.

**Design of BIDs**

In most jurisdictions the design of a BID is initiated by a combination of local government and local businesses (either directly or through the local business chamber). The process usually starts with outreach and consultation which allows local businesses to work out the key focus areas. Once there is general agreement the group will need to determine the structure of the BID and how it will operate. This includes defining the area the BID applies to, how the levy will be calculated, and the activities it will undertake on behalf of members.

Through this design process a proposed BID model is developed for consultation. Once a BID model is agreed, it is subject to a vote by affected parties in most jurisdictions (see break-out box 'Ballots and Democracy' below). Experience in the UK is that a minimum of nine months will be required to develop and socialise the design of a BID prior to a ballot being held.

There is also a need for state wide consistency in policy and advice to councils and prospective BIDs on how to conduct a ballot of affected landowners and businesses and to produce practise notes and guidelines on how BIDs should operate and report on their activities.

**Question: What activities should BIDs focus on in NSW? Should the NSW Government set limits on what BIDs are allowed to do?**

### Ballots and Democracy

For a BID to be successful it needs to have strong local support from the businesses and landowners who will be required to pay for it.

Most jurisdictions demonstrate this support by requiring a ballot of affected parties before a BID can be established. This could be a simple 50 per cent majority. But is that enough to mandate a BID? What if only a few affected businesses turn out to vote? Should larger properties be given more votes?

In the UK, a BID ballot is determined by a postal vote of affected parties which is paid for by the 'billing authority' which is the relevant council. To ensure a good turnout, if fewer than 20 percent of businesses vote in favour of the proposal, the billing authority is permitted to recover the cost from the proposers.

A BID must be approved by a numerical majority, and a majority by ratable land value, of the businesses covered by it. This dual-key mechanism protects against large firms or property owners forcing through a proposal against the wishes of small firms, or vice versa.

In Scotland and Northern Ireland, alongside these two requirements, the ballot also requires a minimum turnout of 25 per cent of businesses affected and the proposers can also require a supermajority for approval. In each part of the UK, the billing authority has a veto power over the establishment of the BID under certain circumstances.

If the result of the ballot is in favour of the BID, all businesses which fall into the geographical area, and the business sector defined in the proposal, will be obliged to contribute to the scheme.

In NSW, like in other jurisdictions, it is expected that the regulations and practice notes will need to set out detailed requirements for how ballots are to be conducted, and the threshold required for a BID proposal to be successful.

**Question:** How should we conduct BID ballots in NSW and what level of support should be required for a ballot to succeed?

## 1.5 Broader governance environment

Successful BIDs are a partnership between the local authority or government agency and the business community. BIDs are usually subject to regular review and have some oversight of their operations and performance provided by the local council or a government agency.

BIDs do not replace or duplicate the roles and responsibilities of the local council or other government agencies. Instead, they provide services or service levels, not usually provided by government. BIDs should be self-funded. They should not take resources or funding away from existing community and council services. They also need to be regulated to ensure they 'stay in their lane' and don't impinge upon the role and responsibilities of government agencies or local community need.

It is critical that BIDs are a partnership between state and local government agencies and local businesses and property owners. The bounds of this partnership should be clearly defined before the BID is established. In the UK, BIDs are required to enter into a baseline agreement with local government prior to establishment.

In those locations where a NSW Government place management authority operates, it may also be appropriate to ensure the management authority agrees with the proposed BID and its approach prior to a ballot on the BID occurring.

**Question:** Should prospective BIDs be required to enter into an agreement with the relevant local council (and other place management authorities, where applicable)?

## 1.6 What do other countries do?

Countries which have flourishing BIDs have simple processes and protocols to encourage them. They have established policies which ensure good governance and public accountability. They have clear rules to ensure the BIDs succeed and deliver on their stated objective.

While BIDs across the world have similar structures and purposes, their regulatory environments have subtle local differences which reflect the different tiers of government involved in place making in each country. Many have bespoke funding mechanisms reflecting different taxation systems.

In the US, most jurisdictions actively encourage BIDs, and several publish simple, step-by-step guides to help communities and businesses set them up. Most rely on property and business levies to fund their activities, though some states also use incremental increase in local sales taxes, referred to as Tax Incremental Finance (TIF).

In New Zealand, local councils have authority to create BIDs wherever they are supported by local businesses. In Auckland alone there are more than 50 BIDs representing more than 25,000 businesses.

England has a special legislative framework to make it easier for communities to establish a BID. The UK Government publishes simple guidelines and practice notes on how they operate and provides an advisory service for local councils on how to set them up. Unlike most other jurisdictions, the UK BIDs are funded by a levy on commercial ratepayers, not landowners. This reflects the existing mechanisms they use to fund local councils.

Singapore has been trialing BIDs for several years and is investigating the regulatory framework to support their establishment in commercial and retail centres nationwide.

The countries that have the greatest uptake of BIDs all have robust regulatory and policy regimes to support them. They have simple and clear processes on how BIDs are established and governed. Funding certainty is provided by a small annual levy hypothecated to the support the activities of the BID. Every dollar raised is spent locally. They have policies that ensure the activities of BIDs are accountable and transparent. And they have mechanisms to periodically review each BID to ensure they are fulfilling their public purpose.

Where the regulatory settings work, BIDs proliferate. In these instances, BIDs are also supported by both the local community and government and have become powerful tools in revitalising and growing local centres.

BIDs have been operating around the world for more than 50 years. We now have a wealth of evidence on their benefits and lessons from their earlier failures. NSW can adopt the best international regulatory regimes while tailoring BIDs to our local circumstances.

### Can BIDs be formed on non-commercial land?

Internationally, most jurisdictions prevent residential properties from being levied to support a local BID. BIDs, by their very nature, are commercially focused enterprises and the levies are to be dedicated to improving the local business environment. Residents of a precinct or district may benefit from the work of the BID, but they shouldn't be expected to pay for them. Many countries also allow BIDs to be established in industrial areas and it is expected that the NSW regime will as well. Industrial precincts also need the curation and active involvement of local businesses to thrive, and a BID is a good mechanism to achieve this. There is a question of how government-owned land should be treated and whether it can be included in a BID. Most high streets and centres have a council library or town hall. Many also have government-owned buildings such as service centres. These properties don't currently pay rates or land tax. Likewise, not for profit organisations and charities may own properties, run businesses, or provide services in a district. How should they be treated? And should they be exempt from the levy given the nature of their enterprises?

**Question: Should we specify/limit the types of land uses that can be subject to a BID levy?**

## 2. Business Improvement Districts in NSW

### 2.1 Current state of play

The few existing BIDs in NSW are mostly legacies of the NSW Government's Main Street program that commenced in 1993. Main Street provided matching capital to local councils to improve local high streets and town centres with civic improvements and activities to grow the local economy. It stipulated that councils involve local businesses in implementing the improvements and commit to ongoing funding of projects. Many councils partnered with local business chambers to establish a BID to meet the requirements of the program.

Most surviving BIDs operate as independent, not for profit organisations under the Associations Incorporation Act 2009 and are funded through a special rate levy on commercial properties under s495 of the Local Government Act 2003. Under this Act, the local council has partial oversight over the performance and governance of the BID and can withhold monies raised by the special rate levy if they deem necessary.

Other more recent BIDs, such as the New Sydney Waterfront Co BID, are funded by a voluntary levy on commercial businesses and landowners in a precinct and through state and local government grants. The challenges of a voluntary levy are outlined in the break-out box below.

**Why can't businesses establish a BID without government involvement?** Why can't business just work together to fund the things they want themselves? This is the first question most people ask when they consider the merits or otherwise of establishing a BID. The answer is they can, and many do. Many centres and high streets have active business chambers who champion the needs of local businesses. These voluntary associations try to coordinate local business activities to improve trading conditions and advocate for local commercial interests. However, voluntary BIDs often run into a few common problems which quickly undermine their efforts, make collective action difficult and reducing their effectiveness. The first is the 'freeloader problem'. Unless every business in a district contributes equally and fairly to the BID, some will receive the benefits the BID creates, without contributing to the costs. This undermines the collective action of the BID and creates ill will, which can cause the BID to quickly fall apart. Secondly, without compulsory levies it is hard for the BID to have a predictable cashflow and fund employees and/or long-term programs. Thirdly, a voluntary association may not have the same level of recognition with a council or the government as a compulsory BID may enjoy.

**"Where large organisations are relied upon for economic expansion and development — that is, where small organisations find little opportunity to multiply, to find financing, and to add new work to old — the economy inevitably stagnates."**

Jane Jacobs, 1969, *The Economy of Cities*

### 2.2 Barriers to Business Improvement Districts in NSW

The current process for establishing a BID in NSW with a compulsory levy is neither quick nor easy. BIDs are not recognised in legislation and there are no guidelines on how they should be established and administered. Instead, there is patchwork of regulations and bureaucratic hurdles which must be navigated before BIDs can commence.

For example, working under existing legislation, businesses who wish to establish a BID within their local government area may need to request their local council to set a special rate under the Local Government Act 1993. Businesses must first convince their local council of the merits of the idea. This could involve preparing a business case and a draft governance model as well as an outline of what the BID would be seeking to achieve. They would also need to demonstrate a majority of affected businesses and landowners are supportive, usually with a well-supported petition.

If council agrees a BID is a good idea, a ballot of the property owners who are liable for the special rate would then likely need to be conducted and a majority agree to participate. Council, under the Local Government Act 1993, could then set a special rate for specific services or works provided by council. The proposed special rate would need to be included in the council's draft operational plan. In addition, depending on the structure of the special rate and whether it exceeds the minimum rate approval may be required from the Independent Pricing and Regulatory Tribunal (IPART).

Further, if the proposed BID involves establishing a council-related entity to govern the BID then council must also apply to the Minister for the council to form or participate in the entity. In applying for the Minister's consent, the council must demonstrate that the formation of, or the acquisition of a controlling interest in, the entity is in the public interest. This process can take years during which the original impetus from the local businesses can pass.

It's not easy to establish a BID in NSW.



## 2.3 Reform to encourage Business Improvement Districts in NSW

“Light-touch government works more efficiently in the presence of social capital... When community involvement is lacking, the burdens on government employees – bureaucrats, social workers, teachers, and so forth – are that much greater and success that much more elusive.”

Robert D. Putnam, 2000, *Bowling Alone: The collapse and revival of American Community*.

The NSW Government believe that BIDs can play a positive role in our post COVID-19 recovery. Involving local businesses in curating and growing local economies will complement state and local government investment in public spaces and place making.

However, there is a clear need to establish a consistent state-wide policy framework outlining:

- how BIDs should be established
- how they are be constituted and governed
- their relationship to state and local government
- public accountability and reporting of activities
- how long they should operate and how they are reviewed.

The government is now exploring standalone legislation for BIDs in NSW. This legislation would afford BIDs a clear legal standing and outline how their activities relate to local councils and government agencies.

Standalone legislation would allow a streamlined and easily understood process for establishing regulating and reviewing BID proposals. It would also enable a consistent state-wide approach to BID policy.

The legislation could be simple and contain only the necessary enabling powers and protections to raise the levies on behalf of the BID and control its establishment. In the UK, BID legislation is relatively brief with most of the detail contained in the regulations.

International experience also suggests that there may be benefit of having a ‘trial’ or ‘pilot’ phase for the introduction of any new regime. This provide the ability to share learnings efficiently, and ensure that any issues arising can be quickly and effectively dealt with.

**Question: What should the NSW Government do to support and regulate BIDs in NSW?**



### 3. Next steps

This paper outlines the potential of BID policy in NSW and the reforms required to create a consistent regulatory environment to support their establishment. As noted in the previous section, the government's preferred model is standalone legislation. This legislation would only provide a high-level architecture for BID policy in NSW. Most matters of detail around how BID policy in NSW would be dealt with through subsequent regulations and guidance notes.

The government recognises that there are many important matters of detail that will need to be carefully considered in order to develop effective regulations and guidance notes for BID policy. The regulations will largely dictate how BID policy operates in NSW. The government has already heard that stakeholders will want to be closely involved in this policy development process, and that adequate time is required to ensure that we get the policy right.

The government therefore proposes a co-design process for BID policy. This will involve working together with stakeholders to ensure that the BID policy contained in regulations and practice notes is 'fit for purpose' and appropriate for NSW conditions. This will include extensive engagement prior to the development of any regulations or practice notes for BID policy in NSW. In addition, there will be public exhibition of all key regulations proposed under the BID legislation.

This White Paper is the start of a significant process of engagement with the community and stakeholders on this important area of policy reform. The government welcomes feedback on BID policy in NSW, including responses to the questions posed in this White Paper. An online submission form is available at <https://yoursay.transport.nsw.gov.au/business-improvement-districts>, along with the opportunity to register for regular updates on BID policy reform. We will also report back later in 2022 what we hear through this White Paper engagement process.

### Appendix – Summary of questions

What are the current barriers to BIDs being established in NSW?

Which organisational structure is best suited for BIDs in NSW? How should they be held to account for their activities?

We think the BID levy will need to be applied to the property owner. Are we right?

Are BIDs best administered by the NSW Government or local councils in NSW?

What activities should bids focus on in NSW? Should the NSW government set limits on what BIDs are allowed to do?

How should we conduct BID ballots in NSW and what level of support should be required for a ballot to succeed?

Should prospective BIDs be required to enter into an agreement with the relevant local council (and other place management authorities, where applicable)?

Should we specify/limit the types of land uses that can be subject to a BID levy?

What should the NSW government do to support and regulate BIDs in NSW?

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