

REPORT 4  
(1215/52/IM)

## AMENDMENT TO THE BUSINESS IMPROVEMENT DISTRICTS POLICY – POLL SUCCESS MEASURES

### 1. Purpose of report

This report seeks approval to amend the Business Improvement Districts (BID) policy adopted by the Council on 27 March 2013.

### 2. Executive summary

The BID policy was approved by Council on 27 March 2013. The policy included a recommendation to engage further with the interested parties on the Business Improvement District establishment process.

As part of this engagement, there has been additional feedback on the criteria for a successful poll. Officers and Councillors have also discussed this with other interested parties and Auckland Council staff who are experienced in operating BIDs.

In response to this feedback this paper seeks to amend the criteria to ensure that the BID policy is more likely to be achievable for a range of potential areas.

### 3. Recommendations

Officers recommend that the Strategy and Policy Subcommittee:

1. *Receive the information.*
2. *Agree to recommend that Council amend clause 8.4 of the Business Improvement Districts policy as follows:*

#### **8.4 The Goals of the Poll**

*It is a goal of the Business Improvement District poll to achieve a 75% **majority** voting return from the eligible voters for that poll; and ~~for~~ 75% **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 rating 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.*

## 4. Background

Business Improvement Districts (BID) involve a local business community developing projects and services that support local economic development. The BID initiative is intended to support small to medium sized businesses in suburban centres, and meets the desire of some business communities to be more actively involved in local development. In a constrained funding environment, the BID initiative enables local businesses to fund local initiatives themselves and promote vibrancy in suburban areas.

### *Miramar BID establishment*

The current work to establish a BID in Miramar has reinforced the value of the Council adopting the policy. Even at this early stage it has become clear that there are a number of very highly engaged stakeholders, who embrace the BID as a significant enabler of strategic economic outcomes both for the immediate BID area, and the closely connected Miramar Peninsula Framework. This will in turn further support and enable economic activity in the wider Wellington City area.

Establishing the BID has and will continue to require a high degree of engagement between the BID proponents<sup>1</sup> and the eligible voter community, those businesses and commercially rated property owners within the BID area defined by the BID boundary. Through this engagement a business plan is being developed for the area, which sets out aims and objectives to be achieved by the BID with an accompanying budget.

A poll will be run to decide whether there is a mandate from the community for a BID to be established. If successful a targeted rate will be operated by the Council which the BID will use to fund its objectives according to the budget.

In order to demonstrate whether there is a mandate a threshold needs to be reached both for participation in the poll and for a vote in favour.

## 5. Discussion

The draft policy originally presented to SPC on 18 October 2012 did not set a minimum threshold for participation; it recommended that a goal of the poll was to achieve a *high* voting return from the eligible voters and for the *majority* of those who vote to support the proposal.

At the time, Councillors were concerned about the ability to impose a tax on businesses without a high threshold being clearly stated and amended the policy to reflect this, requiring a 75% participation rate and a 75% majority set as thresholds.

Subsequent discussion by both Officers and Councillors with interested parties and also with Auckland Council officers has made it clear that these thresholds are very high.

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<sup>1</sup> The group proposing and promoting the establishment of a BID

The risk is that BID proposals will not be approved under the current policy criteria, effectively rendering the BID policy unlikely to be implemented except in cases where there is very high participation.

The feedback from discussion supports reducing the participation threshold. Achieving the participation threshold would meet the first test as to whether there was a mandate from the community to proceed with establishing the BID levy.

Such a mandate would be further demonstrated by the BID proponents presenting a case to the Council. The case would include; the proposal for a BID, the engagement methodology and results with the eligible voters, the level of support that they have received, and the results of the BID poll.

The Council would include the case put forward to decide whether there was the mandate to proceed.

### *Auckland City Experience*

Auckland Council has provided a table of participation rates and the percentages voting in support in 21 BID polls across their region.

Table 1: Auckland BID poll examples

Poll	Date	No Voters	No Returned	% Returned	Vote Yes	Yes %	Vote No	No %
Mangere East	17-Mar-06	23	9	39.13%	9	100.00%	-	0.00%
Dawson Road BID	17-Mar-06	39	14	35.90%	13	92.86%	1	7.14%
Manukau Commercial Centre	8-Dec-06	489	104	21.27%	82	78.85%	22	21.15%
Manurewa Town Centre	27-Apr-07	232	70	30.17%	61	87.14%	9	12.86%
Wiri Industrial Area	27-Apr-07	474	124	26.16%	78	62.90%	46	37.10%
Albany	30-Apr-08	2,336	453	19.39%	286	63.13%	167	36.87%
Birkenhead	7-May-08	344	97	28.20%	67	69.07%	29	29.90%
Mangere Town Centre	23-May-08	128	69	53.91%	62	89.86%	7	10.14%
Mairangi bay	22-Sep-08	91	40	43.96%	31	77.50%	9	22.50%
Newmarket BID extension	1-Dec-08	352	176	50.00%	161	91.48%	15	8.52%
Greater East Tamaki	22-May-09	3,500	658	18.80%	471	71.58%	183	27.81%
Milford Village	11-Sep-09	200	72	36.00%	54	75.00%	17	23.61%
Orewa Beach	2-Oct-09	98	37	37.76%	9	24.32%	28	75.68%
Warkworth	16-Oct-09	270	128	47.41%	63	49.22%	65	50.78%
Kingsland Business Association	25-Mar-10	486	204	42.40%	148	72.55%	56	27.45%
North harbour BID re-poll	9-Mar-12	2,540	872	34.33%	646	74.08%	221	25.34%
Eden Terrace BID	4-Apr-12	952	300	31.51%	179	59.67%	121	40.33%
Dominion road BID expansion	10-Apr-12	297	116	39.06%	37	31.90%	79	68.10%
Dawson Road BID Discontinuation		50	45	90.00%	22	48.89%	23	51.11%
Mairangi bay re-poll		87	52	59.77%	50	96.15%	1	1.92%
North harbour BID extension		1,484	543	36.59%	349	64.27%	193	35.54%
<b>Total</b>		<b>14,472</b>	<b>4,183</b>	<b>29%</b>	<b>2,878</b>	<b>69%</b>	<b>1,292</b>	<b>31%</b>

It is clear from Auckland's experience that while the Council's decision on a 75% majority is close to the average result in Auckland of 69%, the expectation of a 75% participation rate is well above the Auckland experience. There is an average participation rate of 29% and an upper quartile of 42%.

Auckland Council has a policy of a minimum of 25% ballot return from eligible voters, with minimum of 51% of returned ballots voting yes. The effect being that it requires, as a minimum, 12.5% of the eligible voters to agree for a BID to be established.

While that is the policy position, advice from Auckland Officers is that in practice they work very closely with BID proponents to maximise engagement with the eligible voter community. Officers closely oversee the degree and methodology of engagement and will not put before Councillors a recommendation if full engagement cannot be demonstrated.

Auckland Officers also advise that while there have been several instances of objection to proposals based on these thresholds through the BID establishment process, there has been little to no objection once established. Any objections post establishment have dissolved once the BID is operating and the value to the community is realised.

### *Manukau City Council*

Manukau City Council<sup>2</sup> BID guidance documents made the following statement.

*There is no clearly correct or even universally accepted answer to these two questions<sup>3</sup>. However, local feedback and best practice indicates that the required return rate should be around 40%. ..... it makes sense to facilitate the establishment of BIDs to a maximum degree without negatively impacting on the Owners' right to be heard. It is also important to realise that the requirement for a minimum return rate exceeds even the requirements of a general election in NZ, which has no minimum return rate!*

*All things considered, and in line with general election practices in NZ it was decided that no minimum required return rate should be imposed. However, it was also recognised that it is of critical importance that the election process itself is beyond reproach and that every Owner does get a chance to register his/her preference. Importantly, if a mandate to establish a BID is achieved via the polling process, opponents still have the opportunity to make submissions to Council's Annual Plan.*

While the Manukau BID has now been incorporated into the Auckland Council, the above statement is still relevant as it highlights that a Council's concern should be on ensuring the BID proposal has merit and withstands scrutiny.

It reinforces that those who are proposed to pay the levy need to have had an opportunity to both be involved in the development of the proposal and to vote in support or otherwise. They also will have an opportunity subsequent to the poll to make a submission during the Council's decision making process as to whether to establish the levy.

The continuing relevance of the original Manukau BID policy is further demonstrated through the Fremantle Retail Model Plan<sup>4</sup> adopting it as an exemplar, noting it as an 'excellent policy'.

### *Local Government Elections*

A comparison with voter turnout to local government elections illustrates that BID poll turnouts are also likely to have lower participation rates.

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<sup>2</sup> An Explanatory Guide to the Manukau Business Improvement Districts (BIDs) Policy 2009

<sup>3</sup> Two questions: regarding participation and 'vote in favour' thresholds

<sup>4</sup> [http://www.fremantle.wa.gov.au/cityoffremantle/Strategic\\_and\\_key\\_documents](http://www.fremantle.wa.gov.au/cityoffremantle/Strategic_and_key_documents)

Table 2: Table CP1.1 Voter turnout (%) in local authority elections, 1989–2007<sup>5</sup>

	1989	1992	1995	1998	2001	2004	2007
<b>Regional councils</b>	56	52	48	53	49	45	43
<b>District health boards</b>	–	–	–	–	50	46	43
<b>Territorial authorities</b>							
<b>City councils</b>	52	48	49	51	45	43	41
<b>City mayors</b>	50	48	49	51	45	43	41
<b>District councils</b>	67	61	59	61	57	51	49
<b>District mayors</b>	67	61	59	59	56	52	49
<b>Community boards</b>	54	49	50	50	46	42	41

Table 3: Voter turnout Wellington city (%), 2004 - 2010<sup>6</sup>

Year	2004	2007	2010
<b>Wellington City</b>	42	40	40

### *International examples*

There are few examples of participation rates cited in guidance material on BIDs from the UK or the USA. One example is from Cornwall Council which supports no minimum threshold.

*For the BID to go ahead, two conditions must be met; firstly, a majority of those voting have to vote 'yes' and secondly those 'yes' votes have to represent more than 50% of the total rateable value of all votes cast. There is no minimum turnout threshold. If these conditions are fulfilled, payment of the levy becomes mandatory for all businesses regardless of how they voted. So, a BID will only be established if the majority of businesses, by number and rateable value, want it.*

The Cornwall example reflects UK legislation authorising BIDs and the policy which is applied as a result.

Of note is the inclusion of a threshold in regards to rateable value, designed to ensure equity between small and large businesses and reflects an environment with large disparity between property values. However, questions over equity can be addressed during officer evaluation and councillor's decision on engagement and mandate, without the added complexity of a poll with this additional requirement.

### *BID polls*

It is likely that participation levels will vary across different BID proposals dependent on their size, diversity and the extent to which businesses are actively engaged in the issues and opportunities. A higher participation rate would be expected from homogenous smaller BIDs. Whereas, larger and more diverse

<sup>5</sup> <http://socialreport.msd.govt.nz/civil-political-rights/voter-turnout.html>

<sup>6</sup> [http://www.localcouncils.govt.nz/lqip.nsf/wpg\\_url/Profiles-Councils-Wellington-City-Council-E1](http://www.localcouncils.govt.nz/lqip.nsf/wpg_url/Profiles-Councils-Wellington-City-Council-E1)

BIDs are likely to be more difficult to engage with, and therefore more likely to achieve a lower turnout.

The original recommendation of a 'high voting return' aimed to encourage BID proponents to fully engage with business and property owners and ensure that they can provide Council with the confidence that they have a mandate based on an equitable opportunity to participate. A judgement would then be required as to whether that opportunity had been given effect.

However a more conclusive demonstration of such a mandate would be achieved through the majority of eligible voters participating in a poll, and a majority voting in favour. A requirement of a majority participation rate, in practice, would also rely on demonstrating an engagement methodology where all commercial property and business owners within the proposed BID are invited to participate in establishing a strategic plan and take part in the poll. By choosing whether to participate or not, either way they have exercised their democratic right.

Having consideration to the further evidence collected and points made out above, officers have considered two options to amend the policy wording. They are either;

- Amend to reflect the original wording, or
- Amend to require a majority participation rate

The officer recommendation is to amend the policy to require a majority participation rate to conclusively demonstrate a community mandate.

### **5.1. Consultation and Engagement**

Councillors and Officers have discussed an amendment with business groups with an interest in establishing a BID, the Wellington Employers Chamber of Commerce (WECC), and with officers in Auckland Council with wider experience in this area.

The consultation undertaken when the policy was adopted included feedback from the Employers Chamber of Commerce which supported a participation rate of greater than 50%.

In proposing an amendment to the policy, Officers have sought further feedback from WECC as representatives of the business community, their response follows:

*In our view, if the vote is to be binding on all businesses in the BID district there needs to be a significant degree of support. It would be wrong to allow a small group impose its will on the rest. If the proponents want it and it is worth having, they need to be able to muster support from the rest of the business community. Obviously, the better the BID, the easier this will be to do.*

*Of those given a chance to vote, it is important that there is a majority coming back in support.*

*With regard to the percentage who participate we agree a 75% threshold is too high based on the Auckland experience (average vote participation in Auckland looks to be even lower than 35% once you account for the low participation of the larger ones). Also if people are given the opportunity of voting but chose not to, it can be assumed they do not have strong opposition.*

*We note there are precedents at central government level for compulsory levies you could look at to decide how to construct and balance the thresholds and what numbers you arrive at but in principle we support a lower participation threshold, comparable with the Auckland one.*

*Raewyn Bleakley, Chief Executive, and John Milford, Chairman, Wellington Employers Chamber of Commerce*

**5.2. Financial considerations**

There are no financial implications.

**5.3. Climate change impacts and considerations**

There are no climate change implications.

**5.4. Long-term plan considerations**

There are no long term plan considerations.

**Conclusion**

This report recommends that the criterion for a successful BID poll is amended to ensure that the BID policy is more likely to be achievable for a range of potential areas.

Contact Officer: *Phil Becker; Senior Advisor, Economic Growth Unit and Geoff Lawson, Principal Programme Advisor.*

## **SUPPORTING INFORMATION**

### **1) Strategic fit / Strategic outcome**

*The policy supports Council's overall vision of Wellington Towards 2040: Smart Capital. It enables community business groups to establish local plans which complement Council activities.*

### **2) LTP/Annual Plan reference and long term financial impact**

*Any targeted rates for BIDs that the community applies for will need to be considered and approved in the annual plan process.*

### **3) Treaty of Waitangi considerations**

*There are no Treaty of Waitangi considerations.*

### **4) Decision-making**

*This is not a significant decision.*

### **5) Consultation**

#### **a) General consultation**

*Council has consulted existing community groups that are likely to have an interest in establishing a BID. This makes a further amendment following further engagement with business groups and other Councils.*

#### **b) Consultation with Maori**

*The policy is available to mana whenua.*

### **6) Legal implications**

*There are no legal implications arising from this report.*

### **7) Consistency with existing policy**

*This report is consistent with existing policy and seeks to make a minor amendment to policy criteria to ensure that the policy is deliverable.*