

BUSINESS IMPROVEMENT DISTRICT POLICY

Business Improvement District Policy

Marlborough District Council

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1. Definitions

BID	Business Improvement District
BID Association	a legal entity constituted to administer the BID
Council	Marlborough District Council

2. Overview

A Business Improvement District (BID) is collaboration 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 commercial or industrial properties within the defined boundary.

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

3. Purpose of this policy

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

The policy addresses:

- the responsibilities of the Council and BID Associations
- the objectives that a BID must meet
- the process to establish a BID
- managing the performance of a BID.

4. Framework for relationship between Marlborough District Council and Business Improvement Districts

4.1 Council responsibilities

The Council will:

- provide information and advice as appropriate
- consider whether to set a targeted rate for the purpose of BID programmes
- set a targeted rate, providing the BID Association has complied with the terms of this policy
- monitor and review the performance of BID programmes.

4.2 BID Association responsibilities

The BID Association will:

- comply with its constitution and the BID policy
- comply with all other relevant laws and regulations
- 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.
- implement the agreed programme for its BID area
- by November of each year:
 - o submit a detailed proposed business plan, budget and key performance indicators for the following financial year
 - o submit an annual report to Council for the preceding financial year

5. BID objectives

5.1 What Business Improvement Districts can do

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

- align with the Marlborough District Council's strategic objectives and priorities
- are relevant for the needs of the business community in their proposed BID area
- are not already being undertaken as part of the Council's responsibilities under general rating.
Note: BID Associations may choose to allocate BID Association funding for additional levels of service to an existing service currently provided by Council (for example more regular street cleaning within the BID area).

5.2 Accountability

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 annual reporting to the Council.

The Council is accountable for the collection and payment of the BID targeted rate amount to individual BID Associations, and monitoring the targeted rate collected is spent as intended. The BID targeted rate may only be applied to the agreed activities of the BID Association and for no other purpose.

Where the Council has serious concerns with performance 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 targeted area to be rated).

6. Alignment with BID Objectives

The general objectives of Business Improvements Districts in Marlborough are:

1. Business development: To strengthen the district's economic base while finding ways to expand it to meet new opportunities and changes in the retail and economic climate of the region and country
2. Promotion, events and marketing: To enhance the vitality of the BID area through promotion and events that makes it an engaging experience for visitors. To market the BID area assets to customers, potential investors, new business, local citizens and visitors.
3. Urban design and heritage environment: To promote physical improvements to enhance the image of the BID area, highlighting what it has to offer and providing a secure and clean environment.

The business plan of each BID Association will clearly set out how it supports these objectives.

The planning of the BID programme should also take account of key Marlborough District Council planning and policy documents such as:

- Long Term Plan (eg. public space improvements, Council facilities such a libraries, parking, public conveniences and safety), and
- Resource Management Plans (eg. policies and rules relating to industrial and commercial development)

7. Establishing a Business Improvement District

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

1. Undertake initial consultation with the business community in the proposed BID area 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) then the following steps would be undertaken:
2. Confirm the district boundaries where any targeted BID rate would apply.
3. Agree a constitution and establish a legal entity to administer the BID. The Council should be consulted on the constitution.
4. Develop a business plan outlining the proposed activities that will be funded by the targeted rate and which comply with BID policy.
5. Determine the level of targeted rate required to support the BID budget and the basis for its collection.
6. Develop a voting register of eligible businesses within the district.
7. Undertake full consultation on the targeted rate and the planned activities and complete an establishment vote with the goal of a turnout of at least 25% of eligible voters and majority vote supporting the BID.
8. Undertake an initial AGM, adopting the constitution, appointing board members and officers and approving the business plan.
9. 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.
10. Gain approval of the targeted rate for the BID in the Council Long Term/Annual Plan process. Note that the previous steps need to be completed in sufficient time so that steps 9 and 10 can be completed to meet the Long Term/Annual Plan timelines. This would be expected to be submitted to the Council by November of any year to be included in the following year's Long Term/Annual Plan process.

7.1 Considering a Business Improvement District

Discussions with Council 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

Those proposing a BID must recommend to Council the boundaries within which the targeted rate will be collected. However, should the Council disagree on the proposed boundaries, the Council's decision is final, as it is the Council which must set the rate under the Local Government (Rating) Act 2002.

7.4 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 businesses within the proposed BID area. The Council should be consulted on the BID Association's constitution before registration.

7.5 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 Association must agree the total budget required for the programme with its members (at an AGM), and apply to the Council for the BID targeted rate to be included in the Long Term/Annual Plan of the Council.

Rating options

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

- proportional value method
- uniform charge method
- hybrid method (which is a combination of both the proportional value and flat rate methods).

Council staff will work through the different options with BID Associations 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 capital value of the properties within the collection area. As a result, larger capital 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 uniform charge for every rateable property or separately used or inhabited part (SUIP) within the BID programme area (except those that are not covered under the BID policy). 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 a range of options including setting a flat rate (uniform charge) per property or SUIP and then, above this amount, applying a proportional rate based on capital value. Another model is each property paying a flat rate portion as well as a variable portion based upon their capital 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.

7.6 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.

All commercial/industrial ratepayers are included in the list of owners and occupiers, except those covered by the list below.

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

- private (residential/rural rated or homestay/farmstay) properties
- Non rateable or non-rateable/services only properties
- Non-business/commercial properties owned by either local or central government (wholly or proportionally) including educational facilities, government offices, Council offices, i-site, library, art gallery, Stadium 2000 complex, Civic Theatre, Convention Centre, public car parks, public roads and footpaths and public open spaces. Any Council owned properties in the BID area that are occupied by businesses such as retailers unless elsewhere excluded on this list will be liable for the targeted rate, however Council will not be eligible to vote in the poll.
- Marlborough Combined Clubs
- places of worship
- electrical sub-stations
- Utilities
- any other property not attracting a commercial/industrial rate
- business owners who operate their businesses from private (residential/rural rated) property within the BID
- 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 area).

Council has the final decision over eligibility, in consultation with the BID Association.

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 property owner and the occupier is the same individual or entity then that individual or entity shall be entitled to one vote.
- If the property owner and occupier are not the same named individual or entity then each party shall be entitled to receive one vote.
- Where an individual or organisation appears multiple times on the owner and occupier database (perhaps because they own a number of properties within the BID boundary) that individual or organisation may only nominate one name on the final voter register, no matter how many properties are owned or occupied.

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 governance body and request the name of a nominated representative to register as a voter.

All registered voters automatically qualify to become members of the BID Association but must complete a process to facilitate their movement towards full membership registration. Membership of a Business Association requires agreement to abide by the Constitution and follow all rules. Once established, it is the responsibility of the BID Association to maintain and update the membership register.

- Voter information should include:
 - Name of owner or occupier
 - Name of representative (if applicable)
 - Contact details:
 - Mailing address
 - Physical address
 - Email address
 - Telephone / fax numbers
- The voter's preferred method of communication

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 Long Term/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 eligible rateable property owners and occupying 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

This may be called by the BID Association at any time, however the 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:

- the boundaries of the proposed BID
- the total budget and approximate targeted rate to be assessed
- the objectives of the BID strategic and business plans
- the contacts for those proposing the BID.

To achieve these aims, those proposing a BID must:

- advise 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 electoral 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:

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

The Council's electoral officer will send out an envelope including the information sheet, the ballot form, the contact update form and a prepaid return envelope; or if the poll is to be conducted electronically the appropriate equivalents of these documents.

8.4 The goals of the poll

It is a goal of the BID poll to achieve a 25% voting return from the eligible voters for that poll; and for at least 51% 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 capital 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 proposed BID area.

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 Association.

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 electoral officer/Council's contracted supplier will receive, count and verify all returned ballot papers. It will then report the result of the poll to those proposing the BID (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 disestablish 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, but will not be bound by, 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 targeted rate payers.

This will include having:

- 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
- meeting processes including for the initial annual general meeting following a successful establishment poll and subsequent annual general meetings
- processes for the appointment of any officers and Executive Committee and their rights and responsibilities
- 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 informing the voters before the BID Poll
- 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 at the beginning of each financial quarter.

10.2 Council – BID Association 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 relationship between the BID Association and the Council.

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

By the end of November each year, the BID Association must provide the Council with the following information:

- 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)
- any proposed changes to the boundaries.
- a detailed programme, budget and key performance indicators for the period 1 July to 30 June of the next financial year.

10.3 Council review

Council 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 in part or in total 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 targeted area to be rated).

The Council may initiate a review of all or any particular BID programme. Such a review will be funded through general rates.

10.4 BID Performance Survey

The Council may commission 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 BID area wide 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 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 BID Association(s).

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:

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.

- 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.
- 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.
- 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 BID Associations and their members

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

- 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.
- 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.

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:

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.