

SUBJECT: CCL 28/05/19 - REVIEW OF BUSINESS IMPROVEMENT AREAS (BIA'S) IN NEWCASTLE IMPLEMENTATION REPORT - CONSIDERATION OF PUBLIC SUBMISSIONS

REPORT BY: CHIEF EXECUTIVE OFFICE
CONTACT: EXECUTIVE OFFICER TO THE CEO/CHIEF EXECUTIVE OFFICER

PURPOSE

To adopt a revised model for City of Newcastle's (CN) Business Improvement Associations (BIAs).

RECOMMENDATION

That Council:

- 1 Consider Parts A, B and C in seriatim.

Part A

That:

- 1 Item 41 Confidential **Attachment H** has been classified confidential in accordance with the provisions of the *Local Government Act 1993* (Act) as follows:
 - a) Section 10A(2)(d) of the Act provides that Council can close a meeting to consider commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.
 - b) Section 10B(1)(a) and (b) of the Act provides that the discussion of the item in a closed meeting must only:
 - (i) include as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security; and
 - (ii) occur if the Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.
- 2 Discussion of Item 41 Confidential **Attachment H** take place in a closed session, with the press and public excluded, for the following reasons:
 - a) The matter relates to Item 41 and contains information of a confidential nature that could identify and prejudice the parties involved.
 - b) It is contrary to the public interest to discuss confidential nature that could identify and prejudice the parties involved in an open meeting because the information provided to Council is provided on the basis that it will be treated by Council as commercial-in-confidence. A practice of disclosing sensitive commercial information to the public, including competitors, could result in the

withholding of such information in the future. This would lead to a reduction in the supply of information relevant to Council's decision. A disclosure of confidential information by Council could result in Council being the subject of litigation for breach of confidence.

- c) The closed session involves only as much of the discussion as is necessary to preserve the confidentiality, privilege or security.
- 3 Item 41 Confidential **Attachment H** relating to the matters specified in s10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

Part B

- 1 Notes the submissions received during the public exhibition period summarised at **Attachment A**.
- 2 Notes that no Business Improvement Association (BIA) applied to present to an invited Public Voice (PV) session on 21 May 2019.
- 3 Endorses a new model for the expenditure of special rate levies within the Newcastle Local Government Area in accordance with the model set out in the AECOM's Review of BIAs in Newcastle (Implementation Report) at **Attachment C**.
- 4 Endorses the Chief Executive Officer to finalise and execute a one-year service arrangement to a maximum of \$100,000 (exc GST) with business improvement associations consistent with this resolution and the model set out in the Implementation Report.
- 5 Authorises the Chief Executive Officer to approve the works, services, facilities or activities to be undertaken by the business improvement associations in accordance with the service arrangement.
- 6 Notes that all special rate levies released must be spent in accordance with the purpose provided in section 495 of the Local Government Act 1993 and more specifically as nominated in CN's Our Budget.
- 7 Notes that special rate levies not released to a business improvement association will be allocated to works, services, facilities or activities in the relevant business district via a contestable funding arrangement.
- 8 Endorses that special rates levied from the New Lambton business district to be allocated via contestable funding.
- 9 Does not enter into a new service arrangement with Newcastle Business Improvement Association on the basis of breaches of the previous Funding and Service Deed of Agreement and ongoing governance concerns.

- 10 Notes the identified breaches of the current Funding and Service Deed of Agreement by Hamilton Chamber of Commerce as detailed in confidential **Attachment H**.
- 11 Terminates the Funding and Service Deed of Agreement with Hamilton Chamber of Commerce effective 29 May 2019 for the reasons set out in confidential **Attachment H**.

Part C

- 1 Does not enter into a new service arrangement with Hamilton Chamber of Commerce on the basis of breaches of the previous Funding and Service Deed of Agreement and ongoing governance concerns.

KEY ISSUES

- 2 In December 2018 Council considered a report by AECOM and adopted a number of recommendations in regard to a proposed new model for funding BIAs. Subsequently AECOM was engaged to undertake a further review to progress opportunities (**Attachment B**) identified in the 2018 report.
- 3 These include a more detailed understanding of the expenditure of the Levy by BIAs on employees and administration since the 2015/16 Financial Year, mechanisms for creating competition for Levy funding, restoring the defunct Mayfield BIA and differentiating the role of a BIA and a Chamber of Commerce. The Implementation Report (**Attachment C**) presents the findings of the work undertaken by AECOM during this engagement.
- 4 The Report recommends that CN provide up to \$100,000 to each BIA with remaining Levy funds to be made contestable within their respective business precincts. AECOM reached this figure by analysing BIA outputs to determine the average cost of initiatives that BIA stakeholders identified as major achievements of the framework. Initially the Service Agreements will be for a 12-month period which will enable BIAs to fully understand the opportunities available to their business district under the new model and then proceed to three-year agreements. This amendment to the original recommendation in the report for a 3-year Agreement is in response to various submissions regarding the operations of the new model.
- 5 The proposed funding scheme would allow festivals such as the Wallsend Winter Fair and Hamilton Carnivale, to continue to be delivered. The main objective of this recommendation is a more direct delivery of the benefits for which the Special Benefit Rate Levy (SBRL) has been collected. It is also anticipated that through a competitive, contestable funding scheme that trading areas will benefit from a greater number of comparable initiatives.
- 6 It is proposed that any community group or organisation (including existing BIAs) be eligible to apply for contestable funds. The allocation of contestable funding will be through an EOI process with applications reviewed by a panel. A number of submissions have suggested that business representatives be part of the panel and this is supported. Once Council has determined the model moving forward

Expressions of Interest for projects and events accessing contestable funding will be called during June 2019 with application to be reviewed and assessed by a panel consisting of Council staff, the BIA Support Officer and a Business Representative.

- 7 A number of governance issues remain outstanding for both Newcastle Now and Hamilton Chamber of Commerce (HCC). There is little likelihood that these issues will be resolved to the satisfaction of CN given both organisations have recently ceased providing responses to questions relating to the integrity of their governance.
- 8 Given the unresolved governance issues, CN will encourage the formation of new BIAs in the Hamilton and City Centre (Newcastle) business districts.
- 9 Since the Implementation Report was placed on public exhibition the HCC and Newcastle Now have publicly called for Council to cease levying the SBRL.
- 10 CN will make available governance training to all BIA directors at no personal cost to ensure that the importance of compliance with any Service Agreement is understood.

Hamilton Chamber of Commerce

SBRL monies used for the purpose of funding a Chamber of Commerce:

- 11 Council's decision to adopt a BIA model on 3 May 2011 included advice that compliance with *s.55(3) and s.409(3) of the Local Government Act* was met in part on the basis that the BIAs were specifically set up for the purpose of the funding agreement.
- 12 Hamilton Chamber of Commerce Incorporated was registered on 20 October 1994. An organisation of the same name was incorporated on 27 January 2011 following the cancellation of the registration of the previous incorporated association and continues to trade to the current day. It has received approximately \$900,000 in SBRL monies since that time.
- 13 HCC does not publicly identify as a BIA. Rather it refers to itself as a Chamber, stating "Working in collaboration with other local chambers, Hunter Business Chamber and government to create innovative approaches to support business and community, and new ways to enjoy the inner-city suburbs of Newcastle."
- 14 A Chamber of Commerce is a membership-based organisation whose goal is to further the interests of businesses, specifically those that are a member of the Chamber. It advocates on behalf of these businesses on issues that have the potential to impact on the profitability of their members.
- 15 As of 31 December 2018, the HCC had 86 fee paying members. All new members are communicated to the NSW Business Chamber where required.
- 16 The role of a BIA is to deliver approved activities and projects within its business district which are perceived as being inadequately performed by local government

within its existing rates base; such as street cleaning, marketing, public domain improvements, security, etc.

- 17 CN wrote to the HCC in March 2019 asking how it appropriately manages its dual roles of Chamber of Commerce and BIA.
- 18 CN was advised by HCC Treasurer Jim Garis that the issue would be discussed by the Chamber's Board, and minutes of the Chamber's March meeting indicate that the matter was discussed.
- 19 No response has been provided informally or via HCC's submission to the AECOM report (which had identified a risk that SBRL monies could be used to subsidise services provided to the Chamber's members).
- 20 It is a breach of the Service and Funding Agreement to use SBRL monies to subsidise Chamber membership fees and fund member activities given they fall outside of the purpose for which the rate is levied on commercial properties. That is, "Defraying the additional costs of promotion, beautification and development of the Hamilton business district."
- 21 HCC's income and expenditure statement (**Attachment E**) for the period 1 July-31 December 2018 suggests that SBRL monies are being used to facilitate Chamber of Commerce member services that fall outside of the levy purpose stipulated in CN's 2018/19 Our Budget.
- 22 Further, a media release issued by HCC in December 2018 states:

"Hamilton Chamber is made possible because a (sic) special rate levy that is applied to business properties in Hamilton. Every year Council provides \$140,000 of this money to Hamilton Chamber. This money is used to advocate, promote and support the businesses in Hamilton, bringing tens of thousands of people to the suburb who generate additional activity and investment."
- 23 CN has been unable to confirm whether SBRL monies have been used for purposes outside of the approved purpose due to HCC's refusal to provide requested copies of bank statements for 2017/18 and 2018/19.

Political advertising on HCC's Facebook account:

- 24 On 7 December 2019 CN wrote to HCC President Nathan Errington following an email from a member of the public who highlighted several posts on HCC's Facebook account that appeared to be promoting select candidates in the September 2017 Local Government election, including those in wards not representing Hamilton.
- 25 Mr Errington was a candidate of a group that publicly referred to themselves as the Newcastle Independents and wore bright orange shirts to promote their brand.
- 26 HCC Treasurer Jim Garis has subsequently advised that Mr Errington stood down from his role as HCC President one month prior to the election as a means of

demonstrating the independence of the HCC, while remaining on the Board as a Director.

- 27 The sincerity of this temporary resignation as President is questionable given Mr Errington continued to promote himself publicly as the President of HCC to CN, media, local businesses and Police.
- 28 The email provided a link from HCC's Facebook account to a 'boosted' (paid) post of an NBN news report reporting on an election commitment of the Newcastle Independents relating to upgrade Hamilton's James Plaza.
- 29 Mr Errington phoned CN CEO Jeremy Bath on 7 December 2019. He suggested that a Public Relations consultant employed by HCC had uploaded the boosted post.
- 30 On 10 December 2019 Mr Garis wrote to CN stating that the boosted post had been paid by Mr Errington and had been intended to be published on his personal account.
- 31 The ability to boost a post on a personal Facebook account does not exist and as such the explanation of how the boost came to occur is not accepted.
- 32 On 19 December Mr Garis wrote to CN to confirm that several posts had been deleted from the HCC Facebook account. Further that Mr Errington had issued a media release (**Attachment G**) regarding the post, had declared the cost of the post to the NSW Electoral Commission and had apologised to the HCC Board.
- 33 CN's CEO agreed to close the matter following an assurance that HCC has put in place strict rules around social media content and broader communication to ensure that the integrity of HCC, and that of its stakeholders, is protected.
- 34 Several matters relating to apparent breaches of Hamilton's Service and Funding Agreement are unresolved. Given HCC's stated position to not cooperate with the resolution of these matters for an unspecified future period of time, CN intends to encourage the formation of a new Hamilton BIA so that it can enter into a Service Agreement for the delivery of events and projects in the Hamilton business district.

Newcastle Improvement Business Association Incorporated

Non-compliance with Service and Funding Agreement:

- 35 In August 2018, CN engaged independent firm Centium to investigate compliance with the Service and Funding Agreement (the Deed) between Newcastle BIA (Newcastle Now) and CN as there were some concerns in relation to non-compliance with the Deed.
- 36 Specifically, Centium reviewed CN and NBIA's administration of the special rates levy against the requirements of the Deed and found the following breaches had occurred:

- i) Under clause 2.3(a)(i) of the Deed, NBIA is required to submit an annual business plan to CN throughout the term of the Deed. NBIA only submitted one business plan in business plan form to CN (in January 2012).
- ii) Under clause 3.1 of the Deed, NBIA is required to hold all funds it receives under the Deed of trust for CN in a separate trust account. The funds can only be expended by NBIA in performance of its obligations under the Deed. Although NBIA did establish an Investment Account for the receipt of the funds, there is no evidence this account was held on Trust for CN. Furthermore, NBIA has routinely transferred monies from the Investment Account into its working account, with the result that SBRL funds have become part of the working account of NBIA and therefore co-mingled with general expenses.
- iii) Under clause 3.6 of the Deed, NBIA is required to keep accurate records and accounts in relation to its use of the SBRL funds, to store all records and files relating to the performance of its obligations under the Deed for at least seven (7) years after expiry or termination of the Deed, and to allow CN representatives access to those records on reasonable notice. Upon being provided with access to such records, CN notes that there are no records or accounts of actual project expenditure beyond the initial two (2) years of the Deed.
- iv) Under clause 2.1 of the Deed, NBIA is required to apply all funds it receives from CN for the purpose for which the SBRL were levied (that is to meet legislative requirements), not to use the funds other than in accordance with the Deed, and not to use the funds to make any payments which are inconsistent with the performance of its obligations under the Deed. Due to above stated inadequate record-keeping, it is not possible to verify that the projects accepted by CN, and the actual expenditure incurred by NBIA, were consistent with the planned activity in any year (this is even the case in 2011 to 2015 when more extensive Acquittal Reports were submitted).

Termination of NBIA Service and Funding Agreement:

- 37 On 12 December 2018 CN wrote to the Executive Manager of NBIA giving notice that the Service and Funding Agreement was to be terminated with effect from 31 December 2018. It cited the previously listed four breaches of the Deed as grounds for the termination.
- 38 On 2 May 2019 NBIA Director Kevin Coffey stated in an email to the CEO of CN that the four breaches had not previously been shared with him. CN is concerned that appropriate channels of communication do not exist within NBIA, which may explain a number of incorrect public statements made by select members of NBIA in regard to the proposed BIA model.

Excessive use of SBRL monies on employees and administration:

- 39 On 2 February 2019, AECOM wrote to each BIA for the purpose of receiving a breakdown of their expenses for the years 15/16, 16/17, 17/18.

- 40 On 12 March NBIA submitted a breakdown of its expenses for the past three years, listing expenditure on wages of \$244,949.
- 41 NBIA's audited financial statements for the three years indicate it spent \$1,384,488.95 on employee expenses. Each annual report stipulates that project expenses were separate to employee expenses. The audited financial statements also confirm a further \$287,799.70 in administration expenses.
- 42 NBIA provided the below comment to the Newcastle Herald on 27 March 2019:
- "The three-year numbers referred to show salaries and wages used for administration were 20 per cent of gross special benefit rate [SBR] income. The remainder of the funds Bath refers to as wages were expended on programs approved by the traders through the elected board. All finances for the whole period of the BIA since 2011 were externally audited by accountants and council staff."
- 43 CN does not view the allocation of employee and administration expenses as a breach of the Service and Funding Agreement. It does however question the sensibility of allocating more money to employing staff than to the actual promotion of the City Centre business district.
- 44 CN proposes that from 1 July 2019 all SBRL funds provided to BIAs must be spent on events and projects that promote the business district, with BIAs prevented from using SBRL monies to fund the employment of employees.
- 45 The most recent full year NBIA profit and loss statement (**Attachment D**) shared with CN is 2016/17. It shows:
- Income - \$915,049.36 (SBRL \$844,118.80)
 - General and administrative expenses - \$519,890 (57% of total income)
 - Delivering value - \$231,490 (25% of total income)
- A breakdown of "Delivering Value" includes:
- City Centre Promotion - \$58,850
 - Darby Street Placemaking - \$20,655
 - Civic Placemaking - \$11,845
 - East End Placemaking - \$5,539
 - West End Placemaking - \$326
- 46 The 2016/17 profit and loss statement includes among other expenses \$15,000 on a data collection program, \$32,000 developing and promoting the NBIA brand, and \$27,000 on Nobbys Lighthouse.
- 47 The NBIA 2016/17 profit and loss statement shows a net profit of \$121,114.

Alleged breach of NBIA Constitution:

48 On 20 May 2019, a NBIA Board Member alleged that several members of the Executive Committee sit on the Board in breach of the NBIA Constitution.

49 Clause 14.1 of the NBIA constitution states:

The Executive Committee shall, have a maximum of 11 members, a minimum of 5, and shall consist of:

(a) No more than 8 persons who are Full Members of the Association, and who have been elected at the Annual General Meeting of the Association pursuant to Rule 15.

(b) No more than 3 persons who are appointed by the Executive Committee on the basis of the skills and experience they would contribute to the effective functioning of the Committee.

50 CN understands that at the most recent AGM held on 15 November 2018, the elected Board of NBIA consisted of:

Board Members

1. Edward Duc – Chair
2. Paul Murphy – Public Officer
3. Anne Kempton
4. Christine Gregson
5. Chelsea D'Aoust
6. Catherine Henry
7. Kevin Coffey
8. Tom Brown

Co-opted Board Members

9. David Crofts
10. Debera Mackenzie – Deputy Chair
11. Michael Neilson

51 Clause 5.1 of the NBIA Constitution states that a Board Member (other than a co-opted Board Member), must meet the following criteria:

- owns one or more commercially rated properties within Newcastle and pays the Business Improvement Special Rate Levy; or
- occupies or is the tenant of one or more premises on a commercially rated property within the Special Rate area and who operates a business from these premises; and
- has not previously been expelled from the Association

52 Evidence shared with CN suggests that at least one and possibly two people elected to positions are sitting on the Board in breach of the NBIA Constitution.

- 53 CN wrote to NBIA on 20 May 2019, putting the allegation to the Chair Edward Duc. As of 28 May 2019, no reply has been forthcoming, and thus CN has been unable to confirm the allegation despite strong circumstantial evidence.
- 54 NBIA has advised CN that it has referred “the whole matter” to the NSW Ombudsman and will await their investigation and advice before replying to questions.
- 55 In light of previous noncompliance with the Service and Funding Agreement and NBIA’s decision not to cooperate with the resolution of any matters for an unspecified future period of time, CN intends to encourage the formation of a new City Centre (Newcastle) BIA. This is to allow it to enter into a Service Agreement for the delivery of events and projects in the City Centre business district.

FINANCIAL IMPACT

- 56 The 2019/20 Our Budget identifies \$1,345,989 (exc GST) in SBRL to be levied on 1,382 commercial properties located within six areas:
- i) City Centre – \$880,053 (exc GST)
 - ii) Hunter Mall - \$92,436 (exc GST)
 - iii) Hamilton – \$136,288 (exc GST)
 - iv) Mayfield – \$75,708 (exc GST)
 - v) Wallsend – \$146,486 (exc GST)
 - vi) New Lambton - \$15,018 (exc GST)
- 57 The 2018/19 budget makes provision for the costs associated with this review and the costs associated with the implementation of any revised model that may be adopted.

COMMUNITY STRATEGIC PLAN ALIGNMENT

58 6 Smart and Innovative

- 6.1a Recognise and strengthen Newcastle's role as a metropolitan capital and hub for education, health, tourism, creative, port and logistics industries
- 6.1b Attract new business and employment opportunities
- 6.2b Support and advocate for the small business sector
- 6.3a Facilitate events that attract visitors and support the local economy and the vibrancy of Newcastle
- 6.3b Work with the tourism sector to further develop Newcastle as a visitor and event destination
- 6.3c Work with businesses, planners and government at all levels to facilitate key infrastructure to support business growth
- 6.3d Foster a collaborative approach to continue city centre renewal

7 Open and Collaborative Leadership

- 7.1a Encourage and support long term planning for Newcastle, including implementation, resourcing, monitoring and reporting
- 7.2c Establish collaborative relationships and advocate for local needs with all stakeholders
- 7.4a Continuous improvement in services delivery based on accountability, transparency and good governance

IMPLEMENTATION PLAN/IMPLICATIONS

- 59 Placing the AECOM report on public exhibition from 27 April until 25 May 2019 enabled members of the community including the respective BIAs to make submissions on the proposed BIA model. The opportunity to address CN's Public Voice on 21 May 2019 also enabled them to make a personal presentation to Council.
- 60 Once Council considers the submissions received and makes a final determination on the report, correspondence will be forwarded to Wallsend Town Business Association inviting them to enter into a new Service Agreement. An Expression of Interest (EOI) will be called for interested eligible parties wishing to be a Director of an Incorporated Association representing the business districts of the City Centre, Hamilton and Mayfield to manage the program for the designated area moving forward.
- 61 An EOI has been called for the provision of support services for BIAs representing the business districts of City Centre, Hamilton, Wallsend and Mayfield. The EOI closes on 28 May 2019 and the support services may involve the following responsibilities:
- Ensure strict compliance with future service agreements between the BIAs and CN, ensuring all reporting requirements within the BIA Service Agreement are met.
 - Assist BIAs in their preparation of applications to CN's annual grants and sponsorship programs for SBRL monies considered contestable.
 - Ensure all reporting of financial transactions and records relating to SBRL monies are completed accurately and reported on behalf of the BIA on a regular basis to CN.
 - Ensure acquittal reports and annual reports (where applicable) clearly differentiate the income and expenditure of SBRL monies from any other funds received by the BIA, such as membership fees and grants.
 - Provide administrative support to the BIA Chairpersons, including the taking and preparing of meeting minutes/agendas in consultation with the BIA Board, as well as development of potential presentations, with follow-up and reporting of actions arising from meetings.
 - Manage the marketing collateral for the BIAs by maintaining the shared image library and arranging photo shoots or image acquisitions as necessary.
 - Manage development and submission of each BIA's annual business plan, annual acquittal report, and a strategic plan that compliments at a minimum, the following CN documents:
 - Community Strategic Plan 2030

- Destination Management Plan 2016-2019
- Greater Newcastle Metropolitan Plan
- Convert event and project ideas from the BIA Boards into a costed annual business plan that assists to defray the cost of beautification, promotion and development of each business district.
- Maintain records and databases for the BIA to required standards.
- Develop and maintain a single BIA Governance website that includes all above mentioned documents relating to the expenditure of SBRL monies.
- The website should state recipients of funding from BIAs for events and projects within their approved business plans as well as all business papers and minutes of BIA monthly meetings. The website will also include a copy of each successful application for contestable funds and their subsequent acquittal report to CN.
- Ensure the Annual General Meeting of the BIA is held in accordance with the constitution of the BIA and the Service Agreement with CN.
- Be available at reasonable notice to BIA Directors seeking governance related advice.
- Any other accountabilities or duties as agreed with the BIA Board and CN.

62 The above action plan will ensure CN complies with its Open and Transparent Governance Strategy.

RISK ASSESSMENT AND MITIGATION

63 The adoption of the recommendations ensures CN minimises its reputational risk through undertaking a community consultation process regarding AECOM's Implementation Report and its proposed method for implementation of the revised BIA model prior to making a final decision.

RELATED PREVIOUS DECISIONS

64 At the Ordinary meeting of Council held 12 December 2017 CN resolved to adopt a new Open and Transparent Governance Strategy. As part of the resolution, Council also resolved:

That Council:

Notes the submission from the President of the Hamilton Chamber of Commerce (Hamilton NOW BIA) regarding the need for improved transparency in the operation of BIAs and that the Chief Executive Officer conducts a review of best practice for BIAs and reports back to Council in March 2018 outlining recommended improvements for the delivery of Economic Development and the use of Special Rate Variations for commercial centres throughout the Local Government Area (LGA).

65 As a result of matters identified by Council, a resolution was passed on 24 July 2018 to suspend SBRL funding to Newcastle Now pending the outcome of an independent investigation.

66 At the Ordinary Meeting of Council held on 11 December 2018 CN resolved:

That Council:

- i) Receives the AECOM report 'Review of Business Improvement Associations (BIA) in Newcastle' at Attachment A.*
- ii) Notes that the AECOM report was released publicly in full on 10 December 2018.*
- iii) Receives the confidential (redacted) investigation report of Centium at Attachment B.*
- iv) the Funding and Service Deed between Newcastle City Council and Newcastle Business Improvement Association dated 23 August 2011 with effect from 31 December 2018;*
- v) the Funding and Service Deed between Newcastle City Council and Hamilton Business Improvement Association dated 1 September 2011 with effect from 30 June 2019;*
- vi) the Funding and Service Deed between Newcastle City Council and Mayfield Business Improvement Association 1 September 2011 with effect from 30 June 2019; and*
- vii) the Funding and Service Deed between Newcastle City Council and Wallsend Business Improvement Association dated 1 September 2011 with effect from 30 June 2019.*
- viii) Enters into new legal agreements with each of the BIAs and New Lambton Village by no later than 1 July 2019 with the new agreements to provide for a percentage of the special rates levied to be payable to the BIAs in return for specific services to promote, beautify and develop the relevant benefit areas (or for another purpose as resolved by Council from time to time).*
- ix) Calls for tenders for additional specific services to promote, beautify and develop the relevant benefit areas (or for another purpose as resolved by Council from time to time) or directly expends the balance of the special rates levied not otherwise provided to the BIAs.*
- x) Receives a report by no later than 30 June 2019 proposing a new model for BIAs in accordance with option 3 detailed within the AECOM at Attachment A including a determination on the percentage of the special rates to be provided to the BIAs and/or the subject of a tender/direct expenditure by City of Newcastle.*
- xi) This confidential report relating to the matters specified in s. 10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential (except for the AECOM Report at Attachment A which has been made publicly available) until the Chief Executive Officer (CEO) determines otherwise.*

67 On 16 April 2019 CN considered the report from AECOM and resolved:

That Council:

- i) Place Business Improvement Associations (BIAs) in Newcastle Implementation Report on public exhibition for a period of 28 days.*
- ii) Invite presentations from members of the community to the Public Voice Committee meeting on 21 May 2019.*

CONSULTATION

- 68 The consultation / engagement activities undertaken as part of AECOM's review are detailed in Section 3 Stakeholder Engagement of Attachment C.
- 69 Council placed the BIA Review report on public exhibition from 27 April to 25 May 2019. The report was emailed to each BIA on 9 April 2019. At the close of the exhibition period a total of 17 submissions were received. However, three of the submissions were forwarded by the one organisation in identical terms, so that there were 15 actual submissions. **Attachment A** summarises the submissions received and identifies the identical submissions.
- 70 Of the 15 submissions, 5 were from people on the Board of Newcastle Now or the HCC.
- 71 An opportunity was provided to representatives of the HCC, Newcastle Now, Mayfield BIA, Wallsend Town Business Association (Wallsend BIA) and the New Lambton Village Chamber of Commerce to present to Public Voice on 21 May 2019, but this offer was not accepted. Wallsend BIA did request a meeting with CN, which occurred on 6 May 2019.
- 72 Mayfield BIA has not met as a Board for more than two years and so any engagement CN and AECOM has undertaken has been limited to the former President Ivor Davies.
- 73 New Lambton Village Chamber of Commerce has been incorrectly referenced by HCC and NBIA as a BIA. A Service and Funding Agreement between CN and the New Lambton Village Chamber of Commerce has never existed. Despite this non agreement, monies amounting to \$211,776 have been paid to the Chamber since 1997/98.
- 74 The President of the New Lambton Village confirmed in March her intention to resign from the role on the basis of a perceived loss of support among the Executive Committee and General Members of the New Lambton Chamber of Commerce. CN is yet to be contacted by the replacement President.

BACKGROUND

- 75 Newcastle's Mainstreet Program was established in the early 1990s.
- 76 In August 1994, the Minister for the Department of Local Government approved a request from CN to collect a Special Benefit Rate from property owners within defined areas in several commercial centres. Under this model, Mainstreet Committees comprising local business people, community members and Councillors were established under s355 of the Local Government Act. CN collected, and subsequently distributed to the committees, funds for projects with an economic development focus such as public infrastructure and facility improvements, street beautification, marketing and community events.
- 77 The Minister's approval did not specify that special benefit rate monies should be invested into the community via the Mainstreet Committees (or BIAs). CN's

application to the Mister as well as its annual Budget has stipulated that the funds must be spent within the precincts from which they are paid and that the monies must be spent defraying the costs of promotion, development and beautification.

- 78 In 2010, an internal audit and review identified a number of process related concerns. Subsequently in 2011, CN and the participating commercial centres agreed to an alternative model that changed organisations from a committee of Council to an independent business improvement association, governed by a constitution, supported by a Service and Funding Deed of Agreement.
- 79 CN's role is to collect the SBRL, manage the operational framework for the local BIA network and ensure the SBRL is expended in accordance with the requirements of the Local Government Act. The SBRL on select commercial property owners was approved for an unlimited time, so exists in perpetuity.
- 80 In late 2017 HCC submitted a submission to CN's Open and Transparent Governance Strategy (**Attachment F**). This submission by President Nathan Errington stated "I believe that more can be done to ensure that the 6 (sic) BIAs that receive recurrent funding from Newcastle City Council are more accountable to the elected council, and ultimately to the ratepayers of Newcastle".
- 81 Specifically, HCC's submission called for the establishment of a committee of Council to determine how BIAs can work more cooperatively together, including consideration of combining some of the special rates to work cooperatively, to spend more wisely and to be more accountable.
- 82 The HCC submission also recommended that BIAs be required to present their annual Business Plan to the Council via PV, and that Council nominate Councillor representatives to each BIA to attend regular meetings to hear from BIA members and report back to Council meetings.
- 83 Separately, several significant breaches of the 2011 Service and Funding Agreement by Newcastle Business Improvement Association (Newcastle Now) were confirmed via an independent investigation by the Centium Group in late 2018, which resulted in the termination of the Deed as of 1 January 2019.

OPTIONS

Option 1

- 84 The recommendation as at Paragraphs A, B and C. This is the recommended option.

Option 2

- 85 Implement an Interim Arrangement with existing BIAs pending development of an alternative model. This is not the recommended option.

REFERENCES

ATTACHMENTS

- Attachment A:** Submissions received following the Public Exhibition of the Review of Business Improvement Associations (BIAs) in Newcastle Implementation Report
- Attachment B:** AECOM Report - Review of Business Improvement Associations in Newcastle – 5 December 2018
- Attachment C:** AECOM Report - Review of Business Improvement Associations in Newcastle - Final Implementation Report - May 2019
- Attachment D:** Newcastle Business Improvement Association Profit and Loss Statement 2016 - 2017
- Attachment E:** Hamilton Business Chamber Income and Expenditure statement for the period 1 July 2018 to 31 December 2018
- Attachment F:** President of the Hamilton Business Chamber Submission - Open and Transparent Governance Strategy
- Attachment G:** Media Release - Statement from President of the Hamilton Chamber of Commerce 10 December 2018
- Attachment H:** Confidential governance issues - Hamilton Chamber of Commerce

ATTACHMENT A – SUBMISSIONS RECEIVED DURING PUBLIC EXHIBITION OF THE REVIEW OF BUSINESS IMPROVEMENT ASSOCIATIONS (BIAS) IN NEWCASTLE IMPLEMENTATION REPORT

NO.	INDIVIDUAL/ ORGANISATION	SUMMARY – SUBMISSION COMMENTS	RESPONSE	ECM/P&R DOCUMENT
1	Organisation	Concerns at accountability of BIAs and predecessors. Considers Council is correct in requiring better scrutiny of Council Committees using Special Rate moneys and will be pleased to see results.	New model seeks to improve the accountability of BIAs. Submission errs in referring to BIAs as Council Committees which has not been the case since Main Street Committees were replaced in 2011.	OT2019/02053
3	Individual	<ol style="list-style-type: none"> 1. Report does not recognise BIAs depend for governance and implementation on volunteers 2. Reference to BIAs being a non-government organisation model is arguable 3. Report acknowledges not easy to recruit business owners to be Board Directors with appropriate mix of skills to govern a BIA 4. An active, effective and professional BIA far more likely to attract people of calibre than one that lacks transparency, communicates poorly and struggles to deliver 5. Report assumes continuance of non-government model but should better clarify and define the model that underpins the operation of the BIAs 6. No indication that report looked at other models in local government 7. Recognition must formally be given to the need for administrative and marketing support for BIA Boards 8. More flexibility should be allowed BIAs to choose the way they wish to secure the expertise and administrative assistance they need rather than one size fits all 	<ol style="list-style-type: none"> 1. CN recognises that BIAs are dependent on volunteers and to support this the new model proposes that administrative functions be centralised in a shared service for all BIAs. 2. BIAs are considered a non-government model as the services are not provided by CN rather, they are provided by the BIAs. 3. CN will arrange training for BIAs on their role as Board members 4. Agreed the new model seeks to improve transparency communication and delivery of projects/programs related to the special rate 5. Agreed there is a need to further clarify the role of the BIAs under the new model. It is hoped this can be done in a collaborative way with the BIAs moving forward. 6. This report did not canvass other models as this was done in the first report considered by Council in December 2018. 7. Report recognises this and recommends a shared service to provide administrative 	OT2019/02189

		<p>9. Implementation of new model by 1 July 2019 does not allow enough time for the city to have in place its new processes etc</p> <p>10. Whilst the recommendations may seem reasonable, they require a level of expertise and time that is unrealistic to expect of BIAs in their present structure</p> <p>11. More attention needs to be given to training and support of Directors to meet these new requirements as well as governance training</p>	<p>support, marketing will be responsibility of the BIA Boards.</p> <p>8. The report has shown that BIA currently with the flexibility of choosing their own assistance have unfortunately raised a number of governance issues.</p> <p>9. The new model will operate from 1 July 2019. Council resolved in December 2018 to terminate all service agreements as of 30 June 2019. The BIAs have had the opportunity to involve themselves but have chosen to not avail themselves of those opportunities</p> <p>10. The question of expertise of the BIA Board will always be an issue as it is a voluntary role. CN will seek to enhance their skills through training in role of Board members and Governance. Support will also be provided by a BIA Support Officer.</p> <p>11. Once in place and Boards are appointed, CN will arrange training for BIA Board members of their role as Board Members and Governance.</p>	
3	Individual	Concerns that events may not continue in Hamilton	The new model will ensure that funding for agreed events will continue. Longer term there is a view that events should be funded for a 3-year period to provide better security than under the present model which requires the submission of an annual business plan.	OT2019/02308
4	Individual	<p>1. How will council assist Honeysuckle traders in the future under this model?</p> <p>2. Who did the consultants work with in Honeysuckle to determine the level of support that may have been present for future activities?</p>	<p>1. The model relates to existing BIAs. As Honeysuckle traders are not currently a BIA or part of a BIA this model will not impact upon them.</p> <p>2. Tim Lees of the Honeysuckle Community Group was invited to participate in the</p>	OT2019/02341

		<ol style="list-style-type: none"> 3. Why do our business neighbours (200 meters away) have to pay extra rates and then get offered a refund? 4. Why is an archaic system established in the early 1990's to take more rates still being used in 2019? 5. Why doesn't IPART need to review the use of these rates by council? 6. Why is the information provided about the New Lambton rate so obviously incorrect? 7. Why does council think that volunteer committee members would actually wish to remain involved in a system that is in conflict with Council? 	<p>various workshops held. Honeysuckle business owner Damian O'Reilly and Valentina Misevska of HCCDC were also consulted and provided input into the proposed model.</p> <ol style="list-style-type: none"> 3. Properties within a defined area as detailed in Council's operational plan pay a Special Rate in addition their Ordinary Rates for certain services that are of benefit to that area. Due to the impacts of light rail construction Council has offered a rebate for affected traders 4. Council's sources of funding are as defined in the Local Government Act. This includes the ability to raise Ordinary and Special rates. Special rates must be used on services which benefit the defined area subject to the Special Rate. The question of the suitability of the current rating system is a policy matter for the State Government to determine, not CN. 5. IPART's role in Council rates is limited to approval of rate increases above the rate pegging limit. In all other circumstances Council's power to level rates is in accordance with the Local Government Act. 6. Information in the reports is as provided by the BIAs. 7. The system is not in conflict with Council. The Wallsend BIA Board has indicated their strong desire to remain a BIA and continue to work with CN. 	
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5	Individual	<ol style="list-style-type: none"> 1. Hope the Special Rate in the future can be used for beautification and not administration fees 2. Make the Special Rate paid by landowners a transparent process 	<ol style="list-style-type: none"> 1. The new model seeks to reduce administration costs through a shared resource and ensure remaining funds are spent on the purpose for the special rate. 2. The new model seeks to improve the transparency and openness of the special rate levy expenditure and decision making. 	OT2019/02395
6	Individual	<ol style="list-style-type: none"> 1. Very disappointed with the manner in which this review has been done 2. Review done by AECOM about what and how the Council want to manage the \$1.3 m that is collected from the businesses / commercial property owners in selected areas of the LGA 3. Model suggested is now inequitable and unfair to the Special rate payers 4. Don't judge the number of responses whatever they may be as a full picture of the many concerns that business has in the LGA 5. Area of contestable funding that is referred to is very unfair for the people who pay the rate, they know what the money needs to be spent on in their area of collection 6. Eliminate the Special rate totally 	<ol style="list-style-type: none"> 1. The review process involved various opportunities for BIAs and others to provide their input. 2. Under the Local Government Act CN has a responsibility to ensure the funds collected under a Special Rate are expended for the purpose for which the funds were collected and within the area they were collected. 3. This misses the point that by dividing the funds allocated per BIA area (where applicable) to guaranteed level of funding and contested funding the opportunity is there for local business to apply for contestable funding to improve their area or undertake events to attract visitors, as well as BIAs. 4. All CN consultative processes are reliant upon community members to make submissions irrespective of the number of submissions received Council must decide based upon the information available. 5. The argument that the people who pay the rate know best what the money needs to be spent on is correct and the model proposed involving continuation of the BIA model with funding allocated between 	OT2019/02384

			<p>guaranteed funding and contestable funding provides an open and transparent process to ensure that funds are expended for the purpose they were collected.</p> <p>6. This option is available to Council however funds for the purposes currently funded under the Special Rate would then compete with other Council projects and would be subject to the priorities of the entire Council area, rather than funded by those ratepayers most likely to benefit from those projects with assurance that the funds may only be expended for the defined purposes they were raised for.</p>	
7	Organisation	<ol style="list-style-type: none"> 1. Therefore, on the grounds of transparency and good management, we argue that CON should provide a full complement of strategic, operational and financial plans for the proposed new model and submit that for public consultation prior to this change that impacts on ratepayers who provide over \$50million per annum to CON. 2. Therefore, on the grounds of equity and autonomy, we argue that all future BIA programs should be fully funded by Council and that the mechanism should be through a reduction in the ordinary rate as is currently the case for New Lambton Village and as is proposed for The Junction and other future BIAs. 3. Therefore, we suggest that the entity NBIA be excluded from the report's recommendations and instead be replaced with the 8 precinct entities it previously included. 	<ol style="list-style-type: none"> 1. The proposed model is the result of a review and has been submitted for public consultation. Given the Council resolution of 11 December 2018 failure to proceed with implementing the model prior to 30 June 2019 will see all BIAs (excluding Newcastle Now whose agreement was terminated 31 December 2018) in a state of limbo. 2. This option is available to Council however funds for the purposes currently funded under the Special Rate would then compete with other Council projects and would be subject to the priorities of the entire Council area, rather than funded by those ratepayers most likely to benefit from those projects with assurance that the funds may only be expended for the defined purposes they were raised for. 	OT2019/02389

		<p>4. Therefore, on the grounds of a mutually respectful relationship between business and CON, a model that provides for discussion, shared monitoring and reporting, together with formative evaluation at regular stages should be defined and adopted.</p> <p>5. Therefore, we suggest that CON also try to use the model for a theoretical project before finalising the proposal.</p> <p>6. Therefore, we suggest that CON explicate this notion (BIAs seek external funding) in operational detail.</p>	<p>3. This option is available to Council however this would increase administrative costs and therefore reduce the funds available for projects to achieve the purposes for which the special rates were raised.</p> <p>4. The proposed model provides for the continuation of the BIAs and seeks to increase accountability and transparency the objective of a mutually respectful relationship will remain part of the processes that will evolve over time as the new model settles.</p> <p>5. As stated at point 1 of this submission a “trial” of the model is affected by time and there are no guarantees that the authors of this submission would support the proposed model if such trial were successful. Council does however propose to enter into an initial 12-month service agreement which the author of the submission may consider a trial of sorts.</p> <p>6. The option of BIAs seeking external funding in addition to the special rate is a matter of choice for each BIA. To exclude it from the model would then create a situation where opportunities to either deliver projects faster or deliver larger projects would be not be available to the BIA.</p>	
8	Organisation	<p>1. Chambers of commerce should be eligible to operate as BIAs, subject to the implementation of a governance process that ensures expenditure and acquittal of levy funds is</p>	<p>1. The proposed model does not make any changes to the current model with regard to BIAs being Incorporated Associations. The situation regarding Hamilton Chamber also being the Hamilton BIA is an anomaly</p>	OT2019/02387

		<p>managed through a separate reporting process;</p> <ol style="list-style-type: none"> 2. Accountabilities should be built into the contestable funding framework to ensure that funded activities return a measurable benefit to business; 3. Applications for contestable funds should be evaluated by a panel with representation from the business community; 4. Opportunities for cross-precinct promotion should be available through the contestable funding model 5. Funding models for funding future BIAs should reflect an equitable approach to the rating of businesses across all precincts. 	<p>that was found during this review. Hamilton Chamber of Commerce has admitted to governance breaches that do not provide confidence that the suggested process would be strictly followed.</p> <ol style="list-style-type: none"> 2. Agreed and it is planned that the governance arrangements for contestable funding ensure that the funds benefit the area they were raised from. 3. Whilst generally a good suggestion governance arrangements would need to ensure that any conflicts of the business representatives be declared and recorded to ensure that applications were assessed on merit 4. Whilst supported governance and reporting arrangements will need to ensure that there is a clearly identified benefit to each area that is detailed as part of the application. Otherwise the Local Government Act regulations would result in the project not complying with the Special Rate requirements. 5. This response relates to the suggestion that any future BIAs and Special Rate Benefit Areas be created by reducing the General Rates to absorb the new Special Rate rather than imposing an additional rate over and above the total rate income of CN. The response incorrectly assumes that the reduction in General Rates is limited to the new Special Rate Benefit Area business properties. However, such a reduction in general rates applies to all 	
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			rateable properties (both residential and non-residential) in the Newcastle LGA	
9	Organisation	Email forwarding Submission 7 above as an email rather than an attachment to an email. Refer to Submission 7 above for details of points raised in the submission	Refer responses to Submission No 7 above	OT2019/02389
10	Individual	<ol style="list-style-type: none"> 1. In voting on this report, it is implied that a new Funding and Service Agreement will be acceptable to BIA's. 2. Report proposes that future BIA areas (e.g. The Junction) be funded in the same way that the New Lambton Village currently is structured which is inequitable 3. What happens if an entity like NBIA is refused a Deed of Agreement or does not apply under this model? Does the model then revert to precincts? 4. Will BIA's be bound to CoN's code of conduct, thus ensuring compliance with CoN's rules of engagement? 5. Will BIA's agree to the DoA on offer, whatever that may be? 6. Will BIA's have independence from CoN to activate strategies they see fit, but CoN may not? 7. Who is the final arbiter on promotional approaches in an ever-changing Marketing landscape? 8. Who is the final judge for contestable funding? 9. Will Business communities be included in the selection process for contestable funds? 10. Assumption that volunteers will form numerous Boards and adhere to strict guidelines not required of bodies simply 'Contesting' for funds 11. No mention of existing infrastructure or 	<ol style="list-style-type: none"> 1. There is no implication in the report that Service Agreements will be acceptable to BIAs. Draft Service Agreements will be forwarded to BIAs for consideration once Council finalises the new BIA Operating Model. 2. This response relates to the suggestion that any future BIAs and Special Rate Benefit Areas be created by reducing the General Rates to absorb the new Special Rate rather than imposing an additional rate over and above the total rate income of CN. The response incorrectly assumes that the reduction in General Rates is limited to the new Special Rate Benefit Area business properties. However, such a reduction in general rates applies to all rateable properties (both residential and non-residential) in the Newcastle LGA 3. The question of offering or accepting a Service Agreement is a matter for both CN and NBIA to consider. The option of reverting to the previous 8 precincts would increase administrative costs and therefore reduce the funds available for projects to achieve the purposes for which the special rates were raised. 4. As a service provider for CN the responsibilities of a BIA will be defined in 	OT2019/02385

		<p>programs put in place by previous BIA's e.g. for example place-making initiatives such as Community Gardens, Laneway lighting or Installations such as the Headphones Project on Darby Street</p> <p>12. Unusually brief turnaround time from Close of Submission to Vote</p> <p>13. Consultation vs Investigation. I suggest this model could benefit from direct consultation between CoN and the Business Community. An independent investigation, followed by an independent report does not constitute valuable consultation in my view</p> <p>14. I do not believe this model is well designed, or ready for Public Exhibition or voting on by Councillors for its adoption in its current form.</p>	<p>the Service Agreement. Additionally, the BIA will be subject to the Constitution of the BIA as it is now.</p> <p>5. That question is a matter for each BIA to determine. A draft Service Agreement will be forwarded to BIAs for their consideration once CN determines the final model.</p> <p>6. As a service provider for CN the BIAs would submit their proposals and CN would seek to ensure that both CN's objectives and the BIAs objectives are compatible through negotiations with the BIA of any concerns. This maintains the current process of BIAs submitting a Business plan to Cn for approval and release of SBRL monies.</p> <p>7. Marketing activities of the BIAs will generally be the responsibility of the BIA however as stated in the ever-changing marketing landscape both CN and the BIA would benefit from ensuring their activities complement each other.</p> <p>8. As the body responsible under the Local Government Act for ensuring the Special Rates are expended for the purposes, CN will determine applications for contestable funding.</p> <p>9. A suggestion for the involvement of the business community in the selection process for contestable funding has merit. However, governance arrangements would need to ensure that any conflicts of the business representatives be declared</p>	
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			<p>and recorded to ensure that applications were assessed on merit.</p> <p>10. Assumes that there will be no requirements placed upon recipients of contestable funding applications. This is not accurate as there will be an EOI process and detailed assessment by a panel. As well there will be reporting and acquittal requirements. Boards receiving funds are guaranteed their funding for 12 months initially under each Service Agreement and likely 3 years subsequently.</p> <p>11. These assets and programs were subject to annual review under the present BIA Model through the requirement for each BIA to submit an annual business plan for review by CN. If covered as part of the Service Agreement, then they would be reviewed every 3 years. If not covered they would need to apply through the contestable funds program.</p> <p>12. The question of whether the information provided to Council is sufficient and appropriate to make a determination is a matter for Councillors to make. If they believe they have sufficient information or time to vote on the matter, then they would vote. If not, they could defer the matter to seek further information or time.</p> <p>13. It is common practice by not only Local Government but both State and Federal Government to appoint independent organisations to undertake reviews. As part of this review opportunities were</p>	
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			<p>made available to both BIAs and the community to be involved in the consultation. Some parties chose to accept those offers others did not, that is normal in such reviews.</p> <p>14. This will be a matter for each Councillor to determine when considering the report.</p>	
11	Individual	<ol style="list-style-type: none"> 1. The Special Benefit Rate Levy (SBR) should never be regarded as a “rate” and that this levy, collected from the businesses in each area, is to be used for the benefit of those specific contributors. 2. The submission process in particular has been unnecessarily rushed, with only 28 days provided from the date of publication of the AECOM report to the closing of submissions on 25 May 2019 3. The recommendations do not provide a definitive dollar figure that will be provided to the BIAs, instead saying that the “City should consider providing an amount up to \$100,000 to each BIA from total Levy funds collected in each association’s respective trading area”. 4. In relation to the notion of “contestable funding”, there is no clarity as to how this process would be managed? 5. Also in relation to the “contestable funding” concept, how is this process proposed to be monitored? 6. BIAs receiving less than \$50,000 levy funding in each financial year should have all funds made contestable, there is no incentive for a BIA to be operative in that area 7. Recommendation states that if a BIA does not have a Board of Directors then the Council 	<ol style="list-style-type: none"> 1. Under the Local Government Act the Special Benefit Rate Levy is a rate and not a levy. As a Special Rate it may be levied for the whole Local Government area (LGA) or for a defined area within the LGA. The funds raised through this Special Rate must only be expended for the purposes for which they were raised and where the rates were for a defined area must only be expended to the benefit of that area. 2. The review has been undertaken in two stages. The first stage resulted in a review of the BIA model and was reported to Council in December 2018. This report relates to the second stage of the review involving the implementation of Council’s December resolution. During both the first and second stages various opportunities to participate in the reviews was made to both BIAs and the community. The 28-day consultation period is considered a standard timeframe. BIAs were invited to a Public Voice but declined the opportunity. 3. Use of the words ‘up to \$100,000’ enables CN to enter into a 12-month service agreement with a BIA whose special rate levy raises less than \$100,000 but greater 	OT2019/02383

		<p>should make all funding contestable for that BIA until the first AGM. In the instance of Mayfield, who is to meet the ongoing costs of the BIA in this interim period (eg. lighting and accounting costs)? Furthermore, once a BIA Board of Directors is formed, the statement is then made that the Council “should consider entering into a Funding and Service Agreement with the BIA”. There is no guarantee that after going to the effort and expense of forming a Board the BIA would even be offered a Funding and Service Agreement; leaving the entity with no funds</p> <p>8. Welcome suggestion that Council contact all commercial property owners and operators to inform them of the BIA and invite them to establish a new Board</p> <p>9. Welcome the suggestion of Mayfield BIA being provided with a designated contact within Council Administration</p> <p>10. Proposed structure is inequitable and unfair to the SBR payers in the existing BIAs. The commercial property owners in the areas already with a BIA should not be forced to pay higher rates than those in areas that subsequently establish a BIA.</p> <p>11. Clarification should be provided as to the payment structure adopted by Wallsend, as it is notably absent from the list of contributors under the current model</p> <p>12. At the heart of BIAs are small business owners who volunteer their time to try to improve the district in which they operate their business. Through the BIA initiative, there have been wonderful projects undertaken, both</p>	<p>than \$50,000. The amount will be agreed in such circumstance between CN and the relevant BIA as part of the Service Agreement discussions.</p> <p>4. As the body responsible under the Local Government Act for ensuring the Special Rates are expended for the purposes, CN will determine applications for contestable funding. A suggestion for the involvement of the business community in the selection process for contestable funding has merit. However, governance arrangements would need to ensure that any conflicts of the business representatives be declared and recorded to ensure that applications were assessed on merit.</p> <p>5. Recipients of contestable funding applications will be required to participate in an EOI process and detailed assessment by a panel. As well there will be reporting, and acquittal requirements monitored by Council and made publicly available.</p> <p>6. For BIAs where the funds are less than \$50,000 the choice of whether to continue to operate as a BIA is for the BIA members to make. As well as whether they wish to apply for the contestable funding.</p> <p>7. If no applications are received for a BIA area without a Board then Council will assume responsibility for meeting on-going costs until such time as a Board is in place. As with any Service Agreement process whilst there is an expectation that</p>	
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		<p>infrastructure and event based. Whatever decision is reached by Council in relation to the structure of any ongoing BIA model, what needs to be considered is the purpose for which the SBR funds were gathered, and ensure that those funds are then used for that purpose without disregarding the opinions of the people who contributed those funds by way of the SBR.</p>	<p>a Service Agreement will be entered into with the new Board there is no guarantee that negotiations will be successful. Council must ensure that the allocation of the funds is open and transparent in such a situation.</p> <p>8. No response required 9. No response required 10. This response relates to the suggestion that any future BIAs and Special Rate Benefit Areas be created by reducing the General Rates to absorb the new Special Rate rather than imposing an additional rate over and above the total rate income of CN. The response incorrectly assumes that the reduction in General Rates is limited to the new Special Rate Benefit Area business properties. However, such a reduction in general rates applies to all rateable properties (both residential and non-residential) in the Newcastle LGA 11. The Wallsend special rate was introduced by CN gaining approval for a special variation of 0.18%. This allowed CN to introduce it as a new rate without affecting income from existing ordinary rates or special rates. 12. The special rates provision of the Local Government Act requires that those funds be only spent in the area that pays the special rate and only for the purpose they were raised. The report supports continuation of the BIAs but proposes a new operating model seeking to provide transparency and openness</p>	
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12	Individual	<ol style="list-style-type: none"> 1. BIA's are extremely important pieces of infrastructure that assist in promoting the improvement of Newcastle as a whole and in particular the business community...Council should be doing everything they can to assist these BIA's for the above reasons, whereas the report is approached in an investigative style and some of its recommendations certainly seem to want to make it harder. 2. The concept of tying funding to a Board of Directors being in place is overzealous and smacks of an organisation built on bureaucracy. All members of a BIA are volunteers, ...to want to make them join a board of directors and be potentially criticised or at the least scrutinised in their activity is over the top. 3. The report indicates that BIA's set up into the future will be funded by setting a Special rate and reducing the ordinary rate by a similar amount. It is inappropriate to be discriminatory toward existing BIA's that are simply just charged extra, hence the idea of having two different pricing methodologies should be scrapped. 4. Further council should give consideration to scrapping the special rate altogether and have all precincts funded out of the ordinary rate 5. The AECOM report provides a total lack of strategy, operational details or financial analysis. 6. Concerning that final submissions to the report are required just two days before those submissions are to be tabled to Council for a vote. To enable council to vote on the report in 	<ol style="list-style-type: none"> 1. The review of the BIA model in 2018 adopted by CN in December 2018 supported the continuation of the BIA model and sought improvements in openness and transparency regarding expenditure of the Special rates. The 2019 review seeks to develop the new model and its implementation. Under current arrangements BIAs are required to submit a business plan each year to obtain funding under the proposed arrangements a Service Agreement for the guaranteed funding will apply for a 12-month period and BIAs are able to apply for contestable funding through an EOI process. 2. Currently BIA under their constitutions are required to have a Board of Directors. There is no change proposed to this arrangement. 3. This response relates to the suggestion that any future BIAs and Special Rate Benefit Areas be created by reducing the General Rates to absorb the new Special Rate rather than imposing an additional rate over and above the total rate income of CN. The response incorrectly assumes that the reduction in General Rates is limited to the new Special Rate Benefit Area business properties. However, such a reduction in general rates applies to all rateable properties (both residential and non-residential) in the Newcastle LGA 4. This option is available to Council however funds for the purposes currently funded under the Special Rate would then 	OT2019/02390
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		<p>a meaningful way greater time should be allowed to provide an appropriate summary of comments, which also allows Councillors time to consider the comments made.</p>	<p>compete with other Council projects and would be subject to the priorities of the entire Council area, rather than funded by those ratepayers most likely to benefit from those projects with assurance that the funds may only be expended for the defined purposes in the defined area they were raised from.</p> <p>5. The proposed model is the result of a review and has been submitted for public consultation. Given the Council resolution of 11 December 2018, failure to proceed with implementing the model prior to 30 June 2019 will see all BIAs (excluding Newcastle Now whose agreement was terminated 31 December 2018) in a state of limbo.</p> <p>6. The question of whether the information or time provided to Council is sufficient and appropriate to make a determination is a matter for Councillors to make. If they believe they have sufficient information and time to vote on the matter then they would vote, if not they could defer the matter to seek further information and/or time.</p>	
13	Organisation	<p>1. Question the process and outcomes of the review conducted the City of Newcastle about the use of the BIA Special Rate levy and the role of Chambers and BIAs moving forward. As businesspeople, we understand that the system must be right for the businesses who pay special rate levies, but the lack of transparency, engagement and lack of clarity around the model, including the absence of a</p>	<p>1. The proposed model is the result of a review and has been submitted for public consultation. Given the Council resolution of 11 December 2018 failure to proceed with implementing the model prior to 30 June 2019 will see all BIAs (excluding Newcastle Now whose agreement was terminated 31 December 2018) in a state of limbo.</p>	OT2019/02382

		<p>business or financial plan, continues to raise concern.</p> <ol style="list-style-type: none"> 2. The role of the Chamber, which has been funded by BIA money, is to advocate, promote and support the businesses in Hamilton, and bring tens of thousands of people to the suburb who will generate additional activity and investment 3. The proposed model also appears to negate Chambers independence as it indicates the Council may withdrawal Chamber/BIA funding if they express views that do not align with the Council's 4. The current model was providing value for members and it is now being terminated without direct advice or engagement with those who pay it. 5. Lack of transparency in choosing the organisation which developed the new model – which also happens to be the organisation that conducted the BIA review which we believe to be misleading. 6. Loss of independence and advocacy on matters concerning council's responsibilities for roads, rates and rubbish. 7. Although the Council has praised HCC's initiatives (such as lobbying for the return of the busses to Beaumont Street, the street beautification projects, the monthly column in The Local, China Week and the regular member engagement events and communication activities) the new model would negate the Board's ability to deliver these. As volunteers, and owners of small businesses, the Board is time poor and does not have the 	<ol style="list-style-type: none"> 2. Chambers of Commerce cannot be funded by the Special Rate. The purpose of the special rate is to defray the additional costs of promotion, beautification and development of the nominated business district. Any use of the Special Rates outside this purpose is unlawful. A Chamber of commerce has objectives that sit outside of the SBRL purpose. 3. The model seeks to improve the transparency and openness of the BIA model rather than withdraw funding if the BIA's views do not align with CN. Once a Service Agreement is finalised funding will be dependent upon the BIA meeting its responsibilities under that agreement. 4. The current model was reviewed due to concerns regarding the decision making of the BIAs over a number of years in terms of whether sufficient value for money was being provided. The review was a response to concerns raised by the Hamilton Chamber of Commerce. Opportunities were available for BIAs and the community to be involved in the consultation for the review. 5. The original review was undertaken by an organisation selected for an EOI process. The decision to appoint that same organisation was based on the fact it would have knowledge of the current model due to the review and therefore would be undertaken this review at a lower cost and quicker timeframe than a 	
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		<p>specialist skills, such as sign writing, lighting providers, artists, member services, gardeners and events coordinators, to conduct these programs in the future.</p> <p>8. BIA funding should not be available to top up Council projects such as tourism/visitor economy marketing, civic resourcing or council budget shortfalls.</p> <p>9. We advocate that Councillors vote to delay the introduction of a new BIA model until our concerns are addressed.</p>	<p>new organisation and the review would be complete with sufficient time to implement the new model by 1 July 2019 to comply with Council's resolution of 11 December 2018.</p> <p>6. The proposed model does not reduce the BIAs independence or advocacy concerning council responsibilities.</p> <p>7. Under the proposed model it could be argued that the Service Agreement (provided these services are included in the Agreement) guaranteeing funding for potentially 3 years has improved the ability to provide these services without the need to submit for Council's approval annually a Business Plan covering these activities.</p> <p>8. The Special Rates provisions of the Local Government Act require that those funds be only spent in the area that pays the Special Rate and only for the purpose they were raised.</p> <p>9. The question of whether the information provided to Council is sufficient and appropriate to make a determination is a matter for Councillors to make. If they believe they have sufficient information to vote on the matter, then they would vote if not they could defer the matter to seek further information.</p>	
14	Organisation	Email resending submission no 7 above. Refer to Submission 7 above for details of points raised in the submission	Refer responses to Submission No 7 above	OT2019/02389
15	Organisation	1. Information is insufficient, consultation is incomplete - the business community have not	1. The review has been undertaken in two stages. The first stage resulted in a review	OT2019/02391

		<p>been consulted in any of this reporting which is unacceptable considering we are the ones paying the Extra Benefit Levy rates.</p> <ol style="list-style-type: none"> 2. We oppose AECOM's recommendation in increasing "the City's role in managing" our BIAs (pg. 31) 3. We reject the idea of Newcastle City Council taking management of our Extra Benefit Levy - which is essentially our commercial community's collective savings funds. 4. Strongly opposed to the recommendations on "making contestable all Levy funding" (pg. 31). Such simplified, over-arching rules regarding such important, hard-earned funds make this an unclear, inequitable and insoluble order. 5. We request further, more inclusive and comprehensive investigation to produce an improved BIA system that is fair, communicated and transparent. 6. We request a reassessment and renegotiation of the current Extra Benefit Levy rate to a currently appropriate amount. To achieve this, we appeal to Newcastle City Council to conduct a thorough economic and foot-fall survey across all precincts to generate the information required to be relevant and effective with a best improved BIA system moving forward. 	<p>of the BIA model and was reported to Council in December 2018. This report relates to the second stage of the review involving the implementation of Council's December resolution. During both the first and second stages various opportunities to participate in the reviews was made to both BIAs and the community. The 28-day consultation period is considered a standard timeframe.</p> <ol style="list-style-type: none"> 2. The current BIA model is managed by Council as funds are not provided to BIAs until a business plan is submitted to and approved by Council. 3. As the body responsible under the Local Government Act for ensuring the Special Rates are expended for the purposes, they were raised CN is legislatively required to ensure management of the special rate levy 4. The report does not propose making all Special Rates Levy funds contestable. It recommends dividing the funds allocated per BIA area (where applicable) to guaranteed level of funding and contested funding. The opportunity is there for local businesses to apply for contestable funding to improve their area or undertake events to attract visitors as well as BIAs. 5. The proposed model is the result of a review and has been submitted for public consultation. Given the Council resolution of 11 December 2018 failure to proceed with implementing the model prior to 30 June 2019 will see all BIAs (excluding 	
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			<p>Newcastle Now whose agreement was terminated 31 December 2018) in a state of limbo.</p> <p>6. The reassessment and renegotiation of the Special Rate is outside the scope of the review. This is a much broader question regarding rating in general and would need to be the subject of a separate review.</p>	
16	Individual	<ol style="list-style-type: none"> 1. Having witnessed the behaviour of the associations myself, I know that that the current 'model' for the businesses of Newcastle is broken. They don't look after our community, instead it's all greed and self-interest, at the expense of businesses and the community. 2. I like your proposal to make these funds contestable and appreciate that you made it open for public comment. Thank you. Contestability should be encouraged and extended further. We all know that competition drives the market. The associations too should be forced to properly compete rather than being given a government guaranteed subsidy. Maybe then we will get some decent outcomes. 3. Can you please enforce some basic good governance on Council? The associations are running Council with certain Councillors in their pockets. One Councillors website states that they work for the Newcastle Now Association. How can that be allowed? 4. Good on you for trying to get to the bottom of this mess. I know it long pre-dates you at Newcastle Council. They say light is the best 	<ol style="list-style-type: none"> 1. The current model was reviewed due to concerns regarding the decision making of the BIAs over a number of years in terms of whether sufficient value for money. Opportunities were available for BIAs to be involved in the consultation for the review. 2. Supports the point that by dividing the funds allocated per BIA area (where applicable) to guaranteed level of funding and contested funding the opportunity is there for local business to apply for contestable funding to improve their area or undertake events to attract visitors as well as BIAs. 3. Not a matter related to the review and should be the subject of a formal complaint should the person wish to pursue this matter. 4. The current model was reviewed due to concerns regarding the decision making of the BIAs over a number of years in terms of whether sufficient value for money. Opportunities were available for BIAs to be involved in the consultation for the review. The proposed model provides for 	OT2019/02392

		disinfectant and it looks like even more will be needed with these dodgy associations.	the continuation of the BIAs and seeks to increase accountability and transparency.	
17	Individual	<ol style="list-style-type: none"> 1. Sum up my interactions as with Newcastle Now as Extremely inefficient, of the approx. \$1,000,000 contributed the wage bill must have consumed a good proportion. I would note Petra Hilsen and John Waring were extremely passionate and had great intentions of making the organisation work. I never seen or heard from Michael Neilson, I don't know what he did, but you most certainly did not get value for money. 2. Board disengagement, none of the board members were local businesspeople, we never heard from them, and they never attended any local events, essentially they did not represent us. 3. Member frustration, the organisations agenda seemed so vague, members got frustrated and there was no working relationship. 4. Have a clear agenda – Placemaking and activations. To make the city a more vibrant and exciting place. The whole business advocacy simply did not work. 5. Have a young exciting board from a varied background i.e. Arts, Events, Business, Government e.c.t – all non-paid 6. Give away most \$1,000,000 in grants to grass roots varied scale events activating each precinct. Make applications easy and minimise red tape. 7. Spend a nominal amount of money administering. 2 staff maybe 1 in communication's 1 in events. 	<ol style="list-style-type: none"> 1. The proposed model seeks to reduce administrative overheads through the engagement of a shared resource to assist BIAs in managing their administration requirement. 2. Boards of BIA are a matter for the members of the BIA to determine in accord with their constitution. 3. The proposed model seeks to improve the engagement of the Board of a BIA with its constituent members through a variety of means. 4. Whilst advocacy on behalf of local business may form a small part of a BIAs role, it more appropriately should be part of a Chamber of Commerce's role. The proposed model seeks to ensure that the vast majority of funds received for a special rate are used for the purposes defined in the CN's Our Budget, i.e. defray the additional cost of promotion, beautification and development of a defined business district. 5. The membership of a BIA Board should be diverse as suggested but Council cannot determine the membership of the Board only the members of the BIA should determine the Board in accordance with their constitution. 6. Supports the point that by dividing the funds allocated per BIA area (where applicable) to guaranteed level of funding 	OT2019/02360

		<p>8. Events / activations could be simple they could be large, it is a real shame to not see events such as “hit the bricks” survive., but my suggestion would be make people start small. i.e 50 x \$20,000 events/activations/placemaking if organised at a grass roots level would have a massive impact on the city, and most people would volunteer their time, so net impact would be much greater than if organised internally, within the government.</p>	<p>and contested funding, the opportunity is there for local business to apply for contestable funding to improve their area or undertake events to attract visitors as well as BIAs.</p> <p>7. The proposed model seeks to reduce administrative overhead through the engagement of a shared resource to assist BIAs in managing their administration requirement.</p> <p>8. Suggestions are supported as the contested funding component of the special rate levy is to encourage the BIAs, business and community to submit funding proposals such as events to increase the impact of the funds.</p>	
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REVIEW OF BUSINESS IMPROVEMENT ASSOCIATIONS IN NEWCASTLE

CITY OF NEWCASTLE

DECEMBER 5 2018



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EXECUTIVE SUMMARY

The City's four Business Improvement Associations (BIAs) were established in 2011 as not for profit organisations under the Associations Incorporations Act. They remain subject to a constitution and are governed by independent boards that are intended to facilitate more independence and community control of initiatives in conjunction with the City.

BIAs in Newcastle are almost entirely reliant on the five special rates that continue to be levied on commercial property owners in Newcastle city centre (including Cooks Hill), Hamilton, Mayfield, Wallsend and New Lambton. These special rates (the Levy), continue to be based on an ad valorem rate only and, in line with legislation, can only be levied on the basis of benefit to the ratepayer. The City of Newcastle's 2018/19 Delivery Program and Operation Plan states that the purpose of the Levy "defraying the additional cost of promotion, beautification and development of [the city centre], a business district or benefit area".¹

As this report explains, Newcastle has changed significantly since 2011. For the first time in 68 years, trams have returned to the city centre and record levels of investment across the whole Local Government Area (LGA) continue to transform the city. Although some of Newcastle's main streets continue to struggle with vacancy, crime and/or business mix challenges, urban renewal and urban infill has created new opportunities across Newcastle that are yet to be fully realised.

To harness these opportunities, BIAs will need to be better aligned with the city's key strategic documents such as the Greater Newcastle Metropolitan Plan and the City of Newcastle's Community Strategic Plan. These plans will guide the city's continued evolution and it is to their goals and objectives that BIAs should be more fully tied.

As the city continues to change, so too must the roles and responsibilities of BIAs. Stakeholder engagement for this report identified duplicated services within the LGA, as well as ongoing confusion about what BIAs do and how they partner with other stakeholders such as the Hunter Business Chamber and Hunter and Central Coast Development Corporation. This report demonstrates that while BIAs remain a good mechanism for targeted and local economic initiatives, a 'business as usual' approach will no longer adequately serve the city and its businesses. As stakeholder engagement confirmed, BIAs are spending a significant proportion of their time and Levy funding on administration processes. AECOM has been advised by the City that in the case of Newcastle BIA this amount has at times exceeded half of their annual Levy funding. Changes in retail, transport and urban form are creating a new role for BIAs. To succeed in this role, BIAs will need to find more resources, collaborate and empower their membership base.

To this end, BIAs should:

- Reflect the priorities of the Greater Newcastle Metropolitan Plan (endorsed by City of Newcastle) as well as the City of Newcastle's Community Strategic Plan
- Remain independent of the City of Newcastle by raising additional revenue and reducing their reliance on the Levy
- Share resources, including employees or contractors, to remove duplication of overhead costs and to improve administration and record keeping. This should involve BIAs pooling an allocated percentage of their Levy funding to employ secretarial support
- Partner with the City of Newcastle to implement the Destination Marketing Plan
- Engage more regularly with members to evaluate their goals, objectives and membership structure against the city's strategic plans
- Commit to more open and transparent governance practices. This could include regular financial disclosure as well as having minutes from Executive Committee meetings and all strategic plans available online.
- Develop measurable outcomes

INTRODUCTION



Image 1 Hunter Street, City (Newcastle BIA)

Main street retail is in a state of flux. Over the last six decades, traditional town centres such as Wallsend, Mayfield, Hamilton and Newcastle central business district (CBD) have faced increasing competition from suburban retail destinations, and more recently, online shopping. Anchor tenants such as department stores, cinemas and banks continue to leave main street environments as business models adapt to new consumer preferences and increased competition. At the same time, some traditional town centres and commercial corridors have experienced a renaissance that is being driven by services and experiences. Coffee shops, bars, restaurants and even gymnasiums are bringing life and economic activity back to the main street setting, underpinned in part by urban renewal and a new wave of residential development that is increasingly dense and transit-oriented².

This transformation, however, continues to be a challenge for property owners and their tenants. Unlike shopping centres, town centres cannot be easily curated, and an inconsistent or uncomplimentary business mix may undermine branding efforts as well as the overall consumer experience. In this environment of change, trading conditions are often difficult and there is a need for quick and coordinated local responses. Business Improvement Associations (BIAs) have emerged as a useful mechanism in the context of this urban transition, providing a structure for local stakeholders to organise, pool resources and coordinate efforts for the benefit of their local trading area. BIAs have also emerged as 'on the ground' advocates for local businesses, occasionally operating as a community 'switchboard' that can improve the dissemination of place-specific information. These information flows may include everything from details about an upcoming capital works program to something more organic such as a networking event³.

Locally, the origins of the BIA model can be found in Newcastle's MainStreet Committees, set up in the 1990s. Under that model, City of Newcastle (the City) raised funding for local economic groups by collecting a Special Rate Levy (the Levy) under Section 495 of the Local Government Act 1993. Newcastle's traditional main streets had faced fierce competition in the decades after the Second World War. The rise of suburban shopping centres and a devastating earthquake in 1989 eroded some of the competitive advantages of our traditional town centres. It is in this context of rising vacancy rates and ageing public domain that the origins of the BIA movement can be found.

In 2011, the City changed its strategy to funding Main Street Committees by agreeing to their establishment as not for profit organisations under the Associations Incorporations Act. Unlike the Committees of Council that had existed prior to 2011, BIAs are subject to a constitution and a board of directors. Despite these changes, the city continues to collect the Levy and passes BIA funding exclusively to the associations through a Funding and Service Deed of Agreement (the Deed). A copy of the Deed is included as Appendix A. As collector of the Levy, the City is the overall manager of the operational framework for the local BIA network. With the completion of the Newcastle light rail, new and future capital works programs across the City as well as the adoption of Greater Newcastle's first metropolitan plan, there exists a need to assess the success of the current BIA model in delivering the intent of the Levy and to consider how the City can best support essential, localised economic development going forward.

The purpose of this report is to consider the current BIA model in the context of a changing commercial and urban environment. Through extensive consultation with existing BIAs and their identified and self-identified stakeholders, AECOM were able to evaluate the model's success to date. AECOM has done so to identify handbrakes in the overall framework as well as opportunities for BIAs to be better coordinated, supported and efficient in meeting their goals and objectives.

In pursuing these recommendations, AECOM has focused on the role and priorities of the BIAs as well as the governance frameworks and geographical boundaries in which they operate.

STAKEHOLDER ENGAGEMENT

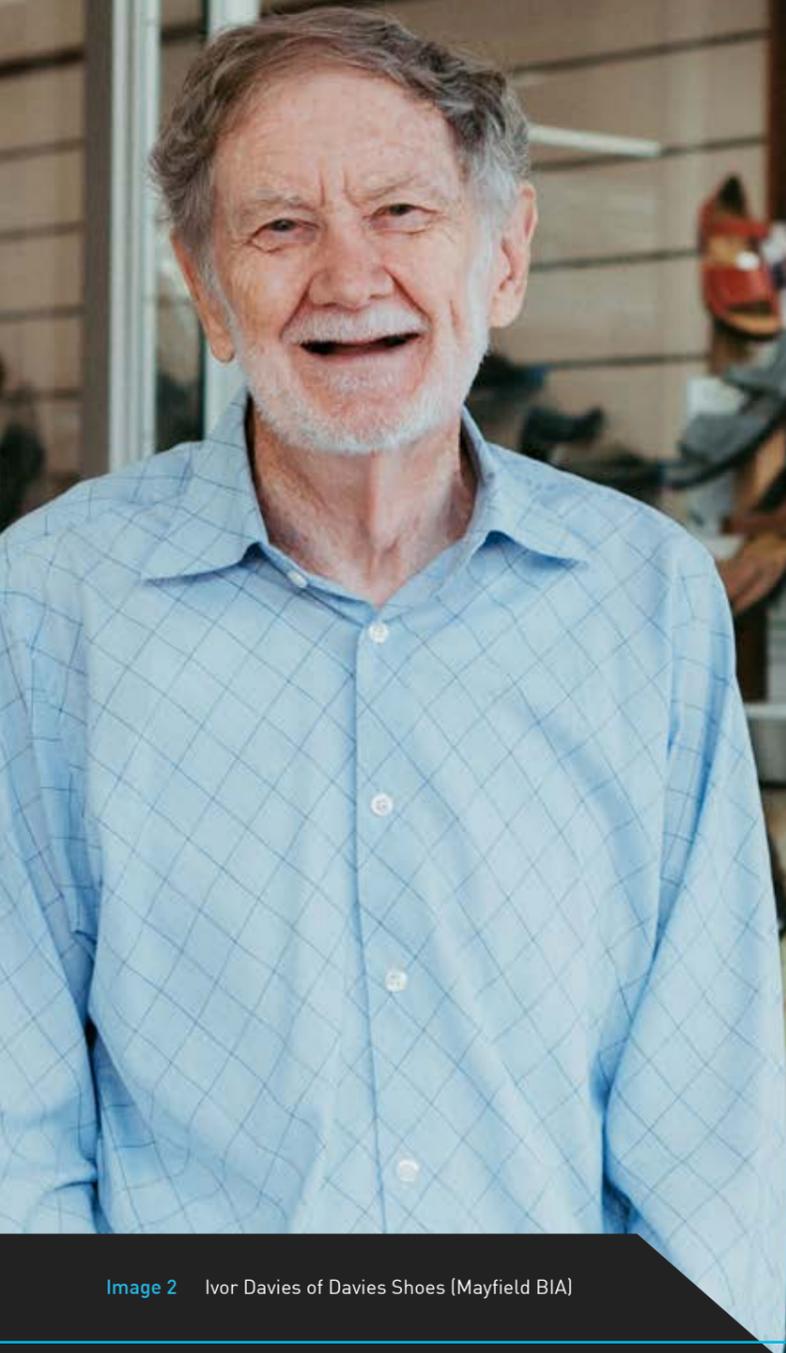


Image 2 Ivor Davies of Davies Shoes (Mayfield BIA)

AECOM engaged with all formalised BIAs in Newcastle between 22 October 2018 and 15 November 2018. Interest from self-identified stakeholders enabled AECOM to broaden its engagement process to include potential future BIAs, major delivery partners such as the Hunter and Central Coast Development Corporation (HCCDC) and Hunter Business Chamber (HBC) as well as other self-identified BIA stakeholders.

During the engagement period, AECOM engaged with the following groups and their representatives:

- **Newcastle Business Improvement Association (Newcastle Now)**
Mr Richard Christian and Mr Ed Duc
- **Hamilton Chamber of Commerce (Hamilton BIA)**
Mr Nathan Errington, Mr Jim Garis & Ms Tess Borg
- **New Lambton Village (New Lambton BIA)**
Ms Meg Purser
- **Wallsend Town Business Association (Wallsend BIA)**
Ms Tiffanie Campbell and Ms Rhonda Campbell
- **Mayfield Business Association (Mayfield BIA)**
Mr Ivor Davies
- **Adamstown Business Group**
Ms Sharon O'Rourke
- **The Junction Business Group**
Mr Rolly de With
- **Throsby Basin Business Chamber**
Ms Karen Howard and Mr Scott Webster
- **Hunter Business Chamber (HBC)**
Mr Bob Hawes
- **Hunter and Central Coast Development Corporation (HCCDC)**
Ms Valentina Misevska
- **Honeysuckle Community Group**
Mr Tim Lees
- **Carrington Community Council**
Mr Graham Hardes.

During the engagement period, AECOM staff engaged with BIA representatives and their stakeholders. This was made up of:

- 1 x stakeholder workshop (7 November 2018), and
- 8 x individual BIA stakeholder meetings with:
 - Newcastle Now
 - Hamilton BIA
 - Wallsend BIA
 - Mayfield BIA
 - The Junction Business Group
 - Throsby Basin Business Chamber
 - Adamstown Business Group and
 - HCCDC.

18 BIA representatives and/or stakeholders directly contributed to the stakeholder engagement process.

During the stakeholder workshop, AECOM heard that short-term priorities for BIAs include:

- Certainty in terms of funding
- Improving collaboration with stakeholders, including the City
- Attracting new members
- Sharing essential services and resources
- Revising membership structures
- Attracting new businesses to their main streets
- Defining and revisiting their boundaries, and
- Maintaining or improving relationships with the City.

In terms of long-term planning, AECOM heard that medium and long-term priorities for BIAs include:

- Aligning operations with the 'Greater Newcastle Metropolitan Plan'
- Revisiting the Deed with the City
- Creating a more collaborative framework
- Extending the coverage of BIAs within the Local Government Area (LGA)
- Partnering with all tiers of government
- Growing Newcastle's visitor economy
- Growing Newcastle's night-time economy
- Improving the town centre business mix
- Attracting new businesses to town centres
- Operating in safer and cleaner environments
- Conducting research in partnership with universities and the City
- Demonstrating the importance of BIAs
- Removing ambiguity where BIAs and the City share responsibilities.

When asked to identify impediments to achieving these outcomes, BIA stakeholders raised the following concerns:

- Poor communication with the City, the HCCDC and local business chambers
- Ambiguity and confusion in terms of BIA boundaries, membership and responsibilities
- Onerous administrative processes and a lack of resources
- Restrictive Deed and ambiguity in terms of BIAs and non-BIAS
- BIA framework that does not support volunteers;
- Disenfranchised members
- General frustration regarding processes and resourcing
- Lack of strategic alignment
- Lack of resources
- 'Red tape' and inconsistent government requirements
- Ambiguity in terms of governance arrangements
- Insufficient opportunities to work with City staff
- Poor alignment with government plans and investment.

The minutes from the stakeholder engagement on November 7, 2018 have been included as Appendix B.

THE FUNCTIONS OF A BIA



Image 3 Nelson Street, Wallsend (Wallsend BIA)

CURRENT GOVERNANCE FRAMEWORK

The City's BIAs were established in 2011 as not for profit organisations under the Associations Incorporations Act. They remain subject to a constitution and are governed by independent boards that are intended to facilitate more independence and community control of initiatives in conjunction with the City. There are four BIAs in the City's local government area. These are Newcastle Now, Mayfield Business Association, Hamilton Chamber of Commerce and Wallsend Town Business Association.

AECOM notes that New Lambton Village Incorporated self-identifies as a BIA in their 2018-2020 Business Plan⁴. A special rate continues to be levied on commercial properties in New Lambton town centre, however AECOM have been advised that the Deed between New Lambton Village and the City was never signed. AECOM were unable to determine why this agreement was not formalised. Despite this, New Lambton Village has been included in this report as it has demonstrated a clear intent to continue as, or become, a BIA in the immediate future.

The relationship between the City and each BIA is set out in a Funding and Service Agreement (the Deed). As stated in the 'Newcastle City Council Economic Development Strategy 2016-2019', the City remains the overall manager of the operational framework for the local BIA network and in this capacity requires each BIA to have up to date business plans that directly respond to the 'Newcastle Destination Management Plan' and current economic development activity⁵.

As previously stated, each BIA is also governed by a constitution that is lodged with the Department of Fair Trading. The constitution outlines the rules of a BIA (under the Associations Incorporation Act 2009), and states the association's goals, objectives and powers as well as the structure of its membership, executive committee, general meetings and other matters such as the management of funds. The constitution for Wallsend BIA (Rules of Wallsend Town Business Association Incorporated) is attached as Appendix C for reference.

GOALS AND OBJECTIVES

The goals of a BIA in Newcastle are stated in the constitutions that govern each association. These goals are:

- to make their suburb (or in the instance of Newcastle Now, the city centre) a safe, clean, commercially vibrant, attractive business district
- to help and encourage the area live up to its name as a business association.*

The objectives of the Associations are also stated in their respective constitutions and are:

- to promote the development and advancement of the commercial interests of businesses in their suburb or the city centre through a co-ordinated and structured promotion, advocacy and planning programme
- to foster the welfare and economic development of their suburb or the city centre
- to enhance safety and security and to attract and retain businesses to drive employment growth and economic, social, cultural and environment wellbeing
- to make arrangements with the Government, the City and/or other persons, corporations, associations or local authorities for the improvement of streets, reserves, playing areas and park areas, and for lighting, surfacing, and cleaning in the suburb or city centre
- for the purposes and objects stated in these Rules, to administer funds allocated to the Association by the Council from the relevant Special Rate Levy for the purposes for which the Special Rate is levied from time to time, and any other income, funding or grants received by the Association, to deliver services, programmes and outcomes in suburb or city centre
- to do all things as are, or may be incidental to, or conducive to, the attainment of these objectives.

*Note: AECOM could not determine whether or not this goal has been inaccurately stated. If not, it should be reconsidered for clarity.

CITY OF NEWCASTLE BIA AREAS

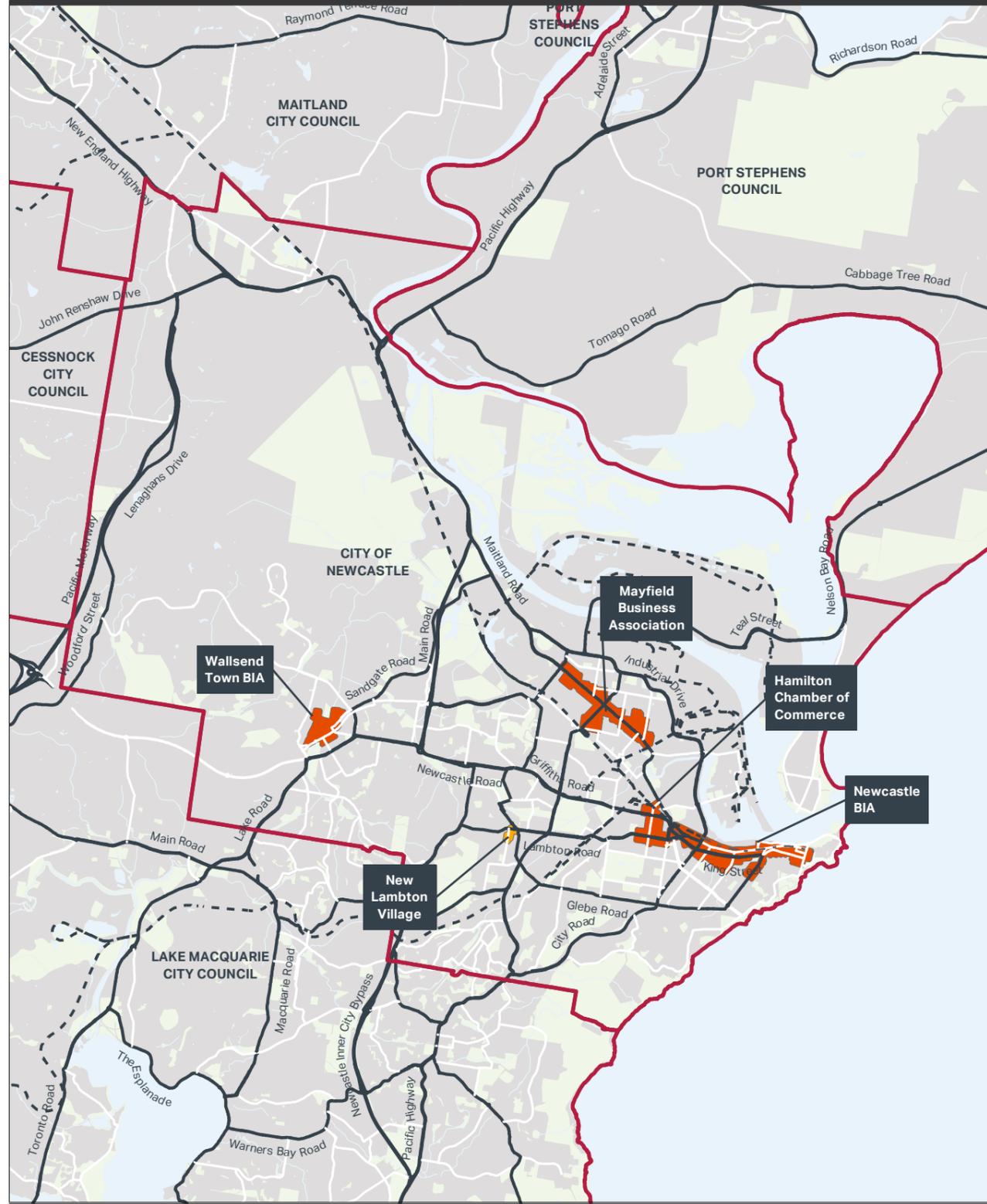


Figure 1 BIAs in the City of Newcastle LGA.

- Railway
- Light Rail
- Main Roads
- Roads
- Waterbody
- Parks, Forests and Reserves
- BIA Areas
- New Lambton Village

CITY OF NEWCASTLE NON-BIA AREAS

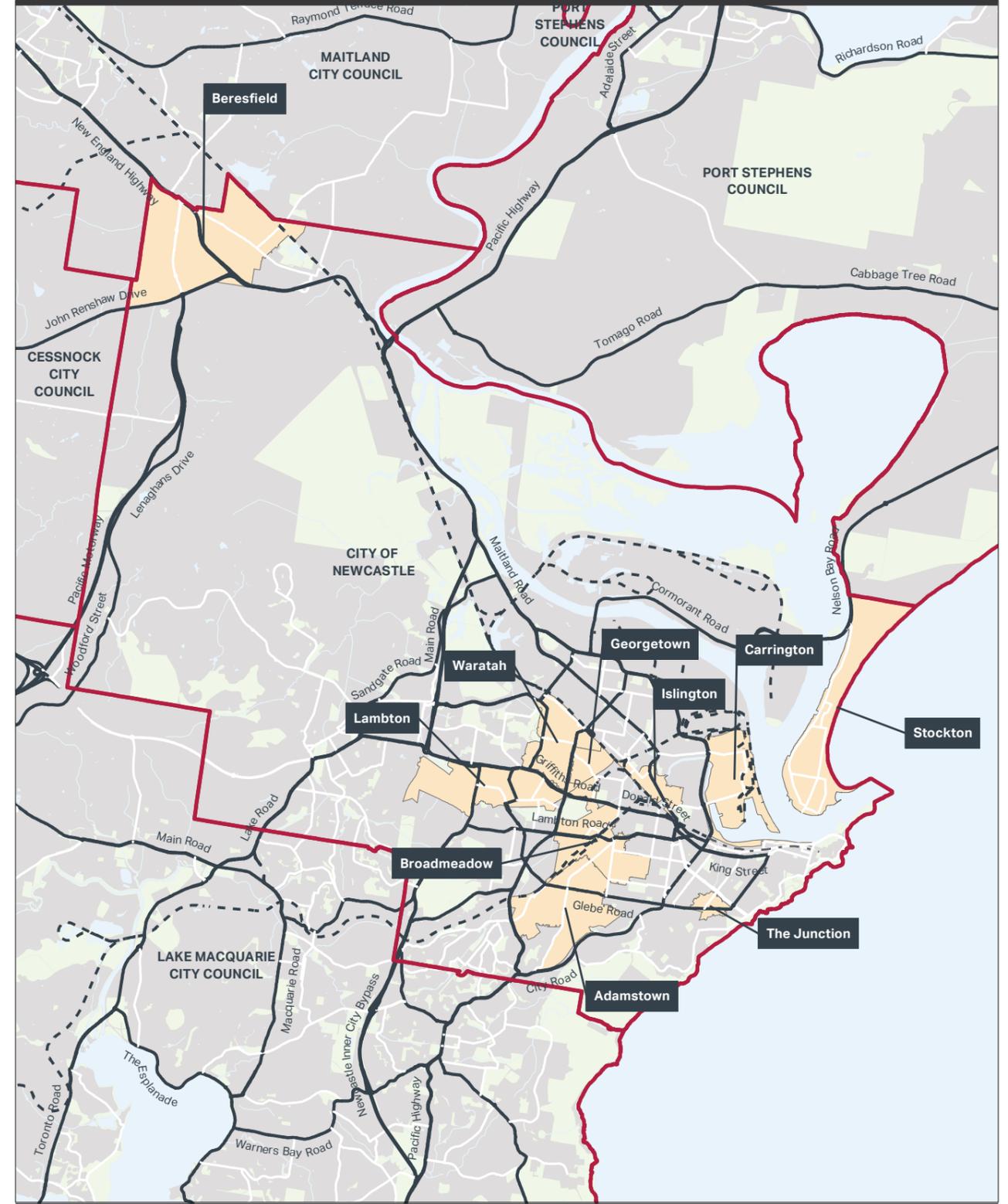


Figure 2 Areas in the City of Newcastle LGA not serviced by BIAs.

- Railway
- Light Rail
- Main Roads
- Roads
- Waterbody
- Parks, Forests and Reserves
- Non-BIA Areas

STRATEGIC CONTEXT



Image 4 Civic tram stop, City (Newcastle BIA)

The key strategic documents that should guide BIA goals and objectives are

**GREATER NEWCASTLE
METROPOLITAN PLAN 2036**

**NEWCASTLE 2030
COMMUNITY STRATEGIC PLAN**

**CITY OF NEWCASTLE
PLANS AND POLICIES**

**BIA GOALS AND OBJECTIVES
(CONSTITUTION)**

The Greater Newcastle metropolitan area is the largest non-capital urban area in Australia. Within this region, the City of Newcastle plays an important role as the service, administrative and cultural centre for the Hunter Region. Newcastle continues to undergo a major urban and economic transformation, with growth in knowledge industries and the expansion of service industries, defence industries, higher education and professional services reshaping the city's economic foundations.

The NSW Government's \$650 million Revitalising Newcastle program has been a major catalyst for this transformation, activating the city centre to attract people, jobs and tourism. At the heart of this program are stronger connections between the city centre and its waterfront as well as job creation, new housing and the delivery of public spaces connected to a new light rail service. The Newcastle Light Rail, extending from Newcastle Interchange to Newcastle Beach, provides a new backbone for the development of precincts or business clusters in the city centre around each of its six stops. These stops are Newcastle Interchange, Honeysuckle, Civic, Crown Street, Queens Wharf and Newcastle Beach⁶.



Figure 3 Newcastle light rail (Source: Revitalising Newcastle)

1. Greater Newcastle Metropolitan Plan 2036

The Greater Newcastle Metropolitan Plan 2036 ('Metro Plan') is one of the region's key planning documents. The 'Metro Plan' is a blueprint for the city's future as a smart, liveable and sustainable global city and is the result of strong collaborative partnership between the NSW Government and five Greater Newcastle metropolitan councils as well as business and community groups. The 'Metro Plan' breaks Newcastle into five distinct 'elements'. The boundaries of Newcastle BIAs cross two of these elements⁷.

Table 1 Greater Newcastle Metropolitan Plan 'Elements'

BIA	METRO ELEMENT	ELEMENT CONTEXT
Newcastle BIA (Newcastle Now)	Metro Heart	The NSW Government's \$650 million Revitalising Newcastle program, in addition to investment from the City and the private sector, is enhancing the appeal of the Newcastle city centre. People are returning to live and work in the 'Metro Heart', encouraging entrepreneurship and creating a more vibrant and diverse culture and business offering.
Hamilton Chamber of Commerce Mayfield Business Association New Lambton Village Wallsend Town Business Association	Metro Core	Two-thirds of Greater Newcastle's homes and jobs are in the 'Metro Core', stretching from the northern shores of Lake Macquarie to South Channel of the Hunter River in the north and the Pacific Highway in the west. The 'Metro Core' is well positioned for improved integration of transport and services through intensification of activity. Renewal and revitalisation of the 'Metro Heart' will spread along major transport corridors and through catalyst areas such as Broadmeadow and the John Hunter Hospital.

The Plan goes on to identify two 'Outcomes' that support a vision for Greater Newcastle to be acknowledged as a dynamic and entrepreneurial city that offers great lifestyles and is a national leader in the new economy. Within each 'Outcome', the Plan sets out clear strategies and actions, many of which could relate to the function and operations of BIAs.

As the following table demonstrates, BIAs are key stakeholders in the delivery of at least two of the Plan's Six Outcomes.

Table 2 Greater Newcastle Metropolitan Plan Outcomes and strategies (Source: Greater Newcastle Metropolitan Plan)

OUTCOME	RELEVANT STRATEGIES	RELEVANT BIA(S)
Outcome 1: Create a workforce skilled and ready for the new economy	Strategy 1: Reinforce the revitalisation of Newcastle city centre and expand transformation along the waterside.	Newcastle BIA
	Strategy 5: Expand education and innovation clusters.	Newcastle BIA (Newcastle city centre) New Lambton Village (John Hunter Hospital & HMRI Precinct).
	Strategy 6: Promote tourism, major events and sporting teams on the national and international stage.	All BIAs
	Strategy 8: Address changing retail consumer demand.	All BIAs
Outcome 2: Enhance environment, amenity and resilience for quality of life	Strategy 10: Create better buildings and great places	All BIAs
	Strategy 11: Create more great public spaces where people come together.	All BIAs

2. Newcastle 2030 Community Strategic Plan (CSP)

The City has made a strong commitment to business growth, education and employment opportunities in the Newcastle 2030 CSP. To this end, the City also commits itself to working within an open and collaborative leadership. The City states that it will take a lead in the implementation of the Newcastle 2030 CSP, however responsibility for achieving long-term goals is to be shared with a range of stakeholders including BIAs⁸.

THE CSP identifies BIAs as a key partner in achieving six key outcomes.

Table 3 Newcastle 2030 Community Strategic Plan Outcomes and BIA roles (Source: Newcastle 2030 Community Strategic Plan)

OUTCOME	ROLE FOR BIAS (IN PARTNERSHIP WITH OTHER STAKEHOLDERS)
1.3 Safe, reliable and efficient road and parking networks	1.3b Ensure community and business needs for adequate and accessible parking are prioritised.
3.3 Safe and activated places that are used by people day and night	3.3a Collaborate with local groups and services to address crime and safety;
	3.3b Plan for a night-time economy characterised by creativity, vibrancy and safety that contributes to cultural and economic revitalisation.
5.1 A built environment that maintains and enhances our sense of identity	5.1b Ensure our suburbs are preserved, enhanced and promoted, while also creating opportunities for growth.
6.1 A vibrant, diverse and resilient economy built on educational excellence and research	6.1b Attract new businesses and employment opportunities.
6.2 A culture that supports and encourages innovation and creativity at all levels	6.2b Support and advocate for the small business sector
6.3 A thriving city that attracts people to live, work, invest and visit	6.3a Facilitate events that attract visitors and support the local economy and the vibrancy of Newcastle.
	6.3d Foster a collaborative approach to continue city centre renewal.

3. City of Newcastle Plans and Policies

The City has an important role in the continued economic development of the city, as outlined in the Newcastle City Council Economic Development Strategy 2016-2019. This strategy states:

“Council’s economic development tools include: advocating for the community; ensuring appropriate and integrated strategic and statutory planning documents; working with other tiers of government to promote major infrastructure needs; taking a lead in the visitor economy including events attraction and sponsorship; facilitating access to business assistance programs of other tiers of government; assisting the business improvement associations; and providing information and statistics to approvals and licensing processes for business⁹.”

Other relevant policies, plans and strategies prepared by the City include:

- Economic Development Sponsorship Policy
- Newcastle Smart City Strategy 2017 – 2021
- Open and Transparent Governance Strategy.
- Events sponsorship policy
- Arts and culture funding program
- Place making grants
- Recreation facilities grants
- Local centres facade improvement program

EMERGING ROLES FOR BIAs



Image 5 Alma Lane, New Lambton (New Lambton Village)

DESTINATION MARKETING

DESTINATION MARKETING

Newcastle's visitor economy continues to grow. A survey completed in September 2017 shows that both the City's domestic and international tourism markets have experienced growth since 2014, with 4.2 million visitors to the City during this time¹⁰. The City's Marketing and Engagement Strategy states:

"By continuing to build [Newcastle's] destination brand identity and delivering targeted marketing and communications, we can ensure that Newcastle is a destination of choice, and remains front of mind for new and returning visitors¹¹."

BIAs can assist the City in achieving its objective to leverage corporate communications and marketing efforts to strengthen Newcastle's destination brand. BIAs can also be powerful 'on the ground' advocates for local businesses and they have the capacity to share important information with their members and communities. Furthermore, the promotion and economic development of a trading area is one of the most crucial roles a BIA can play in the city. To this end, BIAs are important partners for the City in building a tourism identity for Newcastle.

In its Marketing and Engagement Strategy, the City sets out six objectives to further the promotion of the City. Although the Strategy does not articulate a role for BIAs, the 'Newcastle City Council Destination Management Plan 2016 – 2019' identified BIAs as key partners in the City's visitor economy and to this end alignment should, and can, be made.

Image 6 Aerial shot of Newcastle Baths (Source: Getty Images)



Table 4 Role of BIAs in Destination Marketing (Source: City of Newcastle Marketing and Engagement Strategy)

STRATEGY OBJECTIVE	ACTION	ROLE OF BIAS
Develop Newcastle brand identity	Work with the Corporate Brand Review project to define the use of the Destination Newcastle brand by the organisation, and develop the brand and style guidelines.	All BIAs should conform with brand and style guidelines developed by the City.
Support the implementation of the Destination Marketing Plan	Increase collaboration between corporate communications and destination marketing teams to drive awareness of Newcastle as a tourism destination.	The City should harness the role BIAs play in driving awareness of the city as a tourism destination by including them in all relevant opportunities to collaborate with corporate communications and destination marketing teams. BIAs should commit themselves to supporting the implementation of the Destination Marketing Plan and amending any relevant objective(s) accordingly.
A marketing framework	Coordinate marketing activities to promote Council facilities both locally and beyond our Local Government Area. Ensure all major marketing investments comprise both corporate and tourism goals.	The City should inform BIAs of all marketing activities that are place-specific and targeted to drive visitation within BIA boundaries. BIAs should support these activities for the benefit of their members by adhering to any brand and style guidelines and providing additional benefit or activity where possible. BIAs could consider amending their objectives to include tourism goals, recognising the benefits that a growing visitor economy will create for their members.
Inspiring destination images	Consider needs for photoshoots or image purchasing of key visitor destinations to update hero images.	The City should work with BIAs and support them in undertaking photoshoots or image purchasing that serves the common purpose of promoting key visitor destinations. Sharing existing image libraries with BIAs would achieve consistency in terms of hero images going forward. If supported in this way, BIAs should agree to only using images that are consistent with the City's ongoing promotion of Newcastle.
Enhance digital marketing	Identify opportunities for social media coverage at major events and media announcements.	Where possible, the City should share relevant planned social media posts with BIAs so that BIAs can generate complementary interest. This could include a common social media calendar.
Provide consistent destination marketing collateral	Undertake a review and audit of current collateral and identify opportunities for improvements.	BIAs should undertake their own review and audit of current collateral and work with the City's Major Events and Corporate Affairs team to ensure any improvements are complementary. BIAs and the City should agree where possible on templates, key messages and imagery relevant to BIA trading areas. All collateral generated by the City and BIAs should reinforce a positive image of Newcastle and its town centres.

The BIA constitutions do not at present mirror or even enable these objectives, nor do they outline a clear role for BIAs in Newcastle's visitor economy. The growth of this sector is crucial to the success of all BIAs and their role in its development is implicit in not only strategic plans but also their own goal to drive commercial vibrancy.

BIAs are well positioned to help the City and its partners strengthen Newcastle's destination brand. The promotion and economic development of the Newcastle CBD and its traditional town centres are crucial to growing both domestic and international visitor markets. As such, BIAs should commit themselves to the implementation of the Destination Marketing Plan by agreeing on clear roles and responsibilities with the City's Major Events and Corporate Affairs team. There also exists opportunities for BIAs to support the City's additional objectives outlined in the Marketing and Engagement Strategy. To this end, the City should expect that BIAs are adequately resourced to take on responsibilities or functions that are currently outside the scope of their constitutions.

COORDINATING THE LEASING FUNCTION

As David West states in his report 'Mix it with the best – Business Improvement Districts working towards sustainable streets' (2012):

"The leasing function needs a new professional level of coordination. The competitive spirit of the leasing agents within each town or main street should remain, but we want to harness their enthusiasm to achieve a common goal. Property owners located overseas need to be involved to ensure consistency through the program, but success may only be achieved by working closely with ready and willing property owners¹²."

Engagement with stakeholders confirmed that the 'leasing function' is a major frustration for most BIAs. As stated earlier in this report, main streets are in a state of flux around the world and Newcastle is not immune to this broader urban transformation. As retail continues to evolve, some communities are experiencing a surplus of bricks and mortar shopfronts that do not easily lend themselves to attracting new tenants.

Some of Newcastle's traditional retail environments could benefit from a more targeted tenancy mix. BIAs can take a coordinating role in this area by initiating business attraction schemes that provide prospective business owners with a 'total main street offer'. This could include, but is not limited to:

- Maintaining a directory of potential store locations.
- Maintaining a directory of property owners and up to date contact details.
- Collecting and sharing information about façade improvement schemes, available grants and capital works programs with business owners as well as property owners.
- Involving property owners in any process that determines a vision and identity for the precinct
- Preparing and sharing collateral that articulates the vision, brand and demographics of the precinct.
- Identifying potential tenants and business owners and inviting them to attend events in the precinct and meet members and business owners.

EVALUATING THE BIA MODEL



Image 7 Darby Street, Cooks Hill (Newcastle BIA)

BIAS IN 2019

BIAs operate in a city that has changed significantly since 2011. Public and private investment continues to transform the city's traditional town centres as new businesses and residents are drawn back to parts of Newcastle that were for many years characterised by urban decay. The Hunter Mall (between Perkins and Newcomen Streets) is one example of a precinct that continues to undergo significant transformation, driven in large part by Iris Capital's redevelopment of the former David Jones site.

As Newcastle changes in form and function, so too must the organisations that exist to serve it. The economic development of Newcastle and its suburbs remains a common goal of many organisations, however AECOM was unable to identify clear alignment in terms of BIA operations and those of organisations such as HBC and the HCCDC.

Going forward, it may become difficult to determine the effectiveness of BIAs as other stakeholders implement their own initiatives in BIA trading areas. Currently, BIAs are well-placed in their ability to tailor local interventions to the needs and opportunities of their precincts. Perception of benefit or effectiveness may deteriorate, however, if BIAs and the City do not make changes to future-proof the model in a rapidly transforming city.

An evaluation of the current BIA model has been undertaken and has considered three strategic themes:

- Operations
- Governance
- Financials.

Each of these themes will guide improvements and implementation options later in this report.

To supplement this evaluation, a SWOT analysis was also undertaken to consider strengths, weaknesses, opportunities and threats within current BIA boundaries. It is important to note that boundaries have not been included as a strategic theme.

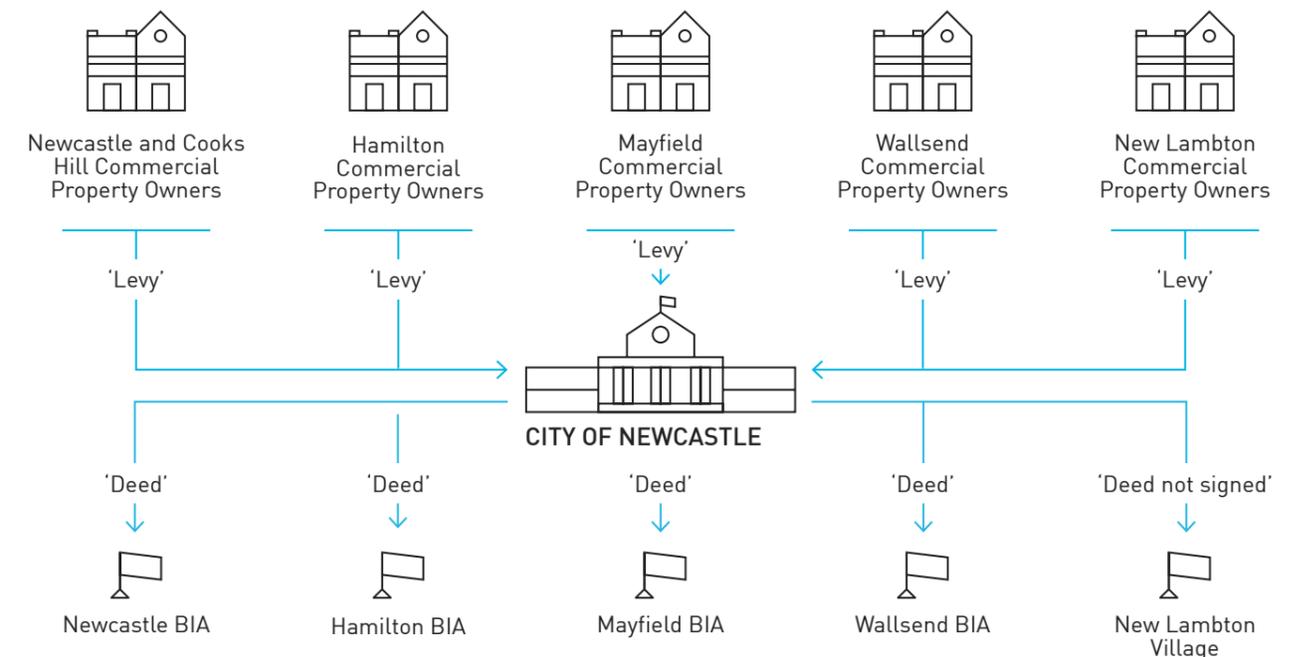


Figure 4 The current BIA model in Newcastle

OPERATIONS

The main strength of the current BIA model is its ability to directly benefit property owners in ways that can be tailored to local opportunities, events or constraints. Property owners who pay the Levy can, in theory, exert much greater control over the promotion and economic development of their precincts than would otherwise be afforded to them if the Levy did not exist.

BIAs and stakeholders spoke to the benefits of this control during the engagement process, citing the following as examples of what BIAs continue to deliver for members and the city:

- Successful street fairs and events (i.e. Beaumont Street Carnivale and Wallsend Winter Fair)
- Networking events and assistance for start-ups
- Street and festive lighting on main streets (i.e. Beaumont Street, Hamilton)
- Increasing foot traffic on main streets
- Co-sponsoring events
- Working with police and security companies to improve safety (i.e. Wallsend)
- Spreading benefit of major events (i.e. Supercars in Gregson Park)
- Advocacy for their members (i.e. campaign to overhaul James Street Plaza in Hamilton)
- Collaborating with local business to achieve precinct-wide objectives
- Branding and placemaking efforts.

In the absence of an overarching structure or common Board, BIAs in Newcastle are functioning as independent organisations with similar objectives, mostly identical partners but with no common resources. Although BIAs do have in place some formal and informal mechanisms for sharing information, staff turnover and inadequate processes have led to a deterioration in the framework that allowed BIAs to collaborate and share information.

The lack of collaboration between BIAs is an inherent weakness in the current model inasmuch as it reduces the ability of BIAs to make a combined contribution to the city's economic development. There is a real need for improved visibility across the operations, events and key messages of BIAs and between BIAs and their partners. The creation of a common events and promotion calendar would be a very practical first step in this direction.

Another challenge raised during the stakeholder workshop was a lack of clarity in terms of the respective roles and responsibilities of BIAs, the City, the HBC and HCCDC. Significant overlap exists in terms of these organisations, their goals and objectives, as well as their vision for the economic development of Newcastle and its traditional town centres. This operational overlap has led to an unnecessary duplication of functions as well as noticeable tensions between some organisations who see their partners as competitors rather than as collaborators. Obvious overlaps exist in terms of promotion, placemaking and the sponsorship of events.

Another consequence of this ambiguity is the 'stretching' of BIAs to sponsor or support events and initiatives outside their boundaries. An example of this stretch is the partial restoration of the Nobby's Lighthouse precinct by Newcastle BIA. Although there is no doubt that this initiative supports the City in some of its promotional efforts, when a BIA sponsors or investments outside its boundaries the relationship between the Levy and those who pay it is compromised. Recommendations are made elsewhere in this report with regards to the role of BIAs in broader citywide promotion.

GOVERNANCE

Throughout the engagement process, stakeholders also voiced a range of concerns about administrative inefficiencies which appear to be present in the current BIA model. The need to 'streamline' the City's compliance requirements (e.g. approvals for regular events) was cited as a common frustration for BIAs. The processes involved in applying for grants and City-funded schemes was also criticised by some stakeholders. Although it appears that some efficiencies could be made by the City, it is also apparent that BIAs do not have adequate resources to meet some of their obligations and requirements. To this end, the idea of BIAs sharing an employee or employees attracted support among most stakeholders. The creation of a shared role could allow BIAs to be consistent in their dealings with the City and would reduce what appears to be a burden on multiple individuals within the model who are, with some exceptions, undertaking very similar roles. It is presumed that this role would be resourced by the BIAs, possibly through a Funding and Service Agreement between the organisations.

Due to changes within the City, some BIA stakeholders have also become confused about who to contact and what is required of them to receive necessary funding and grants. An opportunity exists to re-establish communication flows between the City and its BIAs by creating a 'BIA case manager' at the City.

In their 2013 report 'Good Governance Principles and Guidance for Not-for-Profit Organisations', the Australian Institute of Company Directions (AICD) lists ten principles that they believe promote good governance for organisations such as BIAs¹³. These principles are offered as a 'starting point' for not-for-profit boards when considering what constitutes good governance in an organisation's circumstances. The principles are:

1. Clear roles, responsibilities and expectations
2. A board with an appropriate mix of skills and experience, underpinned by clear terms of appointment and succession planning
3. An organisation with a clear purpose and an ability to measure success
4. An appropriate system of risk oversight and internal controls to ensure delivery
5. A commitment to measuring the organisation's performance using financial and non-financial performance indicators
6. A board that forward plans, meets in an efficient manner and regularly assesses its own performance
7. A commitment to being transparent and accountable to external stakeholders and to safeguarding the integrity of financial statements and other key information
8. A board that has a role in enhancing the capacity and capabilities of the organisation they serve
9. A board that sets the tone for ethical and responsible decision-making through the organisation
10. A board helps the organisation to engage effectively with stakeholders.

SUMMARY OF KEY GOVERNANCE ISSUES

To supplement their ten principles, the AICD report asks a range of questions that enabled AECOM to identify governance issues impacting on the current BIA model. These issues are grouped according to the relevant AICD principle.

Table 5 Summary of key governance issues impacting on BIAs and the City of Newcastle

<p>PRINCIPLE 1: ROLES AND RESPONSIBILITIES</p> <ul style="list-style-type: none"> BIA constitutions do not cover how the BIA chairperson and the board are expected to interface with management. Lack of clear documented delegations of authority from the board(s) to their respective management teams.
<p>PRINCIPLE 2: BOARD COMPOSITION</p> <ul style="list-style-type: none"> Process for board recruitment, including nomination and selection, is not transparent. Some BIA boards may require a greater diversity of relevant experience and perspective.
<p>PRINCIPLE 3: PURPOSE AND STRATEGY</p> <ul style="list-style-type: none"> Vision and purpose of BIAs not clearly articulated (e.g. second goal in BIA constitutions does not make sense). No evidence that vision and purpose of BIAs has been communicated among stakeholders (e.g. HCCDC, HBC and the City). No evidence that board(s) have reviewed the purpose of their BIA and put in place strategies to ensure their continuing relevance and effectiveness. Lack of alignment between strategic plan(s) and goals and objectives stated in constitution.
<p>PRINCIPLE 4: RISK</p> <ul style="list-style-type: none"> No evidence of policies and procedures in place to enable effective oversight and management of risks, including but not limited to identification of principal risks (e.g. ongoing funding) and effective management of those risks. No evidence to suggest the BIA board(s) conduct comprehensive risk governance reviews (including an assessment of effectiveness).
<p>PRINCIPLE 5: ORGANISATION PERFORMANCE</p> <ul style="list-style-type: none"> No evidence of a clear and agreed view among board members and key stakeholders as to what success looks like for a BIA. No records found that demonstrate inputs (e.g. volunteer hours) and BIA outputs (e.g. number of placemaking initiatives since 2011). No evidence of financial objectives set by the board(s).

PRINCIPLE 6: BOARD EFFECTIVENESS

- No evidence the board(s) have a calendar and work plan covering important and recurring governance matters.
- No evidence that the board(s) evaluate and review the performance of its board members, the board itself and the organisation's key management personnel.
- No evidence that the board(s) assess their performance and overall quality of governance.
- No evidence that the board(s) have a process for reviewing skills, knowledge and experience of existing directors to determine any gaps.
- Consistent with the BIA constitution and structure, governance may be improved by the use of board nomination, audit, remuneration, risk and fundraising sub-committees.

PRINCIPLE 7: INTEGRITY AND ACCOUNTABILITY

- Board(s) do not have key metrics (such as Key Performance Indicators), or a "dashboard" against which to measure the performance of their BIA.
- Board(s) may not be provided with sufficient information to assess the financial and non-financial position and performance of their BIA.
- No evidence that the board(s) are provided with relevant, timely and accessible updates and intelligence in a style and format that enables ready understanding and appropriate analysis.
- Board(s) require management to update directors on the status on risk issues and the organisation's regulatory compliance and reporting obligations.

PRINCIPLE 8: ORGANISATION BUILDING

- No evidence that board(s) have an appropriate succession planning process in place.
- No evidence that BIAs have a clear and current policy on volunteers.
- No evidence that volunteer practices and procedures have been prepared by BIA management teams and endorsed by their respective board(s).
- BIAs may lack the necessary financial resources to support vital skill development and retain people with the right skills.

PRINCIPLE 9: CULTURE AND ETHICS

- BIA chair(s) may not have the confidence of key stakeholders.
- No evidence that BIAs have formal codes of conduct and ethical standards.
- Board(s) limited in their ability to hold management accountable for compliance.

PRINCIPLE 10: ENGAGEMENT

- Some BIAs may not have identified key stakeholders and current relationships.
- No evidence that the board(s) have considered and articulated approaches to stakeholder engagement.
- No evidence of policies or practices for BIAs to effectively engage with members and stakeholders.
- No evidence of policies or practices for BIAs to transparently communicate with members and stakeholders.
- No evidence that the board(s) undertake periodic assessments as to how BIAs engage with key stakeholders.

FINANCIAL

The City's 2018/19 Operational Plan refers to six 'special rates' proposed to be levied for the 2018/19 rating cycle. These rates include the New Lambton Village Levy as well as a "Hunter Mall" special rate, levied on property owners in the Hunter Street Mall for the purpose of "defraying the cost of continuing additional horticultural and cleaning services and street furnishings". This rate is in addition to the "City Centre - Mall" rate which is collected by the City and passed to the Newcastle BIA.

Specific details of the City's rating structure for the 16 precincts within BIA boundaries are shown below:

Table 6 Special rates according to BIA precinct (Source: CN Operational Plan 2018/19)

SPECIAL RATES (BIA)	AD VALOREM AMOUNT CENTS IN \$	ESTIMATED GROSS RATE YIELD 2018/19 (EXCLUDES GST)
	C	\$
Mayfield Business District (Mayfield BIA)	0.102566	74,748
Hamilton Business District - Zone A	0.194877	86,002
Hamilton Business District - Zone B	0.097439	32,959
Hamilton Business District - Zone C	0.048719	14,180
Wallsend Business District - Zone A	0.384393	103,868
Wallsend Business District - Zone B	0.192197	14,128
Wallsend Business District - Zone C	0.288295	24,707
New Lambton Business District	0.117168	14,623
City Centre - City East	0.284731	184,710
City Centre - Darby Street	0.06388	31,958
City Centre - City West (Close Zone)	0.117651c	226,737
City Centre - City West (Distant Zone)	0.058826	18,743
City Centre - Tower	0.284731	176,500
City Centre - Mall	0.284731	123,745
City Centre - Civic (Close Zone)	0.159224	89,480
City Centre - Civic (Distant Zone)	0.079612	6,482
Total Special Rates (BIA)		\$1,223,570.00
Total Special Rates (BIA) - Including GST		\$1,345,927.00

Since 2011, property owners within BIA boundaries have contributed \$10,052,087 to BIAs in Newcastle. This does not include any additional payments that may have been made by the City to BIAs since 2011. AECOM was provided with a figure of \$7,298,936 for Newcastle BIA, which did not include \$166,345 for "Darby Street".

SUMMARY OF KEY FINANCIAL ISSUES

- Incomplete information received by AECOM from the City
- Poor financial disclosure relating to BIAs
- Lack of publicly-available information relating to expenditure of funds since 2011
- No complete list of outputs, overheads or projects undertaken by BIAs since 2011
- No information to explain difference in rates, especially within the city centre
- Confusion regarding membership structures
- Confusion regarding BIA boundaries and boundaries of the 16 'Levy precincts'
- No Deed signed between City and New Lambton Village Incorporated
- No explanation as to why New Lambton Village Incorporated did not sign a Deed
- New Lambton Village Levy does not appear to be in line with their goals and objectives.
- AECOM was unable to determine why "Darby Street" funding was separated in this way and has chosen to combine these amounts in the table below.

Table 7 Total payments to BIAs since 2011 (Source: City of Newcastle)

BIA	TOTAL PAYMENTS TO BIA SINCE 2011 (INCLUDING 2018/19)
	\$
Newcastle BIA	7,465,281
Hamilton BIA	1,025,028
Mayfield BIA	473,486
Wallsend BIA	1,001,011
New Lambton Village	87,281
Total payments to BIAs since 2011 (including 2019/19) - GST Inclusive	10,052,087

CITY CENTRE SPECIAL BENEFIT AREA



KEY

- Railway
- Main road
- Local road
- Cadastre
- Waterbody
- Parks, Forests and Reserves
- City Centre Special Benefit Area

Figure 5 Boundaries of Newcastle BIA

BOUNDARY SWOT ANALYSIS

NEWCASTLE BUSINESS IMPROVEMENT ASSOCIATION (NEWCASTLE NOW)

Strengths: Concentrated focus on the city's traditional main streets (Hunter and Darby Streets); inclusion of the city's emerging CBD (Newcastle West); tailored to complementary business environments (urban main streets and lanes); inclusion of major urban renewal sites including Iris Capital's EastEnd and Stewart Avenue.

Weaknesses: Poor alignment with major event sites and visitor economy (Supercars track, Foreshore Park, Civic Park, Wickham Park, Newcastle Beach); poor alignment with Newcastle Light Rail route and stations (Newcastle Beach terminus); boundaries do not support Revitalising Newcastle objective 'Connect the city to its waterfront' and only partially support Revitalising Newcastle objective 'Create great places linked to new transport'; boundaries do not include existing and future linchpin destinations such as Market Street Lawn, The Station, Bathers Way, Newcastle Art Gallery and Honeysuckle; boundaries do not include major employment precinct near Lee Wharf (Hunter Water, NIB, HD, Sparke Helmore and commercial radio stations).

Opportunities: Expand boundaries to include existing and future waterfront businesses; expand boundaries to include future urban renewal projects in Wickham and along Tudor Street; expand boundaries or coordinate activities with future BIA in The Junction; grow membership base within Newcastle West.

Threats: Formation of new BIAs in areas where Newcastle Now may wish to expand; expansion of neighbouring BIA boundaries to include future urban renewal opportunities; uncoordinated growth of clusters around light rail stops; deterioration of service and benefit delivery due to restrictive boundaries; decreasing involvement in major events due to restrictive boundaries; restricted activities that entrench divisions between neighbouring precincts; uncoordinated economic development; boundaries that prevent Newcastle Now working towards key strategies and actions in Greater Newcastle Metropolitan Plan.

Key assets going forward:

- Revitalisation of the city centre
- Regional entertainment and cultural facilities
- Urban renewal outcomes (including Hunter Street Mall)
- Dining precincts and a night-time economy
- Regional and national events (i.e. Supercars)
- Renewal of West End
- Newcastle Light Rail.

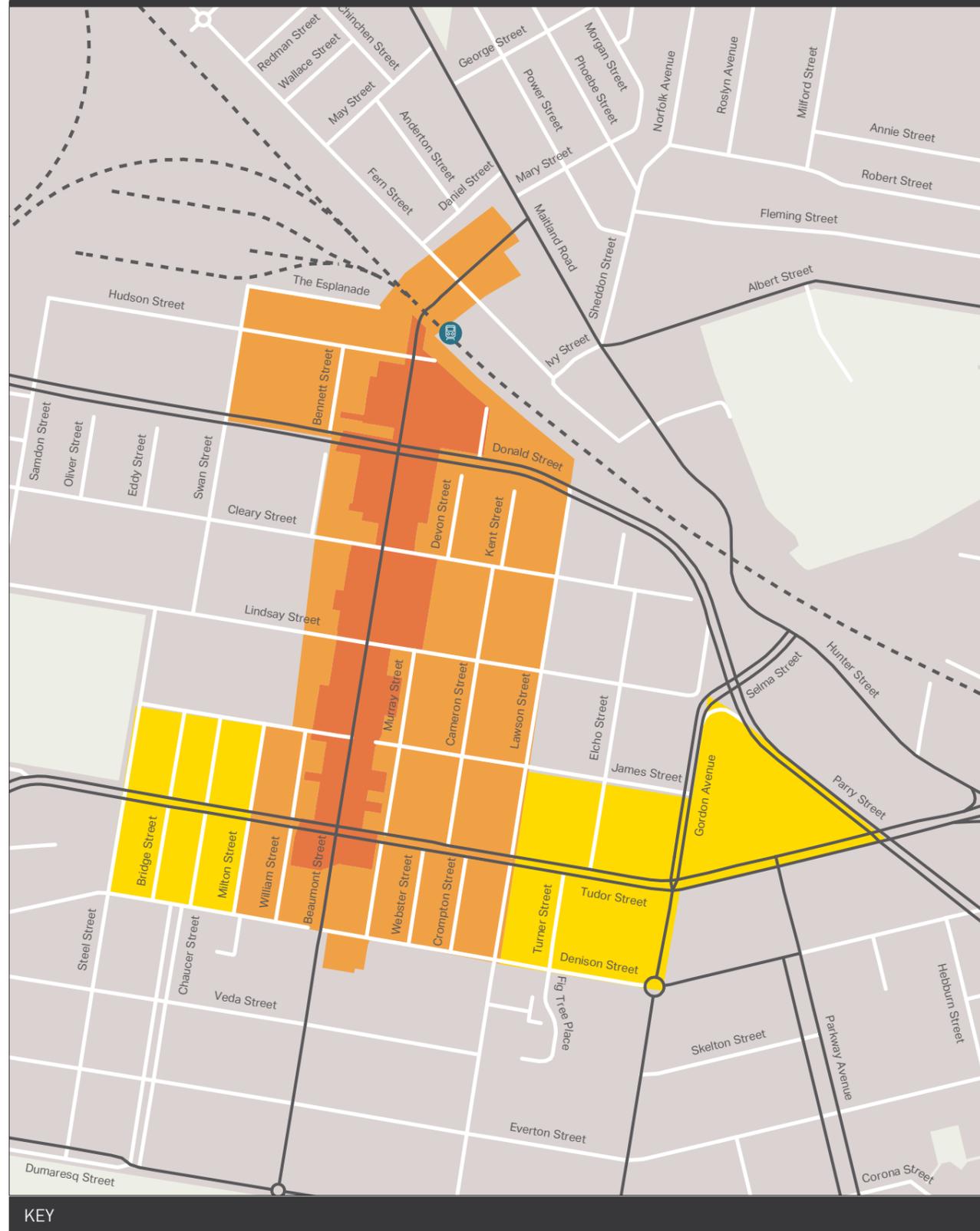
Key points of difference to other BIAs:

- Large employers and weekday workforce
- Urban form and building typology
- 'Metro Heart' (Greater Newcastle Metro Plan)
- Visitor economy anchors
- Proximity to proposed cruise terminal
- Potential for more regional and national events
- Newcastle Light Rail and 'tram stop' nodes.

Image 8 Darby Street, Cooks Hill (Newcastle BIA)



HAMILTON SPECIAL BENEFIT AREA



KEY

- Railway Stations
- Railway
- Main road
- Local road
- Parks, Forests and Reserves
- Hamilton A Special Benefit
- Hamilton B Special Benefit Area
- Hamilton C Special Benefit Area

Note: Special Benefit Areas exclude residential properties.

Figure 6 Boundaries of Hamilton BIA

BOUNDARY SWOT ANALYSIS

HAMILTON CHAMBER OF COMMERCE

Strengths: Concentrated focus on Beaumont Street; inclusion of both gateways to Beaumont Street (Maitland Road and Tudor Street); inclusion of major public transport nodes and car parks; inclusion of urban renewal sites on Tudor Street; inclusion of accommodation options to support Hamilton’s visitor economy; walkable and compact boundaries; proximity to excellent public domain (Wickham and Gregson Parks).

Weaknesses: Limited ability to capture urban renewal and infill opportunities on Tudor Street; limited ability to develop Islington town centre (does not include Maitland Road); limited ability to grow membership base; limited ability to work with adjacent BIAs; ‘tiered’ membership structure may cause some confusion; poor alignment with strategic plans for Tudor Street and Maitland Road.

Opportunities: Expand boundaries to capture urban renewal and infill opportunities on Tudor Street; expand boundaries to capture Islington town centre; expand boundaries to capture growth around Nine Ways, Broadmeadow; expand boundaries to improve interfaces with Newcastle BIA and Mayfield BIA; strengthen ‘urban core’ around Beaumont Street ‘backbone’; strengthen identification of clusters (James Street Plaza, Islington), encourage transit-oriented development around transport nodes such as Hamilton Railway Station; continue to hold events that enliven the precinct and strengthen the identity of Beaumont Street and Hamilton.

Threats: Expansion of neighbouring BIAs or creation of new BIAs that capture growth areas; loss of bus services via Beaumont Street; deterioration of business mix on Beaumont Street and loss of competitive advantage; renewal and regeneration in other parts of the city; renewal of Tudor Street and Maitland Road corridors outside boundaries.

Key assets going forward:

- Proximity to Broadmeadow Sporting Precinct
- Strong brand and identity as a multicultural ‘eat street’
- Very active BIA delivering a range of interventions and events
- Proximity to residential areas within the City
- Proximity to public transport and sporting precinct at Broadmeadow;
- Potential light rail extension via Tudor Street, Donald Street or Griffiths Road
- Low vacancy rates and opportunity to ‘curate’ Beaumont and Tudor Streets.

Key points of difference to other BIAs:

- Active main street environment
- Dining precinct and night-time economy
- Major events such as Beaumont Street Carnivale
- Unique and complementary business mix.

Image 9 Beaumont Street, Hamilton (Hamilton BIA)



MAYFIELD SPECIAL BENEFIT AREA

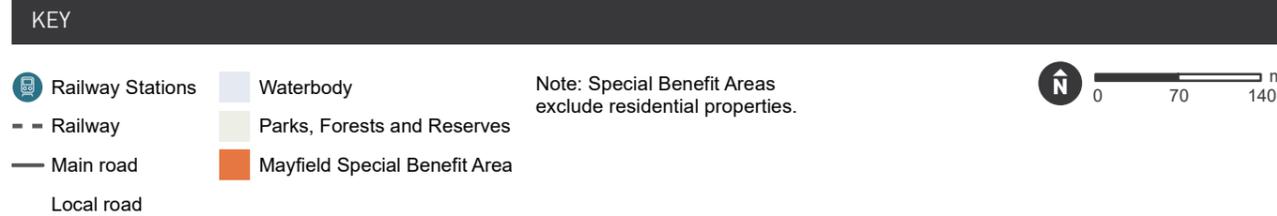
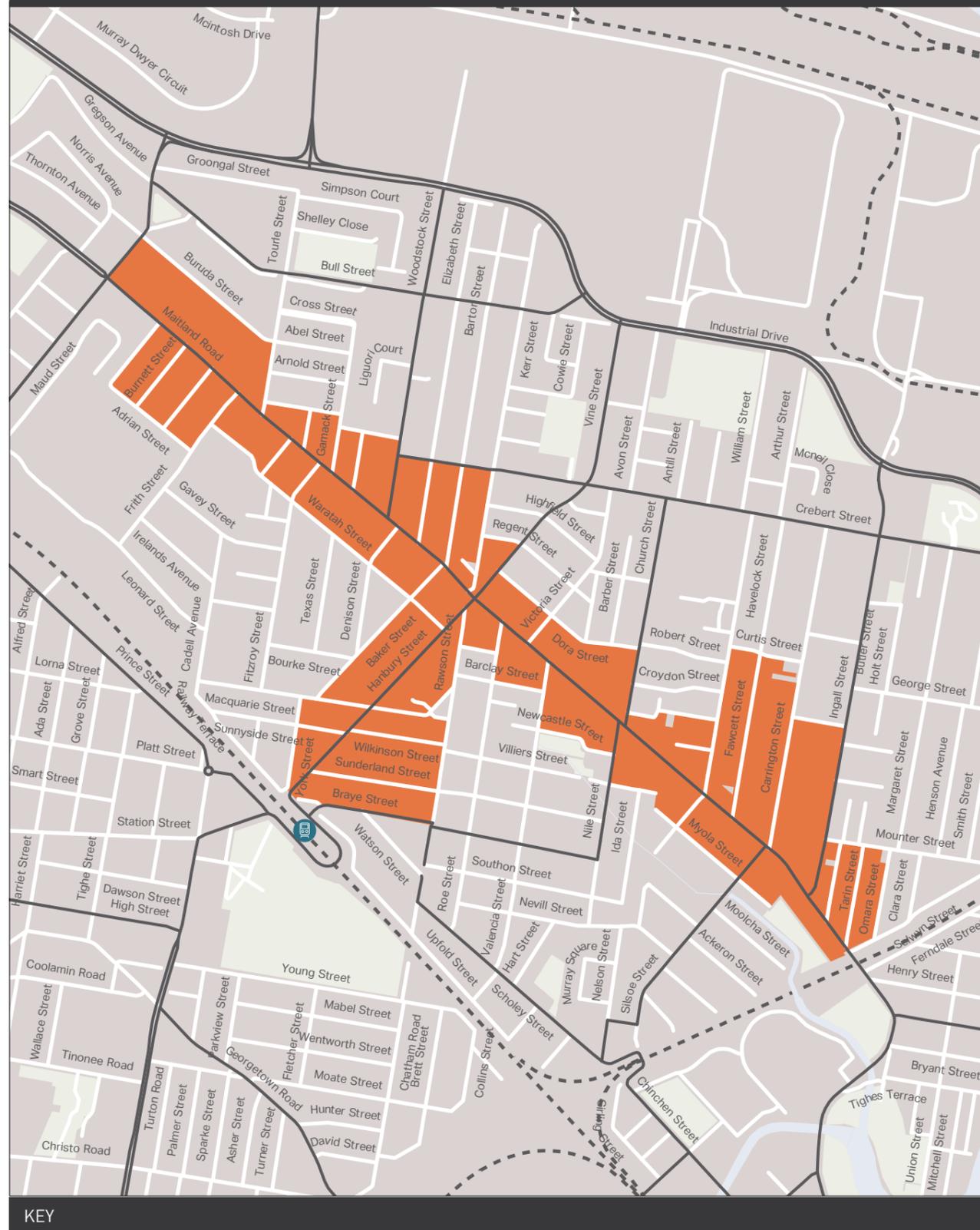


Figure 7 Boundaries of Mayfield BIA

BOUNDARY SWOT ANALYSIS

MAYFIELD BUSINESS ASSOCIATION

Strengths: Concentrated focus on Maitland Road commercial corridor; inclusion of commercial clusters on Hanbury and Park Streets; inclusion of major shopping centre; inclusion of properties near all transport nodes (including Waratah railway station); inclusion of future urban renewal opportunity sites.

Weaknesses: Fragmented commercial areas; changing business mix that lacks definition; boundaries are not compact or walkable; arterial road as 'backbone' (congestion and poorer amenity than neighbouring main streets); deteriorating building stock along Maitland Road core.

Opportunities: Expand boundaries to include Warabrook, Waratah town centre and Islington; capture urban infill and renewal along Maitland Road; strengthen 'town centre' precinct from Hanbury Street to Church Street; strategically attract new businesses and developers to 'fill out' boundaries; develop strong and distinguishable clusters around Waratah railway station, Hanbury Street at Maitland Road, and along Maitland Road near the railway line; potential expansion of light rail along Maitland Road.

Threats: Further deterioration of business mix on Maitland Road; increase in negligent property owners not maintaining properties; more diverse and attractive offering in neighbouring precincts; increase in traffic and congestion of Maitland Road; property owners unaligned in vision for the neighbourhood; potential expansion of light rail via Tudor Street instead of Maitland Road.

Key assets going forward:

- Urban renewal and infill sites on Maitland Road
- Continued uplift in neighbourhood's desirability
- Shopfront exposure to main arterial road
- Heritage building stock and traditional urban form.

Key points of difference to other BIAs:

- Undefined business mix and offering
- Proximity to main roads and 'metro core' residential area
- No active BIA
- Fragmented commercial nodes.

Image 10 Maitland Road, Mayfield (Mayfield BIA)



WALLSEND SPECIAL BENEFIT AREA

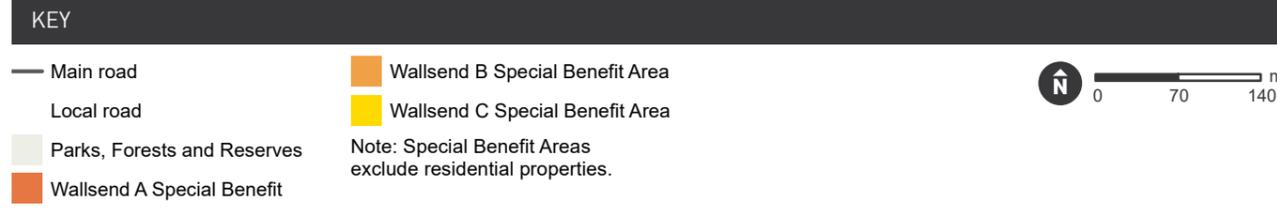
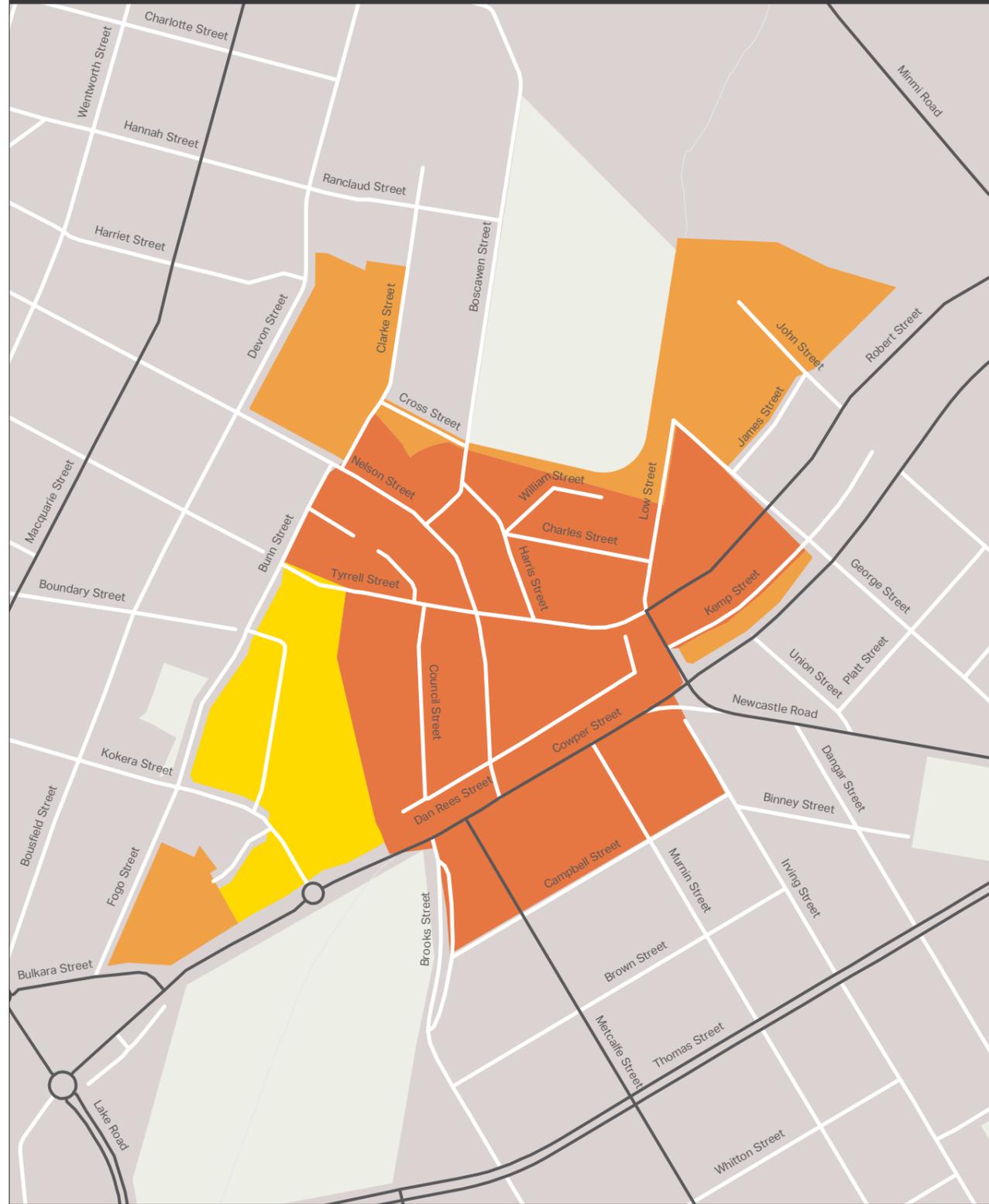


Figure 8 Boundaries of Wallsend BIA

BOUNDARY SWOT ANALYSIS

WALLSEND TOWN BUSINESS ASSOCIATION

Strengths: Concentrated focus on Wallsend town centre; inclusion of major shopping centre; manageable boundaries for placemaking efforts; manageable boundaries for coordinating events; manageable boundaries for engaging with individual businesses and property owners.

Weaknesses: Boundaries do not include growth areas such as Fletcher; backbone of boundaries (Nelson Street) characterised by poor retail mix and some vacant shopfronts; flood-prone boundaries and associated challenges.

Opportunities: Expand boundaries to include other town centres such as Fletcher, Maryland and Jesmond; drive renewal and activation within Wallsend town centre.

Threats: Growth of commercial centres in Fletcher, Maryland and Jesmond; continued decline of retail mix on Nelson Street; continued risk of flooding and further loss of retailers; continued decline of public domain and deteriorating perceptions of amenity.

Key assets going forward:

- Heritage building stock and traditional urban form
- Walkable neighbourhood
- Gateway to the City
- Proximity to motorway
- Opportunity to develop night-time economy
- Distance from other town centre environments.

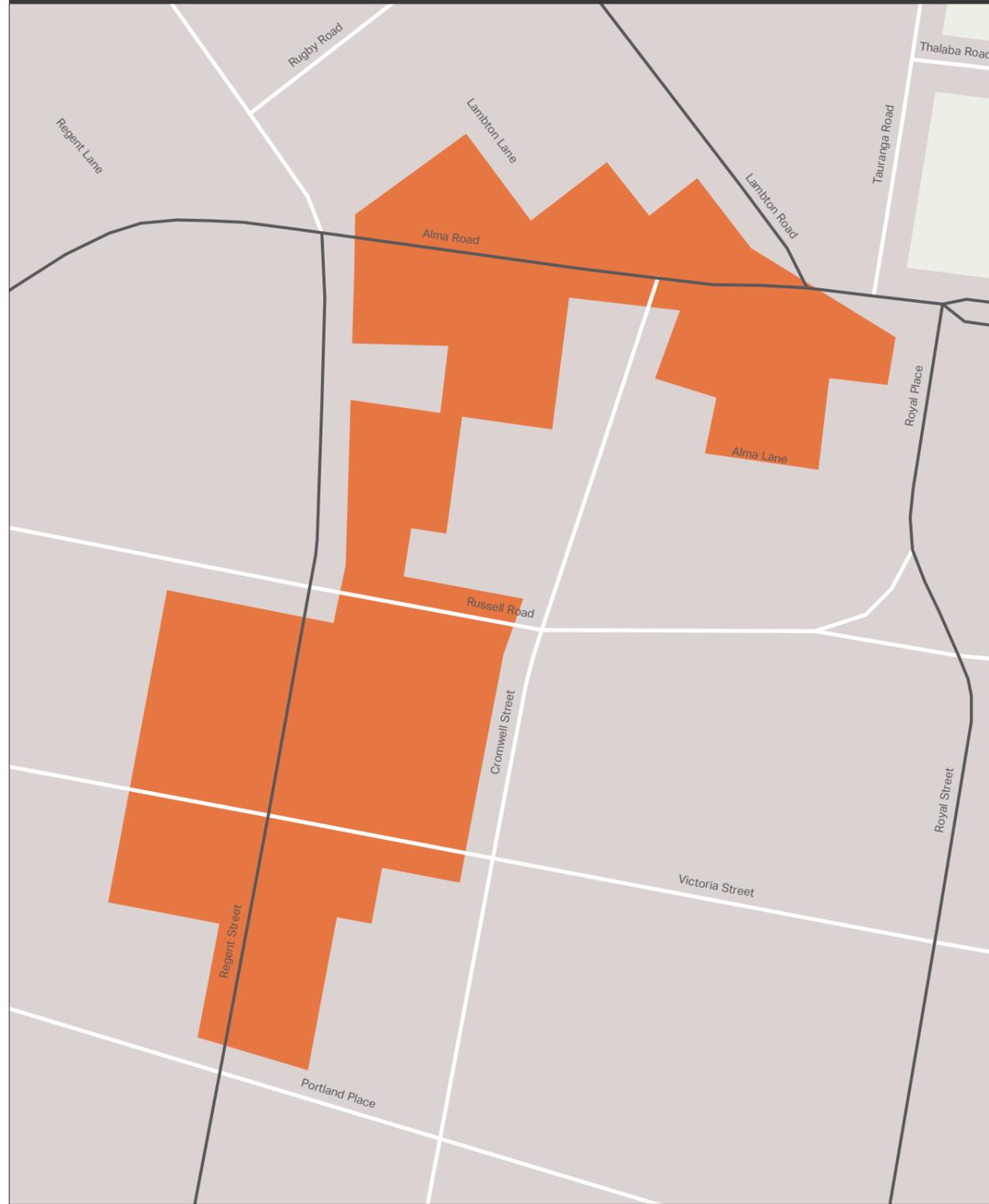
Key points of difference to other BIAs:

- Historic town centre
- Wide potential catchment area (including Fletcher)
- Opportunity for grassroots urban renewal
- Active BIA focused on improving business mix
- Major annual event (Winter Fair).

Image 11 Nelson Street, Wallsend (Wallsend BIA)



NEW LAMBTON SPECIAL BENEFIT AREA



KEY

- Main road
- Local road
- Parks, Forests and Reserves
- New Lambton Special Benefit Area

Note: Special Benefit Areas exclude residential properties.

0 70 140 m

Figure 9 Boundaries of New Lambton Village Incorporated

BOUNDARY SWOT ANALYSIS

NEW LAMBTON VILLAGE

Strengths: Concentrated focus on Regent Street and Alma Road; walkable neighbourhood close to residential properties.

Weaknesses: Small levy on commercial property owners; small boundaries with limited potential for membership growth; does not include Wests New Lambton or John Hunter Hospital precinct; poor alignment with 'Greater Newcastle Metro Plan'.

Opportunities: Expand boundaries to include Wests New Lambton, Lambton town centre (Morehead and Elder Streets) and/or John Hunter Hospital precinct.

Threats: Funding agreement with the City unclear; creation or expansion of BIAs to include adjacent growth areas.

Key assets going forward:

- Vibrant, community-oriented town centre
- Low vacancy rates
- 'Everyday' business mix.

Key points of difference to other BIAs:

- 'Village' atmosphere
- Immediate proximity to residential properties
- Proximity to emerging health and innovation cluster
- 'Everyday' business mix that encourages regular visitation.

Image 12 Regent Street, New Lambton (New Lambton Village)



GUIDING PRINCIPLES FOR IMPROVEMENT



Image 13 James Street Plaza (Hamilton BIA)

The British Business Improvement District's (BID) 'National Guiding Principles' report is a voluntary code of conduct that all BIDs are encouraged to regard as the minimum standard of development and operational practice in the United Kingdom.

In terms of governance, British BIDs states that:

"A Business Improvement District (BID) is designed as a locally focused and business-led partnership and should ensure appropriate and representative governance arrangements so that it is open and transparent. It should operate as a separate legal entity with not-for-profit status. The businesses represented through the Board have the responsibility to manage the BID's resources to ensure professional and effective delivery¹⁴."

To this end, the 'National Guiding Principles' report provides seven principles for ensuring democratic and effective BID governance. These principles are:

1. The Board of a BID (or BIA) should be **representative of those who pay** the special rate. There should be a clear process in terms of how Board Directors are selected and a mechanism by which they are rotated. Consideration needs to be given to ensure diversity in terms of industries, precincts, gender and skill set.
2. The Board should be **supported by working groups** who maintain an open dialogue with stakeholders.
3. A clear **Terms of Reference** should set out responsibilities, decision-making processes and relationships with key stakeholders.
4. The Board should have a process for managing and recording any **conflict of interest**.
5. An **Operating Agreement** should exist between the BID (or BIA) and the local authority (the City) in relation to levy collection and overall BID (or BIA) management and delivery.
6. A **Baseline Agreement** must be in place for the duration of the BID (or BIA) term. This Agreement should set out the baseline services to be delivered by the local authority (the City) and any other relevant statutory authority which correlate with those that the BID (or BIA) intends to add value to within the specific BID (or BIA) area.
7. The BID (or BIA) Company should **review its Articles** each year to ensure they are still fit for purpose. Changes should be made where necessary,

As previously stated, this report has been informed by extensive engagement with existing BIAs in Newcastle as well as BIA stakeholders. This process identified a range of common priorities and concerns which have allowed us to tailor our approach to recommended improvements. Some of the key issues that have guided our approach to this report include:

- Delivery of benefit to members
- Improving communication with the City
- Ensuring fiscal sustainability
- Determining and prioritising core business
- Evolving in a changing city
- Ensuring strict compliance with the purpose for which the special rate is levied

ALTERNATE DELIVERY MODELS

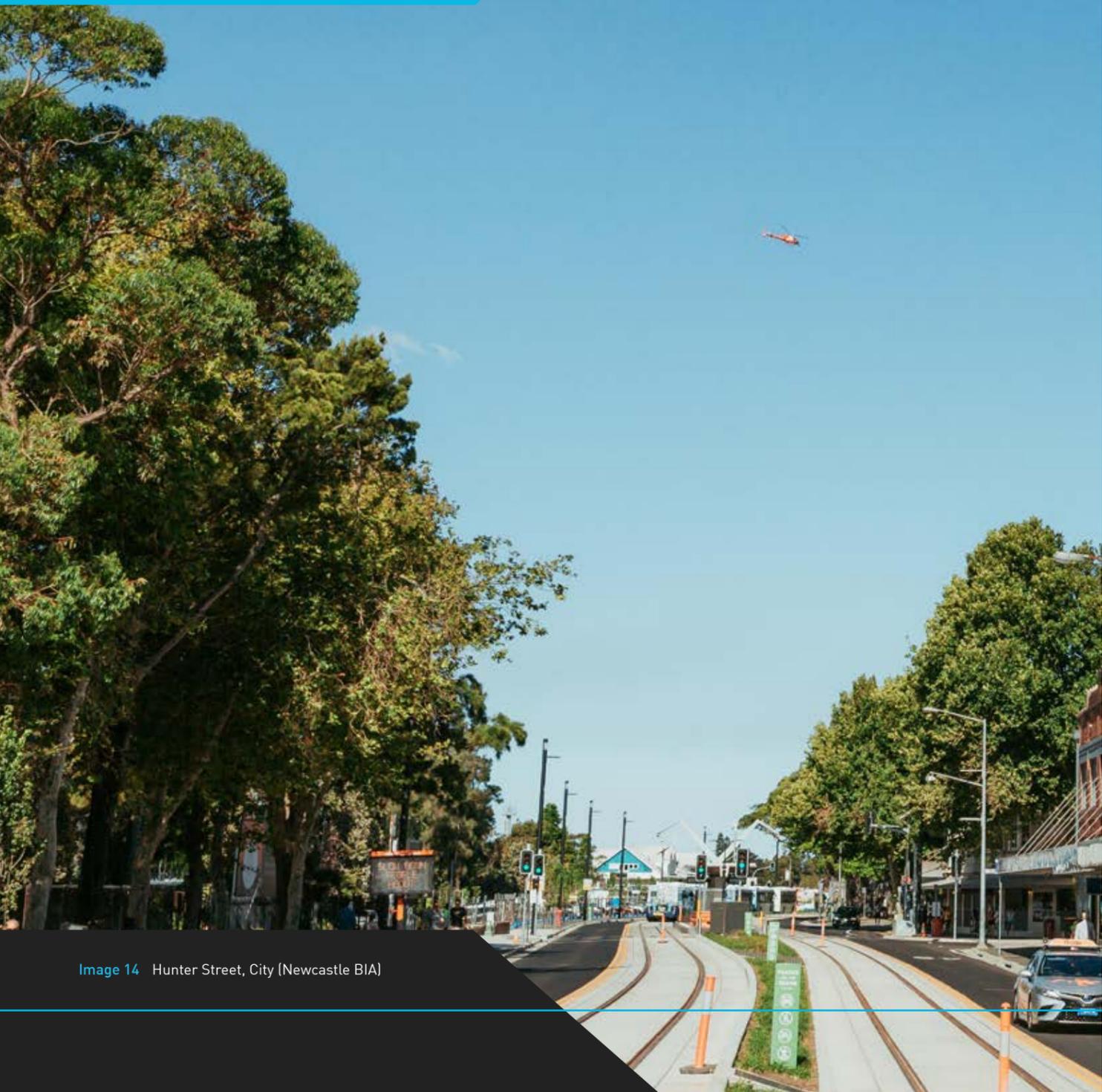


Image 14 Hunter Street, City (Newcastle BIA)

The role of the Newcastle BIAs in supporting and promoting business districts could be delivered in a number of ways, with differences ranging from service offering to geographic coverage to governance structure.

Figure 10 below displays some variations of organisational structures which in some part would focus on improving commercial precincts.

Out of the below organisational structures, although the others still provide benefits to the local community it is advisable to remain with the business improvement district (BID) model. This is primarily due to the special rate levy already being in place, which would otherwise would potentially not be collected in other structures.

Outside of the above organisational structures, there is also the potential to operate these as centralised or non-centralised associations which can be government or non-government managed.

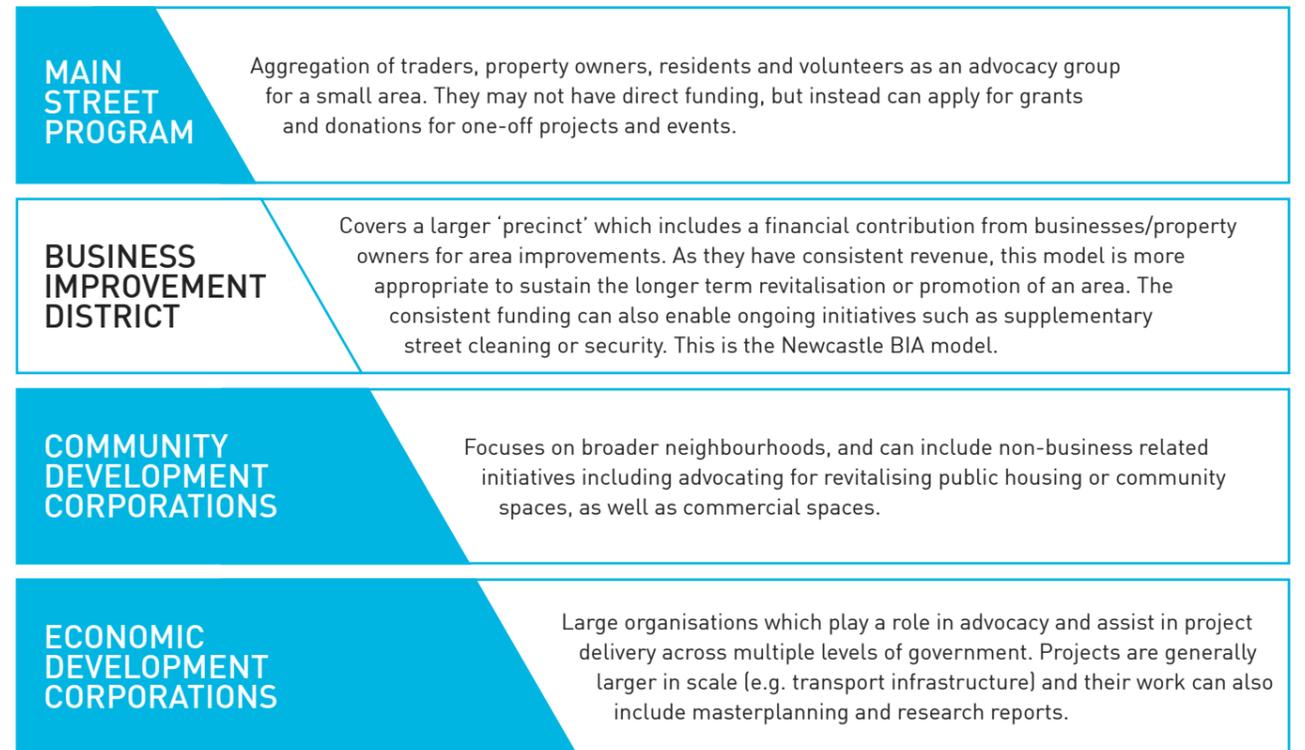


Figure 10 Organisational structures for economic development in a commercial precinct

CENTRALISED SERVICE PROVISION MODELS

A centralised service provision model is one which delivers a BIA service at a more intermediate level than is currently the case in Newcastle. Rather than being run as individual business precincts, a BIA which is centralised would provide service to all business precincts in its catchment area.

An example of this is the G21 – Geelong Region Alliance, which is a formal alliance of government, business and community organisation to support the delivery of projects across five municipalities. These projects are split in to eight ‘pillars’: Arts & Culture, Economic Development, Education & Training, Environment, Health & Wellbeing, Planning & Service, Sport & Recreation and Transport.

In Newcastle, a closer comparison to the G21 model would be the Hunter Business Chamber. The HBC is a regional business chamber rather than a BID model, however this comparison demonstrates the major strength of centralised service provision inasmuch as its remit affords regional improvements. The HDC is an economic development corporation rather than a BID model, however this demonstrates how the major strength of centralised service provision is to expand the remit from individual precinct improvements to wider regional improvements.

STRENGTHS OF CENTRALISED MODEL	CHALLENGES WITH CENTRALISED MODEL
<ul style="list-style-type: none"> No duplication of overhead costs and effort between organisations Can be a larger organisation to provide a wider range of services (e.g. research) Can be better strategically aligned across the region 	<ul style="list-style-type: none"> Could favour particular precincts or reduce competition between precincts for funding May lack local knowledge and context at the ‘street’ level May apply a ‘one size fits all’ approach to precincts with varying needs

HOW THIS COULD WORK FOR NEWCASTLE BIAs?

If this were to be applied to the Newcastle BIAs, it would require the creation of an overarching central organisation for the four BIAs. This may work best if there are some ‘satellite’ teams within this organisation to maintain the existing relationships and local knowledge of the commercial precincts, however could be difficult to implement regarding how the levy is collected and required to be distributed.

NON-CENTRALISED SERVICE PROVISION MODELS

This is a model where BIAs within a municipality operate independently of each other, focussing on their own individual precincts.

The New York City (NYC) Business Improvement Districts (BIDs) is an example of a non-centralised service provision model. This model suits NYC in that the BIDs vary greatly in size, with annual budgets of the 74 associations varying from \$53k USD to over \$11M USD. The disparity in operations between these BIDs would be so large that many of the efficiencies gained through a centralised model would not apply equally, and therefore would be better off being run independently.

STRENGTHS OF NON-CENTRALISED MODEL	CHALLENGES WITH NON-CENTRALISED MODEL
<ul style="list-style-type: none"> Can suit their operations and focus to the local context Creates competition between BIAs for grant funding More likely to have a vested interest in the local community 	<ul style="list-style-type: none"> May create inefficiencies through not sharing resources May not have resources to provide more varied services Potential for best-practices to not be followed

HOW THIS COULD WORK FOR NEWCASTLE BIAs?

This is the current service provision model of the Newcastle BIAs, where each of the organisations have their own board of directors and constitutions. This also leads to the challenges where individual resources are needed for each organisation, creating potentially unnecessary overheads and reducing the overall ability to provide services to the community.

GOVERNMENT PROVIDERS

At a precinct scale, municipalities can also take responsibility in improving commercial districts. An example of this is the ‘Rediscover Victoria Street’ program from Yarra City Council (YCC) in Victoria, where funding (from local and state levels) is used to improve this busy shopping precinct.

Programs such as these are not consistently applied throughout the LGA, but in this case as a ‘special action’ project to address the particular challenges around crime and perceptions of safety that Victoria Street is facing.

In this program, YCC has produced an urban design masterplan which informs a number of other amenity improvement projects such as a shopfront improvement project, which provides grants and funding for shop owners to refurbish their shop fronts. Another important program that is being implemented by the state government (after advocacy from YCC) is the introduction of a medically supervised injecting centre (MSIC) along with syringe management services and additional CCTV on the street. This shows how a Government provider can directly provide improvements (e.g. shop fronts) and also play an advocacy role when the service is out of their remit (e.g. MSIC).

STRENGTHS OF GOVERNMENT PROVIDER MODEL	CHALLENGES WITH GOVERNMENT PROVIDER MODEL
<ul style="list-style-type: none"> Greater visibility of ongoing plans within government, making strategic alignment easier Potentially streamlined funding for projects Projects generally have significant amounts of public consultation 	<ul style="list-style-type: none"> Projects may be constrained by government requirements May create confusion with overlapping government projects in how funds are used Less independence over how the BIAs are operated

HOW THIS COULD WORK FOR NEWCASTLE BIAs?

If the BIAs were to become directly government managed, this would require the City to create a structure where they could exist. This initially may create some difficulties around how the BIA levy funds are separated from other (potentially overlapping) City programs, and increase the administrative burden for council.

NON-GOVERNMENT PROVIDERS

The majority of BIDs around the world are run as separate entities to government, although many of these are not completely independent due to the need for public accountability owing to the type of initiatives they undertake which may affect the community.

An example of BIDs which seem to be more separate from government than others are those in the United States. Like many BIDs they are still privately directed but publicly sanctioned, however the local context of low state and local taxes (and resultant lower level of public services provided compared to higher taxed cities) means the BIDs have greater control and responsibility in these areas.

STRENGTHS OF NON-GOVERNMENT PROVIDER MODEL	CHALLENGES WITH NON-GOVERNMENT PROVIDER MODEL
<ul style="list-style-type: none"> Greater visibility of ongoing plans within government, making strategic alignment easier Potentially streamlined funding for projects Projects generally have significant amounts of public consultation 	<ul style="list-style-type: none"> Projects may be constrained by government requirements May lack local knowledge and context at the ‘street’ level Less independence over how the BIAs are operated

HOW THIS COULD WORK FOR NEWCASTLE BIAs?

This is the current provider model of the Newcastle BIAs, which are independent of government although are still beholden to the City in needing to provide business plans, etc. to receive their levy funding.

PATHWAY TO IMPROVED DELIVERY



Image 15 Stag & Hunter Hotel (Mayfield BIA)

The alternate delivery models discussed in this report have informed potential pathways to improved delivery of Levy benefit(s), and by extension the BIA model. These four implementation options are intended to provide the City with a spectrum of solutions to addressing stakeholders concerns as well as structural weaknesses in the current BIA model that have lead to significant governance issues, and an excessive percentage of ratepayer's funds in administration costs.

Themes have been developed to address the challenges and opportunities previously identified in this report. These themes are:

- Operations: refers to the goals and objectives of a BIA as well as the delivery of Levy benefit(s)
- Governance: refers to structures and agreements that govern BIA operations
- Financial: refers to BIA resourcing as well as the financial obligations attached to their operations.

These themes are matched in the following table with 9 high level principles that the City and BIAs could agree to as the foundations of an improved BIA model in Newcastle.

Table 8 Themes and principles to guide improvement

STRATEGIC THEME	PRINCIPLE TO GUIDE IMPROVEMENT
Operations	BIAs operating in a collaborative framework where they are best able to service members.
	Clarity in terms of boundaries, roles and responsibilities.
	BIA benefit delivery aligned with strategic plans.
Governance	Transparency and accountability, in line with 'best practice' guidelines.
	BIA members and board members empowered to make informed decisions.
	BIAs communicating regularly with each other, the City and other stakeholders.
Financial	Regular financial disclosure and detailed record keeping.
	Reliable and trusted indicators to measure success of activities.
	Funding certainty to ensure consistency of operations.

Four implementation options are presented as the pathways to improved delivery of Levy benefit(s). These pathways are:

IMPLEMENTATION OPTION 1: Change BIA model to a centralised service provision model where a central body manages all BIA members across Newcastle.

A centralised service provision model would collapse existing BIAs into an overarching organisation that would service existing and future members. This organisation could be a new entity, which in its independence and geographical coverage would be more akin to an economic development company like Lake Macquarie's Dantia or alternatively the Hunter Business Chamber. This model would work best with 'satellite' teams within the organisation to maintain existing relationships within current BIA boundaries and to capture local knowledge.

The strengths of this model include less duplication of roles and an economic saving in terms of overhead costs. Being a larger organisation, this 'centralised model' would also be positioned to provide a wider range of services, such as research, and could better support the City in delivering initiatives that benefit the wider LGA. Better alignment with the region's strategic plans would also be possible.

Supporting actions for this option are entirely structural. This approach would involve the creation of a new organisation that would require a new Deed and constitution. It is also highly likely that a centralised service provision model would require new boundaries.

To some extent, this approach severs the link between property owners and the Levy benefit(s). The new, centralised organisation would be limited in its local responsiveness and it is highly likely that, in time, its role and responsibilities would evolve in ways that may duplicate existing responsibilities of the City.

Evolving the BIA model to perform whole-of-LGA functions is the main tenet of this option.

IMPLEMENTATION OPTION 2: Implement a 'government provider' model to business improvement

As stated previously, municipalities often take the lead in terms of developing and promoting their commercial districts. Under this approach, a team or teams within the City would perform the functions of a BIA by initiating tailored 'special action' programs that would ensure Levy funds continue to be spent where the City has collected them. This approach would better align the delivery of Levy benefit(s) with capital works programs and other City initiatives which have similar desired outcomes. An example of this would be delivering Levy benefit(s) in Wallsend that also contribute to the City's Wallsend Local Centre Plan.

The consequences of this approach, however, should not be underestimated. Disbanding BIAs will weaken the relationship between the City and local retailers. Removing the model altogether will leave the City with additional responsibilities and uneven roles across the LGA. It is also highly likely that a 'government provider' model, at the expense of established BIAs, will create challenges for the City in terms of working with some stakeholders and potentially impact on trading hours in terms of lost volunteer hours.

Improving efficiency and aligning Levy benefit(s) with City programmes are the main tenets of this option.

IMPLEMENTATION OPTION 3: Enhance current 'non-government provider' model but increase City's role in managing and collaborating with BIAs.

This option recognises that BIAs are, and will continue to be, independent Associations governed by their constitutions. It recognises that BIAs are operating in a changing retail and urban environment and that their roles and responsibilities should be better aligned with strategic plans such as the Greater Newcastle Metropolitan Plan and the City's Community Strategic Plan. By enhancing the current 'non-government provider' model, the City empowers its BIAs to play a more significant role in city's economic development by becoming less reliant on the ratepayer-funded Levy and by empowering their members to make more decisions that are informed by improved access to strategic plans, Executive Committee minutes and financial records. Enhancing the current model will allow BIAs to better involve their members, align operations with emerging opportunities and make structural changes that can ensure funding certainty and good governance.

This approach requires mostly strategic and small actions, underpinned by clear structural adjustments. These structural adjustments could include new BIA constitutions, an amended Deed that includes Key Performance Indicators, potential boundary changes or new BIAs to capture urban renewal corridors and improved City services for BIA administration.

Strategic and small actions that should be prioritised in this approach include BIAs finding external resources or funding to supplement the Levy, BIAs playing an implementation role in terms of destination marketing, the City streamlining in-house processes relating to BIA compliance matters and approvals, BIAs sharing resources to improve governance and administration (to be funded by BIAs), improving communication between BIAs and the City, improving communication between BIAs and their members, as well as a more rigorous approach by both BIAs and the City to compliance.

Enhancing the current model does not permit the more 'wholesale' changes proposed in options 1 and 2. It does, however, balance the strengths of the non-government provider model with the need for some interventions to improve the delivery of Levy benefit(s) and to address issues raised elsewhere in this report.

Good governance, improved collaboration and an expanded role for BIAs in Newcastle are the tenets of this option.

IMPLEMENTATION OPTION 4: BIA business model, goals and objectives remain unchanged.

This is not so much an implementation option as it is a 'business as usual' approach. The City has the choice to continue collecting the Levy on behalf of BIAs and passing these funds to BIAs in line with an unchanged Deed. Under this approach, there would be no change to the role of BIAs as the Deed and existing constitutions would remain valid. The role of BIAs would be limited to their existing objectives and most of the concerns raised by stakeholders would remain unresolved. Existing boundaries would remain unchanged although new BIAs could be established to deliver benefit(s) in areas that are not currently serviced by the model. All actions to support this approach would be small (within 6 months), although an improvement in the level of collaboration between BIAs and the City could enable some strategic actions.

Limiting or preventing potentially disruptive change is the main tenet of this option.

Table 9 Implementation options and key actions

IMPLEMENTATION OPTION	KEY ACTIONS FOR THE CITY AND BIAS
Implementation option 1: Change BIA model to a centralised service provision model where a central body manages all BIA members across Newcastle.	<ul style="list-style-type: none"> The BIA model is replaced by a centralised service provision model that takes on all functions of the BIA as well as new roles and responsibilities. No actions for BIAs.
Implementation option 2: Implement a 'government provider' model to business improvement.	<ul style="list-style-type: none"> The City, in its role as overall operational manager of the BIA framework, continues to collect the Levy but assumes the roles and responsibilities of all BIAs. No actions for BIAs.
Implementation option 3: Enhance current 'non-government provider' model but increase City's role in managing and collaborating with BIAs.	<ul style="list-style-type: none"> BIAs remain independent entities who are able, and encouraged, to raise external revenue and become less reliant on the Levy. This lessened reliance may be required due to the recommended introduction of competition for special rate levy funds. BIAs establish a more collaborative framework between themselves and with partners. City streamlines all in-house processes relating to BIAs to ensure consistency and to better communicate expectations. This could include 'fast-tracking' approvals for regular events or creating an online portal for common resources and submissions. Current constitutions are replaced by new governing documents that better reflect goals and objectives. BIAs engage and share additional resources (including one administrative role) who service the administration requirements of all BIAs. This role should not sit within the City. City to set BIA Key Performance Indicators (KPIs) for inclusion in any new Deed. These KPIs should be tied to clear benefits such as additional funding or resources. Failure to meet KPIs may also be tied to receipt of the Levy. BIAs identify potential growth areas outside current boundaries and plan to modify or expand current boundaries to capture benefits. BIAs better communicate their structure to members and improve awareness of Board elections as well as the nomination process. BIAs give members more options to influence how the Levy is spent in their trading area. BIAs partner with the City to implement the Destination Marketing Plan. City and BIAs partner to develop a Greater Newcastle metro calendar to better curate promotional activities and events. City and BIAs share a common social media calendar to curate relevant online engagement. City and BIAs agree where possible on common templates, key messages and imagery relevant to BIA trading areas.

IMPLEMENTATION OPTION	KEY ACTIONS FOR THE CITY AND BIAS
Implementation option 4: BIA business model, goals and objectives remain unchanged.	<ul style="list-style-type: none"> BIAs clearly define their boundaries and membership structures in all business plans presented to the City. BIAs engage members to evaluate their goals, objectives and membership structure against the city's strategic plans and strategies. BIAs better communicate their structure to members and improve awareness of Board elections as well as the nomination process. BIAs establish a more collaborative framework between themselves and with partners. City to prepare a 'check-list' for BIAs explaining their obligations as stated in the Deed as well as relevant City processes. City to provide BIAs with copies of all relevant City plans, policies and strategies to inform future goals and objectives. BIAs to provide information of their websites explaining their boundaries and membership structure. City and BIAs share a common social media calendar to curate relevant online engagement. City and BIAs agree where possible on common templates, key messages and imagery relevant to BIA trading areas. City and BIAs share image libraries and undertake an audit of existing collateral. City and BIAs share planned social media posts and work together to improve online engagement. All collateral generated by BIAs should complement any relevant material created by the City and reinforce a positive image of Newcastle and its town centres. BIAs conform with the City's brand and style guidelines in promoting Newcastle brand. BIAs identify potential growth areas outside current boundaries and plan to modify or expand current boundaries to capture benefits.

Table 10 Scale of potential implementation options

	SMALL	MEDIUM	LARGE
Implementation Option 1	-	-	✓
Implementation Option 2	-	-	✓
Implementation Option 3	-	✓	-
Implementation Option 4	✓	-	-

Table 11 Alignment of implementation options with principles for improvement

PRINCIPLES FOR IMPROVEMENT	Implementation Option 1	Implementation Option 2	Implementation Option 3	Implementation Option 4
OPERATIONS				
BIAs operating in a collaborative framework where they are best able to service members.	-	-	✓	-
Clarity in terms of boundaries, roles and responsibilities.	✓	-	✓	-
BIA benefit delivery aligned with strategic plans.	✓	✓	✓	-
GOVERNANCE				
Transparency and accountability, in line with 'best practice' guidelines.	✓	✓	✓	-
BIA members and board members empowered to make informed decisions.	-	-	✓	-
BIAs communicating regularly with each other, the City and other stakeholders.	-	-	✓	✓
FINANCIAL				
Regular financial disclosure and detailed record keeping.	✓	-	✓	✓
Reliable and trusted indicators to measure success of activities.	-	✓	✓	-
Funding certainty to ensure consistency of operations.	-	✓	✓	-

RECOMMENDATION

IMPLEMENTATION OPTION 3:

Enhance current 'non-government provider' model but increase City's role in managing and collaborating with BIAs is the recommended pathway for improved delivery, on the basis that it allows BIAs and the City to achieve all principles while maintaining the strengths of the current service provision model.

To achieve this, BIAs should:

- Amend governing documents to reflect the priorities of the Greater Newcastle Metropolitan Plan (endorsed by City of Newcastle) as well as the City of Newcastle's Community Strategic Plan
- Remain independent of the City of Newcastle by raising additional revenue and reducing their reliance on the ratepayer-funded Levy
- Share resources, including employees or contractors, to remove duplication of overhead costs and to improve administration and record keeping. This could involve BIAs pooling an allocated percentage of their Levy funding to employ secretarial support
- Allocate the majority of Levy funding towards projects or events that meet the BIA's goals and objectives. All administration costs should instead be separately funded by a shared third party independent of the City, and funded from pooled 'Levy funds'.
- Bring about a sense of competition to at least a portion of Levy funding. This would enable non-BIAs to compete for some funding on the proviso that their project or event met the conditions of the stated purpose of the Levy as listed in the City's approved annual budget.
- Partner with the City to implement the Destination Marketing Plan
- Engage more regularly with their members to evaluate their goals, objectives and membership structure against the city's strategic plans
- Commit to more open and transparent governance practices. This could include regular financial disclosure as well as having minutes from Executive Committee meetings and all strategic plans available online.

To support these changes, the City of Newcastle should:

- Streamline all in-house processes relating to BIAs to ensure consistency and to better communicate expectations. This could include 'fast-tracking' approvals for regular events or creating an online portal for common resources and submissions
- Include Key Performance Indicators (KPIs) in future Funding and Service Agreements. These KPIs should be tied to common priorities such as Destination Marketing, thereby clarifying roles and expectations in more contested areas of the city's economic development. BIAs should be incentivised to meet these indicators of success
- Ensure all BIAs have funding certainty by assisting them where appropriate to meet their obligations. This may involve providing templates, recommendations or feedback on applications in a timely manner
- Support BIAs to improve their marketing collateral by sharing image libraries or collaborating to undertake photoshoots or image acquisitions.

CONCLUSION



Image 16 Regent Street, New Lambton (New Lambton Village)

As the city continues to change, so too must the roles and responsibilities of BIAs. Stakeholder engagement for this report identified duplicated services within the LGA, as well as ongoing confusion about what BIAs do and how they partner with other stakeholders such as the HBC and HCCDC. The proportion of Levy funding allocated towards administration costs also appears to be excessive and at the cost of additional economic development output.

With the competition of the Newcastle light rail, new and future capital works programs across the City as well as the adoption of Greater Newcastle's first metropolitan plan, there exists a need to revisit the current BIA model in terms of its delivery of Levy benefits and to consider how the City can best support essential, localised economic development going forward.

As Newcastle's visitor economy continues to grow, BIAs can assist the City by leveraging corporate communications and marketing efforts to strengthen Newcastle's destination brand. As previously stated, BIAs can be powerful 'on the ground' advocates for local businesses and they have the capacity to share important information with their members and communities. Furthermore, the promotion and economic development of a trading area is one of the most crucial roles a BIA can play in the city. To this end, BIAs are important partners for the City in building a tourism identity.

To succeed in a changing city, however, BIAs and the City need to agree to strategic and structural changes that will ensure the longevity of the model.

This report has recommended an implementation option that prioritises good governance, improved collaboration and an expanded role for BIAs in Newcastle.

The recommended option recognises that BIAs are, and will continue to be, independent Associations governed by their constitutions. It recognises that BIAs are operating in a changing retail and urban environment and that their roles and responsibilities should be better aligned with strategic plans such as the Greater Newcastle Metropolitan Plan and the City's Community Strategic Plan.

By enhancing the current 'non-government provider' model, the City can empower its BIAs to play a more significant role in city's economic development by becoming less reliant on the ratepayer-funded Levy and by involving their members in more decision-making that is informed by improved access to strategic plans, Executive Committee minutes and financial records.

Enhancing the current model will allow BIAs to better involve their members, align operations with emerging opportunities and make structural changes that can ensure funding certainty and improved governance.

END NOTES

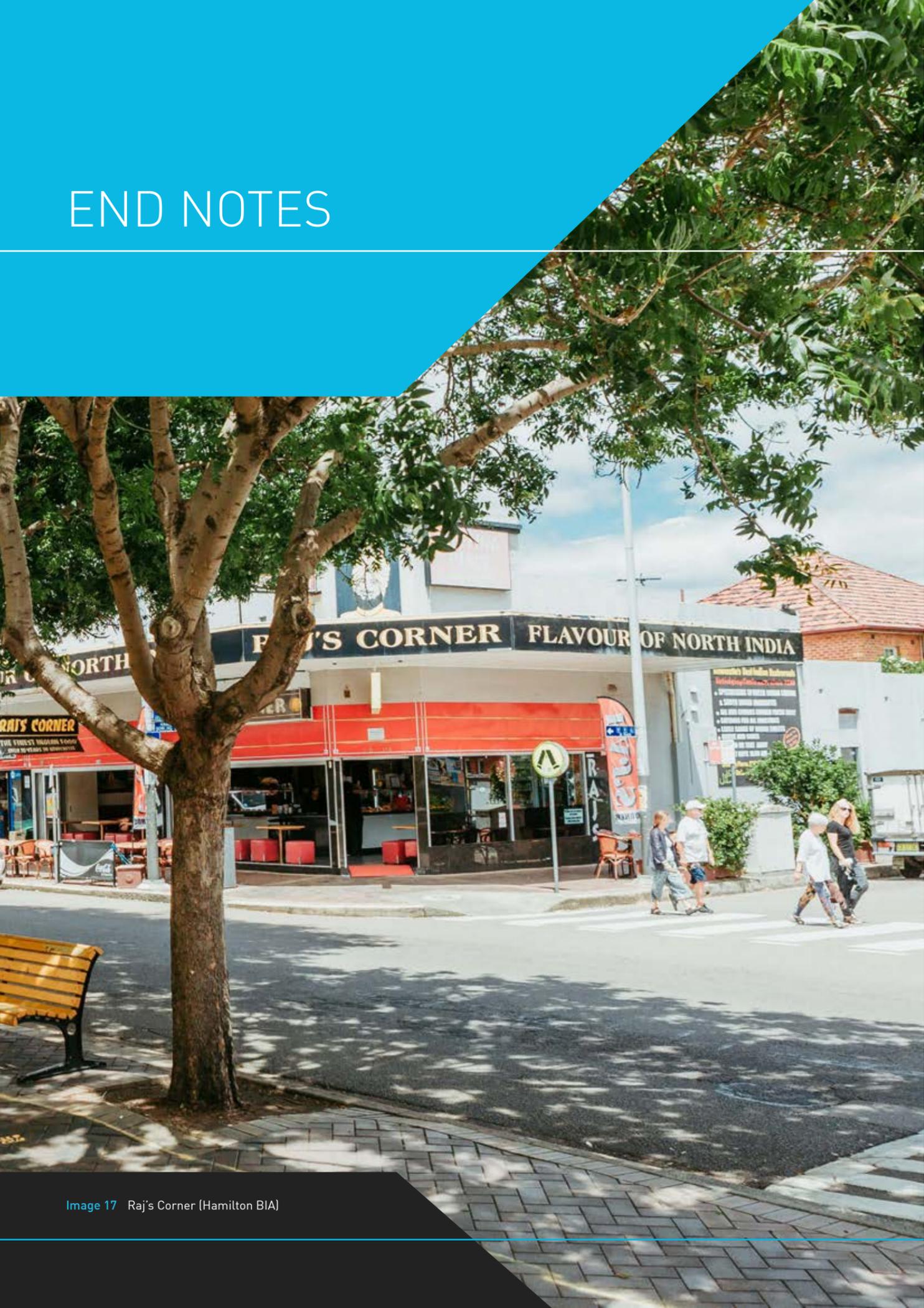


Image 17 Raj's Corner (Hamilton BIA)

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APPENDIX A DOCUMENT COPIES



FUNDING AND SERVICE DEED OF AGREEMENT

**Contract
2012/075A**

NEWCASTLE CITY COUNCIL

And

**NEWCASTLE BUSINESS IMPROVEMENT
ASSOCIATION INCORPORATED**



Image 18 Beaumont Street, Hamilton (Hamilton BIA)

THIS DEED OF AGREEMENT made this 31st day of August 2011

PARTIES

1. Newcastle City Council of 282 King Street, Newcastle, New South Wales;

and

2. Newcastle Business Improvement Association Incorporated (ABN 68 991 001 273) of PO BOX 930, Newcastle 2300 NSW ("Newcastle Business Improvement Association")

RECITALS

- A. Council has levied the Special Rate and must ensure the Special Rate is expended in accordance with the requirements of the LG Act.
- B. Newcastle Business Improvement Association is an incorporated association whose objects include fulfilling the purposes for which the Special Rate is levied.
- C. Council has resolved to provide the funds raised by the Special Rate to Newcastle Business Improvement Association on the terms and conditions of this Deed to be expended by Newcastle Business Improvement Association for the purposes for which the Special Rate is levied.
- D. Newcastle Business Improvement Association has agreed to expend all funds received from Council for purposes for which the Special Rate is levied and in accordance with this Deed.

THE PARTIES AGREE

INTERPRETATION

1.1 Definitions

In this Deed, including the recitals, unless the context otherwise requires:

- "Newcastle Business Improvement Association" means "The Newcastle Business Improvement Association Incorporated", an association incorporated under the *Associations Incorporation Act 2009*;
- "**Acquittal Report Template**" means the template acquittal report in Schedule 4.
- "**Acquittal Reports**" means the reports specified in Schedule 2 substantially in the form of the Acquittal Report Template;
- "**Approved Business Plan**" means a business plan agreed between the Council's Representative and Newcastle Business Improvement Association under clause 2.3.

- "**Business Community**" means ratepayers that have been levied with a Special Rate and those businesses that operate within the area within which the Special Rate is levied;
- "**Business Plan Template**" means the template business plan in Schedule 3.
- "**Commencement Date**" means the day immediately following the date of this Deed;
- "**Council**" means Newcastle City Council;
- "**Council Representative**" means the Council's Economic Development Coordinator, or other person as nominated by the Council's General Manager and notified to xxx BIA, from time to time
- "**Executive Committee Meetings**" means meetings of the executive committee of Newcastle Business Improvement Association;
- "**Financial year**" means the period from 1 July in one calendar year to 30 June in the following calendar year;
- "**Funds**" means the amount(s) specified in Schedule 1;
- "**Funds Payment Date**" means each date for payment of Funds specified in Schedule 1;
- "**Intellectual Property**" includes copyright except for copyright in "artistic works" as that expression is defined in the *Copyright Act 1968 (Commonwealth)*, rights in relation to inventions (including patent rights), registered and unregistered trademarks (including service marks), registered designs, Confidential Information (including trade secrets and know how), and other rights resulting from the intellectual activity in the industrial, scientific, literary or artistic fields, but does not include Moral Rights;
- "**LG Act**" means the *Local Government Act 1993*;

“Material”	means any information, document, electronic image, cinematographic film, video, equipment, software or data stored by any means which is created by a party to this Deed or on its behalf in connection with the performance of an obligation under this Deed.
“Moral Right”	means the right of integrity of authorship, the right of attribution of authorship and the right not to have authorship falsely attributed, more particularly as conferred by the <i>Copyright Act 1968 (Commonwealth)</i> , and the rights of a similar nature anywhere in the world whether existing before, on or after the commencement of this Deed;
“Services”	means the services determined in accordance with an Approved Business Plan
“Special Rate”	means the special rate known as the “Newcastle Business Improvement Association “Business District Benefit Rate” and levied by Council pursuant to section 495 of the LG Act;
“Tax Invoice”	has the same meaning as in the <i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>
“Trust Account”	means an account held solely by Newcastle Business Improvement Association in a financial institution acceptable to Council, styled as an account of Newcastle Business Improvement Association in trust for Council.
“Newcastle Business Improvement Association’s Representative”	means the person holding the position of Chairperson of Newcastle Business Improvement Association’s executive committee from time to time.

1.2

General

In this Deed, including the recitals, unless the context otherwise requires:

- (a) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provisions substituted for, and any statutory instrument issued under, that legislation or legislative provision;
- (b) a word denoting the singular number includes the plural number and vice versa;
- (c) a word denoting an individual or person includes a corporation, firm, authority, government, or governmental authority and vice versa;
- (d) a word denoting a gender includes all genders;
- (e) a reference to a recital, clause, schedule or annexure is to a recital, clause, schedule or annexure of or to this Deed;
- (f) a reference to any Deed or document is to that Deed or document (and, where applicable any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (g) a reference to any party to this Deed, or any other document or arrangement, includes that party’s executors, administrators, substitutes, successors or permitted assigns and, in respect to Newcastle Business Improvement Association, includes any employee, agent of contractor of Newcastle Business Improvement Association ;
- (h) a reference to “dollars” or “\$” is to an amount in Australian currency.

1.3 Headings and Parts of Speech

In this Deed, including the recitals:

- (a) headings are for convenience of reference only and do not affect interpretation; and
- (b) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning.

2. NEWCASTLE BUSINESS IMPROVEMENT ASSOCIATION ’S OBLIGATIONS**2.1 Application of Special Rate monies**

Newcastle Business Improvement Association acknowledges that Council is required by law to control the manner in which Special Rate monies Council receives from ratepayers are held and applied, and Newcastle Business Improvement Association agrees that:

- (a) the Funds comprise the Special Rate monies;
- (b) it must apply all Funds received from Council for the purposes for which the Special Rate is levied from time to time, including by way of the provision of

services pursuant to this Deed, within a reasonable period of receiving those monies;

- (b) it must not expend the Funds or any part of the Funds received from Council other than in accordance with this Deed;
- (c) it must not use the Funds, without Council's prior written approval, to:
 - (i) provide financial security for any purpose;
 - (ii) make a loan or gift for any purpose;
 - (iii) pay sitting Funds to Executive Committee members, members of Newcastle Business Improvement Association or any other person;
 - (iv) make payments that are inconsistent with the performance of Newcastle Business Improvement Association's obligations under this Deed; or
 - (v) relieve cash flow problems in the delivery of Newcastle Business Improvement Association's other services or carry out activities funded from other sources.

2.2 General Obligations

Newcastle Business Improvement Association must ensure that it complies with each the following requirements when providing services pursuant to this Deed:

- (a) Newcastle Business Improvement Association must provide services in a manner which is consistent with the objectives of the Newcastle Business Improvement Association and the objectives of the LG Act (including but not limited to ecologically sustainable development, as defined in the s.6(2) of the *Protection of the Environment Administration Act 1991*);
- (b) Newcastle Business Improvement Association must comply with all applicable laws including but not limited to the LG Act, *Roads Act 1993*, *Environmental Planning and Assessment Act 1979*, *Protection of the Environment Operations Act 1997*, *Privacy and Personal Information Act 1998*, and *Occupational Health and Safety Act 2000*;
- (e) Newcastle Business Improvement Association must secure and maintain, at no cost to Council, any consent, authority, permit, licence or certificate required to meet its obligations under this Deed;
- (f) Newcastle Business Improvement Association must protect and keep safe all materials and property provided to it by Council and shall compensate Council for any loss or damage that occurs to any such materials and property whilst in Newcastle Business Improvement Association's care and control;

2.3 Business planning and implementation obligations

- (a) Newcastle Business Improvement Association must:
 - (i) submit draft business plans to Council for approval within 28 days of the Commencement Date and then no later than 31 January each year, for

the following financial year (or for such other period as Newcastle Business Improvement Association and Council agree in writing), each business plan to be in a format as directed by Council and substantially in accordance with the Business Plan Template; and

- (ii) substantially implement each Approved Business Plan while that Approved Business Plan is current.
- (b) Newcastle Business Improvement Association and Council can amend an Approved Business Plan at any time, by written agreement.
 - (c) Newcastle Business Improvement Association acknowledges that the Approved Business Plan will contain the detail of the projects, events and activities on which the Funds will be expended in accordance with clause 2.1.
 - (d) Newcastle Business Improvement Association must:
 - i. use the competitive tendering process which Council is required to use under the Local Government Act 1993, to identify and award a contract for the provision of co-ordinator services to Newcastle Business Improvement Association ;
 - ii. ensure that the contract is for a term of not less than 1 year and not more than 3 years; and
 - iii. provide appropriate evidence to Council on request that it has complied with this clause.

This clause 2.3(d) only applies to the first contract which Newcastle Business Improvement Association enters into for the provision of co-ordinator services to Newcastle Business Improvement Association.

In this clause 2.3(d) "co-ordinator services" means the co-ordination of the delivery of the Services by the BIA and related functions

2.4 General administrative service obligations

Newcastle Business Improvement Association must:

- (a) provide Council with a copy of the agenda (including but not limited to draft minutes of any relevant prior Executive Committee Meetings and any reports or correspondence related to that agenda) for each Executive Committee Meeting not less than 2 days prior to that Executive Committee Meeting; and
- (c) keep accurate records and minutes of all Executive Committee Meetings, in accordance with Newcastle Business Improvement Association's constitution and the Associations Incorporation Act 2009.
- (d) provide Council's Representative with a copy of the minutes of each Executive Committee Meeting within 30 days of each such meeting; and

- (e) attend meetings with Council's Representative or nominee(s) as may be reasonably required by Council,

2.5 **Cost of meeting Newcastle Business Improvement Association's obligations**
Newcastle Business Improvement Association must meet its obligations under this Deed at no cost to Council other than the payment of Funds pursuant to cl.4.

3 MANAGEMENT OF SPECIAL RATE MONIES

3.1 Monies to be held in Trust Account

- (a) Newcastle Business Improvement Association must receive all Funds which are Special Rate monies from Council into the Trust Account and only pay those monies or part of those monies out in discharge of a liability incurred in the performance of Newcastle Business Improvement Association's obligations under this Deed.
- (b) Newcastle Business Improvement Association acknowledges and agrees that until monies are paid out of the Trust Account in accordance with clause 3.1(a), Newcastle Business Improvement Association holds those monies on trust for Council.

3.2 Cash advances

If Newcastle Business Improvement Association use the Funds or any part of the Funds to provide cash cheques or cash advances then Newcastle Business Improvement Association must keep a record of the date, amount, recipient and purpose of any cash cheque that Newcastle Business Improvement Association issues or cash advance that Newcastle Business Improvement Association makes.

3.3 Repayment where funds expended in contravention

If Newcastle Business Improvement Association use the Funds of any part of the Funds for a purpose which is not a purpose for which the Special Rate is levied, Council may serve Newcastle Business Improvement Association with a notice for repayment of the Funds that have been spent, used or applied for such other purpose. This amount will be a debt due and owing to Council. Any dispute in respect of expenditure the subject of a notice under this clause will be dealt with under clause 10.

3.4 Certain payments to staff.

Where Newcastle Business Improvement Association employs staff and is bound by a registered industrial instrument requiring the payment of termination or redundancy payments in appropriate circumstances, the Funds may only be used for termination or redundancy payments if:

- (a) the cessation of Funds is due to circumstances stated in clause 8.5; or
(b) Newcastle Business Improvement Association has obtained Council's prior written approval.

3.5 Earnings part of Funds

Newcastle Business Improvement Association must use and deal with any money earned by Newcastle Business Improvement Association from:

- (a) the performance of Newcastle Business Improvement Association's obligations under this Deed (for example Funds, rent, board, service charges); and
(b) interest on the Funds in the Trust Account

as if the money earned was part of the Funds.

3.6 Records

Newcastle Business Improvement Association must

- (a) keep accurate records and accounts that enable Newcastle Business Improvement Association to keep Funds which are Special Rate monies it receives from Council separate to other monies held by or received by Newcastle Business Improvement Association, and must provide Council or any person nominated by Council with access to those records at such times as Council reasonably directs.
- (b) store all records and files relating to the performance of its obligations under this Deed in secure storage for at least seven years from the expiry or termination of this Deed.

3.7 Reporting

Newcastle Business Improvement Association must submit the Acquittal Reports to Council in accordance with Schedule 2

3.8 Additional reporting requirements

- (a) In addition to reports required under clause 3.7, Council may request, by written notice, that Newcastle Business Improvement Association supply Council with information in any way concerning Newcastle Business Improvement Association, Newcastle Business Improvement Association's delivery of services or the carrying out of Newcastle Business Improvement Association's obligations under this Deed.
- (b) The notice that Council gives Newcastle Business Improvement Association pursuant to this clause need not be in any specified form but must state:
- (i) the information Council requires; and
(ii) the reasonable time within which Newcastle Business Improvement Association is required to provide the information.

3.9 Standard of reporting

All reports provided by Newcastle Business Improvement Association under this Deed must be of a standard and provided in a way reasonably acceptable to Council and provided electronically or in another format if agreed by Council, as specified in Schedule 2 or in a notice under clause 3.7 or as otherwise notified to Newcastle Business Improvement Association by Council from time to time.

3.10

Unspent amounts

Where Newcastle Business Improvement Association submit a report in accordance with clause 3.6 or 3.7 which shows that a substantial portion of the Funds for the previous period is unspent by Newcastle Business Improvement Association, then Council may:

- (a) authorise Newcastle Business Improvement Association to retain the unspent Funds and, if Council so authorise, to expend some or all of that Funds for an approved purpose;
- (b) adjust a payment or instalment of the Funds to take account of the unspent Funds;
- (c) agree to a carryover of unspent Funds from one reporting period to the next where the Funds are to be used for the same purpose and when agreed by Council in writing; or
- (d) require Newcastle Business Improvement Association to refund the unspent Funds.

3.11 Remaining Funds held by Newcastle Business Improvement Association

If, at the expiration or termination of this Deed there remains an amount of Funds that has not been spent by Newcastle Business Improvement Association then Council may:

- (a) require Newcastle Business Improvement Association to refund the unspent Funding within 20 Business Days of the expiration or termination of this Deed; or
- (b) authorise Newcastle Business Improvement Association to retain the unspent Funds and, if Council so authorise, to expend some or all of those Funds for an approved purpose on terms and conditions agreed in writing by Council.

4. PERFORMANCE REVIEW AND AUDITING.**4.1 Access to premises and records**

- (a) To ensure Newcastle Business Improvement Association is meeting Newcastle Business Improvement Association's obligations under this Deed, Council may notify Newcastle Business Improvement Association's Representative or another person elected to the executive committee of Newcastle Business Improvement Association that a nominated officer requires access to:
 - (i) the premises where the Services are provided and/or the premises from which Newcastle Business Improvement Association conduct Newcastle Business Improvement Association's business; and
 - (ii) copies of records held or created by Newcastle Business Improvement Association relating to the performance of its obligations under this Deed by Newcastle Business Improvement Association.
- (b) The notice referred to in clause 4.1(a) need not be in any particular form. In giving Newcastle Business Improvement Association's Representative notification under this clause, Council will explain to Newcastle Business Improvement Association why access is required. Newcastle Business Improvement Association must comply with any notice given to Newcastle Business Improvement Association under this clause.

- (c) When accessing premises and/or records in accordance with a notification under clause 4.1(a), Council will use Council's best endeavours to minimise interference to Newcastle Business Improvement Association's employees and the conduct of Newcastle Business Improvement Association's operations.

4.2 Performance Review

- (a) To ensure Newcastle Business Improvement Association is meeting Newcastle Business Improvement Association's obligations under this Deed Council may conduct a Performance Review of any aspect of the performance of the Newcastle Business Improvement Association of its obligations under this Deed and where appropriate will seek to involve Newcastle Business Improvement Association in any Performance Review that Council intends to conduct.
- (b) When conducting a Performance Review under clause 17.2(a), Council will:
 - (i) notify Newcastle Business Improvement Association's Representative in writing
 - (ii) use Council's best endeavours to minimise interference to Newcastle Business Improvement Association's employees and the conduct of the Newcastle Business Improvement Association's operations.
- (c) Newcastle Business Improvement Association agrees to co-operate with Council in the conduct of any review that Council undertake in accordance with this clause including, without limitation, giving Council's officers or contractors conducting the review full and free access to:
 - (i) Newcastle Business Improvement Association's employees;
 - (ii) Newcastle Business Improvement Association's premises or the premises (within Newcastle Business Improvement Association's control) where Newcastle Business Improvement Association performs any of its obligations under this Deed; and
 - (iii) Newcastle Business Improvement Association's records, documents and papers that relate directly or indirectly to the performance of Newcastle Business Improvement Association's obligations under this Deed.

4.3 Nomination of auditors

Council may nominate auditors to conduct, at Council's cost, financial and compliance audits of Newcastle Business Improvement Association in respect of Newcastle Business Improvement Association's obligations under this Deed.

4.4 Access to Newcastle Business Improvement Association's employees, premises and records

Newcastle Business Improvement Association will give Council's nominated auditors, full and free access to:

- (a) Newcastle Business Improvement Association's employees;
- (b) the premises where the Services are provided and/or the premises from which Newcastle Business Improvement Association performs any of Newcastle Business Improvement Association's obligations under this Deed; and

- (c) Newcastle Business Improvement Association 's accounts, records, documents and papers that relate directly or indirectly to the receipt, expenditure, or payment of the Funds or the performance of Newcastle Business Improvement Association 's obligations under this Deed.

4.5 **Prior notice**

In carrying out Council's powers under this clause 4, Council will, where possible, give reasonable notice.

4.6 **Assistance**

Newcastle Business Improvement Association must give to Council's nominated auditors reasonable assistance required to:

- (a) meet with Newcastle Business Improvement Association 's employees;
- (b) inspect the performance of Newcastle Business Improvement Association s obligations under this Deed; and
- (c) locate and make copies of any of Newcastle Business Improvement Association 's accounts, records, documents and papers that relate directly or indirectly to the receipt, expenditure, or payment of the Funds or the performance of Newcastle Business Improvement Association 's obligations under this Deed.

4.7 **Minimum interference**

When conducting audits under this clause 4, Council's nominated auditors will use their best endeavours to minimise interference to Newcastle Business Improvement Association's employees and the conduct of Newcastle Business Improvement Association's operations.

4.8 **Other information to be provided**

On receipt of reasonable written notice either from Council or from Council's nominated auditors, Newcastle Business Improvement Association must provide any information relevant to Newcastle Business Improvement Association's obligations in this Deed required by Council for Council's review and audit purposes.

4.9 **Subcontracts**

Newcastle Business Improvement Association must ensure that where any of its obligations under this Deed are performed under a subcontract, any subcontract contains equivalent clauses permitting Council and Council's nominated auditors to have access to the employees, premises and accounts, records, documents and papers of the subcontractor to the extent provided for in this clause 4.

4.10 **Other rights preserved**

Council's rights under this clause 4 are in addition to any other similar rights under any law.

5. **COUNCIL OBLIGATIONS**

5.1 **Payment of Funds**

Council must, subject to cl.5.2 and 5.3, pay the Funds into the Trust Account by electronic funds transfer by the relevant Funds Payment Date.

5.2 **Conditions of Payment**

Council is not required to make payment under cl.5.1 unless

- (a) there is an Approved Business Plan in place;
- (b) Newcastle Business Improvement Association has provided a Tax Invoice to Council for the Funds sought by Newcastle Business Improvement Association ; and
- (c) Newcastle Business Improvement Association has complied with all of its obligations under cl.2 to Council's satisfaction in the preceding calendar month; and
- (d) Newcastle Business Improvement Association has provided Council with a statement setting out the account balance for the Trust Account as at the last day of the preceding calendar month.

5.3 Council may set off any fee owed by it to Newcastle Business Improvement Association against any amount owed to it by Newcastle Business Improvement Association.

5.4 Newcastle Business Improvement Association acknowledges that Funds paid by Council pursuant to cl.5.1 include all costs of delivery, insurance, duties, imposts and taxes.

5.5 **Other obligations**

Council must.

- (a) provide timely and appropriate information and feedback to Newcastle Business Improvement Association to enable Newcastle Business Improvement Association to plan appropriately for the delivery of services and to perform its obligations, under this agreement;
- (b) without limiting subclause 5.5(a), provide a response to Newcastle Business Improvement Association in respect of any draft business plan submitted under clause 2.3 within a reasonable period of time;
- (c) not unreasonably refuse to agree to a draft business plan submitted under clause 2.3;
- (d) use reasonable endeavours to keep Newcastle Business Improvement Association informed of decisions of Council which are relevant to Newcastle Business Improvement Association's obligations under this agreement; and
- (e) attend meetings with Newcastle Business Improvement Association 's Representative as may be reasonably requested by Newcastle Business Improvement Association.

6. SUSPENSION, REDUCTION AND TERMINATION OF FUNDING

6.1 Suspension of funding

- (a) If, in Council's reasonable opinion, Newcastle Business Improvement Association:
- (i) has failed to perform its obligations under this Deed or to otherwise comply with this Deed;
 - (ii) has expended the Funds otherwise than in accordance with clause 3.1;
 - (iii) has not provided any information or reports as required by this Deed; or
 - (v) has failed to comply with any relevant legislation, including the LG Act, then Council may suspend payment of the Funds, or part thereof, to Newcastle Business Improvement Association for a period of time and on specified conditions as notified by Council.
- (b) If Council and Newcastle Business Improvement Association do not agree on a business plan within 2 months of the date on which Newcastle Business Improvement Association submits a draft business plan under clause 2.3, then Council may suspend payment of the Funds, or part thereof, to Newcastle Business Improvement Association for a period of time and on specified conditions as notified by Council.
- (c.) Council will only suspend payment of the Funds after following the show cause process under clause 6.2.

6.2 Show cause process

- If Council suspect on reasonable grounds that Newcastle Business Improvement Association is not complying with or have not complied with a term of this Deed or the relevant provisions of any relevant legislation, including the LG Act, or if any of the grounds in 6.1(a) apply, Council may, in Council's absolute discretion and in addition to any other remedy which may be available to Council, send to Newcastle Business Improvement Association a show cause notice.
- (a) Under the show cause process, Council must give Newcastle Business Improvement Association a notice (a "Show Cause Notice") stating the following:
- (i) the action (the "Proposed Action") Council propose taking under clauses 6.1 or 8.2;
 - (ii) the grounds for the Proposed Action;
 - (iii) an outline of the facts and circumstances forming the basis for the grounds; and
 - (iv) an invitation to Newcastle Business Improvement Association to show within a stated period (the "Show Cause Period") why the Proposed Action should not be taken.
- (b) The Show Cause Period must be a period ending at least 7 days after the Show Cause Notice is given to Newcastle Business Improvement Association.
- (c) During the show cause period Newcastle Business Improvement Association may make written representations to Council, stating why the Proposed Action should not be taken.

- (d) Council must consider all written representations (the "Accepted Representations") made under this clause 6.2.
- (e) If, after considering the Accepted Representations for the Show Cause Notice, Council no longer believe the grounds exist to take the Proposed Action, Council:
- (i) will not take further action about the Show Cause Notice; and
 - (ii) will, as soon as practicable, give notice to Newcastle Business Improvement Association that no further action is to be taken about the Show Cause Notice.
- (f) Council may suspend payment of Funds under clause 5 or terminate this Deed under 8.2 and notify Newcastle Business Improvement Association in writing of Council's decision if:
- (i) after considering the Accepted Representation for the Show Cause Notice, Council still believe the grounds exist to take action to suspend or stop assistance, and Council believe the action is warranted; or
 - (ii) there are no Accepted Representations made by Newcastle Business Improvement Association in relation to the Show Cause Notice.

7. INDEMNITY AND INSURANCE

7.1 Indemnity

Newcastle Business Improvement Association indemnifies Council, its servants and agents from and against all actions, claims, losses, damages, penalties, demands or costs whatsoever which may be brought or made against it or them by any person in respect of or by reason of or arising out of any or all of the following:

- (a) any act undertaken by Newcastle Business Improvement Association under this Deed;
- (b) any negligence, wrongful act or omission of Newcastle Business Improvement Association or of any other persons for whose acts or omissions Newcastle Business Improvement Association is liable;
- (c) death or injury to any person or loss of or damage to any property;
- (d) any breach of a third party's Intellectual Property Rights;
- (e) any breach of this Deed by Newcastle Business Improvement Association ;
- (f) any action, claim or demand from liability brought against Council in connection with a breach by Newcastle Business Improvement Association of the *Occupational Health and Safety Act 2000* and associated legislation (so far as it is permissible at law).

Newcastle Business Improvement Association's liability to indemnify Council is reduced proportionally to the extent that an action or omission of Council or employees or agents of Council may have contributed to the injury, damage or loss.

7.2 Insurance

Before commencing the Deed, Newcastle Business Improvement Association must effect and maintain the insurance policies as nominated below. Newcastle Business Improvement Association must ensure that all persons it engages to assist it to fulfil its obligations under this Deed are similarly insured. Council may at

any time require proof that these insurances have been affected and are being maintained. Newcastle Business Improvement Association must keep current during the contract term, the following policies of insurances:

- (a) Fidelity Insurance - Insurance against the loss of monies or other property belonging to Council because of dishonesty or fraud of Newcastle Business Improvement Association or any other entity or persons for whose actions Newcastle Business Improvement Association is liable. The policy shall have a limit for any one claim of not less than \$10,000.
- (b) Public Liability Insurance - Insurance against the death or injury to any third party or parties or loss of or damage to any property including loss of use of property whether it is damaged or not whatsoever caused during the course of the contract. The policy shall contain a cross liability clause and a "principal's clause" and shall have a limit of indemnity of not less than \$10,000,000 for any one occurrence, but shall be unlimited in the aggregate.
- (c) Workers Compensation or Personal Accident and Illness Insurance - Insurance against any death of or injury to persons employed by Newcastle Business Improvement Association as required by the Workers Compensation Act 1987. Alternatively, where Newcastle Business Improvement Association has no employees and in lieu of Workers Compensation Insurance, insurance for personal accident and illness under a policy that provides:
 - (i) Weekly benefits of at least 75% of weekly income;
 - (ii) Death benefits of at least \$250,000;
 - (iii) Minimum benefit period of 24 months.
- (d) Professional Indemnity Insurance – if reasonably required by Council, for a limit for any one claim of not less than \$1,000,000. The policy shall be maintained for 6 years from the termination of the Deed. The policy shall include the following extensions: Unlimited retroactive date; Automatic reinstatement clause; Libel and slander; Consultants clause; Cross liability clause; "Principal's" clause; and *Trade Practices Act (Commonwealth)* and *Fair Trading Act (NSW)* Clause.

8. TERM AND TERMINATION

- 8.1 The Deed commences at 12.01am on the Commencement Date and concludes at 11.59pm on 30 June 2021 or when terminated in accordance with cl.8.2, 8.3 or 8.4, whichever occurs first.
- 8.2 Without prejudice to any other right Council may have, Council may terminate the Deed by giving Notice to Newcastle Business Improvement Association if:
 - (a) Newcastle Business Improvement Association commits a substantial breach of the Deed, including:
 - (i) failure to perform its obligations under the Deed at all, or within any time period specified by the Council;

- (ii) failure to carry out a reasonable direction of Council in respect to its obligations under the Deed;
- (b) Council resolves to call for tenders for all or part of the services provided by Newcastle Business Improvement Association under this Deed;
- (c) Newcastle Business Improvement Association makes any arrangement(s) with its creditors or is wound up under the *Associations Incorporation Act 2009*.

- 8.3 If Council fails to meet its obligations under this Deed, Newcastle Business Improvement Association may terminate this Deed upon giving of not less than 7 days written notice.
- 8.4 Council may terminate this Deed if it ceases to levy the Special Rate. If Council proposes to terminate this Deed under this clause 8.4, it must give as much notice as is reasonably practicable to Newcastle Business Improvement Association and on receipt of such notice Newcastle Business Improvement Association must take all appropriate action so that Newcastle Business Improvement Association's activities carried out on the basis of the Funds are completed and finalised using only the remaining Funds available prior to the Special Rate ceasing.

9. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

9.1 Ownership of Intellectual Property Rights

- (a) Intellectual Property Rights in Material created by or on behalf of Newcastle Business Improvement Association vests in Newcastle Business Improvement Association.
- (b) Intellectual Property Rights in Material created by or on behalf of Council vests in Council.

9.2 Licence of Intellectual Property Rights to Council

- (a) Newcastle Business Improvement Association grant to Council a perpetual, irrevocable, royalty-free, world wide and non-exclusive licence (including a right to sub-licence) to use, communicate, reproduce, publish, adapt and modify Newcastle Business Improvement Association's Material.
- (b) Council licences Newcastle Business Improvement Association to use Council's Material (including copying it and supplying it to others) but only for the purposes of performing Newcastle Business Improvement Association's obligations under this Deed.

9.3 Documentation

If requested by Council, Newcastle Business Improvement Association will sign, execute, or otherwise complete any document that may be necessary or desirable to give effect to this clause 9.

9.4 Use of Intellectual Property Rights

- (a) Newcastle Business Improvement Association warrants that Newcastle Business Improvement Association is entitled, or will be entitled at the required

time, to deal with the Intellectual Property Rights in Newcastle Business Improvement Association's Material in the manner provided for in this clause 9.
 (b) Council warrants that Council is entitled, or will be entitled at the required time, to deal with the Intellectual Property Rights in Council's Material in the manner provided for in this clause 9.

9.5 **Protection of Intellectual Property and Moral Rights**

- (a) Newcastle Business Improvement Association agrees to take all reasonable steps to protect the Intellectual Property Rights in its Material and to comply with the warranties in clause 9.4(a).
- (b) Newcastle Business Improvement Association will ensure that in performing its obligations under this Deed, Newcastle Business Improvement Association (including Newcastle Business Improvement Association's employees, agents, volunteers and subcontractors) do not:
 - (i) Infringe any person's Intellectual Property Rights or an individual's Moral Rights; or
 - (ii) authorise the infringement of any such rights.

9.6 **Indemnity**

Newcastle Business Improvement Association indemnifies and must at all times keep Council indemnified against any action, claim, suit or demand, including a claim, suit or demand for or liability to pay compensation or damages and costs or expenses arising out of or in respect of any breach of any third party's Intellectual Property rights relating to the scope of activities under the Deed.

9.7 **Moral Rights**

To the extent permitted by law, if Newcastle Business Improvement Association is the owner of the Moral Rights in the Intellectual Property referred to in clause 9.4, Newcastle Business Improvement Association unconditionally and irrevocably:

- (a) Consents to any act or omission that would otherwise infringe its Moral Rights in that Intellectual Property, including any act or omission that may have taken place before this consent, and
- (b) Waives all of its Moral Rights in that Intellectual Property.

9.8 **Approval to disclose Confidential Information**

- (a) Newcastle Business Improvement Association must not disclose Confidential Information belonging to Council except where Newcastle Business Improvement Association has obtained Council's prior written approval (which may be subject to conditions) or where required by law.
- (b) Council reserve the right, in Council's absolute discretion and without any liability to account to Newcastle Business Improvement Association or any third person, to make available, disclose, and allow the disclosure of, to the extent that it is not prohibited or regulated by any legislation, any information received from Newcastle Business Improvement Association or otherwise relating to this Deed to:
 - (i) any Commonwealth department, New South Wales Government department, agency, authority, or Minister; and
 - (ii) any third person, including any court, tribunal, governmental committee or other person within government, where such disclosure would be permitted or required by law, or otherwise would be consistent with established government policies, procedures or

protocols or for public accountability purposes to the extent required in those circumstances.

- (c) Council may give information about Newcastle Business Improvement Association to:
 - (i) an entity that provides other funding or other assistance to Newcastle Business Improvement Association; or
 - (ii) another entity if Council consider the entity has an interest in the proper and efficient delivery of services by Newcastle Business Improvement Association.

9.9 **Newcastle Business Improvement Association's undertaking**

- (a) Newcastle Business Improvement Association must make every reasonable effort to ensure that Newcastle Business Improvement Association's employees, volunteers, agents and subcontractors are aware of and comply with the obligations of confidentiality in clause 9.8.
- (b) Council may, at any time, require Newcastle Business Improvement Association to give, and for Newcastle Business Improvement Association to arrange for Newcastle Business Improvement Association's subcontractors, employees, and volunteers engaged in the performance of Newcastle Business Improvement Association's obligations under this Deed to give, written undertakings in a form reasonably required by Council relating to the non-disclosure of Confidential Information under clause 9.8.
- (c) Newcastle Business Improvement Association must notify Council immediately if Newcastle Business Improvement Association knows or suspects that Confidential Information has been disclosed without Council's authorisation.

10. **DISPUTE RESOLUTION**

10.1 **Dispute resolution**

- (a) Where Newcastle Business Improvement Association disputes an administrative decision made by Council under this Deed both parties agree to address the dispute using this dispute resolution process.
- (b) Where Newcastle Business Improvement Association disputes a decision made by Council under this Deed, Newcastle Business Improvement Association may elect to seek a review of the decision using the review process in clause 10.2.
- (c) Both parties agree to initiate discussions with the other party to resolve concerns prior to seeking a review of the decision.
- (d) Whether or not a dispute exists, each party must continue to perform its obligations under this Deed.

10.2 **Review of decision**

- (a) This review process is not intended as a mechanism for suspending or ceasing payment of Funds to Newcastle Business Improvement Association.

- (b) Within 20 Business Days after Newcastle Business Improvement Association has been given notice in writing of Council's decision in relation to the matter under dispute Newcastle Business Improvement Association can seek a review of the decision by writing to the Council's Representative.
- (c) Newcastle Business Improvement Association's request for a review of the decision must include:
 - (i) details about the decision to be reviewed;
 - (ii) a written statement outlining Newcastle Business Improvement Association's reasons why a decision should be reviewed;
 - (iii) any evidence to substantiate the request for a review; and
 - (iv) the signature of an accountable officer of Newcastle Business Improvement Association.
- (d) Following receipt of a request for a review of a decision from Newcastle Business Improvement Association, Council may appoint a reviewing officer.

The reviewing officer will be a Council staff member, who is independent from the situation that gave rise to the dispute.
- (e) Newcastle Business Improvement Association will be provided written notification of the outcome of the review within 20 Business Days of Newcastle Business Improvement Association's written request for a review.
- (f) If Newcastle Business Improvement Association does not accept the outcome of the review, Newcastle Business Improvement Association may give written notification to the relevant officer:
 - (i) within 10 Business Days of receipt of the review outcomes;
 - (ii) providing a statement for further consideration including Newcastle Business Improvement Association's reasons why further consideration is required and any evidence to substantiate the request for further consideration;
 - (iii) under the signature of an accountable officer of Newcastle Business Improvement Association.
- (g) The matter will be referred to the relevant appointed officer for final decision. The appointed officer will be a Council staff member who is independent from the situation that gave rise to the dispute and who is senior to the reviewing officer.
- (h) Newcastle Business Improvement Association will be provided written notification of the outcome of the relevant appointed officer's final decision.

10.3 Exceptions to review

- (a) A party does not need to follow the review procedures set out in clauses 10.1 or 10.2 if they are seeking urgent interlocutory relief from a court.

- (b) Newcastle Business Improvement Association cannot seek a review under clauses 10.1 or 10.2 in relation to action Council take under clauses 8.2, 8.3, 8.4 or if the disputed decision has been made under the LG Act.
- (c) Use of the review process in clause 10.2 does not preclude other action being taken under any applicable legislation or action taken in regard to a suspected breach of this Deed.

10.4 External mediation

- (a) Upon failure to resolve the dispute under clauses 10.1 and 10.2, either Newcastle Business Improvement Association or Council may give notice to the other party that the dispute is to be referred to mediation, and refer the dispute to an independent mediator as agreed by Newcastle Business Improvement Association and Council, or otherwise as appointed by the Director General of Local Government.
- (b) If either party refers a dispute to mediation both parties
 - (i) agree to participate in the mediation process in good faith, with such mediation to operate in a manner as agreed by the mediator, Newcastle Business Improvement Association and Council, and
 - (ii) acknowledge the right of either Newcastle Business Improvement Association or Council to appoint, in writing, another person to act on their behalf in relation to any mediation process.
- (d) The cost of the mediation service will be met equally by Newcastle Business Improvement Association and Council unless the Council determines that it will pay for the whole cost of the mediation service.
- (e) Newcastle Business Improvement Association and Council will each be responsible for meeting the cost of any advisor used by them.
- (f) If mediation does not resolve the dispute within 2 months of the date either party notifies the other party that a dispute is to be referred to mediation, then neither party is obliged to continue with the mediation.

11. GENERAL

11.1 Amendment

No variation or waiver of, or any consent to any departure by a party from, a provision of this Deed is of any force or effect unless it is confirmed in writing signed by the parties and then that variation, waiver or consent is effective only to the extent for which it is made or given.

11.2 Waiver

The failure, delay, relaxation or indulgence on the part of any party in exercising any power or right conferred upon that party by this Deed does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other power or right under this Deed.

11.3 Continuing obligations

Newcastle Business Improvement Association's obligations under clauses 6 and 8 are of a continuing nature and they survive the termination of this Deed, together with any other obligation under this Deed that of its nature survives termination.

11.4 Entire Deed

This Deed constitutes the sole and entire Deed between the parties and a warranty, representation, guarantee or other term or condition of any nature not contained or recorded in this Deed is of no force or effect.

11.5 Severance

If any provision of this Deed is invalid or unenforceable in accordance with its terms, other provisions which are self-sustaining and capable of separate enforcement with regard to the invalid provision, are and continue to be valid and enforceable in accordance with their terms.

11.6 Further assurance

Each party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts reasonably required of it or them by notice from another party effectively to carry out and give full effect to this Deed and the rights and obligations of the parties under it.

11.7 Stamp Duty

Newcastle Business Improvement Association must bear and is responsible for all stamp duty on or in respect of this Deed and any instrument or transaction contemplated by this Deed.

11.8 Governing law and jurisdiction

This Deed is governed by, and is to be construed in accordance with, the law of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any court hearing appeals from those courts.

11.9 Transfer

Newcastle Business Improvement Association may not transfer its rights or obligations under this Deed to any person or entity without Council's express written consent, which Council may withhold or give conditionally in its absolute discretion.

11.10 Deed not affect statutory powers or obligations of Council

Nothing in this Deed restricts or otherwise affects the exercise of any discretion, power or duty under any Act (including but not limited to the LG Act, *Environmental Planning and Assessment Act 1979* and *Roads Act 1993*) by Council.

12. NOTICES

12.1 Notices in writing

All notices and other communications to or by a party to this Deed:

(a) must be in writing; and

(b) must be signed by an authorised officer or delegate of the sender; and

12.2 Change of address

Each party shall advise the other of any change in the address or the identity of the relevant officer.

12.3 Deemed receipt of communications

A notice or other communication is deemed to be received if:

- a. sent by post, at the time it would have been delivered in the ordinary course of the post to the address to which it was sent; or
- b. sent by facsimile, at the time which the facsimile machine to which it has been sent records that the communication has been transmitted satisfactorily (or, if such time is outside normal business hours, at the time of resumption of normal business hours);
- c. sent by electronic mail, only in the event that the other party acknowledges receipt by any means;
- d. sent by any other electronic means, only in the event that the other party acknowledges receipt by any means; or
- e. delivered by hand, the party who sent the notice holds a receipt for the notice signed by a person employed at the physical address for service.

**SCHEDULE 1
FUNDS**

**SCHEDULE 2
REPORTING**

Type of report	Date required by
Budget	30 November 2011 31 May 2012 31 May each year thereafter
Business Plan	30 November 2011 31 May 2012 31 May each year thereafter
Acquittal Report	30 November 2011 31 May 2012 30 November 2012 30 November each year thereafter

**SCHEDULE 3
BUSINESS PLAN TEMPLATE**

SCHEDULE 4

ACQUITTAL REPORT TEMPLATE

EXECUTED AS A DEED

SIGNED by the authorised delegate of)
NEWCASTLE CITY COUNCIL)
in the presence of:)

.....
Witness

SIGNED by **THE NEWCASTLE BUSINESS IMPROVEMENT ASSOCIATION**
in accordance with the)
Associations Incorporation Act 2009)
in the presence of:)

.....
Witness

APPENDIX B

MINUTES FROM STAKEHOLDER
ENGAGEMENT, NOVEMBER 7 2018

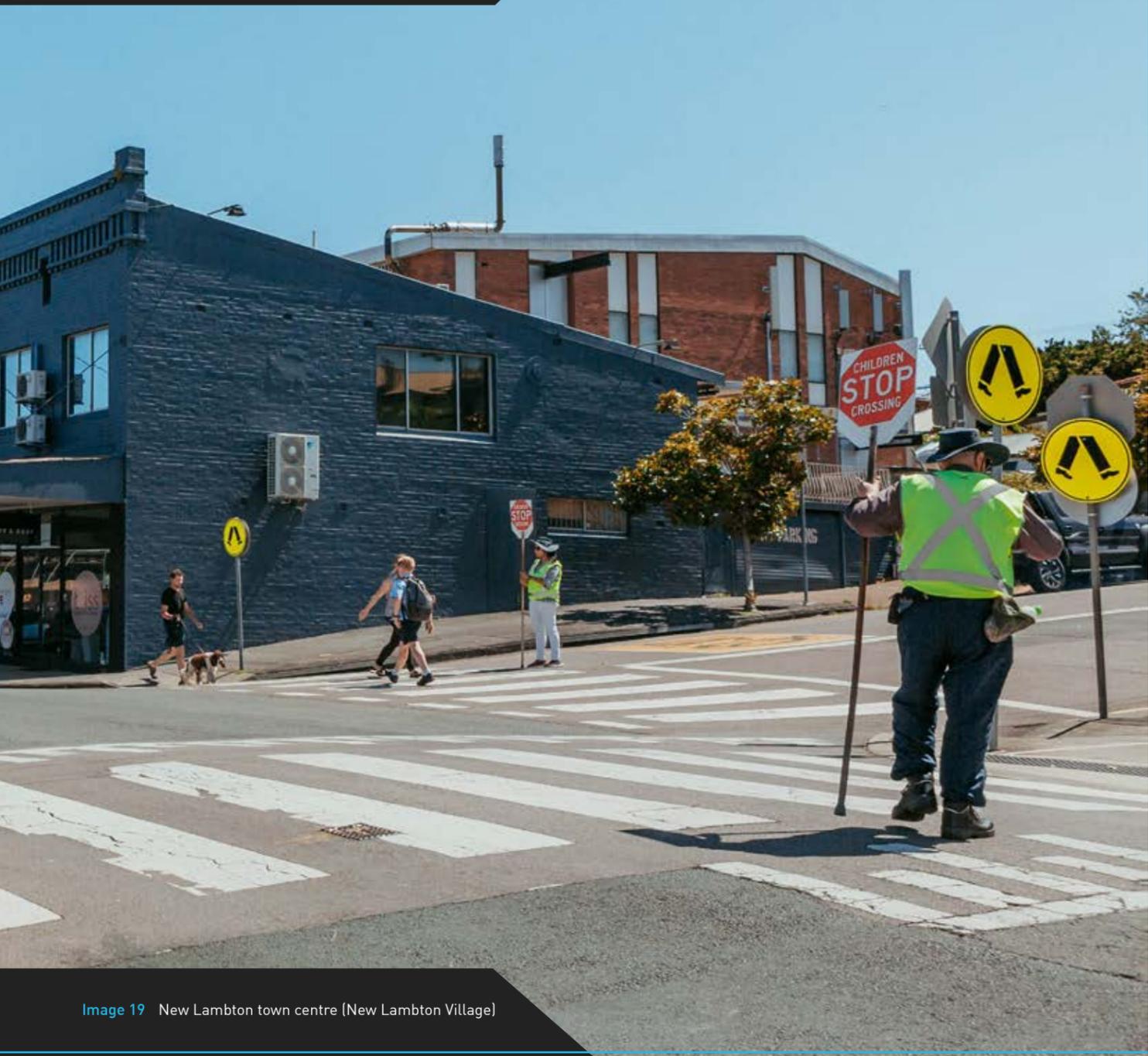


Image 19 New Lambton town centre [New Lambton Village]

Minutes of Newcastle BIA Stakeholder Workshop

Newcastle BIA Review

Subject	Newcastle BIA stakeholder workshop	Page 1/7
Venue	University of Newcastle, NewSpace	Time 7:30am
Participants	Matthew Endacott (AECOM), Ainsley Nigro (AECOM), Jon Cooke (AECOM) Richard Christian (Newcastle Now), Karen Howard (Throsby Basin Business Chamber), Scott Webster (Throsby Basin Business Chamber), Nathan Errington (Hamilton Chamber of Commerce), Bob Hawes (Hunter Business Chamber), Meg Purser (New Lambton Village), Jim Garis (Hamilton Chamber of Commerce), Tim Lees (Honeysuckle Community Group), Ed Duc (Duc Associates), Tiffanie Campbell (Wallsend Town Business Association) and Graham Harde (Carrington Community Council)	
Apologies	Tess Borg (Hamilton Chamber of Commerce), Rhonda Campbell (Wallsend Town Business Association), Michael Cassel (Hunter Development Corporation), Ivor Davies (Mayfield Business Association) and Sarah Thrift (New Lambton Village)	
File/Ref No.		Date 07-Nov-2018
Distribution	For City of Newcastle only unless instructed otherwise.	

No	Item
1.	Introduction Why are you here? Who isn't here that needs to be consulted?
2.	Achievements to date What wouldn't have happened in Newcastle without BIAs? What is the legacy so far?
3.	Priorities and growth What do you want to have achieved or tried in 1, 3 and 5 years' time?
4.	Handbrakes and road bumps What will stop you achieving and trying?
5.	Common ground What are our common priorities? How can we solve the common problems?
6.	Next steps and questions for AECOM

1.0 Introduction

1.1 Question: Why are you here?

- Karen Howard (Throsby Basin Business Chamber)
 - Would like to better understand the BIA model.
- Scott Webster (Throsby Basin Business Chamber)
 - Would like to better understand how the BIA model applies to his business.
- Graham Hardes
 - Would like to better understand the BIA model.
- Bob Hawes (Hunter Business Chamber)
 - Believes there is potential for stronger partnerships between chambers and BIAs.
- Nathan Errington (Hamilton Chamber of Commerce)
 - Looking for positive outcomes that look after small business.
- Tim Lees (Honeysuckle Community Group)
 - Would like to better understand the BIA model to inform a future Honeysuckle application.
- Jim Garis (Hamilton Chamber of Commerce)
 - Would like to better understand the review and potential improvements.
- Richard Christian (Newcastle Now)
 - Would like long term security and confidence in BIAs.
- Ed Duc (Newcastle Now)
 - Would like to see BIA roadblocks removed.

1.2 Who isn't here that needs to be consulted?

- Questions from the group about how stakeholders were identified and who else will be offered opportunities to contribute. Facilitator (Matt Endacott) explained that the workshop is a publicly-funded engagement and that self-identified stakeholders are welcome to contribute.
- Clarification that a 'BIA stakeholder' may be a group or individual who is involved with an existing BIA, intending to form a future BIA or feels that their work is intrinsically linked to BIAs.
- The facilitator explained that representatives from Mayfield, Adamstown and The Junction would be approached in private sessions due to availability conflicts.
- The facilitator invited all attendees to identify any additional stakeholders in writing to AECOM by Friday 16 November.

1.3 General discussion about scope of review and format of workshop

- Discussion about the role of City of Newcastle (the City) and other organisations such as Hunter and Central Coast Development Corporation (HCCDC) in supporting BIAs. Comments from the group to the effect that the City has not paid some BIAs and that this is impacting on operations.
- Comments to the effect that the relationship between BIAs and the City/HCCDC lacks a formal structure and needs to be improved.
- Discussion about strategic planning documents such as Greater Newcastle Metro Plan.
 - BIAs want to better understand strategic planning documents and align with them.

- Question from the facilitator about the role of BIAs and what constitutes core business. Discussion about whether BIAs should be focusing on smaller interventions like placemaking or using limited resources to hold larger events. Consensus reached that BIAs can do both but need to be better resourced.

2.0 Achievements to date

2.1 What wouldn't have happened in Newcastle without BIAs? What is the legacy so far?

- Facilitator invited representatives from each group to get their proudest achievements on the record:
- Tim Lees (Honeysuckle Community Group)
 - No achievements but explained that the group was ready to go and had ideas for their precinct. Expressed frustration at what he feels is a lack of support from the City for their application.
- Nathan Errington (Hamilton Chamber of Commerce)
 - Beaumont Street Carnivale (crowd of 30,000).
 - Festive lighting on Beaumont Street.
 - Promotion and beautification of the Hamilton commercial precinct.
- Jim Garis (Hamilton Chamber of Commerce)
 - Well-attended festivals (China Week, street parade and street festival).
 - Hosting start-up events.
 - Continuing to showcase Beaumont Street as a destination.
 - Meeting businesses afterwards to measure impact of efforts.
- Meg Purser (New Lambton Village)
 - Chambers/BIAs continue to provide a voice for business.
 - Benefit of coordinating efforts.
 - Collaboration around grants needs to be improved.
 - Identifying business cluster branding opportunities.
- Richard Christian (Newcastle Now)
 - VIMOC technologies IOT.
 - Hunter Innovation Project.
 - Lead applicant on many grants.
 - Promoting City of Newcastle 'Park and Ride' service.
 - Co-funded research.
 - City ambassador program.
 - Business to business networking events.
 - Capacity building forums.
 - Incubation of events and capturing opportunities to nurture great, local ideas.
- Tiffanie Campbell (Wallsend Town Business Association)

- Wallsend Winter Fair
- Co-sponsoring events for local businesses who want to run an event but don't have the ability (sponsorship and event management).
- Networking events.
- Liaison with the police to touch base on what they are doing for the area.
- Employed a security company for Nelson Street and around Wallsend.
- Surveys and touching base to confirm what members expect them to be doing.
- Ed Duc (Newcastle Now)
 - Comment to the effect that the City need to cooperate if they want placemaking.
 - Comment to the effect that night-time activations are being hindered by the City.
- Bob Hawes (Hunter Business Chamber)
 - Comment that BIAs with the right governance structures produce stronger and more reliable results than when the City tries similar initiatives.
 - Comment that there is an opportunity for the City to better resource the BIAs.
 - Comment that there are some activities too big for BIAs (e.g. Newcastle Supercars).
- General
 - Chambers that are not BIAs lack the resources to action many of their ideas.
 - BIAs have an interest in making things work because they are invested in the local area.
 - BIAs are a conduit to business and these direct relationships should be nurtured.

3.0 Priorities and growth

3.1 What do you want to have achieved in the 12 months?

- Nathan Errington (Hamilton Chamber of Commerce)
 - Redevelop and activate James Street Plaza.
 - Share services and improve the grant writing process.
 - Re-align the Hamilton deed ahead of going back to IPART in 2021
 - Would support a collaborative set of rules and guidelines for all BIAs.
- Jim Garis (Hamilton Chamber of Commerce)
 - Continue to deliver quality events.
 - Collaborate more with stakeholders and broaden membership base.
 - Collaborate with the Jets and Knights sporting organisations in Broadmeadow.
- Richard Christian (Newcastle Now)
 - Improve collaboration with the City, HDC and other BIAs.
 - Increase sales and profitability of members.
 - Facilitate cooperative marketing opportunities, bring businesses together
 - Curating, facilitating, etc.
 - Revising the membership structure and growing the membership.

- Provide extra services through affiliate arrangements.
- Involve businesses or individuals outside of official boundaries.
- Tiffanie Campbell (Wallsend Town Business Association)
 - Collaborate better with other BIAs.
 - Have a common grant writer.
 - Bring people back in to Wallsend.
- Meg Purser (New Lambton Village)
 - Priority is to attract and support businesses to come in to the area.
 - Target start-ups and cafes, etc.
 - Encourage further commercial investment.
- Karen Howard (Throsby Basin Business Chamber)
 - Stronger engagement with existing members.
 - Grow membership across their footprint.
- Tim Lees (Honeysuckle Community Group)
 - Bring people back to Honeysuckle and traditional town centres.
- Graham Hardes (Carrington Community Council)
 - Maintain a positive relationship with the City.
 - Ensure the levy continues to be spent in the area form which it is collected.
- Bob Hawes (Hunter Business Chamber)
 - Greater consistency with strategic plans such as Greater Newcastle Metro Plan.

3.2 What do you want to have achieved in the next 3-5 years?

- Richard Christian (Newcastle Now)
 - Collaborate better with all levels of government.
 - Grow the city's visitor economy.
 - Develop a greater business mix by:
 - Curating clusters and,
 - Being proactive with leases coming up.
 - Improve safety and amenity of trading areas.
 - Undertake customer research to inform decisions.
 - Align long term planning with City and state strategic plans.
 - Identify and remove unnecessary overlap with other organisations.
- Jim Garis (Hamilton Chamber of Commerce)
 - Curate and develop the local shopping precincts.
 - Manage increased competition from other retail areas.
- Ed Duc (Newcastle Now)
 - Comment about the City previously matching the levy in terms of funding.

- Comment about optics of supporting small traders and not larger centres such as Kotara.
- Comment about the success of the former Newcastle Convention Bureau.

4.0 Handbrakes and road bumps

4.1 What will stop you achieving and trying future actions?

- General agreement that events in the City and region continue to clash due to lack of 'Master Calendar'.
 - Needs to be a structure in place to manage clashes (a resolution process).
 - Need to know about major sporting events, concerts, etc.
 - Small businesses want to know when events are on (e.g. hotel owner being fully booked without knowing why).
 - Agreement that a 'Master Calendar' should be curated to fill gaps in the program and maximise opportunities.
- Agreement that there is a need for a gap analysis to ensure pockets of the City are not missing out and can contribute to overall economic development outcomes.
 - Get IPART approval to get the special rate applied to other precincts.
- Comment to the effect that communication with the City is poor and impacting on operations.
 - No single point of contact and a great waste of time and energy chasing matters within City's administration.
 - Opportunity to improve BIA engagement with elected representatives.
- Ambiguity around purpose and boundaries
 - Confusion around what the relationship between BIAs, HBC, HDC and their responsibilities.
- Administration processes are duplicated, time consuming and uncoordinated.
 - Constant change in terms of requirements and a lack of understanding in terms of what the City needs and when.
- Comment to the effect that the Deed impacts on operations.
 - Several comments to the effect that the City developed the Deed to limit BIAs.
 - Opportunity for a new and more collaborative Deed.
- Comment to the effect that the BIA structure is not supportive of the volunteer workforce.
 - Agreement that volunteers don't mind spending the time if they get outcomes.
 - Agreement that volunteers are becoming disillusioned due to City processes.
- Hampered by uncertainty and what some feel is a lack of consistency from the City.
- Businesses (members) don't feel like they are being supported or seeing benefits.
- Lack of strategic alignment and a lack of resources.
- Red tape and bureaucracy.
- A need to fast-track events and streamline everyday processes such as road closures.
 - No efficiencies for annual events, still need to do all the paperwork.
- Lack of framework for what is required by BIAs.

5.0 Common ground

5.1 What are our common priorities? How can we solve common problems?

- Supportive of having quantifiable outcomes for events (depending on what activity it is).
- Agreement that BIAs need to be better informed and connected.
- Agreement that there needs to be greater sharing of information and resources. This could include:
 - A common calendar,
 - A common grant writer (noting competitive tensions between some areas),
 - Shared advocacy/PR and
 - Developing an advocacy group/peak body between BIAs.
- Agreement that BIAs need aligned and harmonised government deeds and funding.
- Agreement that BIA structures, boundaries and processes as well as those within partners such as the City and HCCDC need to be more transparent.
- Agreement that there needs to be easier access to information about who is paying the levy in each BIA area.
- Agreement that BIAs can work together to better engage, activate and brand their precincts.
- Agreement that BIAs need to build and maintain good relationships between themselves and with partners such as the City and HCCDC.
- Agreement that BIAs need to improve the consistency of their outcomes to demonstrate benefits to the City and other stakeholders.
- General discussion and some consensus around whether there should be a single entity to manage BIA administration. Agreement that this could involve outsourcing but resistance to the idea of an overarching structure that would remove autonomy.
- Agreement that BIAs need greater flexibility in terms of working together. Hunter Councils cited as an example of how this could look going forward.
- Closing remarks to the effect that greater funding security and confidence in the BIAs is paramount. Everything else is secondary.
- Closing remarks to the effect that the City is withholding funds and that suppliers are going unpaid. Facilitator placed this outside the scope of the workshop and closed by thanking attendees.

APPENDIX C

RULES OF WALLSEND TOWN BUSINESS ASSOCIATION INCORPORATED

Under the Associations Incorporation Act 2009

RULES OF WALLSEND TOWN BUSINESS ASSOCIATION INCORPORATED



Image 20 New Lambton town centre (New Lambton Village)

RULES OF WALLSEND TOWN BUSINESS ASSOCIATION INCORPORATED

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**RULES OF
WALLSEND TOWN BUSINESS ASSOCIATION INCORPORATED**

CHAPTER I – NAME AND OBJECTS

1. INTERPRETATION

1.1 In these Rules, unless the context indicates otherwise:

"**Act**" means the Associations Incorporation Act 2009;

"**Annual Financial Statement**" means the Annual Financial Statement for the Association to be approved by the Members,

"**Annual General Meeting**" has the meaning given to it in Rule 22;

"**Approved Funding Agreement**" means any agreement in place from time to time between Council and the Association relating to the transfer of funds to the Association of money collected by the Council.

"**Associate Member**" means a member of the Association admitted pursuant to Rule 5.5;

"**Association**" means the Wallsend Town Business Association Incorporated;

"**Business Day**" means a day on which registered banks are open for business in Hamilton, but does not include Saturdays, Sundays and public holidays;

"**Chairperson**" means the chairperson of the Association referred to in Rule 16;

"**Council**" means the Newcastle City Council;

"**Executive Committee**" means the committee of the Association referred to in Rule 13;

"**Full Member**" means a member of the Association in terms of Rules 5.1 and 5.2;

"**General Meetings**" means the Annual General Meeting and Special General Meetings of the Association;

"**Business Improvement Area Manager**" means a person employed or appointed by the Association to undertake the role of administering and co-ordinating the Business Improvement Area Programme on behalf of the Association in either a paid or unpaid capacity;

"**Business Improvement Area Funding Grant**" means any grant received from the Council for the purposes of the Business Improvement Area Programme;

"**Business Improvement Area Programme**" means the programme involving the Council, the business community and other stakeholders of Wallsend to organise, design, promote, improve and develop the commercial area;

"**Members**" means the members of the Association from time to time including Associate Members and Full Members;

"**Officers**" means the Chairperson, Secretary and Treasurer of the Association referred to in Rules 16 and 17;

"**Secretary**" means the Secretary of the Association referred to in Rule 16;

"**Special General Meeting**" has the meaning given to it in Rule 24;

"**Special Resolution**" has the meaning given to it in Rule 29;

"**Special Subscription**" has the meaning given to it in Rule 5.6;

"**Treasurer**" means the Treasurer of the Association referred to in Rule 17.

References to Persons: references in these Rules to persons include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations or other entities.

2. NAME

2.1 The name of the Association is Wallsend Town Business Association Incorporated.

3. OBJECTS

3.1. The goals of the Association are:

(a) to make Wallsend a safe, clean, commercially vibrant, attractive business district

(b) to help and encourage Wallsend to live up to its name as Wallsend Town Business Association

3.2 The objects of the Association are:

(a) to promote the development and advancement of the commercial interests of businesses in Wallsend through a co-ordinated and structured promotion, advocacy and planning programme;

(b) to foster the welfare and economic development of Wallsend;

(c) to enhance safety and security and to attract and retain businesses to drive employment growth and economic, social, cultural and environment wellbeing;

(d) to make arrangements with the Government, the Council and/or other persons, corporations, associations or local authorities for the improvement of

streets, reserves, playing areas and park areas, and for lighting, surfacing, and cleaning in the Hamilton;

(e) for the purposes and objects stated in these Rules, to administer funds allocated to the Association by the Council from the Wallsend Improvement Special Rate Levy for the purposes for which the Special Rate is levied from time to time, and any other income, funding or grants received by the Association, to deliver services, programmes and outcomes in Wallsend

(f) to do all things as are, or may be incidental to, or conducive to, the attainment of these objects.

3.3 The assets and income of the Association shall be applied solely in furtherance of its above-mentioned objects and no portion shall be distributed directly or indirectly to the members of the Association except as bona fide compensation for services rendered or expenses incurred on behalf of the Association as may be otherwise permitted under this constitution.

CHAPTER II – POWERS

4. SCOPE OF THE ASSOCIATION'S POWERS

4.1 The Association has the widest possible powers to do all things which may be necessary to pursue the Association's goals and objects including (but not limited to) the following powers:

(a) to purchase, take on, lease, exchange, hire, or otherwise acquire any real or personal property, and to sell, mortgage, dispose of or otherwise deal with any real or personal property of the Association and any rights or privileges which the Association thinks necessary or expedient for the purposes of attaining the objects of the Association or promoting the interests of the Association, its Members or any other persons;

(b) to use the funds of the Association as the Association may consider necessary or proper to:

(i) pay the costs and expenses of the Association; and

(ii) further the objects of the Association; including the employment of solicitors, agents, officers and servants as necessary or expedient;

(c) to engage in prosecuting, defending or otherwise taking any legal action or legal proceedings on behalf of the Association and for that purpose, to expend such moneys and employ such solicitors, counsel and other advisors as the Association may think fit;

(d) to apply for and acquire any licences or permits deemed necessary by the Association;

(e) to open and operate bank accounts of whatever nature or description subject to such conditions as the Association thinks fit;

(f) to engage with the community and assist any charity or charitable purpose by such financial or other means as the Association thinks fit;

(g) to borrow or raise money by any means and upon such conditions as the Association thinks fit;

(h) to employ staff and engage contractors for such purposes and for such periods and subject to such conditions as the Association thinks fit;

(i) **PROVIDED THAT** the Association shall not give money or lend money at less than current commercial rates, having regard to the nature and term of the loan, to any person:

(i) who is a Member of the Association; or

(ii) who is a shareholder or director of any company by which any business of the Association is carried on; or

(iii) who is a settlor or trustee of a trust that is a shareholder of any company by which any business of the Association is to be carried on.

CHAPTER III – ASSOCIATION MEMBERSHIP

5. MEMBERSHIP QUALIFICATIONS

5.1 There shall be Full Members of the Association. The nominee of a corporation and other natural persons shall be entitled to be a Full Member of the Association if the corporation or natural person:

(a) owns one or more commercially rated properties within Wallsend and pays the Wallsend Improvement Special Rate Levy; or

(b) occupies or is the tenant of one or more premises on a commercially rated property within the Special Rate area and who operates a business from these premises; and

(c) has not previously been expelled from the Association.

5.2 Any person entitled to be a Full Member and who wishes to become a member shall provide details of their name, address, occupation or business within the Wallsend Improvement Special Rate Levy area to the Secretary.

5.3 A natural person is restricted to one vote.

5.4 Any person who ceases to be entitled to be a Full Member of the Association shall immediately provide notice of that fact, and of the date their entitlement ceased, to the Secretary.

5.5 There may be Associate Members of the Association. A person who does not qualify to be a Full Member may become an Associate Member by applying to the

Secretary. The Secretary shall advise the Executive Committee of the application and the Executive Committee shall determine at its next scheduled meeting whether the applicant shall be admitted.

5.6 An Associate Member shall, in each year, pay a Special Subscription of such amount as is determined by the Executive Committee from time to time. The Executive Committee may appoint an Associate Member onto a sub-committee.

5.7 Each Member which is not an individual shall designate an individual representative to act on its behalf in all matters relating to the Association, and shall notify the Secretary of that representative's name and address.

5.8 The rights of the Members of the Association shall be as follows.

- (a) each Full Member shall be entitled to one vote at General Meetings;
- (b) each Full or Associate member shall be entitled to attend all General Meetings, but an Associate Member shall not be entitled to vote;
- (c) each Member shall be entitled to stand for election to the Executive Committee

6. TERMINATION OF MEMBERSHIP

6.1 A person ceases to be a Member of the Association if the person:

- (a) dies, is registered bankrupt or, being a company or other incorporated body is liquidated or removed from the relevant statutory register; or
- (b) resigns that membership by notice in writing to the Association; or
- (c) is expelled from the Association; or
- (d) ceases to be entitled to be a Full Member in terms of Rule 5.1, and has not been admitted as an Associate Member.

7. REGISTER OF MEMBERS

7.1 The Secretary shall establish and maintain a register of Members specifying the name, address and occupation or business of each person who is a Member, together with the date on which the person became a Member, whether that person is a Full or Associate Member and, in the case of members which are not individuals, the name and address of that Member's individual representative.

7.2 Each Member shall advise the Secretary if there is any change to any of the information in the register relating to that Member.

7.3 The register of Members shall be kept at the principal place of administration of the Association and shall be open for inspection, free of charge, by any Member of the Association at any reasonable hour.

8. FEES AND SUBSCRIPTIONS

8.1 The Association may levy its Members such nominal membership fee as deemed by the Executive Committee necessary to properly carry out its objects.

8.2 Any Member ceasing to be a member of the Association pursuant to Rule 6 shall not be entitled to any refund of any subscription, charge or Wallsend Special Rate Levy paid or payable by that Member prior to his, her or its termination and such Member shall continue to remain liable to pay the Wallsend Improvement Special Rate Levy despite ceasing to be a Member.

9. MEMBER'S LIABILITIES

9.1 The liability of a Member of the Association to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the Member in respect of membership of the Association as required by Rule 5.5 and Rule 8. In the event any Member ceases to be a Member of the Association pursuant to Rule 6 such Member shall not be released from any liability to the Association for any matters arising prior to the end of the financial year in which the Member ceased to be a Member.

10. DISCIPLINING OF MEMBERS

10.1 Where the Executive Committee is reasonably of the opinion that a Member of the Association:

- (a) has persistently refused or neglected to comply with a provision or provisions of these Rules; or
- (i) has persistently and wilfully acted in a manner prejudicial to the interests of the Association; or
- (ii) has failed to pay any subscription or charge payable under Rule 8 or any Special Subscription payable under Rule 5.5 or otherwise failed to make any payment due under these Rules and such failure continues for a period of three calendar months after it is due; or
- (iii) does anything which, in the opinion of the Executive Committee in its absolute discretion is likely to seriously harm the reputation of the Association or the objects of the Association in general;

the Executive Committee may by resolution:

- (iv) remove that Member's entitlement to vote at any General Meeting until such time as payment is made in full; or
- (v) expel the Member of the Association; or
- (vi) suspend the Member from membership of the Association for a specified Period.

10.2 A resolution of the Executive Committee under Rule 10.1 is of no effect unless the Executive Committee confirms the resolution at a meeting held not earlier than fourteen days and not later than twenty eight days after service on the Member of a notice under Rule 10.3.

10.3 Where the Executive Committee passes a resolution under Rule 10.1, the Secretary shall, as soon as practicable, cause a notice in writing to be served on the Member:

- (a) setting out the resolution of the Executive Committee and the grounds on which it is based;
- (b) stating that the Member may address the Executive Committee at a meeting to be held not earlier than fourteen days and not later than twenty-eight days after service of the notice;
- (c) stating the date, place and time of that meeting; and
- (d) informing the Member that the Member may do either or both of the following:
 - (i) attend and speak at that meeting;
 - (ii) submit to the Committee at or prior to the date of that meeting written representations relating to the resolution.

10.4 At a meeting of the Executive Committee held in accordance with Rule 10.3, the Executive Committee shall:

- (a) give the Member an opportunity to make oral representations;
- (b) give due consideration to any written representations submitted to the Committee by the Member at or prior to the meeting; and
- (c) by resolution determine whether to confirm or to revoke the resolution.

11. RESOLUTION OF INTERNAL DISPUTES

11.1 Where a dispute between members (in their capacity as members) of the Association cannot be resolved by the Executive Committee or where the dispute is within the Executive Committee, it will be referred to a community justice centre for mediation in accordance with the Community Justice Centres Act 1983.

11.2 At least seven days before a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply a copy to the mediator.

12. MEMBER DEALINGS WITH AND INTERESTS IN THE ASSOCIATION

12.1 Any Member who is or may be interested or concerned directly or indirectly in any property or undertaking in which the Association is or may be in any way concerned or involved:

- (a) must disclose the nature and extent of that Member's interest to the other Members; and
- (b) must not take any part whatever in any deliberation concerning any matter in which that Member is or may be interested other than as a Member of the Association.

12.2 No private pecuniary profit shall be made by any person from the Association except that:

- (a) any Member may receive full reimbursement for all expenses properly incurred by that Member in connection with the affairs of the Association;
- (b) the Association may pay reasonable remuneration to any officer or servant of the Association (whether a Member or not) in return for services actually rendered to the Association;
- (c) any Member may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by the Member, or by any firm or entity of which that Member is a member, employee or associate in connection with the affairs of the Association;
- (d) any Member may retain any remuneration properly payable to that Member by any company or undertaking with which the Association may be in any way concerned or involved for which that Member has acted in any capacity whatever, notwithstanding that the Member's connection with that company or undertaking is in any way attributable to that Member's connection with the Association.

12.3 Notwithstanding anything contained or implied in these Rules any person who is:

- (a) a Member of the Association; or
- (b) a shareholder or director of any company carrying on any business of the Association; or
- (c) a shareholder or director of any company which is a Member of the Association; or

- (d) a member of any association which is a shareholder or any company carrying on any business of the Association; or
- (e) an associated person of any such Member, shareholder or director;

shall not by virtue of that capacity in any way (whether directly or indirectly) determine, or materially influence the determination of the nature or the amount of any benefit or advantage or income or the circumstances in which it is or is to be received, gained, achieved, afforded or derived by that person.

CHAPTER IV – EXECUTIVE COMMITTEE

13. EXECUTIVE COMMITTEE

13.1 The Association shall be governed by an Executive Committee which:

- (a) shall control and manage the affairs of the Association including the day to day management of the Business Improvement Area Programme;
- (b) may exercise all such functions as may be exercised by a General Meeting of Members of the Association;
- (c) shall fix the amount of subscription which may be in several parts or categories and shall be made on Members or classes of Members for special purposes;
- (d) has power to perform all such acts and do all such things as appear to the Executive Committee to be necessary or desirable for the proper management of the affairs of the Association;

13.2 The Executive Committee shall be responsible for accounting for the Business Improvement Area Funding Grant.

14. MEMBERSHIP OF EXECUTIVE COMMITTEE

14.1 The Executive Committee shall, subject to Rule 14.2, have a maximum of 11 members, a minimum of 5, and shall consist of:

- (a) the Chairperson;
- (b) the Vice Chairperson;
- (c) the Public Officer, who shall be responsible for the fulfilment of the duties of Treasurer and Secretary; which tasks may be delegated to the manager of the Association;

- (d) not more than an additional 8 persons who are Members of the Association, and who have been elected at the Annual General Meeting of the Association pursuant to Rule 15.

14.2 The Executive Committee shall consist of property owners (or nominees), business owners or operators (or nominees), and at most one community representative and one business association representative, all of which operate in the Wallsend Town Business Association.

14.3 Each member of the Executive Committee shall, subject to these Rules, hold office until the conclusion of the Annual General Meeting following the date of the member's election, but is eligible for re-election.

14.4 In the event of a casual vacancy occurring in the membership of the Executive Committee, the Executive Committee may appoint a Member of the Association to fill the vacancy. Any member so appointed shall hold office, subject to these Rules, until the conclusion of the next Annual General Meeting following the date of the appointment.

14.5 The Executive Committee shall, at its first meeting following an Annual General Meeting, elect from amongst the members of the Executive Committee, a Chairperson, Vice Chairperson, Treasurer, Secretary and Public Officer.

14.6 The Executive Committee may invite attendance at its meetings by others for specific purposes, but they shall not be entitled to vote.

15. ELECTION OF MEMBERS TO EXECUTIVE COMMITTEE

15.1 Members of the Executive Committee shall be elected by Members of the Association at the Annual General Meeting.

15.2 Nominations of candidates for election to the Executive Committee:

- (a) shall be made in writing, signed by two Full Members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and
- (b) shall be delivered to the Secretary of the Association not less than one day before the date fixed for the holding of the Annual General Meeting at which the election is to take place.

15.3 If insufficient nominations are received to fill all positions, the candidates nominated shall be deemed to be elected and further nominations shall be received at the Annual General Meeting.

15.4 If insufficient further nominations are received, any vacant positions remaining shall be deemed to be casual vacancies.

15.5 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.

15.6 If the number of nominations received exceeds the number of vacancies to be filled a ballot shall be held.

15.7 Any such ballot shall be conducted at the Annual General Meeting in such usual and proper manner as the Executive Committee may direct.

16. CHAIRPERSON AND SECRETARY

16.1 The Chairperson shall be elected to that position in accordance with Rule 14. In the absence of the Chairperson and Vice Chairperson, Executive Committee Members present shall be entitled to elect a chairperson for the meeting.

16.2 It is the duty of the Secretary to keep minutes of:

- (a) all elections of members of the Executive Committee;
- (b) the names of members of the Executive Committee present at each Executive Committee meeting and General Meeting; and
- (c) all proceedings at Executive Committee meetings and General Meetings

16.3 Minutes of proceedings at a meeting shall be signed by the Chairperson of the meeting or by the Chairperson of the next succeeding meeting.

17. TREASURER

17.1 The Treasurer shall be elected to that position in accordance with Rule 14.

17.2 It is the duty of the Treasurer to ensure that:

- (a) all money due to the Association is collected and received and all payments authorised by the Association are made;
- (b) correct books and accounts are kept showing the financial affairs of the Association including full details of all receipts and expenditure connected with the activities of the Association.

18. AUDITOR

18.1 An Auditor may be appointed by the Association on an annual basis to carry out the functions set out in this Rule, and must be appointed if directed to do so by the Council.

18.2 No person who is an Officer or a Member of the Association may be appointed as Auditor.

18.3 The remuneration of the Auditor shall be fixed by the Association.

18.4 If any casual vacancy occurs in the office of any Auditor appointed by the Association, the Executive Committee shall appoint an Auditor to carry on the duties of the Auditor until the next Annual General Meeting.

18.5 The Auditor shall provide the Members with a report regarding the accounts and statements, and whether in the Auditor's opinion proper accounts and statements have been kept and if not what the deficiencies in the accounts and statements may be. The report shall be read together with the report of the Executive Committee at the Annual General Meeting.

19. CASUAL VACANCIES

19.1 For the purposes of these Rules, a casual vacancy in the office of a member of the Executive Committee occurs if the member:

- (a) dies;
- (b) ceases to be a Member of the Association;
- (c) is declared bankrupt;
- (d) resigns office by notice in writing given to the Secretary;
- (e) is removed from office under Rule 20;
- (f) becomes of unsound mind or becomes a person who is liable to be dealt with in any way under the law relating to mental health; or
- (g) is absent without the consent of the Executive Committee from four consecutive meetings of the Executive Committee.

20. REMOVAL OF MEMBER

20.1 The Association in a General Meeting may, by resolution, remove any member of the Executive Committee from office before the expiration of the member's term of office.

20.2 Where a member of the Executive Committee to whom a proposed resolution referred to in Rule 20.1 relates:

- (a) makes representations in writing to the Chairperson or Secretary; and
- (b) requests that the representations be notified to the Members of the Association;

then the Chairperson or Secretary may send a copy of the representations to each Member of the Association. If they are not so sent, the Member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

21. MEETINGS OF EXECUTIVE COMMITTEE AND QUORUM

21.1 The Executive Committee shall endeavour to meet monthly but in all events shall meet not less than six times in each financial year, and at such time and place as shall be decided by the Executive Committee.

21.2 Additional meetings of the Executive Committee may be convened by the Chairperson or by any member of the Executive Committee.

21.3 Oral or written notice of a meeting of the Executive Committee shall be given by the Secretary to each member of the Executive Committee at least 48 hours (or such other period as may be unanimously agreed upon by the members of the Executive Committee) before the time appointed for the holding of the meeting.

21.4 A quorum for the Executive Committee shall consist of half the number of executive members, rounded up to a whole number.

21.5 No business shall be transacted by the Executive Committee unless a quorum is present within half an hour of the time appointed for the meeting.

21.6 Questions arising at a meeting of the Executive Committee or of any sub-committee appointed by the Executive Committee shall be determined by a majority of the votes of members of that committee present at the meeting and entitled to vote.

21.7 At a meeting of the Executive Committee:

- (a) the Chairperson or, in the Chairperson's or Vice Chairperson's absence, any member of the Executive Committee nominated to stand in his/her place shall preside; and
- (b) In the case of a tie in votes, the motion is defeated, and the status quo remains; there is no casting vote.

CHAPTER V – GENERAL MEETINGS

22. ANNUAL GENERAL MEETING

22.1 The Association shall, at least once in each calendar year, and within the period of six months after the expiration of each financial year of the Association, convene an AGM of its Members.

23. ANNUAL GENERAL MEETING - CALLING AND BUSINESS

23.1 The Annual General Meeting shall be convened on such date and at such place and time as the Executive Committee thinks fit.

23.2 In addition to any other business which may be transacted at an AGM, the business of an AGM shall be:

- (a) to confirm the Minutes of the last preceding AGM and of any Special General Meeting held since that meeting;
- (b) to receive from the Executive Committee reports on the activities of the Association during the preceding financial year;
- (c) to approve the Annual Financial Statements;
- (d) to elect the members of the Executive Committee.

23.3 The Association's financial year shall end on 30 June.

24. SPECIAL GENERAL MEETINGS

24.1 The Executive Committee may, whenever it thinks fit, convene a Special General Meeting of the Association.

24.2 The Executive Committee shall, on the requisition in writing of not less than ten percent of the total number of Members, convene a special meeting of the Association.

24.3 A requisition of Members for a Special General Meeting:

- (a) shall state the purpose or purposes of the meeting;
- (b) shall be signed by the Members making the requisition;
- (c) shall be lodged with the Secretary;

24.4 If the Executive Committee fails to convene a Special General Meeting to be held within one month after the date on which a requisition of Members for the meeting is lodged with the Secretary, any one or more of the Members who made the requisition may convene a Special General Meeting to be held not later than three months after that date.

24.5 The business to be conducted at a Special General Meeting shall be the only business for which the Special General Meeting in question was convened, provided that it is business which can properly be dealt with by Members in General Meeting.

25. NOTICE

25.1 Except where the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Association, the Secretary shall, at least 14 days before the date fixed for the holding of the General Meeting, cause to be sent by prepaid post to each Member at the Member's address appearing in the register of

Members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

25.2 Where the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Association the Secretary shall, at least 21 days before the date fixed for the holding of the General Meeting, cause notice to be sent to each Member of the Association specifying the intention to pass such a resolution as a Special Resolution.

25.3 No business other than that specified in the notice convening a General Meeting shall be transacted at a meeting except, in the case of an Annual General Meeting, present business which may be transacted pursuant to Rule 23.

25.4 A Member desiring to bring any business before a General Meeting may give notice in writing of that business to the Secretary who shall include that business in the next notice calling a General Meeting given after receipt of the notice from the Member.

26. PROCEDURE

26.1 No item of business shall be transacted at a General Meeting unless a quorum of Members entitled under these Rules to vote is present.

26.2 Fifteen Full Members present in person constitute a quorum for the transaction of the business of a General Meeting.

26.3 If, within half an hour after the appointed time for the commencement of a General Meeting, a quorum is not present, then the meeting shall stand adjourned to the same day in the following week at the time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned) at the same place.

26.4 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present (being not less than six Full Members) shall constitute a quorum.

27. PRESIDING MEMBER

27.1 The Chairperson shall preside at each General Meeting of the Association.

27.2 If the Chairperson and the Vice Chairperson are absent from a General Meeting or unable or unwilling to act, the Members present shall elect one of their number to preside as Chairperson at the meeting.

28. MAKING OF DECISIONS

28.1 A question arising at a General Meeting shall be determined on a show of hands. Unless a poll is demanded before, or on the declaration of a show of hands, then a

declaration by the Chairperson shall constitute evidence of the outcome of the resolution without proof of the number or proportion of votes recorded in favour of or against that resolution.

28.2 At a General Meeting, a poll may be demanded by the Chairperson or by not less than three Full Members present in person or by proxy at the meeting.

28.3 Where a poll is demanded at a General Meeting, the poll shall be taken. Resolution of the poll on the matter shall be deemed to be the resolution of the meeting on that matter.

29. SPECIAL RESOLUTION

29.1 A resolution of the Association is a special resolution if:

- (a) it is passed by a majority (which comprises not less than three-quarters of such Members of the Association, as being entitled under these Rules so to do), voting in person; and
- (b) the resolution is passed at a General Meeting; and
- (c) not less than 21 days written notice of the meeting has been given to Members specifying the intention to propose the resolution as a special resolution.

30. VOTING

30.1 Upon any question arising at a General Meeting, a Full Member has one vote only.

30.2 All votes shall be given personally provided that the poll to elect the Executive Committee may be given by postal vote.

30.3 In the case of an equality of votes on a question at a General Meeting, the motion is defeated, and the status quo remains; there is no casting vote.

30.4 A Member is not entitled to vote at any General Meeting of the Association unless all money due and payable by the Member to the Association has been paid.

30.5 The Association [may / may not] hold a postal ballot to determine any issue or proposal.

30.6 A postal ballot is to be conducted in accordance with Schedule 3 to the Regulation.

CHAPTER VI – MISCELLANEOUS

31. INSURANCE

31.1 The Association must effect and maintain insurance.

32. FUNDS – SOURCE AND APPLICATION

32.1 The Association receive funds through an Approved Funding Agreement with Council, being allocated the funds raised by the Wallsend Improvement Special Rate that is levied, collected and disbursed by the Council.

The Association must apply the funds received from the Council which comprise funds raised by the Wallsend Improvement Special Rate for the purpose for which the Wallsend Improvement Special Rate is levied from time to time, being as at the date of this Constitution the promotion, beautification and development of the Wallsend Business Area, and in accordance with the objects in clause 3.2 and in accordance with an Approved Funding Agreement.

32.2 The Association may raise funds from Government, corporations, enterprises and individuals for specific projects and activities.

33. FUNDS – MANAGEMENT

33.1 Subject to any resolution passed by the Association in General Meeting, and the terms of any Approved Funding Agreement, the funds of the Association shall be used to pursue the objects of the Association in such manner as the Executive Committee determines.

33.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by any two members of the Executive Committee or employees of the Association, being Members or employees authorised to do so by the Executive Committee.

33.3 All funds received by the Association remain the property of the Association. The property of the Association is irrevocably dedicated to objects stated in these Rules. No part of the net income or assets of the Association shall ever inure to the benefit of any director, officer or Member of the Association or to the benefit of any private persons.

33.4 The Association shall keep separate from any other accounts, the account or accounts used for money allocated to the Association by the Council, and shall cause the revenue and expenditures resulting from the use of the separate account or accounts to be a schedule in the audited financial statements of the Association. The funds held in the account or accounts used for money allocated to the Association by the Council from the Wallsend Improvement Special Rate shall be held by the Association in trust for the Council pending the expenditure of those funds for the purpose for which the Wallsend Improvement Special Rate is levied from time to time, being as at the date of this Constitution the promotion, beautification and development of the Wallsend Business Improvement Area, and in accordance with the objects in clause 3.2, and such account or accounts shall be styled as trust accounts.

34. ALTERATION OF OBJECTS AND RULES

34.1 Subject to the provisions of the Act, Rule 29, Subrule 34.2 and the statement of objects, these Rules may be altered, rescinded or added to only by a Special Resolution of the Association provided that no addition to or alteration or rescission of the Rules shall be effective if it affects the charitable objects, pecuniary benefits or winding up clauses.

34.2 None of the Rules of the Association affecting the Business Improvement Area Programme or the expenditure of funds provided by Council from the Wallsend Improvement Special Rate shall be altered without the prior written approval of the Council.

35. CUSTODY OF BOOKS AND PROVISION OF RECORDS AND INFORMATION TO COUNCIL

35.1 Except as otherwise provided by these Rules, the Secretary shall keep in his or her custody or under his or her control all records, books and other documents relating to the Association.

35.2 Copies of all minutes and of all resolutions of the Executive Committee and Members shall be provided to the Council's Director Wallsend within 30 days of the meeting from which the minutes arose and within 30 days of such resolutions being passed.

35.3 The Association shall provide to the Council an annual business plan, annual budget and such acquittal reports as are required under an Approved Funding Agreement.

35.4 Except where an Approved Funding Agreement provides otherwise, the Association shall provide to the Council:

35.4.1 Audited financial statements of all funds received from council (including the schedule referred to in clause 33.4) not less than 3 months after the end of each financial year,

35.4.2 A copy of the Association's annual report not less than 3 months after the end of each financial year.

36. SERVICE OF NOTICES

36.1 For the purposes of these Rules, a notice may be served by or on behalf of the Association upon any Member either personally or by sending it by post to the member at the member's address shown in the register of members.

36.2 Where a document is sent to a person by properly addressing, prepaying and posting to the person a letter containing the document, the document shall, unless the contrary is proved, be deemed for the purposes of these Rules to have been served on

the person at the time at which the letter would have been delivered in the ordinary course of post.

37. WINDING UP

37.1 In the event of the winding up or the cancellation of the incorporation of the Association, Council will determine the Incorporated Association or body that surplus property is to be vested in pursuant of Section 65 of the Act provided that the association or body must have rules prohibiting the distribution of its assets and income to its members.

The Rules of the Wallsend Town Business Association contained herein are in accordance with Section 6(5) and contain those matters specified in Schedule 1 of the Associations Incorporation Act 2009.

- o o o -

Application for membership

I,
(full name)

of
(company / business name)

located at
(street address of business/premises)

being the owner of that property/ an operator of a business at that address *(delete inapplicable)*

hereby apply to become a member of the Wallsend Town Business Association Inc, and nominate as my/ the company's representative

.....
(full name of nominee)

In the advent of my admission as a member, I agree to be bound by the rules of the association for the time being in force. I acknowledge that the annual membership fee is \$10 which falls due on receipt of an invoice.

.....
signature of applicant

.....
date

contact details for nominee:

email address

phone number

postal address *(if different)*

Please send completed form to [xxxxxxx] [xxxxxxx], or fax to 02 [xxxxxxxxxx]

REVIEW OF BUSINESS IMPROVEMENT ASSOCIATIONS (BIAS) IN NEWCASTLE

FINAL IMPLEMENTATION REPORT
MAY 2019



Quality information

Prepared by	Checked by	Verified by	Approved by
Matthew Endacott	Peter Jensen	Ainsley Nigro	Ainsley Nigro

Revision History

Revision	Revision date	Details	Authorized	Name	Position
1	5 April 2019	Draft Report		Ainsley Nigro	Principal Economic Analyst
2	8 April 2019	Draft Report		Ainsley Nigro	Principal Economic Analyst
3	27 May 2019	Final Report		Ainsley Nigro	Principal Economic Analyst

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1 EXECUTIVE SUMMARY

This report has been prepared with information provided by Business Improvement Associations (BIAs), City of Newcastle (the City), and material sourced during the first phase of this engagement in 2018. Where necessary, AECOM has indicated that information received and analysed may be incomplete or in conflict with publicly available documents. To this end, AECOM has not been able to verify the accuracy of the financial analysis provided for the City's consideration. Recommendations in this report have therefore been determined with a view to prioritising the intent of the Special Benefit Rate Levy (the Levy), ensuring a greater percentage of project-related expenditure and reducing BIA reliance on the Levy.

To achieve these outcomes, this report recommends that the City consider providing up to \$100,000 to each BIA with remaining Levy funds to be made contestable within their respective precincts. AECOM reached this figure by analysing BIA outputs to determine the average cost of initiatives that BIA stakeholders identified as major achievements of the framework. These include festivals such as the Wallsend Winter Fair and Hamilton Carnivale, both of which could be delivered under the proposed funding scheme. The main objective of this recommendation is the more direct delivery of the benefits for which the Levy has been collected. It is also anticipated that through a competitive, contestable funding scheme that trading areas will benefit from a greater number of comparable initiatives.

This report recommends that BIAs be allowed to apply for contestable funds within their precinct and that these funds be allocated and distributed through existing City processes. This recommendation has also sought to reduce expenditure on administration, including employee expenses, as available information indicates that this is not the primary purpose for which the funds continue to be raised.

In line with initial recommendations, this report also recommends that the City ensure all BIAs have funding certainty by assisting them where appropriate to meet their obligations. In the case of the Mayfield BIA, this could include supporting the restoration of a Board of Directors by notifying eligible property owners and traders of the existing opportunity as well as the tools and funds that may be available to a future Board.

This report also recommends that the City support the formation of new BIAs in the Local Government Area, notably in The Junction where a group of traders

have already taken the initiative to advance this idea. This report does not recommend that the City actively create BIAs in other precincts such as Adamstown or Honeysuckle but should provide a similar level of support in the case traders in these areas inform the City of a desire to formalise activities within the BIA framework.

AECOM was also asked to clarify the role of a BIA in relation to other stakeholders, specifically Chambers of Commerce. This has been achieved through engagement with relevant BIAs in the LGA. AECOM concluded that although BIAs and Chambers of Commerce share common objectives, they differ in terms of their membership structures, boundaries and priorities. To this end, the report recommends that the City consider asking any Chamber of Commerce receiving Levy funding to separate these funds from other sources of incomes during the acquittal process and to account for its expenditure accordingly.

2 INTRODUCTION

AECOM was engaged by the City in October 2018 to review the BIA framework in the Newcastle LGA. This review was initiated by the City after a submission from Hamilton BIA to the City's Open and Transparent Governance Strategy stated that "more ... can be done to ensure that the 6 (sic) BIAs that receive recurrent funding from Newcastle City Council are more accountable to the elected council, and ultimately to the ratepayers of Newcastle". This submission has been attached as Appendix 3. As part of this review, AECOM made recommendations to enhance the current 'non-government provider' model and to increase the City's role in managing and collaborating with BIAs. These recommendations included amending governing documents (such as BIA constitutions), reducing BIA reliance on the Levy (also referred to as the SBRL), removing duplication of overhead costs, allocating most of the Levy funding towards projects or events, bringing about a sense of competition, and improving governance practices.

These initial recommendations were presented to the City in December 2018 and endorsed at that month's Ordinary Council Meeting. AECOM was subsequently reengaged to develop and clarify issues and opportunities identified in the 2018 report. These include expenditure of the Levy by BIAs since the 2015/16 Financial Year, mechanisms for creating competition for Levy funding, restoring the Mayfield BIA and differentiating the role of BIAs and stakeholders such as Chambers of Commerce. This report presents the findings of the work undertaken during this engagement.

The 2018 report recommended a framework that prioritises good governance, more direct delivery of Levy benefits and improved collaboration between the City and BIAs.

By enhancing the current 'non-government provider' model, the City can empower its BIAs to play a more significant role in the city's economic development by becoming less reliant on the ratepayer-funded Levy, and by involving their members in more decision-making that is informed by improved access to business plans, strategic plans, Executive Committee minutes and acquittal reports and financial records.

Enhancing the current model will allow BIAs to better involve their members, align operations with emerging opportunities and make structural changes that can ensure funding certainty and improved governance.

To achieve this, BIAs should:

- Amend governing documents to reflect the priorities of the Greater Newcastle Metropolitan Plan (endorsed by the City) as well as the City's Community Strategic Plan.
- Remain independent of the City by raising additional revenue and reducing their reliance on the ratepayer-funded Levy.
- Share resources, including employees or contractors, to remove duplication of overhead costs and to improve administration and record keeping. This could involve BIAs pooling an allocated percentage of their Levy funding to employ administrative support.
- Partner with the City to implement the Destination Marketing Plan.
- Engage more regularly with their members to evaluate their goals, objectives and membership structure against the City's strategic plans.
- Engage in more genuine consultation with their respective Ward councillors and the Lord Mayor on draft business plans to better ensure a collegiate approach to the spending of special rate levies.
- Commit to more open and transparent governance practices. This could include regular financial disclosure as well as having minutes from Executive Committee meetings, business plans, acquittal reports and all strategic plans available online.

To support these changes, the City should:

- Streamline all in-house processes relating to BIAs to ensure consistency and to better communicate expectations. This could include 'fast-tracking' approvals for regular events or creating an online portal for common resources and submissions.
- Include Key Performance Indicators (KPIs) in future Funding and Service Agreements. These KPIs should be tied to common priorities such as Destination Marketing, thereby clarifying roles and expectations in more contested areas of the city's economic development. BIAs should be incentivised to meet these indicators of success.
- Ensure all BIAs have funding certainty by assisting them where appropriate to meet their obligations. This may involve providing templates, recommendations or feedback on applications in a timely manner.
- Support BIAs to improve their marketing collateral by sharing image libraries or collaborating to undertake photoshoots or image acquisitions.
- Communicate early and often with BIAs regarding proposed projects and strategies that could impact on their precinct.

This report has been prepared to assist the City in forming an opinion on the recommended funding split for each BIA for an anticipated three-year service agreement (to commence from 1 July 2019), with remaining funding to be available within the collection precinct as contestable funding. AECOM has undertaken stakeholder engagement activities and financial evaluation of current and past BIA expenditure, sourced from relevant paper work such as business plans, acquittal reports, financial statements and funding applications, and annual reports. This report presents the findings of these activities for the City's consideration.

3 STAKEHOLDER ENGAGEMENT

Activities and engagements in this chapter should be read as supplementary to AECOM's initial BIA stakeholder engagement process (22 October 2018 to 15 November 2018). This process has been detailed on pages 7, 8 and 9 of the 2018 report (Appendix 1).

On **13 February 2019** the City emailed representatives from all BIAs to explain the purpose of this supplementary report and to invite BIAs to contact AECOM. The purpose of the 2019 report was explained as follows:

"AECOM's work over the coming weeks is predominantly to form an opinion on the recommended funding split for each BIA for an anticipated three-year service agreement (to commence from 1 July 2019), with remaining funding to be available to the public as contestable funding. Note any successful application for contestable funding will require the funds be invested within the precinct from which it was paid.

City of Newcastle will shortly be advertising an 18-month contract for a third party to prepare on behalf of all BIAs; any relevant paper work such as business plans, acquittal reports, financial statements and funding applications. We will make you aware of this once the contract is live.

In the meantime, you are encouraged to commence discussions with your stakeholders and fellow Directors about the types of events and projects that you believe should be proposed for your area (recognising that funding will be provided for three years)."

At the City's request, AECOM met with representatives from the Hunter Business Chamber (HBC) on 18 February 2019 to further discuss the scope of this report.

On **19 February 2019** AECOM extended an invitation to all BIAs in Newcastle to discuss or contribute to this report. The following stakeholders were emailed:

- Ms Rhonda Campbell, Wallsend BIA
- Ms Tiffanie Campbell, Wallsend BIA
- Mr Richard Christian, Newcastle BIA
- Mr Edward Duc, Newcastle BIA
- Mr Ivor Davies, Mayfield BIA
- Mr Bob Hawes, HBC
- Mr Nathan Errington, Hamilton BIA
- Mr Jim Garis, Hamilton BIA
- Ms Meg Purser, New Lambton BIA

- Mr Mike Strachan, New Lambton BIA
- Ms Sarah Thrift, New Lambton BIA

BIAs were informed that representatives from AECOM would be available to meet and/or accept relevant materials from 20 February 2019 to 6 March 2019. Similar invitations were extended on the same day to the potential future BIAs identified in the 2018 report. These include The Junction, Honeysuckle and Throsby Basin Business Chamber.

Wallsend Town Business Association (Wallsend BIA) was the only BIA to accept the invitation extended on 19 February 2019. AECOM met with the Board of Wallsend BIA on **21 February 2019** from 8am to 9:30am at Mulligan's Property Group, Nelson Street, Wallsend. Representatives from Wallsend BIA present at this engagement included:

- Ms Tiffanie Campbell (President)
- Mr Jesse Mulligan (Vice President)
- Mr Doug Beckwith (Senior Board)
- Ms Frances Beckwith (Acting Treasurer)
- Mr Craig Budden (Community Board Member)
- Ms Rhonda Campbell (Project Coordinator & Event Manager)

On **21 February 2019** AECOM wrote to all BIAs to inform their representatives of the meeting with Wallsend BIA. At the request of the Wallsend BIA, AECOM prepared a template that could be populated by BIAs to demonstrate expenditure of Levy funds since FY15/16. BIAs were also invited to submit any existing documents, such as acquittal reports, that captured similar information.

On **22 February 2019** AECOM engaged with Mr Damion O'Reilly (Managing Director, MI Group) on behalf of Honeysuckle traders, as per recommendations from both the City and Honeysuckle Community Group. Mr O'Reilly followed up this engagement on 23 February 2019 with an email that summarised his key concerns and ideas. These have informed AECOM's recommendations in relation to new BIAs.

On **26 February 2019** Newcastle BIA remained the only BIA to have not contacted AECOM. To ensure Newcastle BIA had an opportunity to inform this report, AECOM emailed Mr Edward Duc and included all known Directors of Newcastle BIA. AECOM could not contact the entire Executive Committee as an up to date list of Directors and contact details could not be located on either the Newcastle BIA website or in its most recent annual report. On this date AECOM emailed:

- Mr Edward Duc
- Ms Debera Mackenzie
- Mr Kevin Coffey
- Mr David Crofts
- Ms Catherine Henry, and
- Ms Anne Kempton.

On 28 February 2019 AECOM attempted to invite remaining BIAs to meet and/or provide necessary documentation identified as missing by our Melbourne-based economists. On this date AECOM wrote to:

- Mr Edward Duc, Newcastle BIA
- Mr Nathan Errington, Hamilton BIA
- Ms Sarah Thrift, New Lambton BIA.

Mr Ivor Davies, the only identified former representative of Mayfield BIA, was contacted by the City.

On **5 March 2019** AECOM was informed that Ms Sarah Thrift (New Lambton BIA) had resigned from her position as President.

On **26 March 2019** AECOM again met with Wallsend BIA to discuss evaluation to date and to outline next steps.

On **29 March 2019** AECOM met with Hamilton BIA to discuss the scope of the engagement and to assist in distinguishing BIAs from Chambers of Commerce. On this occasion AECOM met with:

- Mr Nathan Errington
- Mr Jim Garis
- Ms Meg Purser.

AECOM was unable to secure meetings with representatives from Newcastle BIA and New Lambton BIA. As detailed in the 2018 report, Mayfield BIA is not currently served by a Board of Directors.

The evaluation and recommendations provided in this report have been completed based on documentation received by AECOM up to and including 27 May 2019.

4 EXPENDITURE OF THE SPECIAL BENEFIT RATE LEVY (LEVY)

The purpose of the financial evaluation was to account for expenditure of the Levy since the Financial Year 2015/16.

As this evaluation demonstrates, large cost savings could be made by consolidating administrative processes not directly related to project delivery. As stated in the 2018 report:

“Throughout the engagement process [undertaken by AECOM], stakeholders ... voiced a range of concerns about administrative inefficiencies which appear to be present in the current BIA model. The need to ‘streamline’ the City’s compliance requirements ... was cited as a common frustration for BIAs. The processes involved in applying for grants and City-funded schemes was also criticised by some stakeholders. Although it appears that some efficiencies could be made by the city, it is also apparent that BIAs do not have adequate resources to meet some of their obligations and requirements. To this end, the idea of BIAs sharing an employee or employees attracted support among stakeholders. The creation of a shared role could allow BIAs to be consistent in their dealings with the City and would reduce what appears to be a burden on multiple individuals within the model who are, with some exceptions, undertaking very similar roles. It is presumed that this role would be resourced by the BIAs, possibly through a Funding and Service Agreement between the organisations.”

With this centralised function in place, a percentage of remaining funds could be managed as a contestable fund, to be maintained by the City and where appropriate provided to BIAs or other groups in accordance with the Local Government Act 1993. This is consistent with the recommendations in AECOM’s 2018 report to reduce BIA reliance on the Levy and to create competition among stakeholders for collected funds.

4.1 METHODOLOGY

As requested by the City, a financial evaluation was undertaken to determine the proportion of expenditure that could be redirected to contestable funds for each BIA trading area. As outlined in Section 3, an information request was issued in February 2019 to the BIAs for acquittal reports and financial records. Expenses were categorised in accordance with classifications as identified by the BIAs in the summaries received. As shown in Table 3, the data was split into project and non-project expenses to clearly outline the expenditure.

Expenditure summaries were used in this evaluation as they allowed for expenses to be consolidated in a concise manner. The acquittal reports were difficult to consolidate as they generally had differing timelines. This made it difficult to put together an evaluation that was consistent.

Hamilton, Mayfield and Lambton BIAs did not provide annual report data for review.

INFORMATION REQUESTED

Under the current Approved Funding Agreement (the Deed), each BIA must provide audited financial data and acquittal reports annually to the City. To give BIAs an opportunity to inform this evaluation, an information request for recent financial expenditure was sent in February 2019. A summary of the data received and used in this evaluation is summarised in Table 1.

Table 1. Document Received from each BIA

BIA	Documents Received
Hamilton	<ul style="list-style-type: none">• Acquittal Report July 2018 (full year)• Expenditure Templates 2015 to 2019• Profit and Loss Statements June 2017 to December 2017
Wallsend	<ul style="list-style-type: none">• Acquittal Report July to December 2018• Annual Reports 2016 to 2018• Expenditure Templates 2015 to 2019• Profit and Loss Statements June 2016 to December 2018
New Lambton	<ul style="list-style-type: none">• Acquittal Report July 2018• Profit and loss statements June 2017 to June 2018
Newcastle Now	<ul style="list-style-type: none">• Acquittal Reports 2014 to 2018• Annual Reports 2013 to 2018• Expenditure Templates 2015 to 2019• Profit and Loss Statements January 2016 to December 2018
Mayfield	<ul style="list-style-type: none">• Bank Statements 2016 to 2018• Profit and Loss Statements January 2016 to December 2018

4.1.1. CONSOLIDATION AND ANALYSIS OF FINANCIAL DATA

BIA expense items during each financial year have been categorised into the expenditure types in Table 2.

Table 2. Summary of expense categories used in evaluation

Data Period	Category	Expenditure items
Project Expenses	Beautification of precinct (including place making)	Expenses used for place making and amenity improvement activities, such as lighting programs, street cleaners
	Promotion of precinct (including marketing)	Marketing and advertising expenses, such as banner programs, social media, brand rollouts
	Events (including permits)	Direct costs associated with holding events and other activation works, and project management activities
Other Expenses	Administration	Accounting, insurance, legal, office expenses, printing and postage, website, database maintenance, report writing expenses, Utilities, bank fees
	Other expenses (including wages)	Wages, depreciation, other employment liabilities
	Membership benefits (including networking opportunities)	Member engagement activities, networking with sponsors

The annual reports used different categories and have been categorised into the expenditure types in Table 3. There is no breakdown of expenses in the annual report and so it is not known what is included in that category.

Table 3. Summary of expenses categories used from annual report

Type	Expenditure items in annual report
Project Expensed	Project expenses
Other Expenses	Administration expenses
	Employee expenses
	Depreciation expenses
	Consultancy

4.2 FINDINGS

4.2.1. HAMILTON

Based on the information submitted to AECOM and shown in Figure 1, a large proportion (80 percent) of the Levy funds received by Hamilton BIA from July 2015 to 2019 was spent on project expenses; of which 'holding events' comprises around 47 percent of total spend of income. As seen in Figure 2 other project expenses included beautification and promotion of the precincts and non-project expenses were spent on wages and administration. Figure 3 shows that over time (2015 to 2019), the share between project expenses and other expenses has broadly been consistent.

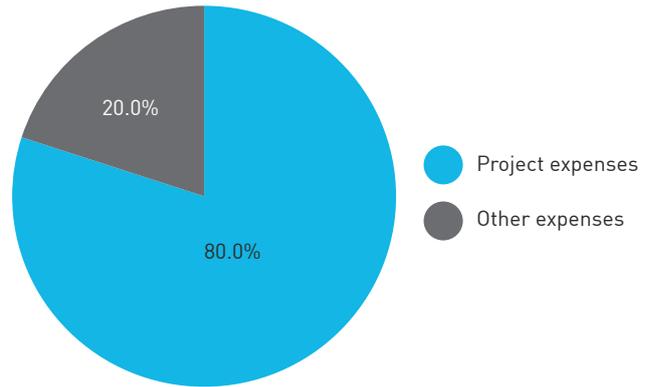


Figure 1. Hamilton BIA share of project and non-project expenses, FY15/16 - FY 18/19

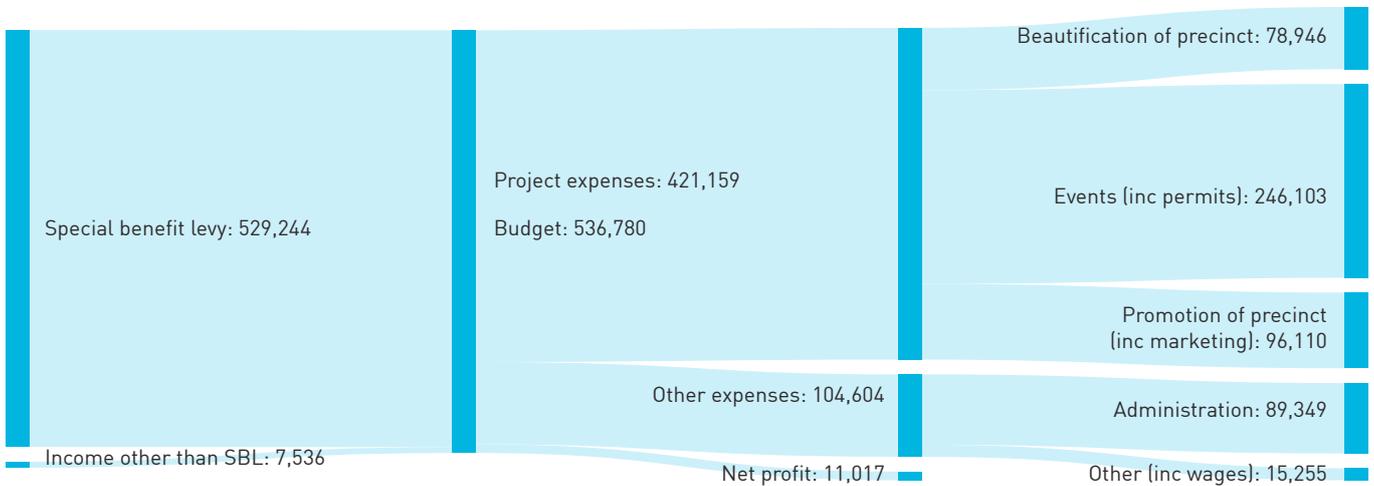


Figure 2. Breakdown of Hamilton BIA expenditure flows, FY 15/16 - 18/19

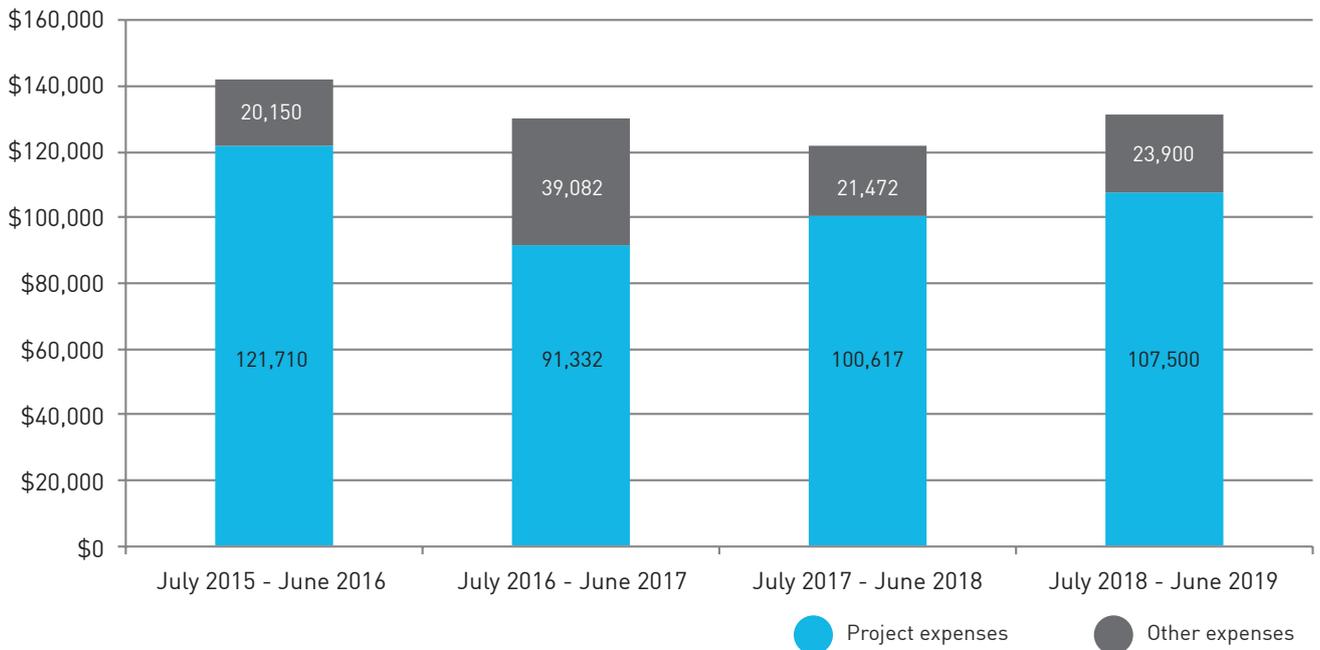


Figure 3. Hamilton BIA expense amounts by type, FY 15/16 – Year To Date (YTD)

It should be noted that Hamilton BIA identifies on its website as both a BIA and a Chamber of Commerce. For this reason, it was not possible to distinguish expenditure of Levy funds from the expenditure of other funds that may or may not have been obtained by the Hamilton Chamber of Commerce. As such, it was also not possible to determine whether or not Levy funding was used solely for BIA initiatives or was also used to support Chamber initiatives.

HAMILTON ANNUAL REPORT

An annual report for Hamilton BIA has not been provided.

4.2.2. WALLSEND

While the majority of Wallsend BIA's income from 2015 to 2019 was received as the Levy paid by commercial property owners, an additional amount (around \$36,800) was received from other sources, including grants and other previously withheld funding. Figure 5 shows that a large proportion (around 83 percent) of expenses was used for project related activities, of which around 66 percent was spent on precinct event promotion.

At the end of 2018 there was a significant amount of unspent funds (around \$251,000) which has been considered as net profit. These funds are retained by Wallsend BIA.

Over time the break down between project expenses and other expenses has been consistent with only slight fluctuations.

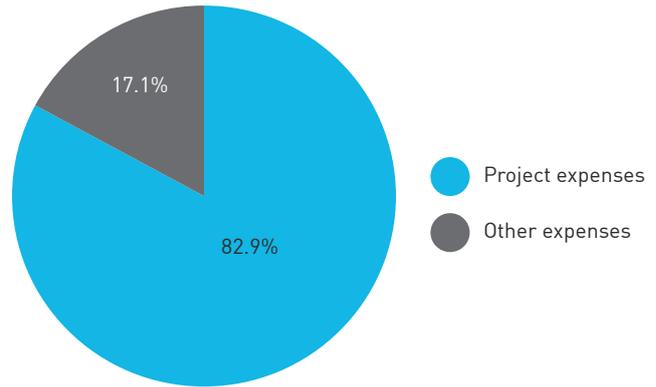


Figure 4. Breakdown of Hamilton BIA expenditure flows, FY 15/16 - 18/19

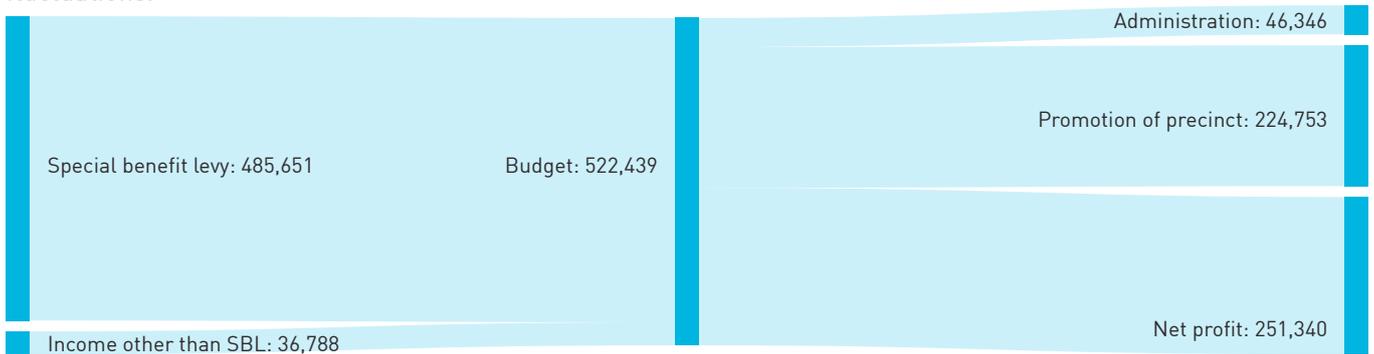


Figure 5. Wallsend BIA expense amounts by type, FY 15/16 - 18/19

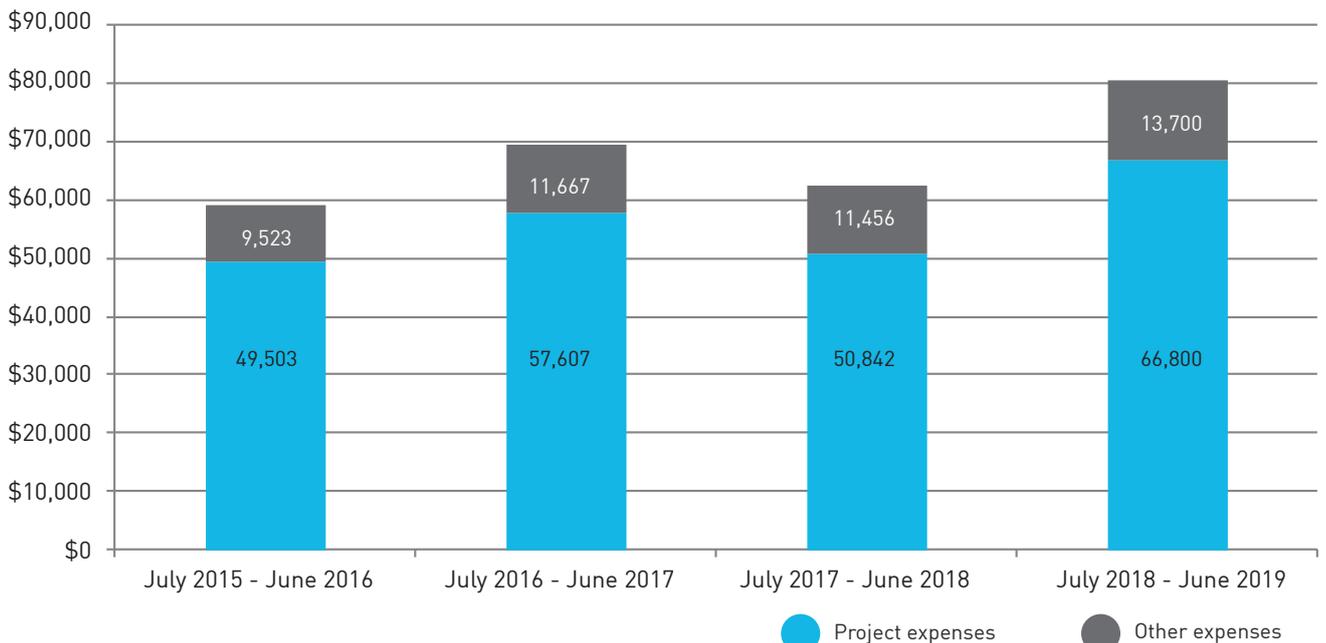


Figure 6. Breakdown of Wallsend BIA expenditure flows, FY 15/16 - YTD

WALLSEND ANNUAL REPORT

Annual reports from July 2016 to June 2018 for Wallsend were reviewed and showed a difference in categorisation of expenditure compared to other financial data and information. The key difference between the two sources of information was the categorisation of project expenses, with mini events being listed in annual reports but not in the expenditure summaries. There are minor differences between the two in the breakdown of project expenses to other expenses. As seen in Figure 4 and Figure 7 there is a shift of 6.2 percent from other to non-project expenses.

As seen in Figure 7, around 89 percent of Wallsend's expenses were project related, with around 11 percent being other expenses from 2015 to 2018. Figure 8 shows that there was an increase in project expenses from 2015 to 2016 and then a decrease from 2016 to 2018. This was mostly due to an increase in project spending and a slight increase in other expenses.

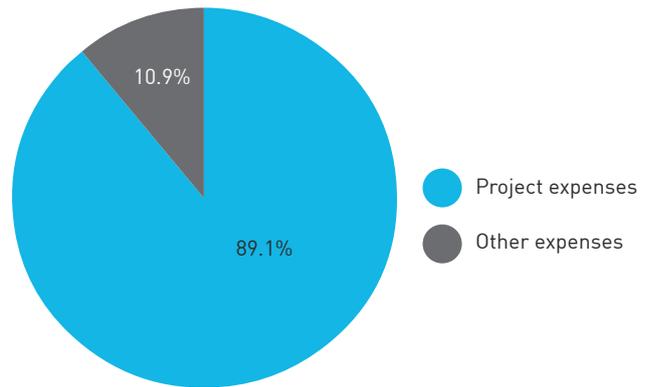


Figure 7. Wallsend BIA share of project and non-project expenses, FY15/16 - FY 18/19, annual report

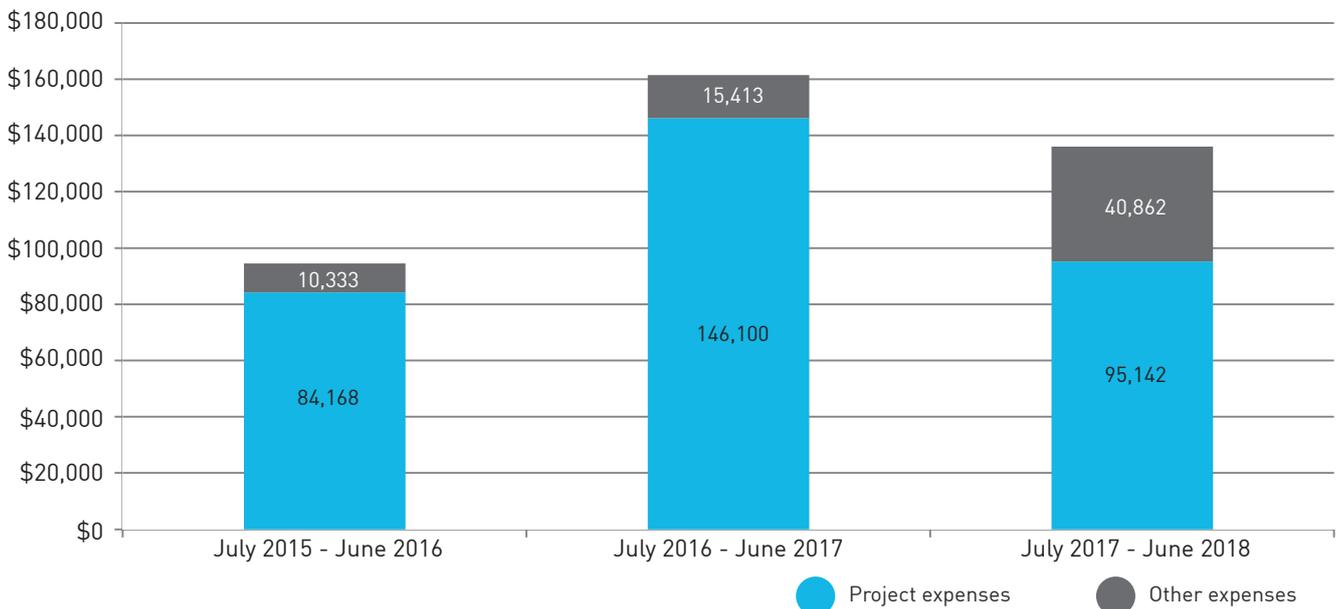


Figure 8. Wallsend BIA expense amounts by type, FY 15/16 - 18/19, annual report

4.2.3. NEW LAMBTON

Figure 9 shows that a large proportion of funds (around 85 percent) is spent on project related expenses, however of this most is spent on advertising and promotion activities. Figure 10 shows that the majority of New Lambton BIA's income is not received from the Levy. It is received from community grants and membership fees.

Between FY 16/17 and FY 17/18 the New Lambton BIA income fell significantly from around \$41,600 to around \$11,600. This is largely attributed to a reduction in the community grant received, as shown in Figure 11.

The annual report for New Lambton BIA has not been provided.

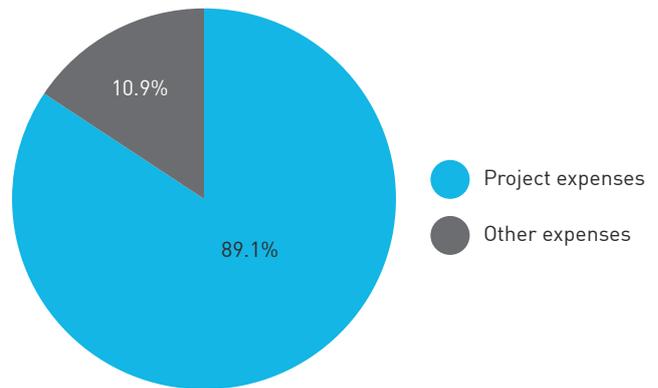


Figure 9. New Lambton Village BIA share of project and non-project expenses, FY16/17 - 17/18

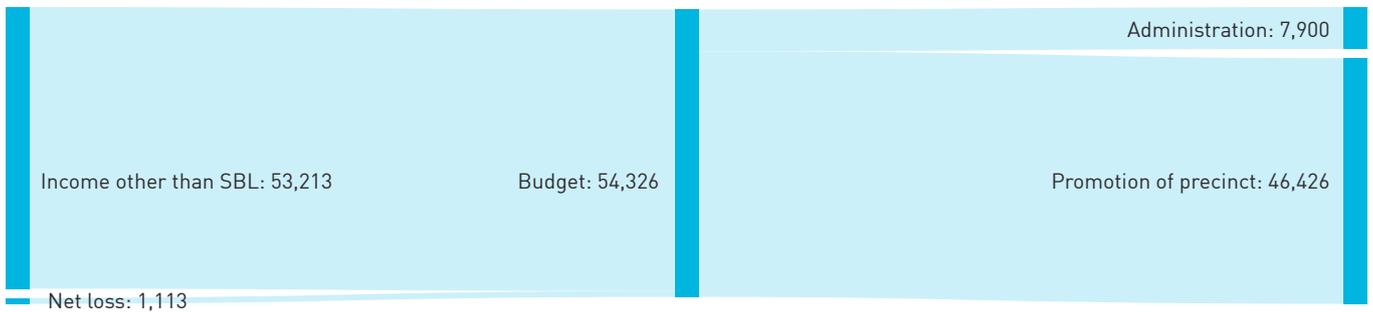


Figure 10. Breakdown of New Lambton Village BIA expenditure flows, FY16/17-17/18

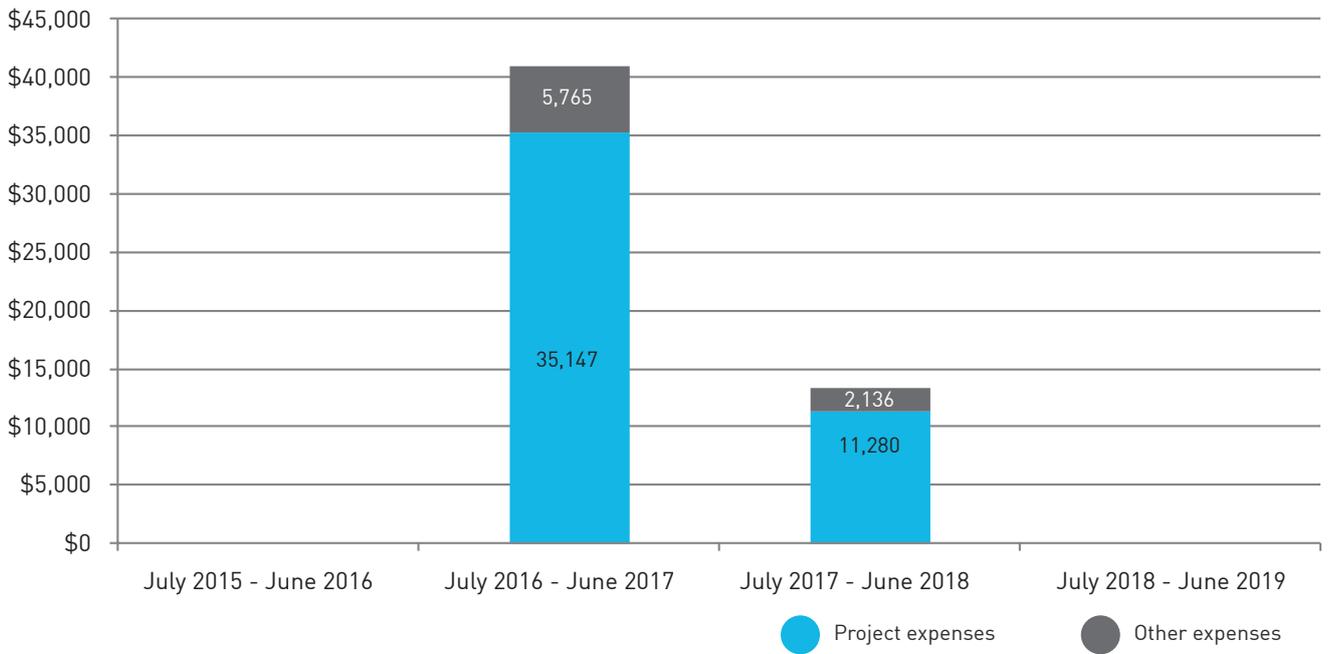


Figure 11. New Lambton Village expense amounts by type, FY16/17-17/18

NEW LAMBTON ANNUAL REPORT

The annual report for New Lambton BIA has not been provided and has not been analysed.

4.2.4. NEWCASTLE NOW

From FY 15/16 to FY 18/19, 68.5 percent of Newcastle Now's expenses were project related as shown in Figure 12. Figure 13 shows that the majority of Newcastle Now's income was received from the Levy. This was used for project related expenses such as beautification and promotion of the precinct, events and project related administration. Around 28 percent of spend was on membership benefits and wages, and around 24 percent on project related administration. Figure 14 shows that since FY15/16, income for Newcastle Now has fluctuated, though the proportion of project and other expenses remains roughly constant.

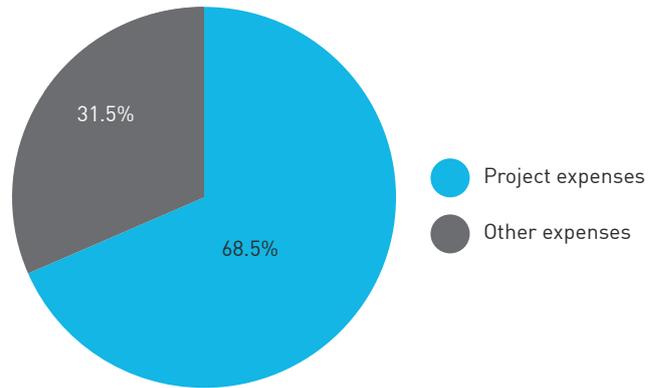


Figure 12. Newcastle Now BIA share of project and non-project expenses, FY15/16 - YTD

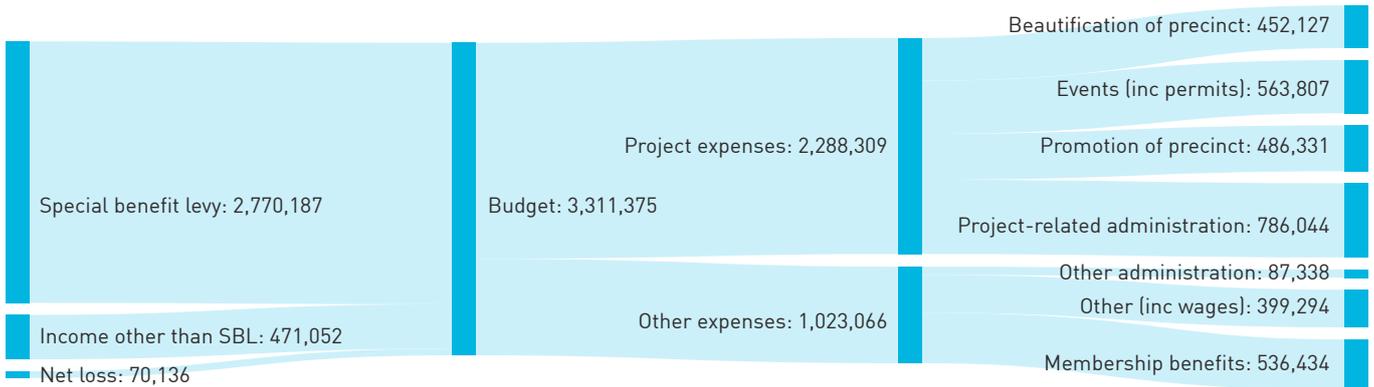


Figure 13. Breakdown of Newcastle Now BIA expenditure flows, FY 15/16 - YTD

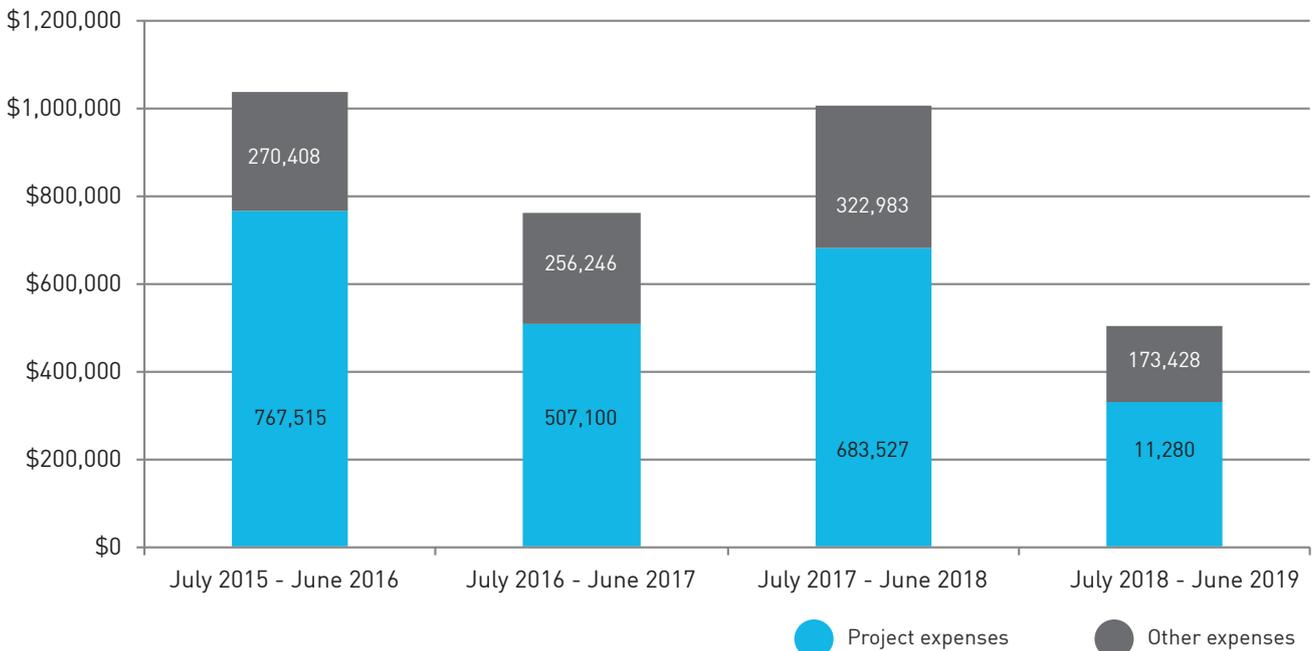


Figure 14. Newcastle Now BIA expense amounts by type, FY 15/16 - YTD

NEWCASTLE NOW ANNUAL REPORT

Annual reports for Newcastle Now from July 2015 to June 2018 were evaluated to display a difference in categorisation of expenditure compared to other financial data and information. The key difference between the two sources of information was that the annual report had five categories for expenditure, being administration, depreciation, employee expenses, project and consultancy. As there was no further break down of expenses, it is not known what specific expenses were categorised into these categories. AECOM was unable to secure a meeting with Newcastle BIA to clarify these differences. When comparing the financial expenditure information from the templates provided to the annual reports, there was a reduction in project related expenses from around 68 percent to around 42 percent, and an increase in non-project related expenses from around 32 percent to around 58 percent.

All annual reports for Newcastle Now showed consolidated revenues with no breakdown of income between Levy or non-Levy sources.

According to the annual report, from FY 15/16 to FY 17/18, around 42 percent of Newcastle Now's expenses were project related. Around 47 percent was spent on other expenses (including wages) and around 11 percent was spent on administration. Non-project related expenses have remained largely consistent with project related expenses falling between July 2016 and June 2017 by around \$141,000 before increasing again between July 2017 and June 2018.

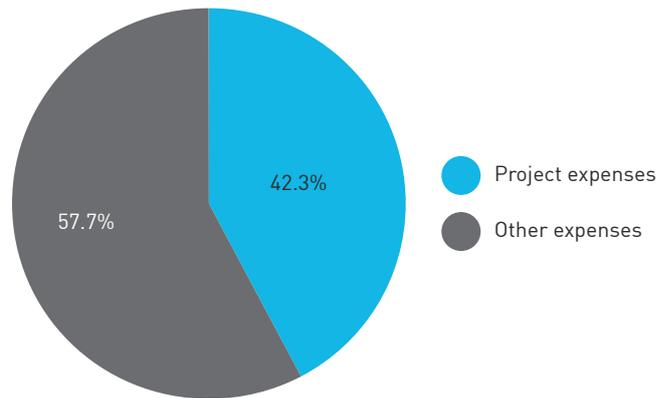


Figure 15. Newcastle Now share of project and non-project expenses, FY15/16 - FY 17/18 annual report

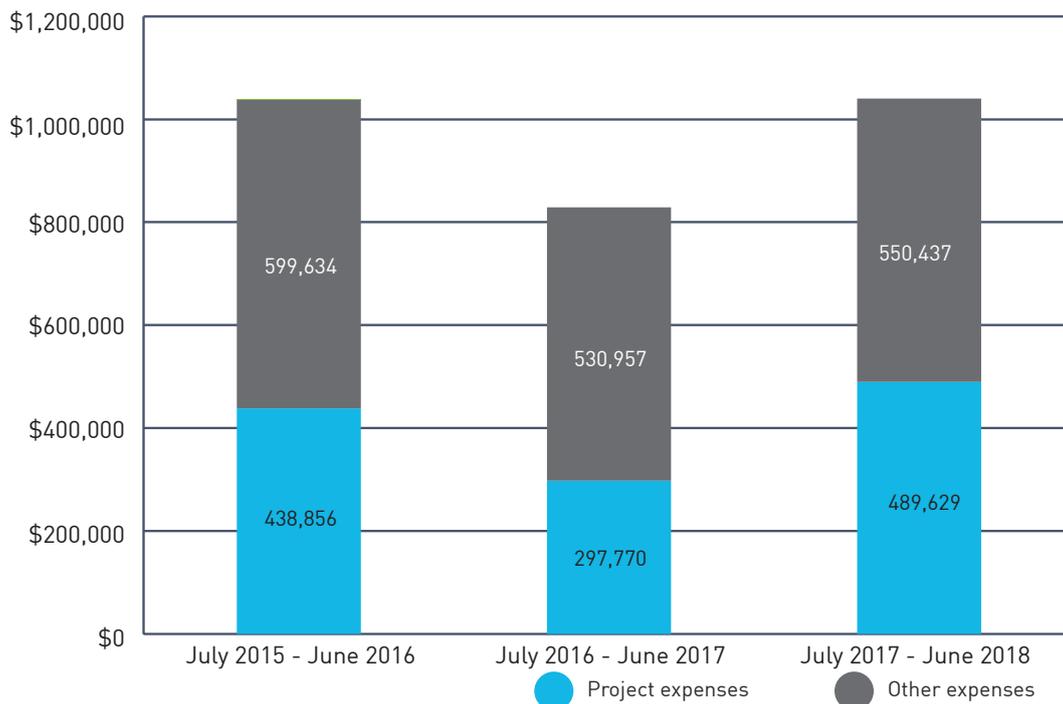


Figure 16. Newcastle Now BIA expense amounts by type, FY 15/16 - 17/18, Annual Report

4.2.5. MAYFIELD

Insufficient financial data and information was received from Mayfield BIA to perform an in-depth evaluation on financial expenditure. A limited evaluation has been undertaken using the bank statements that were provided.

Mayfield has a small amount of income from non-Levy sources. Mayfield's bank balance has been slowly decreasing since 2017 with around 64 percent of expenditure being on administration expenses as seen in Figure 16. Most of this administration expenditure was on utilities

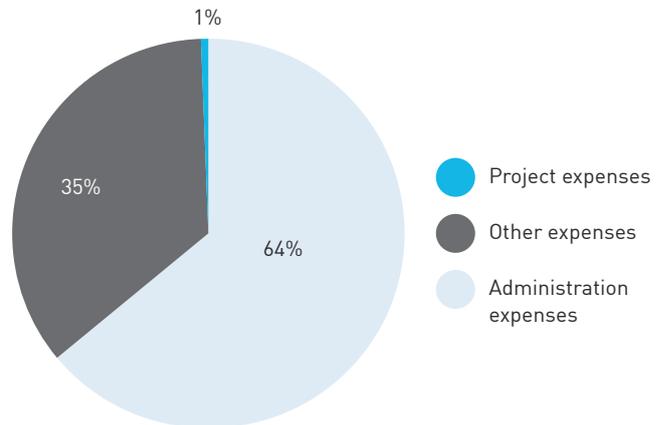


Figure 17. Mayfield BIA share of expenses, FY15/16 - FY 17/18 Annual Report

5 CONTESTABLE FUNDING

The intent of the Levy, as expressed in the goal(s) of each BIA, is to make defined trading areas within the City safe, clean, commercially vibrant and attractive business districts. Delivering benefits to traders and commercial property owners is therefore a priority in terms of Levy expenditure.

Within the current framework, the City collects the Special Rate Levy for the purposes defined in its annual revenue policy and provides funding to BIAs to deliver various programs to meet these purposes. This relationship between the City and each BIA is set out in the Deed.

Based on the information provided by BIAs in their acquittal documents, examination of non-project related expenditure suggests that the amount of funding received by BIAs since 2011 that could have been made contestable is about **\$1.4 million**, or **31 percent** of total income received by BIAs. A breakdown of these funds is shown in Figure 18.

Based on the information provided by some BIAs in their annual reports for financial years 2015/16, 2016/17 and 2017/18, potential contestable funding over this same period would be significantly higher than \$1.4 million.

A more contestable process for distributing Levy funds could enable transparency and fairness in the distribution of funds collected by the City. By making the majority of Levy funding contestable among the broader community, the City could incentivise events and activities that are complementary to the work of local BIAs and help BIAs to identify otherwise inactive stakeholders and/or potential volunteers and Directors. This is consistent with recommendations made in the 2018 report.

Incomplete and conflicting information prevented a reliable analysis of Levy expenditure and therefore a more precise percentage for contestable funds. For this reason, AECOM has deferred to the governing documents in the BIA framework (the Deed(s) and constitutions) to reach the following recommendations.

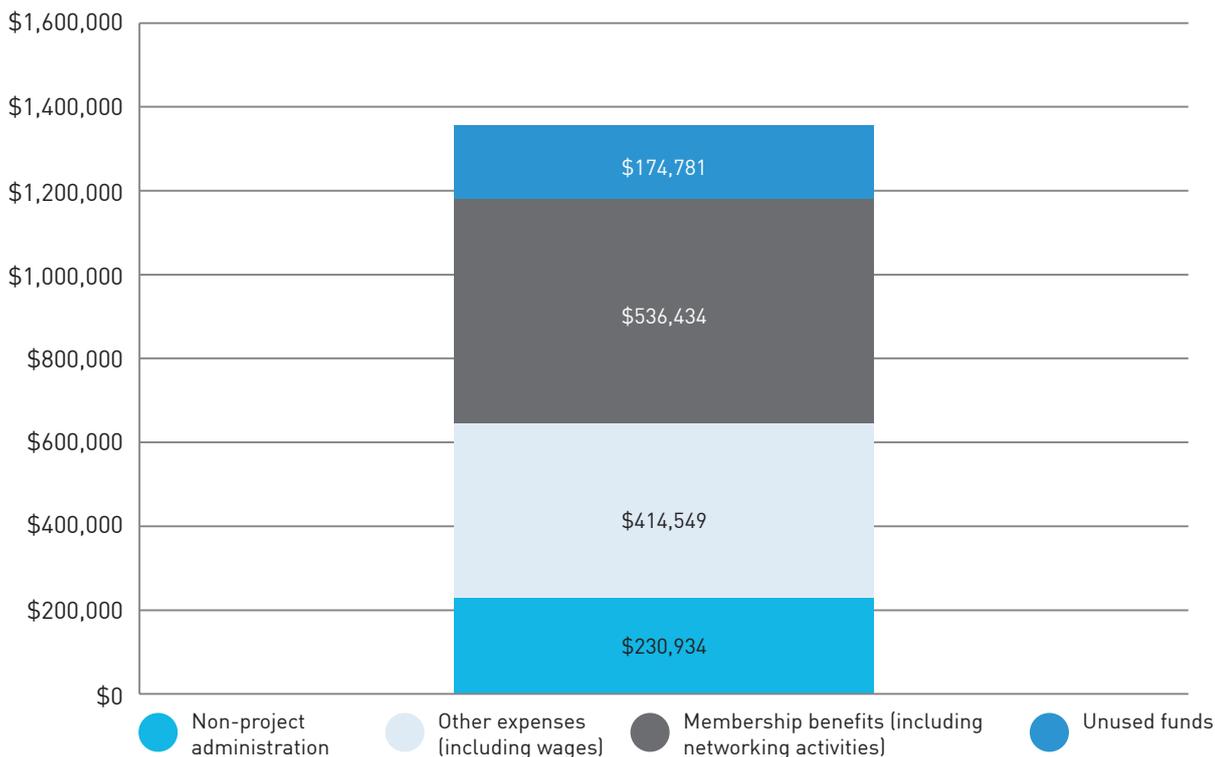


Figure 18. Sum of expenses which may be deemed contestable

KEY RECOMMENDATIONS

- In line with the recommendations made in AECOM's 2018 report, the City should support the 'non-government provider' model but increase the City's role in managing and collaborating with BIAs. To do this, the City should consider providing an amount up to \$100,000 to each BIA from total Levy funds collected in each association's respective trading area.
- In line with recommendations made in AECOM's 2018 report, the City should consider making contestable all Levy funding above the \$100,000 provided to each BIA. To ensure direct and complimentary delivery of Levy benefits, contestable funds should only be allocated within the boundaries from which they were collected and for the purpose(s) for which they were collected.
- In line with recommendations made in AECOM's 2018 report, the City should consider administering any contestable funding program through existing procurement processes and streamlining all in-house processes relating to BIAs to ensure consistency and to better communicate expectations. BIAs should be entitled to apply for any contestable funds within their trading area.
- If a BIA is currently receiving less than \$50,000 in Levy funding each financial year, the City should consider making contestable all Levy funding received by that BIA. This will ensure more direct delivery of Levy benefits in the area from which it has been collected.
- If a BIA does not have a Board of Directors, the City should consider making contestable all Levy funding collected for that BIA until the first Annual General Meeting of any future Board. After this point, the City should consider entering into a Funding & Service Agreement with the BIA to ensuring consistency in funding within the overall framework.

6 RESTORATION OF MAYFIELD

6.1 RE-ESTABLISHING MAYFIELD BIA

Although a Levy continues to be collected within the boundaries of Mayfield BIA, the association is not currently governed by a Board of Directors.

The restoration of Mayfield BIA provides an opportunity for the City to incentivise mechanisms that may or may not be in place within other BIAs to ensure high performance and alignment with the City's guiding strategic plans.

As the City cannot appoint a new Board for Mayfield BIA, it should play an enabling role in the restoration of the incorporated association by incentivising new Directors to continue the association's work.

In a 2016 report titled Making Board Composition Part Of The Strategic Plan, Dennis Whalan concludes that the top three barriers to building a high-performing board are as follows:

1. Finding Directors with both general business experience and the specific expertise needed by the organisation
2. Identifying the Board's future talent needs, and
3. Resistance to change due to status quo thinking.

Whalan's research suggests that the most successful mechanisms for achieving the right Board composition are robust Board evaluations and formal succession planning. To do both effectively, Newcastle BIAs need to make Board composition an integral part of their strategic planning to ensure that they have an appropriate mix of skills, expertise and perspectives to remain aligned with their goals and objectives.

Whalan's research should inform the City's approach to encouraging members to nominate for the new Executive Committee.

6.2 HOW THE CITY CAN SUPPORT MAYFIELD BIA

The Mayfield BIA Executive Committee must be elected by members of the association at the Annual General Meeting.

The City can play an important role in restoring the Board by contacting all members and encouraging eligible stakeholders who are active in the trading area to stand for the Executive Committee.

Membership qualifications are outlined in Chapter III of the Rules of Mayfield Business Association Incorporated:

5.1 There shall be Full Members of the Association. The nominee of a corporation and other natural persons shall be entitled to be a Full Member of the Association if the corporation or natural person:

(a) owns one or more commercially rated properties within Mayfield and pays the Mayfield Improvement Special Rate Levy; or

(b) occupies or is the tenant of one or more premises on a commercially rated property within the Special Rate area and who operates a business from these premises; and

(c) has not previously been expelled from the Association.

5.2 Any person entitled to be a Full Member and who wishes to become a member shall provide details of their name, address, occupation or business within the Mayfield Improvement Special Rate Levy area to the Secretary.

5.3 A natural person is restricted to one vote.

5.4 Any person who ceases to be entitled to be a Full Member of the Association shall immediately provide notice of that fact, and of the date their entitlement ceased, to the Secretary.

5.5 There may be Associate Members of the Association. A person who does not qualify to be a Full Member may become an Associate Member by applying to the Secretary. The Secretary shall advise the Executive Committee of the application and the Executive Committee shall determine at its next scheduled meeting whether the applicant shall be admitted.

5.6 An Associate Member shall, in each year, pay a Special Subscription of such amount as is determined by the Executive Committee from time to time. The Executive Committee may appoint an Associate Member onto a sub-committee.

5.7 Each Member which is not an individual shall designate an individual representative to act on its behalf in all matters relating to the Association, and shall notify the Secretary of that representative's name and address.

5.8 The rights of the Members of the Association shall be as follows.

(a) each Full Member shall be entitled to one vote at General Meetings;

(b) each Full or Associate member shall be entitled to attend all General Meetings, but an Associate Member shall not be entitled to vote;

(c) each Member shall be entitled to stand for election to the Executive Committee

As is the case for all BIAs in the city, the Mayfield BIA needs to be governed by an Executive Committee which controls and manages the affairs of the association including the day to day management of the Business Improvement Area Programme and, among other responsibilities, accounting for expenditure of the Levy.

6.3 MAYFIELD BIA EXECUTIVE COMMITTEE

The Executive Committee shall, subject to Rule 14.2 in the BIA's constitution, have a maximum of 11 members, a minimum of 5, and shall consist of:

- (a) The Chairperson
- (b) the Vice Chairperson
- (c) the Public Officer, who shall be responsible for the fulfilment of the duties of Treasurer and Secretary; which tasks may be delegated to the manager of the Association
- (d) not more than an additional 8 persons who are Members of the Association, and who have been elected at the Annual General Meeting of the Association pursuant to Rule 15.

14.2 The Executive Committee shall consist of property owners (or nominees), business owners or operators (or nominees), and at most one community representative and one business association representative, all of which operate in the Mayfield Business Improvement Association.

14.3 Each member of the Executive Committee shall, subject to these Rules, hold office until the conclusion of the Annual General Meeting following the date of the member's election, but is eligible for re-election.

14.4 In the event of a casual vacancy occurring in the membership of the Executive Committee, the Executive Committee may appoint a Member of the Association to fill the vacancy. Any member so appointed shall hold office, subject to these Rules, until the conclusion of the next Annual General Meeting following the date of the appointment.

14.5 The Executive Committee shall, at its first meeting following an Annual General Meeting, elect from amongst the members of the Executive Committee, a Chairperson, Vice Chairperson, Treasurer, Secretary and Public Officer.

14.6 The Executive Committee may invite attendance at its meetings by others for specific purposes, but they shall not be entitled to vote.

6.4 PROCESS FOR ELECTING A NEW EXECUTIVE COMMITTEE

Members of the Executive Committee shall be elected by members of the association at the Annual General Meeting.

15.2 Nominations of candidates for election to the Executive Committee:

(a) shall be made in writing, signed by two Full Members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and

(b) shall be delivered to the Secretary of the Association not less than one day before the date fixed for the holding of the Annual General Meeting at which the election is to take place.

15.3 If insufficient nominations are received to fill all positions, the candidates nominated shall be deemed to be elected and further nominations shall be received at the Annual General Meeting.

15.4 If insufficient further nominations are received, any vacant positions remaining shall be deemed to be casual vacancies.

15.5 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.

15.6 If the number of nominations received exceeds the number of vacancies to be filled a ballot shall be held.

15.7 Any such ballot shall be conducted at the Annual General Meeting in such usual and proper manner as the Executive Committee may direct.

6.5 KEY RECOMMENDATION

The City should write to all commercial property owners and operators within the Mayfield BIA boundaries to make them aware of the BIA and to invite them to establish a new Board.

As stated in the Mayfield BIA's constitution, a register of members should be kept "at the principal place of administration of the Association". Given the Mayfield BIA has not met for an extended period, this register may be difficult to locate and/or may not contain accurate records of the Association's membership. In such case, the City may need to rely on its own records to identify corporations and natural persons who:

(a) own one or more commercially rated properties within Mayfield and pays the Mayfield Improvement Special Rate Levy and/or

(b) occupy or is the tenant of one or more premises on a commercially rated property within the Special Rate area and who operates a business from these premises.

The City should offer a designated contact within its administration to assist with the restoration of the Board, making clear that it is the responsibility of members to call an Annual General Meeting. This resource should assist existing or new members to locate records, locate or replace a register of members as well as meet Key Performance Indicators or other requirements that may be detailed in the new Funding and Service Agreement.

To ensure the new Board has an appropriate mix of skills, experience and perspectives, the City should consider making additional contact with active stakeholders and new business owners within the trading area encouraging them to stand for the Executive Committee.

The City should also make reasonable efforts to contact all former members of the Mayfield BIA Executive Committee to notify them of the restoration.

KEY RECOMMENDATIONS

- The City should support the formation of new BIAs in the LGA, notably in The Junction where a group of traders are already taking the initiative to advance this idea.
- The City could support a future BIA by levying the special rate itself, rather than applying for the same Levy that applies to Newcastle BIA, Hamilton BIA and Mayfield BIA. This could be enacted by reducing the ordinary rates to be raised in 2020/21 by the amount of the new special rate. This is the arrangement through which New Lambton BIA has to date been funded.
- As the decision to create a BIA is one for local traders and commercial property owners, the City should not actively create BIAs in other precincts. Instead, the City should continue to engage with stakeholders in Adamstown, Honeysuckle and Broadmeadow and support these stakeholders in the case they express a desire to formalise activities within the BIA framework.

8 ROLE OF LOCAL BUSINESS CHAMBERS

As part of this engagement, AECOM engaged with a range of BIA stakeholders including local Chambers of Commerce (Chambers) and the region's development corporation. As detailed in the 2018 report, when asked to identify impediments to achieving their common objectives, BIA stakeholders pointed to a range of issues including ambiguity and confusion in terms of roles, responsibilities, membership and boundaries.

Hamilton BIA, for instance, is also the Hamilton Chamber of Commerce. Under the arrangement between this organisation and the City, Hamilton Chamber of Commerce receives Levy funding collected by the City to undertake the same initiatives for which the Levy is collected in other trading areas on behalf of BIAs. It was not possible for this evaluation to distinguish Hamilton Chamber of Commerce's additional funding streams and expenditure from its expenditure of the Levy collected by the City.

Although Chambers share similar objectives to BIAs, their roles and membership structures can be different. As stated on their website, "Hamilton Chamber of Commerce is a membership-based organisation that promotes opportunities for people to live, work and play within the suburb ... The Chamber is also a Business Improvement Association (BIA) of Newcastle City Council and uses funding from a special rate levy to hold events and activities for the community."

AECOM was informed that the City attempted to engage with Hamilton BIA to seek clarification in terms of differentiating the roles and objectives of the Hamilton Chamber of Commerce and the Hamilton BIA. A response was received by the City on 28 March 2019 indicating that the matter is of interest to the Chamber and will be further discussed among the Chamber and stakeholders. No further update has been received from the City or Hamilton Chamber of Commerce.

Under any future Deed between the City and Hamilton Chamber of Commerce, provisions for separating the expenditure of Levy funding from that of Chamber funds should be clearly articulated. As the Chamber's role is less restricted than that of a BIA, both the City and Hamilton Chamber of Commerce should take appropriate measures to ensure that funds collected by the City are expended within the defined trading area on the benefits for which they continue to be collected. Like other Chambers of Commerce in the region, including the HBC, Hamilton Chamber of Commerce engages in public advocacy that is not captured within the role of a BIA. In the past this advocacy role has extended to state and political issues, including public transportation. To better distinguish the BIA from the Chamber, consideration could be given to differentiating these organisations by electing separate Boards that can be better focused on their respective priorities.

KEY RECOMMENDATIONS

- The City ensures that the funds it collects for BIAs are expended within collection boundaries on the benefits for which they are collected. Consideration should be given to penalties for noncompliance with this requirement.
- Acquittal reports and/or annual reports prepared by organisations receiving Levy funds account for the expenditure of these funds separate to any other income.
- As per a Council resolution in 2011, all BIAs must be set up specifically for the purpose of the Funding and Service Agreement. As such, the City should consider whether or not existing organisations with additional and sometimes conflicting priorities, such as Chambers of Commerce, are appropriate recipients of Levy funds.

9 SUMMARY OF RECOMMENDATIONS

9.1 EXPENDITURE OF THE LEVY & CONTESTABLE FUNDING

- In line with the recommendations made in AECOM's 2018 report, the City should support the 'non-government provider' model but increase the City's role in managing and collaborating with BIAs. To do this, the City should consider providing an amount up to \$100,000 to each BIA from total Levy funds collected in each association's respective trading area.
- In line with recommendations made in AECOM's 2018, the City should consider making contestable all Levy funding above the \$100,000 provided to each BIA. To ensure direct and complimentary delivery of Levy benefits, contestable funds should only be allocated within the boundaries from which they were collected and for the purpose(s) for which they were collected.
- In line with recommendations made in AECOM's 2018 report, the City should consider administering any contestable funding program through existing procurement processes and streamlining all in-house processes relating to BIAs to ensure consistency and to better communicate expectations. BIAs should be entitled to apply for any contestable funds within their trading area.
- If a BIA is currently receiving less than \$50,000 in Levy funding each financial year, the City should consider making contestable all Levy funding received by that BIA. This will ensure more direct delivery of Levy benefits in the area from which it has been collected.
- If a BIA does not have a Board of Directors, the City should consider making contestable all Levy funding collected for that BIA until the first Annual General Meeting of any future Board. After this point, the City should consider entering into a Funding & Service Agreement with the BIA to ensuring consistency in funding within the overall framework.

9.2 MAYFIELD BIA BOARD OF DIRECTORS

The City should write to all commercial property owners and operators within the Mayfield BIA boundaries to make them aware of the BIA and to invite them to establish a new Board.

As stated in the Mayfield BIA's constitution, a register of members should be kept "at the principal place of administration of the Association". Given the Mayfield BIA has not met for an extended period, this register may be difficult to locate and/or may not contain accurate records of the Association's membership. In such case, the City may need to rely on its own records to identify corporations and natural persons who:

- (a) own one or more commercially rated properties within Mayfield and pays the Mayfield Improvement Special Rate Levy and/or
- (b) occupy or is the tenant of one or more premises on a commercially rated property within the Special Rate area and who operates a business from these premises.

The City should offer a designated contact within its administration to assist with the restoration of the Board, making clear that it is the responsibility of members to call an Annual General Meeting. This special rate levy funded resource should assist existing or new members to locate records, locate or replace a register of members as well as meet Key Performance Indicators or other requirements that may be detailed in the new Funding and Service Agreement.

To ensure the new Board has an appropriate mix of skills, experience and perspectives, the City should consider making additional contact with active stakeholders and new business owners within the trading area encouraging them to stand for the Executive Committee.

The City should also make reasonable efforts to contact all former members of the Mayfield BIA Executive Committee to notify them of the restoration.

9.3 FORMATION OF NEW BIAs IN THE LGA

- The City should support the formation of new BIAs in the LGA, notably in The Junction where a group of traders are already taking the initiative to advance this idea.
- The City could support a future BIA by levying the special rate itself, rather than applying for the same Levy that applies to Newcastle BIA, Hamilton BIA and Mayfield BIA. This could be enacted by reducing the ordinary rates to be raised in 2019/20 by the amount of the new special rate. This is the arrangement through which New Lambton BIA has been funded.
- As the decision to create a BIA is one for local traders and commercial property owners, the City should not actively create BIAs in other precincts. Instead, the City should continue to engage with stakeholders in Adamstown, Honeysuckle and Broadmeadow and support these stakeholders in the case they express a desire to formalise activities within the BIA framework.

9.4 CHAMBERS OF COMMERCE RECEIVING LEVY FUNDS

- The City ensures that the funds it provides to other entities, including Chambers of Commerce, are expended within collection boundaries and on the benefits for which they are collected. Consideration should be given to penalties for noncompliance with this requirement.
- Acquittal reports and/or annual reports prepared by organisations receiving Levy funds should account for the expenditure of these funds separate to the expenditure of any other forms of income.

10 APPENDICES

For relevant financial records and materials provided by BIAs and the City for this report, please contact City of Newcastle

Newcastle Business Improvement Assoc

Shop 1, 137 King Street
Newcastle

Profit & Loss Statement

July 2016 To June 2017

Income				
BIA- special benefit			\$817,150.54	
BIA Projects			\$227.27	
HDC fee for service			\$9,003.36	
Outside Income			\$5,909.09	
Grants			\$56,454.50	
Association Fees			\$190.89	
Darby St			\$26,968.26	
Merchandise		\$54.54		
Site Hire		(\$1,136.36)		
Miscellaneous Income			\$227.27	
Total Income				\$915,049.36
Expenses				
General & Administrative Exp				
Accounting Fees		\$5,450.00		
Bank Charges		\$886.16		
Cleaning		\$1,682.73		
Conferences & Seminars		\$3,397.57		
Donations		\$250.00		
Dues & Subscriptions		\$6,651.70		
Electricity		\$2,234.83		
Insurance		\$7,063.46		
Meeting Costs		\$2,342.70		
Office & Stationery Supplies		\$1,620.91		
Office fit out		\$3,804.27		
Other Operating Costs		\$9,945.82		
Parking & Taxi		\$9.62		
Postage		\$203.63		
Rent		\$32,594.28		
Security		\$676.47		
Software		\$271.82		
Telephone		\$5,768.00		
Grant expenditure		\$10,000.00		
Workers' Compensation		\$1,345.76		
Other Employer Expenses		\$63.55		
Wages & Salaries		\$386,931.65		
Superannuation		\$36,694.99		
Total General & Administrative E			\$519,889.92	
Delivering Value				
Data Collection program		\$15,226.05		
Advocacy Projects		\$2,572.23		
Partnerships pillar 1		\$10,000.00		
Ext. Ambassador program		\$15,863.48		
Sponsorships		\$15,559.09		
Members Package		\$6,386.90		
Maint Established Projects		\$5,416.75		
Refresh Team		\$210.00		

Electric Vehicle		\$3,103.67		
Volunteers Provisions		\$2,000.08		
City Centre Promotion		\$58,850.13		
Integrated Communications		\$5,145.18		
Brand		\$18,572.43		
Brand roll out		\$13,088.67		
Ambassador Training		\$6,168.38		
CRM database update		\$3,064.47		
Civic Placemaking		\$11,845.00		
Darby St Placemaking		\$20,655.92		
East End Placemaking		\$5,539.88		
Nobby's Open Days		\$9,491.33		
West End Placemaking		\$326.82		
Other Project costs		\$2,404.32		
Total Delivering Value			\$231,490.78	
Drive Change & Growth				
Nobby's Phase 2		\$17,448.45		
Cluster Innovation & Startups		\$6,409.09		
Total Drive Change & Growth			\$23,857.54	
Financial Sustainability				
Income Generation Op		\$20,500.00		
Total Financial Sustainability			\$20,500.00	
Total Expenses				\$795,738.24
Operating Profit				\$119,311.12
Other Income				
Interest Income			\$1,802.90	
Total Other Income				\$1,802.90
Total Other Expenses				\$0.00
Net Profit/(Loss)				\$121,114.02

ATTACHMENT E - HAMILTON BUSINESS CHAMBER INCOME AND EXPENDITURE
STATEMENT FOR THE PERIOD 1 JULY 2018 TO 31 DECEMBER 2018

HAMILTON CHAMBER OF COMMERCE

INCOME & EXPENDITURE FOR THE PERIOD TO 31ST DECEMBER 2018

BUDGET Vs ACTUAL

	BUDGET	ACTUAL	VARIANCE
INCOME			
Carnivale sponsorship NC	5000	0	-5000
Levy payment NC	135000	66985	-68015
Membership subscriptions	2500	309	-2191
Networking events	4500	1399	-3101
Other income	1000	7	-993
	<u>148000</u>	<u>68700</u>	
EXPENDITURE			
Adminsitration expenses	5000	8316	3316
Advertising	25000	19788	-5212
Banner program	10000	8537	-1463
Beaumont Street lights	5000	0	-5000
Beaumont Street WiFi	5000	3822	-1178
Carnivale	35000	12500	-22500
Committee expenses	500	21	-479
Dues & subscriptions	1500	1278	-222
Hamilton website	3000	0	-3000
Insurance	3500	1506	-1994
James Street Plaza	10000	0	-10000
Networking expenses	3000	2983	-17
Nighttime spaces project	5000	0	-5000
Rent	3300	1500	-1800
Printing & stationery	1000	684	-316
Sponsorship of local events	16500	12020	-4480
Street beautification program	5000	0	-5000
Street festivals - China week	10000	10000	0
	<u>147300</u>	<u>82955</u>	

ATTACHMENT F: PRESIDENT OF THE HAMILTON BUSINESS CHAMBER SUBMISSION - OPEN AND TRANSPARENT GOVERNANCE STRATEGY

Interim Chief Executive Officer
Attn: [REDACTED]
Newcastle City Council
PO Box 489
NEWCASTLE NSW 2300

To Whom It May Concern:

Submission for BIAs to be included in the Open and Transparent Governance Strategy

I write as President of the Hamilton Business Chamber (Hamilton NOW BIA) in relation to Council's Open and Transparent Governance Strategy that is currently on public exhibition.

I have observed Council's interactions with the Business Improvement Associations (BIAs) over some years, and believe that there is more that can be done to ensure that the 6 BIAs that receive recurrent funding from Newcastle City Council are more accountable to the elected council, and ultimately to the ratepayers of Newcastle.

I would propose that:

1 BIA Business Plans should be presented to the elected Council in an open session each year. Business plans are currently presented to the Council administration by the July each year for the Special Rate Levy to be issued for the following next 12 months, however they are not reported to the elected body or community. My proposal would provide Councillors and the broader community with a greater understanding of what each BIA are doing in their elected ward and the wider City of Newcastle

2 Prior to the presentation of the BIA Business Plans, each BIA should be asked to provide a public voice presentation or briefing to the elected Council to share their business plan and 3 goals for the next 12 months, and to talk openly with the elected council as to how we can work with one another to support business efforts in each ward

3 A Committee of Council should be established to look at the wider BIA city problems, to look across BIAs to determine how we can work more cooperatively together, including consideration of combining some of the special rates to work cooperatively to spend more wisely and be more accountable

4 Council to nominate Councillor representatives to each BIA to attend regular meetings to hear from BIA members and report back to Council meetings.

I would be very happy to discuss this submission further, including at any workshops held on the Open and Transparent Governance Strategy.

Yours sincerely

ATTACHMENT G: MEDIA RELEASE - STATEMENT FROM PRESIDENT OF THE
HAMILTON CHAMBER OF COMMERCE 10 DECEMBER 2019

Media release
Monday 10 December, 2018

**From Nathan Errington, former independent candidate in the NSW Local
Government election for Newcastle, September 2017.**

It has come to my attention that there has been a complaint that I paid to boost a Facebook post on the Hamilton Now Facebook page portraying independent candidate Kath Elliott proposing upgrades to the James St Plaza.

At the time I was an independent candidate for Ward 2 in the 2017 Newcastle City Council election.

I paid to boost the post thinking that it was on my personal Facebook page, however I made a mistake and instead boosted the post on the Hamilton Now Facebook account.

I did this without speaking to Cr Elliott or other Newcastle independent candidates at the time, or since.

I am referring this to the NSW Electoral Commission to seek their ruling on this payment as I now believe that it may constitute a donation to the Newcastle Independents which was not declared in my return to the Electoral Commission.

I apologise in advance if I am found to have been in breach of the NSW Electoral Funding Act.

I await the NSW Electoral Commission's ruling.

For further information
Nathan Errington

