

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:

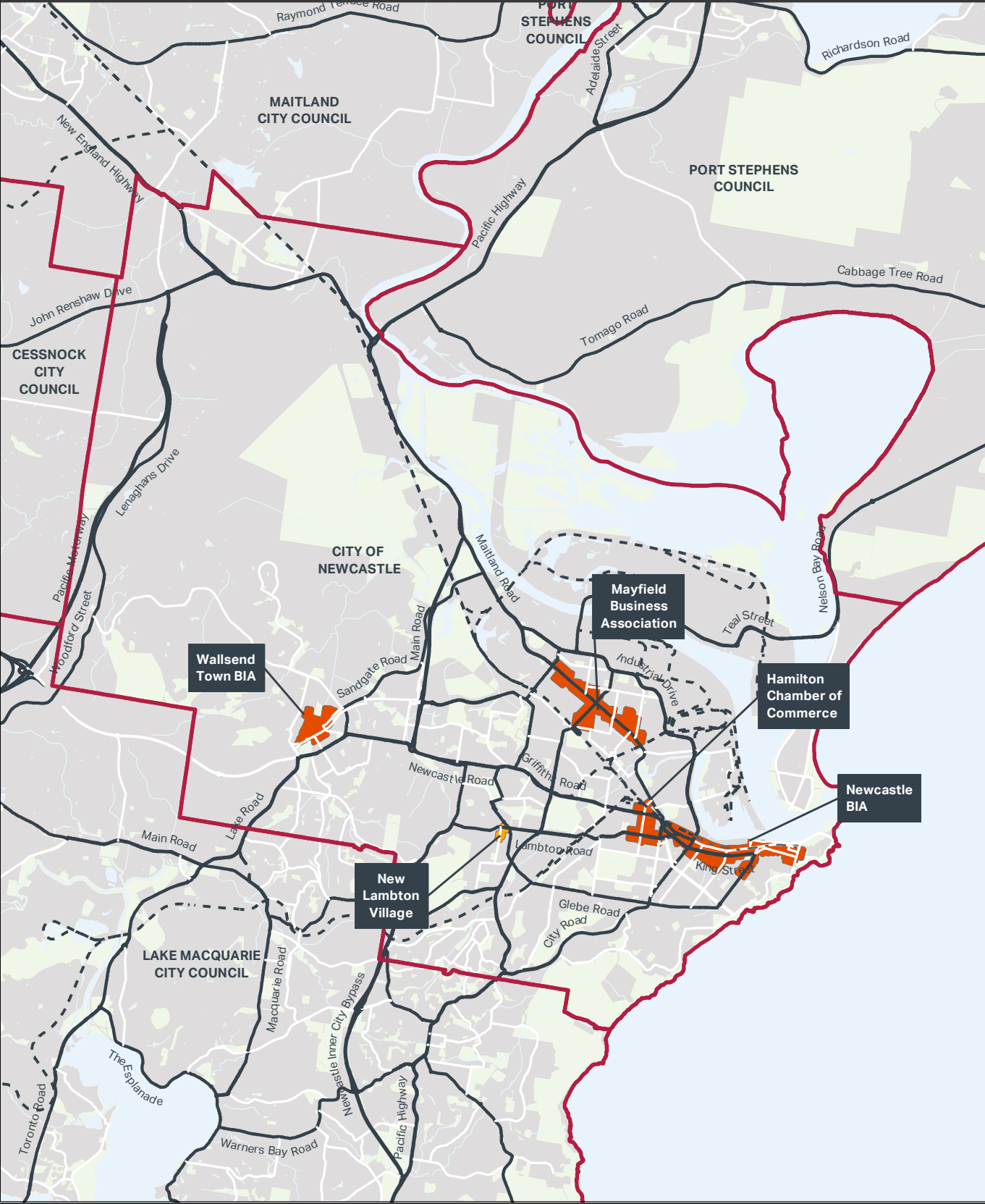
- a. to make their suburb (or in the instance of Newcastle Now, the city centre) a safe, clean, commercially vibrant, attractive business district
- b. to help and encourage the area live up to its name as a business association.*

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

- a. 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
- b. to foster the welfare and economic development of their suburb or the city centre
- 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 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
- e. 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
- f. 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.

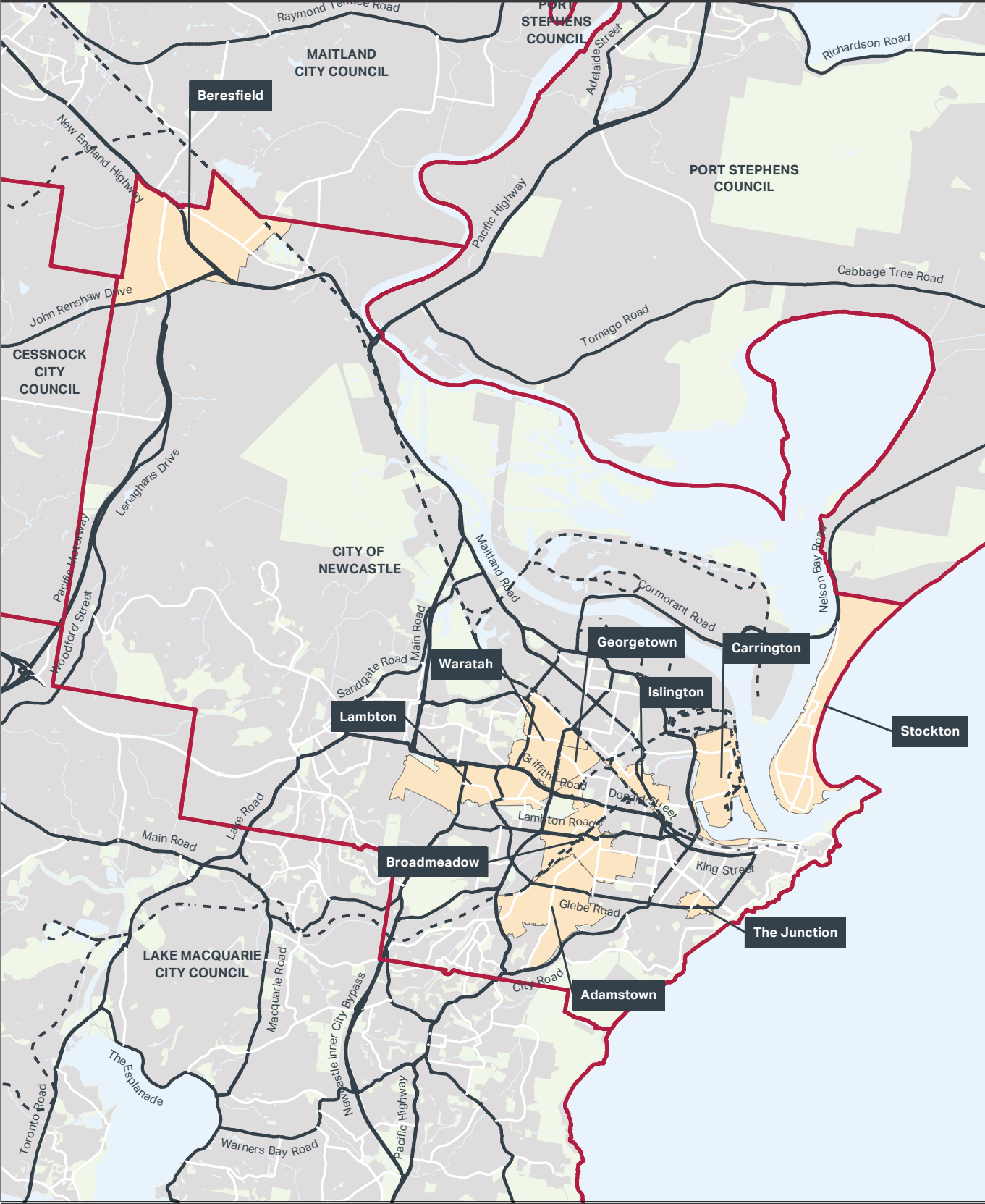
CITY OF NEWCASTLE BIA AREAS



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

Figure 1 BIAs in the City of Newcastle LGA.

CITY OF NEWCASTLE NON-BIA AREAS



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

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

STRATEGIC CONTEXT



Image 4 Civic tram stop, City (Newcastle BIA)

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



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 a 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 business”.

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.

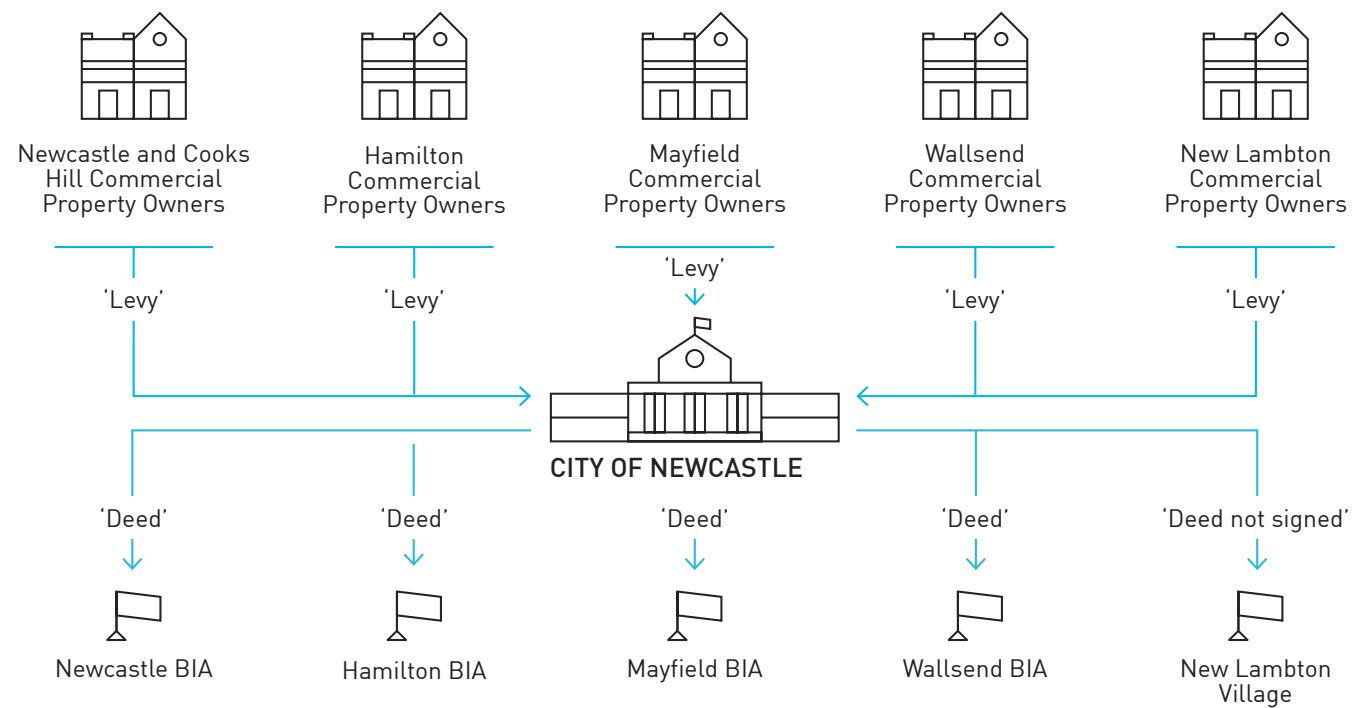


Figure 4 The current BIA model in Newcastle

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 insomuch 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

PRINCIPLE 1: ROLES AND RESPONSIBILITIES
<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.
PRINCIPLE 2: BOARD COMPOSITION
<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.
PRINCIPLE 3: PURPOSE AND STRATEGY
<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.
PRINCIPLE 4: RISK
<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).
PRINCIPLE 5: ORGANISATION PERFORMANCE
<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

0 250 500

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.

- 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.

- 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.

HAMILTON SPECIAL BENEFIT AREA

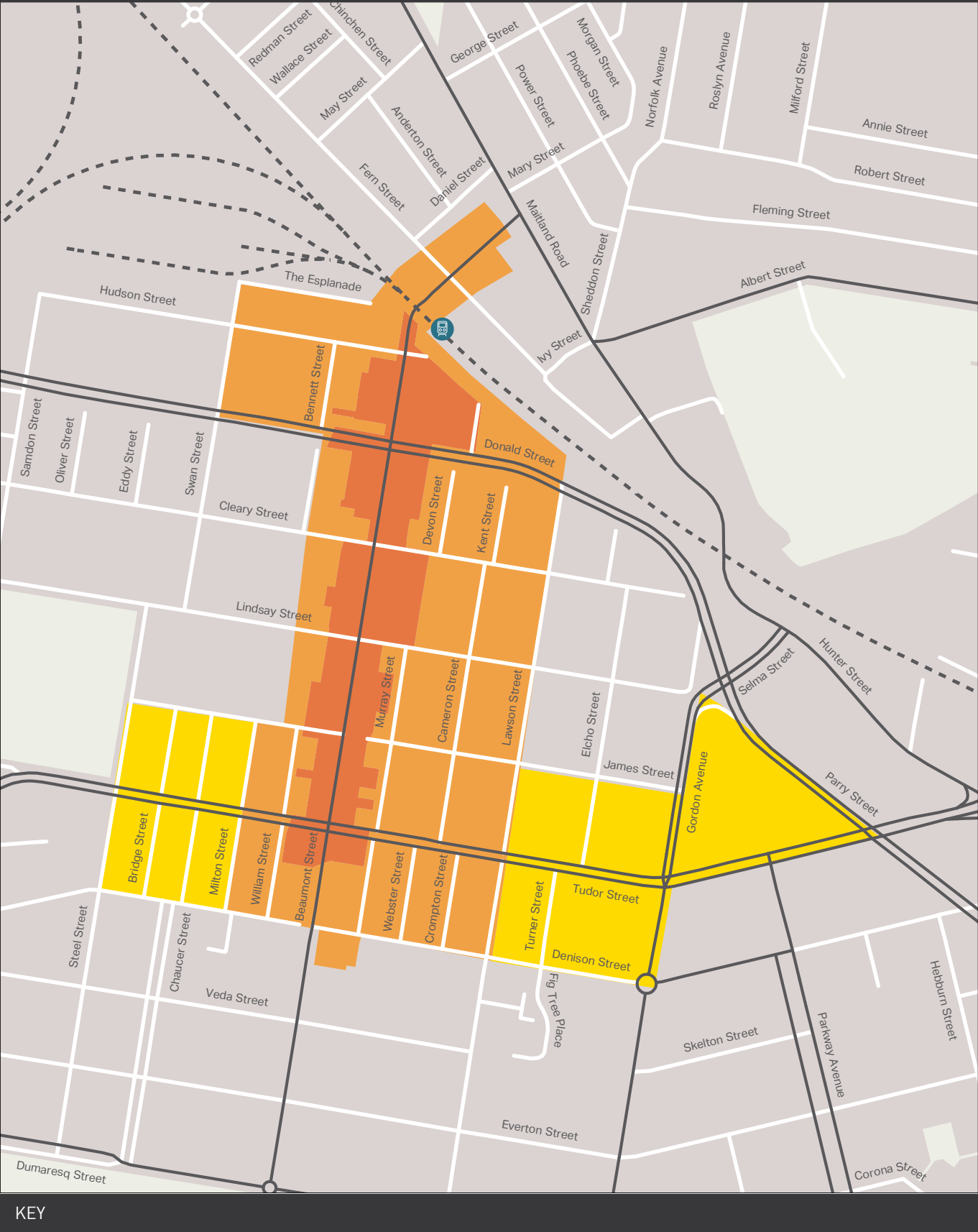


Figure 6 Boundaries of Hamilton BIA

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

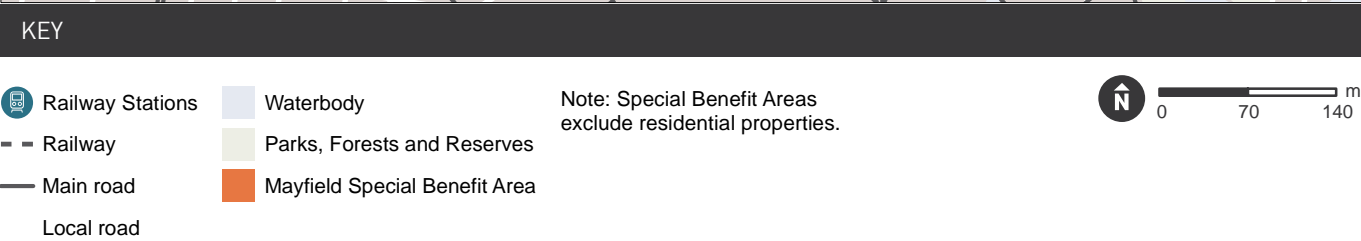
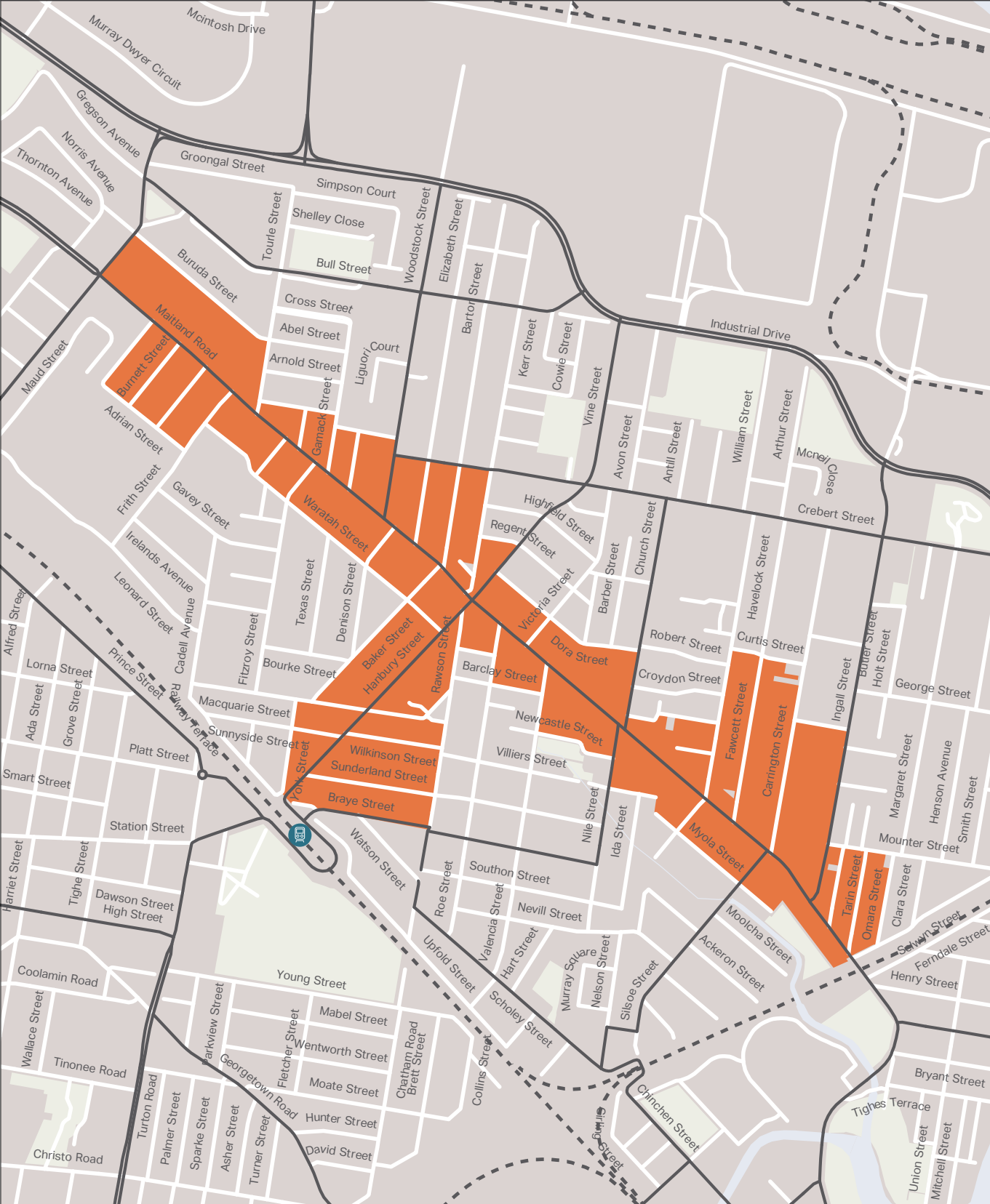


Figure 7 Boundaries of Mayfield BIA

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

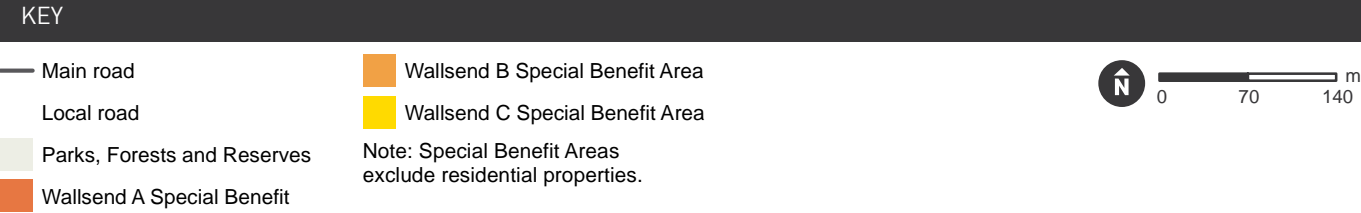
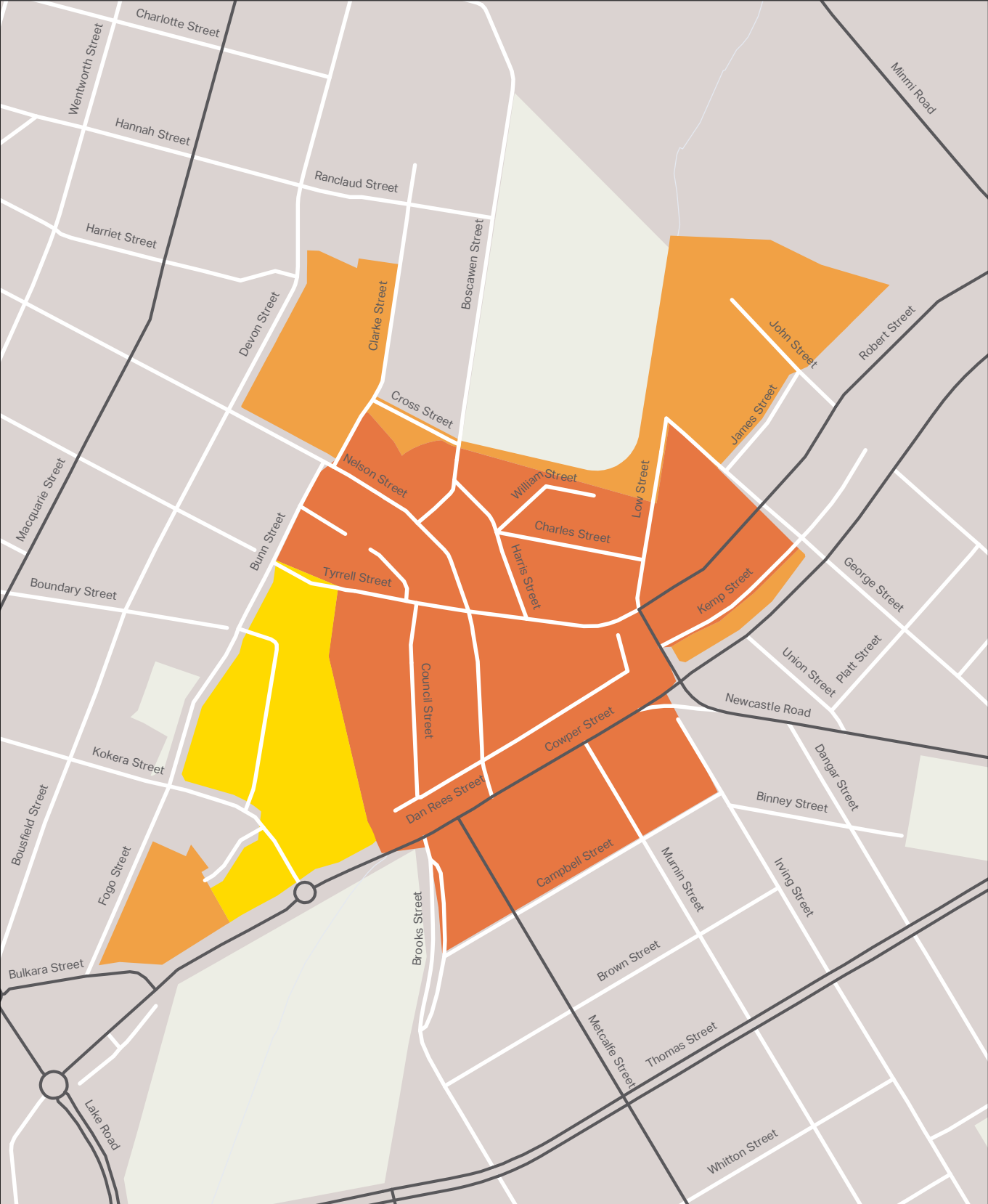


Figure 8 Boundaries of Wallsend BIA

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)



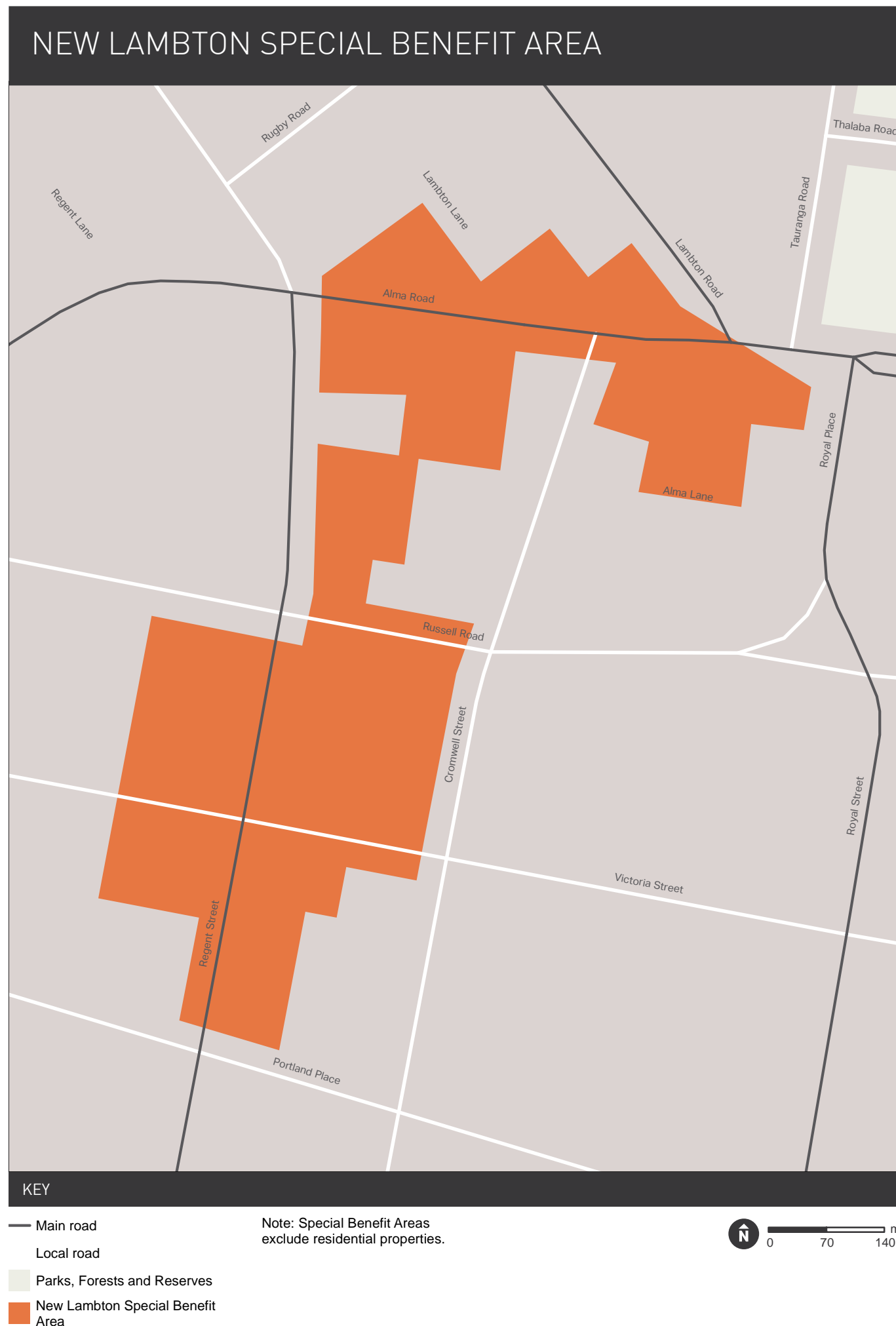


Figure 9 Boundaries of New Lambton Village Incorporated

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

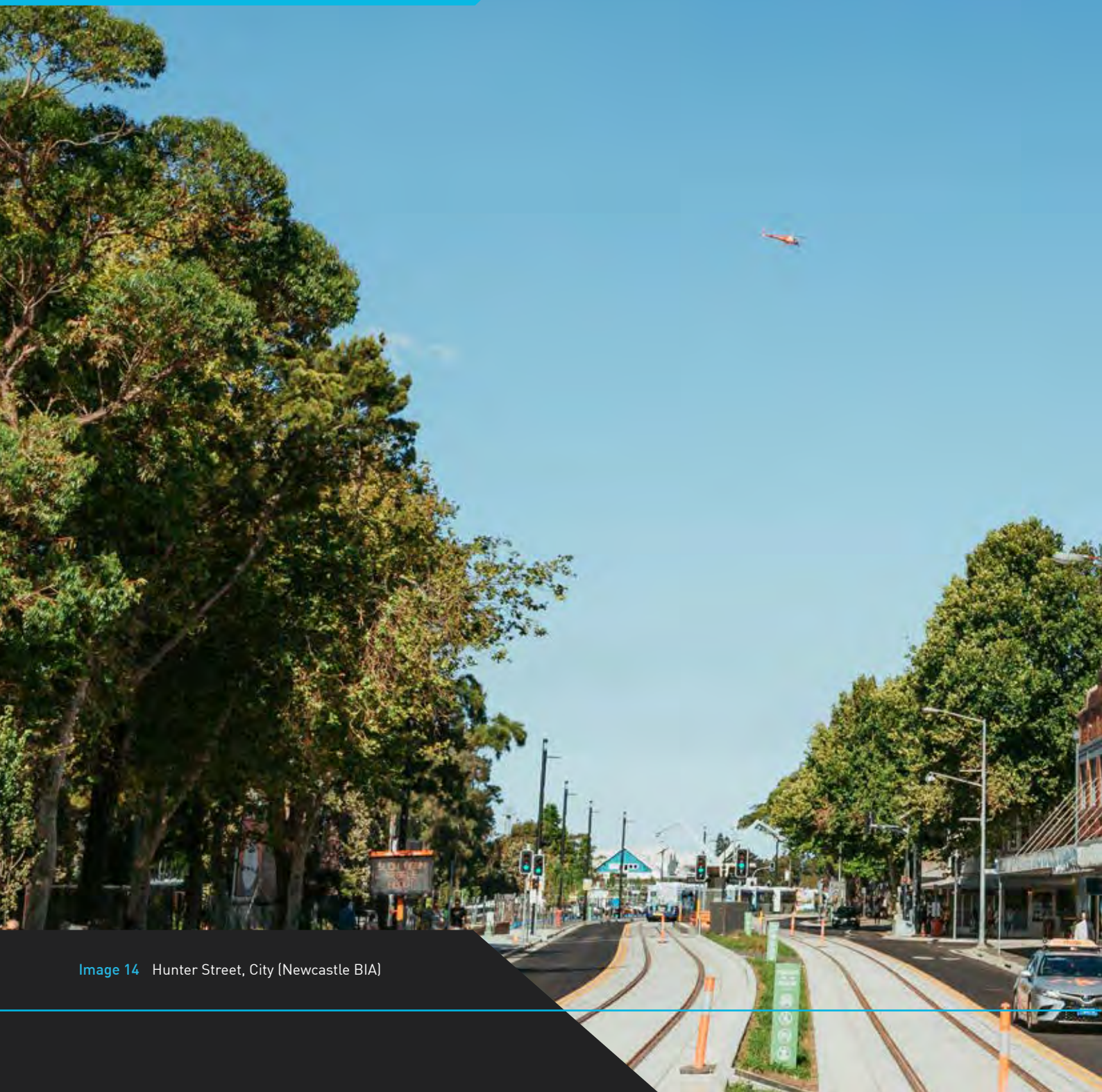


Image 14 Hunter Street, City (Newcastle BIA)

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.

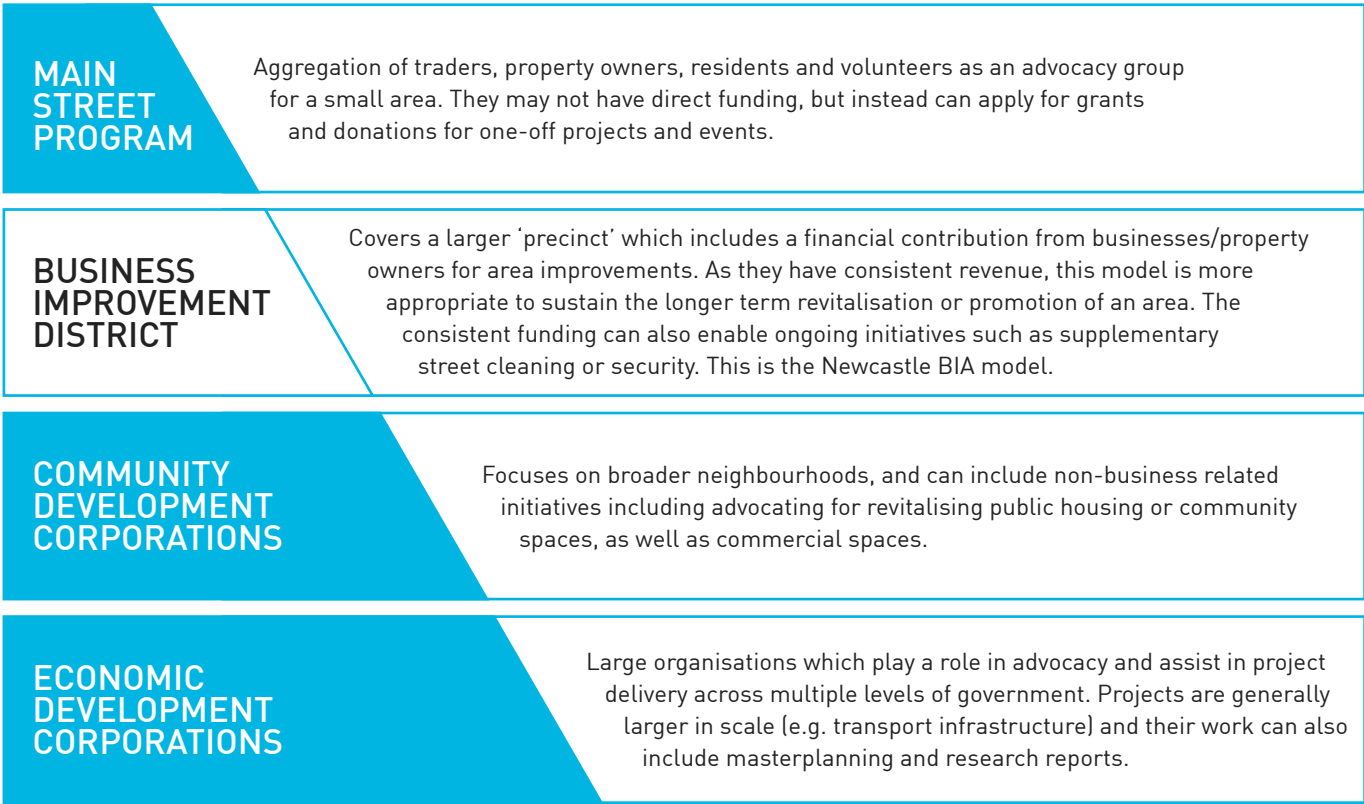


Figure 10 Organisational structures for economic development in a commercial precinct

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 insomuch 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)

1. City of Newcastle, 2018/19 Delivery Program and Operational Plan, p. 65. See: <http://newcastle.nsw.gov.au/Newcastle/media/Documents/Reports/3190-Our-Budget-FINAL-WEB-V6.pdf>
2. Jacobson, Justin, and Ann Forsyth. "Seven American TODs: Good Practices for Urban Design in Transit-Oriented Development Projects." *Journal of Transport and Land Use*, vol. 1, no. 2, 2008, pp. 51–88. JSTOR, JSTOR, www.jstor.org/stable/26201614
3. Greater London Authority, Business Improvement Districts: The role of BIDs in London's regeneration, p. 12. See: https://www.london.gov.uk/sites/default/files/final_bids_report_0.pdf
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5. Newcastle City Council, Economic Development Strategy 2016-2019, p.10. See: <https://www.newcastle.nsw.gov.au/getmedia/245f5225-7259-465f-930f-b1f77198f0b7/1927-Economic-Development-Strategy-FINAL-DIGITAL.aspx>
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7. NSW Department of Planning, 'Greater Newcastle Metropolitan Plan 2036', p. 12. See: <https://www.planning.nsw.gov.au/Plans-for-your-area/Greater-Newcastle-metropolitan-planning>
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9. Newcastle City Council, Economic Development Strategy 2016-2019, p.5. See: <https://www.newcastle.nsw.gov.au/getmedia/245f5225-7259-465f-930f-b1f77198f0b7/1927-Economic-Development-Strategy-FINAL-DIGITAL.aspx>
10. City of Newcastle, City Marketing and Engagement Strategy, p. 18. See: http://www.newcastle.nsw.gov.au/getmedia/4d9e3118-6f79-4d69-b8c1-429b86e9ec6c/FINAL_City-Marketing-and-Engagement-Strategy-2018.aspx
11. City of Newcastle, City Marketing and Engagement Strategy, p. 18. See: http://www.newcastle.nsw.gov.au/getmedia/4d9e3118-6f79-4d69-b8c1-429b86e9ec6c/FINAL_City-Marketing-and-Engagement-Strategy-2018.aspx
12. West, David, "Mix it with the best – Business Improvement Districts working towards sustainable streets", Premier Retail Marketing Australia, 2012, p.2. See: <http://www.mainstreetsa.com.au/wp-content/uploads/MIX-IT-WITH-THE-BEST-David-West.pdf>
13. Australian Institute of Company Directors, Good Governance Principles and Guidance for Not-for-Profit Organisations, 2013, p.11. See: <https://aicd.companydirectors.com.au/-/media/cd2/resources/director-resources/not-for-profit-resources/pdf/nfp-principles-and-guidance-131015.ashx>
14. British BIDs, National Guiding Principles for a BID, April 2018, p.9. See: <https://britishbids.info/publications/bb-guiding-principles>

APPENDIX A DOCUMENT COPIES



FUNDING AND SERVICE DEED OF AGREEMENT

**Contract
2012/075A**

NEWCASTLE CITY COUNCIL

And

**NEWCASTLE BUSINESS IMPROVEMENT
ASSOCIATION INCORPORATED**

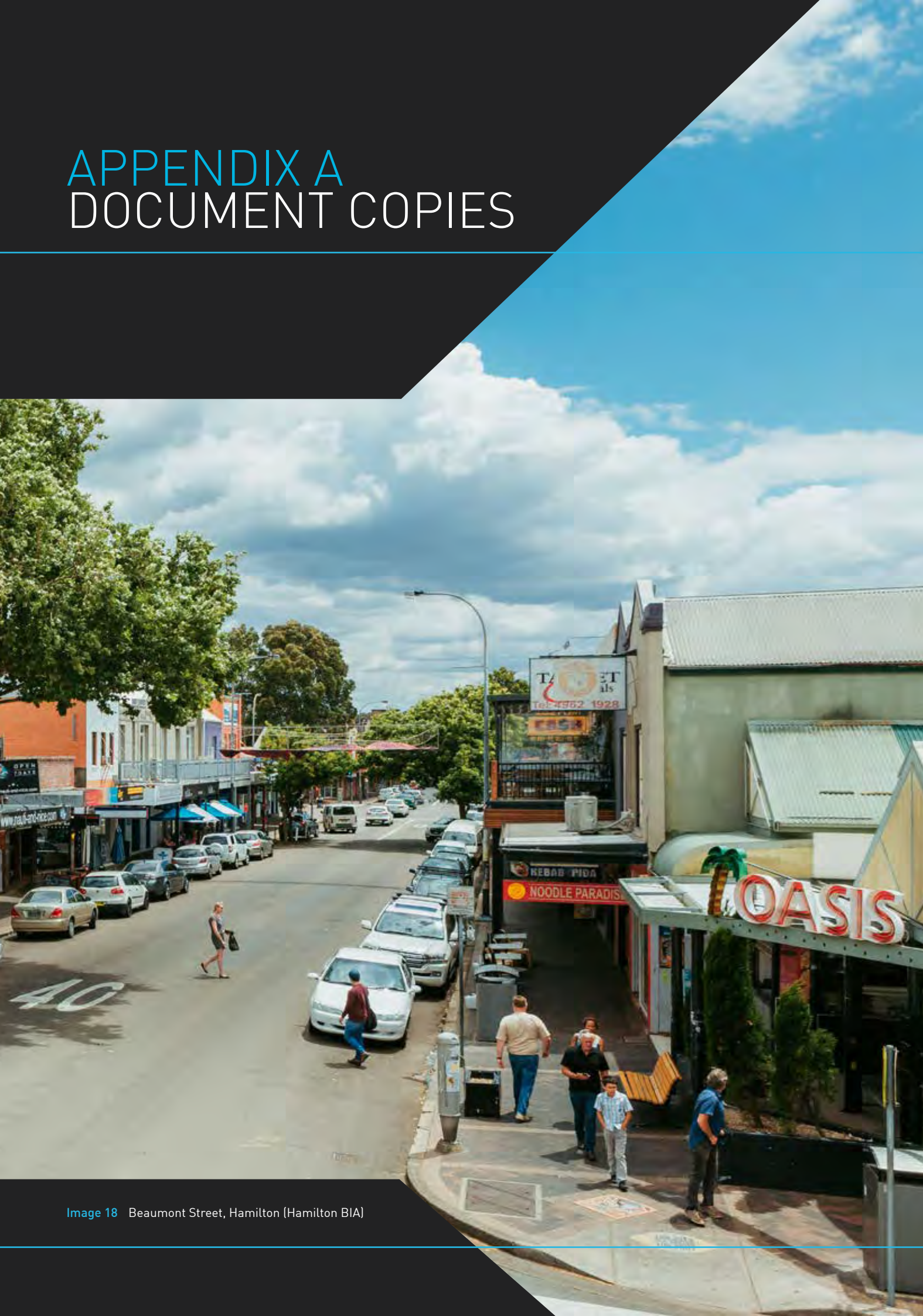


Image 18 Beaumont Street, Hamilton (Hamilton BIA)

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 *Copyright Act 1968 (Commonwealth)*, 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 *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*

“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 Hardees (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.

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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]

