

**Eden District Council**

**Council  
12 April 2012**

**Proposed Business Improvement District for Penrith**

**Reporting Officer: Communities Director  
Responsible Portfolio: Planning and Economy**

**1 Purpose of Report**

- 1.1 To inform the Council of an investigation into the potential to create a Business Improvement District (BID) in Penrith; to outline the financial and legal obligations upon the District Council in the event that a proposal is successful and to seek an informal view as to whether the Council would vote for or against the proposal.

**2 Recommendation:**

It is recommended that Council

- a) Notes the outstanding issues to be resolved as detailed in this report
- b) supports in principle the concept of a BID for Penrith subject to agreement on the contents of a Business Plan which would encourage the Council to vote in favour in respect of the properties for which the Council are entitled to vote.
- c) Acknowledges that the BID 'proposer' has yet to be formally identified and the BID Shadow Board is therefore urged to identify such a person as an immediate action.
- d) Advises the BID Board to finalise its business plan including the BID area so that a further report can be submitted to Council in July 2012.
- e) Agrees that any additional direct costs incurred by the Council be recharged to the BID company in the event of a yes vote.
- f) Agrees a supplementary estimate of £2,000 to cover the ballot costs (incurred by instructing Electoral Reform Services Ltd) in the event of a no vote.

**3 Report Details**

- 3.1 Following consultation by the Town Centres Officer early last year with the Penrith Chamber of Trade and Commerce together with dialogue with a number of independent town centre traders, it was considered worth

exploring the potential for a Business Improvement District in (BID) in Penrith. An application for funding to the Rural Development Programme (RDPE) for England by the District Council on behalf of 'The Vitality of Penrith' (VoP) was successful and enabled the investigation to begin through the appointment of a consultant to liaise with the Penrith business community. The RDPE funding was given on the basis that (VoP) would oversee informal investigations leading to the stage where a business plan would be prepared and voted upon by the business ratepayers in the BID area. Ideally the business plan should be prepared so a ballot upon it could take place by the end of October 2012 at the latest.

- 3.2 At the moment the investigation is still in an informal stage. If it is decided to move to the next and more formal stage of the process it will be necessary to follow procedures laid down by the Business Improvement District (England) Regulations 2004 and this will bring with it a number of obligations and duties upon the District Council the most pertinent of which are outlined in this report.
- 3.3 Of the approximate 450 businesses within the proposed BID area (see map attached as Appendix 1) the consultant has, since his appointment in October 2011, held meaningful conversations with over 120 local businesses and personally distributed over 300 copies of the leaflet explaining the BID process. Four consultation events were held in January 2012. He has also interviewed employees of the major supermarkets represented in the town and given presentations to the Penrith Chamber of Commerce and Trade. Feedback, although containing a healthy scepticism, has been encouraging. No material objections have been raised. This has given both the consultant and the Shadow BID Board a degree of confidence that establishing a BID for Penrith is possible. The outcome will inevitably depend on the strength of the business proposition.
- 3.4 The Regulations provide for the BID to be delivered by a 'partnership' between a local authority and the business community. The Regulations provide that an 'additional charge' (known as 'the levy') can be imposed on top of the normal Non-Domestic Rates for each individual property (hereditament) within the BID area. The normal way of calculating this additional charge is to base it upon a percentage point of the rateable value (typically around 1%-2%). The Council has a duty as Rating Authority to collect the levy and place the funds in a separate revenue account. The net proceeds from this account are then paid to an independent body approved by the Council (usually a company limited by guarantee) and created for the purpose outside of District Council control.
- 3.5 The process to establish a BID typically involves consulting Non-Domestic ratepayers in the proposed BID area and to identify the means and methods those ratepayers wish to use to improve the BID area together with an idea about the amount of levy they are prepared to accept. Details are then included in a Business Plan and put to a formal vote. It is at this point of preparing the business plan and going for a vote that the regulations are invoked.

- 3.6 All persons within the proposed BID area provided by the Regulations as being entitled to vote, are balloted on the Business Plan. If a YES vote is successful and the Business Plan is approved, the levy, determined at the time is added to all hereditaments. This levy becomes mandatory and is treated as a statutory debt.
- 3.7 The Business Plan has a lifespan of 5 years. If a BID area is to be continued for a further 5 year period a new vote is required.
- 3.8 A 'Shadow Board' for the BID have overseen the consultation exercise so far with the business ratepayers within the Town Centre area and agreed there is merit in producing a Business Plan and taking the issue to a vote. A draft BID area has been agreed as shown on the plan attached to this report.
- 3.9 It is still 'early days' to say for sure what the Business Plan would contain in terms of work required to improve Penrith BID area and what projects Non-Domestic Ratepayers would like to see. Some of the more obvious projects would be around improving the cleanliness of the area and aesthetic appearance. Other projects would be about improved marketing and signage whilst others may lay the ground for a Pedestrianisation Scheme. Car parking is a key issue for the town centre and will feature in further discussions but whether this results in any proposed projects remains for further debate. It would not be helpful at this stage to speculate further on what the Business Plan may contain. What is certain is that both the District Council and County Council will be required as part of the Regulations (Schedule 1) to give a statement of their baseline services if it is proposed in the Business Plan to make any improvements to such services as litter collection and maintenance of public realm.
- 3.10 Eden District Council will have liability to pay the levy on a number of rating hereditaments in the ownership of the District Council and are thus entitled to vote (as business rate payer).
- 3.11 For a BID ballot to be successful more than 50% of non-domestic ratepayers balloted must support the imposition of the levy and more than 50% of the non-domestic rates payable for the BID area must be capable of being collected from those supporting the BID. By this means the Regulations ensure a degree of fairness which ensures commitment from the majority of 'big' and 'small' non domestic rate payers. The District Council are a significant ratepayer in their own right in respect of such property as the Town Hall; Mansion House; Car Parks and Public Conveniences. The District Council can therefore be influential in the outcome of the ballot as a non-domestic ratepayer. It can also play a significant role as community leader expressing an opinion on the value of this exercise.
- 3.12 By voting 'Yes' on all properties for which there is an entitlement to vote it would offer an opportunity for the Council to support the BID and Town Centre improvement projects.
- 3.13 However, the Council must have confidence in the BID Company and its ability to administer the BID in accordance with the objectives set out in the Business Plan. Regulations specifically provide that the Council has a role to

ensure the BID Company has sufficient capacity to deliver the Business Plan and it can if necessary terminate arrangements.

- 3.14 The Council could vote against the idea of a BID although such a decision would likely carry its own negative consequences even at this stage of the process.
- 3.15 Whilst there is no Business Plan upon which the Council can vote at the moment, it is timely for the District Council to consider the matter in principle. The potential area of the BID is now known and therefore its consequences are becoming clearer. The Business Community is looking to the District Council to play a lead in advance of the Business Plan and to give an indication of their position in advance of any further work.

## **4. Policy Framework**

- 4.1 The Council has four corporate priorities which are:

Housing  
Quality Environment  
Economic Vitality  
Quality Council

- 4.2 Eden District Council and the Vitality of Penrith are promoting Penrith as vibrant place to live work and visit. The formation of a BID would improve the town centre and add value to many current projects and initiatives.

## **5. Implications**

### **5.1 Legal**

- 5.1.1 Local Authorities play an important facilitating role and are charged with legal responsibilities, including the provision of the ratings data to calculate the BID levy, the collection and enforcement of the BID levy via a ring-fenced Revenue Account which is then passed straight to the BID company, the organisation of the formal BID ballot, and the preparation and commitment to the baseline service agreements.
- 5.1.2 The formal roles that the local authority can undertake can be summarised in the following paragraphs.
- 5.1.3 Providing data for the baseline agreement and assisting with other aspects of legal agreements (see paragraph 3.7 above), such as an operating agreement and a complementary services agreement (if required).
- 5.1.4 The baseline agreement covers the existing services provided by the district or county council and details of the additional services that the BID will offer. Additional services (if any) such as increased litter collection, more frequent 'deep cleaning' etc will depend on what businesses want.
- 5.1.5 The operating agreement sets out and ensures an effective ongoing relationship between the BID and the local authority in terms of collecting and enforcing payment of the BID levy.

- 5.1.6 The complementary services agreement secures the provision of services from the county or district council that are additional to services already provided by the district or county council within the BID area.
- 5.1.7 Approval of the BID Proposal will require the Council to judge the credibility of the BID proposal and the capacity of the BID company to deliver all the aspirations of the Business Plan.
- 5.1.8 The District Council will be required to manage and carry out of all aspects of the ballot. The cost of making the arrangements will fall to the District Council. In some BID areas the local authority has sought to recover the costs from the BID company. This will be an option for the District Council to consider at a later stage.
- 5.1.9 A ballot, as proposed, may take place in October, 2012. The Police Commissioner election will be held in November and the electoral staff will be fully engaged in conducting this election as it affects Eden. An estimate for a third party to conduct the postal ballot of business has been obtained, therefore. The Electoral Reform Services has estimated the cost of a ballot for 500 hereditaments at £2,000.

## **5.2 Financial**

- 5.2.1 Any decision to reduce or increase resources must be made within the context of the Council's stated priorities as set out in its refreshed corporate plan.
- 5.2.2 As can be seen from the above paragraphs there are resource implications from many of the responsibilities flowing from the BID Regulations which can be translated into financial implications. It is not possible to set out all the financial implications in this report because a number of such considerations can only be known when a Business Plan is prepared.
- 5.2.3 However what can be anticipated at this stage is the rates liability falling on the Council as a real cost as a result of being a non domestic ratepayer.
- 5.2.4 There are 11 properties owned by the Council which are included in the draft BID area. If these properties were all included in the BID, the increase in cost to the Council would be £2,430 for every percentage point of the levy charged by the BID.
- 5.2.5 The BID Regulations allow the District Council to recover the cost of the ballot.
- 5.2.6 The Council will be responsible for the administration of the BID (through a BID Revenue Account - Schedule 3 et al of the Regulations), covering all aspects of billing, collection and enforcement. The cost of maintaining this account can be recovered from the BID company. The costs of doing so will depend on the complexity of and size of the BID.
- 5.2.7 It is suggested that all direct costs incurred by the Council are charged to the BID Company in the event of a yes vote.

- 5.2.8 There are undoubtedly resource implications, however the benefits that a successful BID can bring, and the good will generated for assisting the implementation of a BID can outweigh the initial outlay of staff and time.
- 5.2.9 The final area and properties to be included in the BID are to be determined by the BID Board as well as the levy charged. If the rateable value of the BID area were £5m (illustrative only) the following sums would be raised by the BID:

Percentage Charge	Cash Raised £
1	50,000
2	100,000
3	150,000
4	200,000
5	250,000

It must be stressed that under BID regulations, a de minimus level can be set below which properties are not included. Exemptions are also available for charity premises, schools and public conveniences. These are to be determined by the Board.

### **5.3 Equality and Diversity**

- 5.3.1 The Council has to have regard to the elimination of unlawful discrimination and harassment and the promotion of equality under the Equality Act 2010 and related statutes.
- 5.3.2 There are no equality and diversity implications in this report.

### **5.4 Environmental**

- 5.4.1 The Council has to have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.
- 5.4.2 There are no Environmental implications in this report.

### **5.5 Crime and Disorder**

- 5.5.1 Under the Crime and Disorder Act 1998 the Council has to have regard to the need to reduce crime and disorder in exercising any of its functions.
- 5.5.2 There are no Crime and Disorder direct implications in this report.

### **5.6 Children**

- 5.6.1 Under the Children Act 2004 the Council has to have regard to the need to safeguard and promote the welfare of children in the exercise of any of its functions.
- 5.6.2 There are no Children Act implications arising from this report.

### **5.7 Risk Management**

- 5.7.1 Risk Management is a process whereby attempts are made to identify, actively control and reduce risk to protect the council. This covers not only

the traditional areas of insurable risk but also the organisational risk that the council faces in undertaking all its activities.

5.7.2 Main risks in addition to the legal and financial obligations outlined above are to do with reputation and set out below.

<b>Risk Controls Required</b>	<b>Consequence</b>	<b>Control Required</b>
If voting Yes If voting yes the Council must have the confidence in the BID Company to administer the Bid in accordance with the objectives set out in the Business Plan	The Council's vote will have an impact on the outcome of the ballot in view of the total rateable value. Loss of public confidence in the council if the BID does not deliver.	The Council to examine the proposals in detail and test wider community opinion before making such a decision.
The Council could vote against the BID	This approach would not encourage local initiative and an opportunity to improve facilities and attract visitors to Penrith.	To issue a positive vote.

## 6 Reasons for Decision/Recommendation

6.1 To meet a corporate priority to promote the Vitality of Penrith.

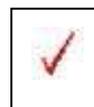
Ruth Atkinson  
Director of Communities

### Governance Checks:

Checked by or on behalf of the Chief Finance Officer



Checked by or on behalf of the Monitoring Officer



Background Papers: The Business Improvement Districts (England) Regulations

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