



# Urban Management Districts

## Review of Current Status & Enabling Framework

### Research & Findings

28 September 2016

Final

NO CHANGE WITHOUT A

**AEBEL**



# Contents

---

- **Introduction**
- Importance of Urban Management
- Legislated Management Districts
- Urban Management Districts in South Africa
- Legal Framework in South Africa
- International Practice Review
- Sector Stakeholder Perspectives
- Initial Implications

# Introduction

## Background to the Report

---

**The Gauteng City Improvement Districts Act (GCIDA) was established in 1997 in order to:**

- provide procedures for the formation and independent management of city improvement districts to fund the provision of services in addition to those which a municipality ordinarily provides in order to facilitate investment in the city improvement district;
- halt further degeneration of cities; and
- promote economic growth and sustainable development in cities.

**This legislation allows for City Improvement Districts (CIDs) to raise a levy to be charged on all property within the defined geographic area.**

- The purpose of this levy is to generate income which can be directed back to the defined area to finance a wide range of "top-up" / complementary and supplementary services in the public space.

**In September 2015, the Supreme Court of Appeal delivered a judgment dealing with the legality of levies imposed under the Gauteng City Improvement Districts Act 12 of 1997.**

- The court found (amongst other issues) that, due to the fact that the CID Act was provincial and not national legislation, it was open to constitutional challenge.

# Introduction

## Purpose of this Report

---

**The aftermath of the court opinion presented other CIDs, not just those in Gauteng, with the need to evaluate their establishment structure.**

- The ruling has inspired stakeholders to call for a re-evaluation of the South African legislative and regulatory context for Legislated Management Districts.
- The Johannesburg CID Forum, in conjunction with SAPOA and National Treasury, have requested an assessment and guidance on CID legislative issues (the GCID Act) and related matters.

**The research in this report covers the following:**

- Conceptual framework for urban management and the role of legislated management districts;
- Review of the current status of urban management districts in South Africa as well as current enabling legislation;
- Review of international practice;
- Presentation of key concerns raised by local sector stakeholders; and
- Findings and initial recommendations.

**This discussion document is an input into a larger National Urban Management Initiative (NUMI).**

# Contents

---

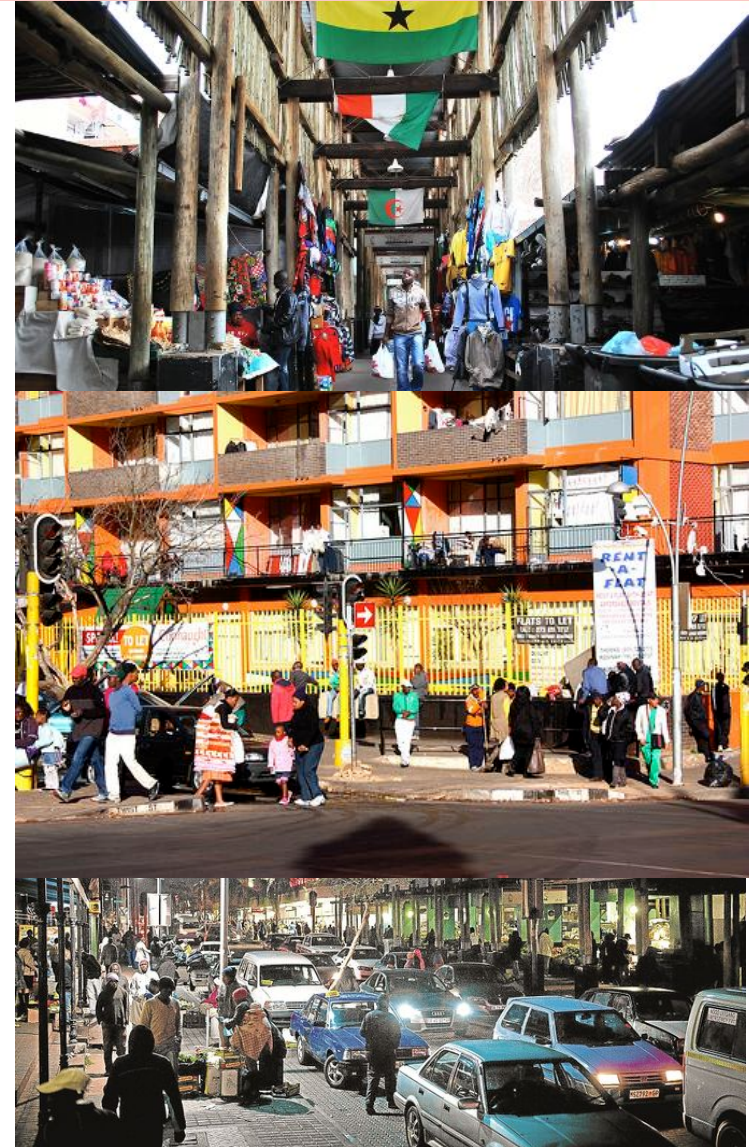
- Introduction
- **Importance of Urban Management**
- Legislated Management Districts
- Urban Management Districts in South Africa
- Legal Framework in South Africa
- International Practice Review
- Sector Stakeholder Perspectives
- Initial Implications



# Importance of Urban Management

## What is Urban Management?

- ***It is*** the practice of management of all the activities in the public space required to ensure the **effective day to day functioning of an urban community**
- ***It is*** the provision of localised solutions that are required to manage areas
- ***It is*** an integrated approach to strategic management and the vehicle for maintaining quality of urban environments
- Urban Management ***seeks to help:***
  - Address the challenges of rapid urbanisation that place enormous pressure on city managers and urban institutions, structures and human capacities through coordinated and structured responses.
  - Support processes through which cities find better ways of balancing the needs and pressures of urban growth and change with the opportunities and constraints of the local environmental/ fiscal resource base.



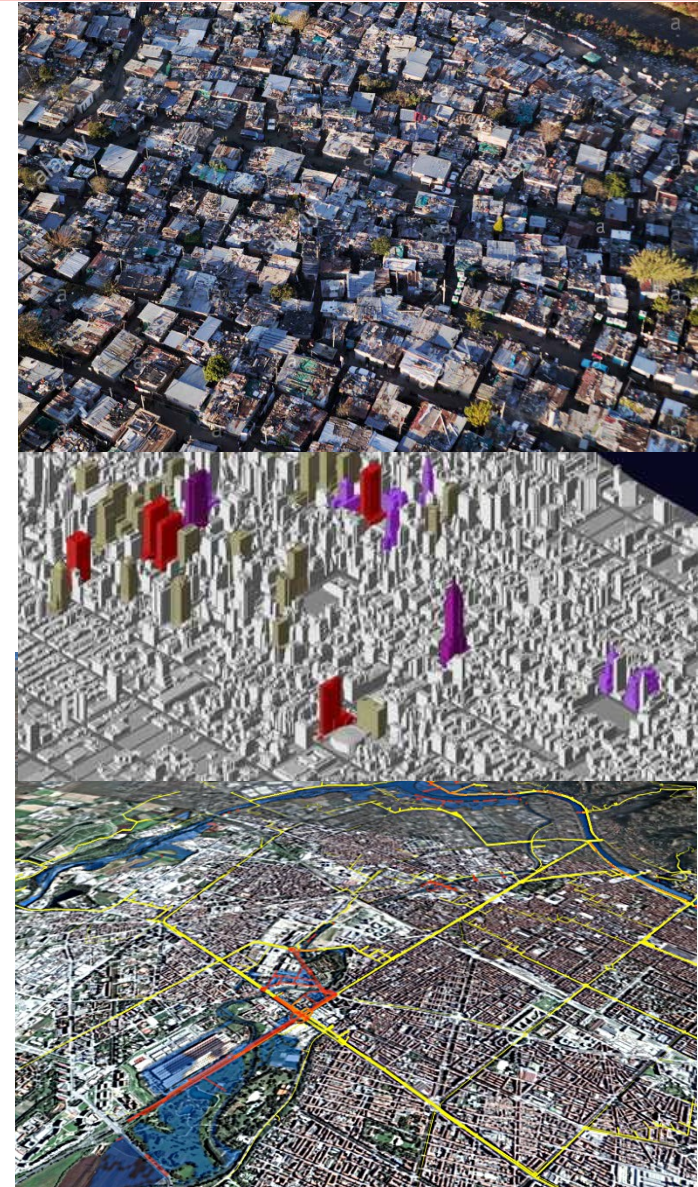


# Importance of Urban Management

## Need in South Africa

### Why is Urban Management so critical for the current South African context?

- Data indicates that most of the world's population is undergoing an urbanisation trend and this is no different in South Africa.
- *“Urban management is concerned with the policies, plans, programs, and practices that seek to ensure that population growth is matched by access to basic infrastructure, shelter, and employment. While such access will depend as much, if not more, on private initiatives and enterprises, these are critically affected by public sector policies and functions that only government can perform.” -Davey, KJ, in **Elements of Urban Management***
- South African cities present extremely challenging urban contexts, dealing with issues including inner-city decay, rapid urbanisation, pollution and economic stagnation in deprived urban areas. Urban management of these areas involves coordinating and integrating public and private activities to tackle major problems.



# Importance of Urban Management Need in South Africa

## Why is Urban Management so critical for the current South African context?

- Urban growth trends in South Africa are particularly problematic as they indicate increasing spatial disparity and a rise to inequality and exclusion. These trends are manifesting themselves in the urban areas metros that are critical for driving South Africa's economy which highlights the importance of focusing on the urban form to address exclusionary and inefficient patterns of access to services and opportunities.
- Urban Management helps support the objectives of the National Development Plan and Integrated Urban Development Framework that both seek to tackle spatial development patterns and coordinate the use of planning, regulatory and investment tools and strategies.

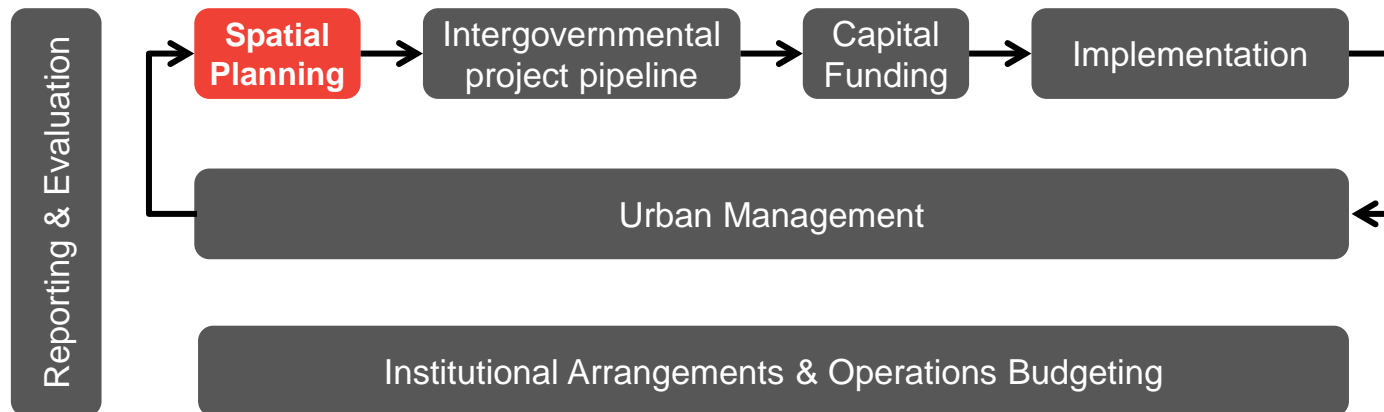




# Importance of Urban Management

## Relationship to the Built Environment Value Chain

National Treasury, in partnership with the Department of Cooperative Governance, is supporting metros in **the formulation of long term investment strategies aimed at achieving productive and inclusive cities via Built Environment Performance Plans (BEPP's)** in accordance with the Division of Revenue Act. These BEPPs are structured according to an intervention logic known as the **Built Environment Value Chain (BEVC)**:



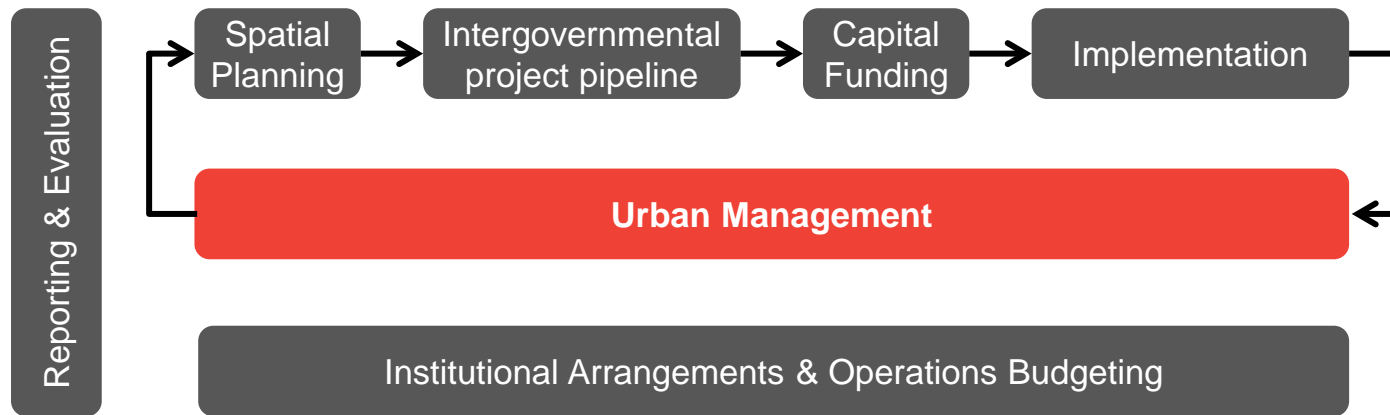
“Spatial Planning”- has been translated into a spatial targeting approach defined as the Urban Network Strategy. This is aimed at prioritisation into three targeted spaces:

- Integration zones
- Economic nodes
- Marginalised areas

# Importance of Urban Management

## Relationship to the Built Environment Value Chain

The “Urban Management” component of the BEVC refers to the ongoing support for the attraction and retention of public and private investment in the targeted spaces by the relevant stakeholders.



Thus Urban Management becomes the vehicle through which special provisions are made in targeted spaces that reduce investment risks via:

- targeted, catalytic public investment
- acceleration of public investment (new infrastructure and asset renewal) via private sector financing
- private sector development incentives
- regulatory instruments that facilitate development rights and improved land release



# Importance of Urban Management

## Principles of Urban Management

**Urban Management requires the interaction of all actors that utilize spatial areas to deliver ...**

- Functional urban economies
- Increased investment
- Attractive, safe, and people-centered precincts
- Definition of place



# Importance of Urban Management

## Relationship between Private and Public Sector

### Public Sector ...

#### ... establishes / holds the framework ...

- Legislative framework and enforcement
- Collection of municipal rates and taxes
- Community services – health, safety, education & social services
- Trading services – electricity, water, refuse
- Service provision – bulk infrastructure, electricity, water and waste management

### Private Sector ...

- Contributes to sustainable urban management through the provision of top-up and complementary services in public space
- Contributes to building social cohesion and 'functioning community'
- Works in partnership with local municipality on agreed projects including the monitoring and management of agreed plans

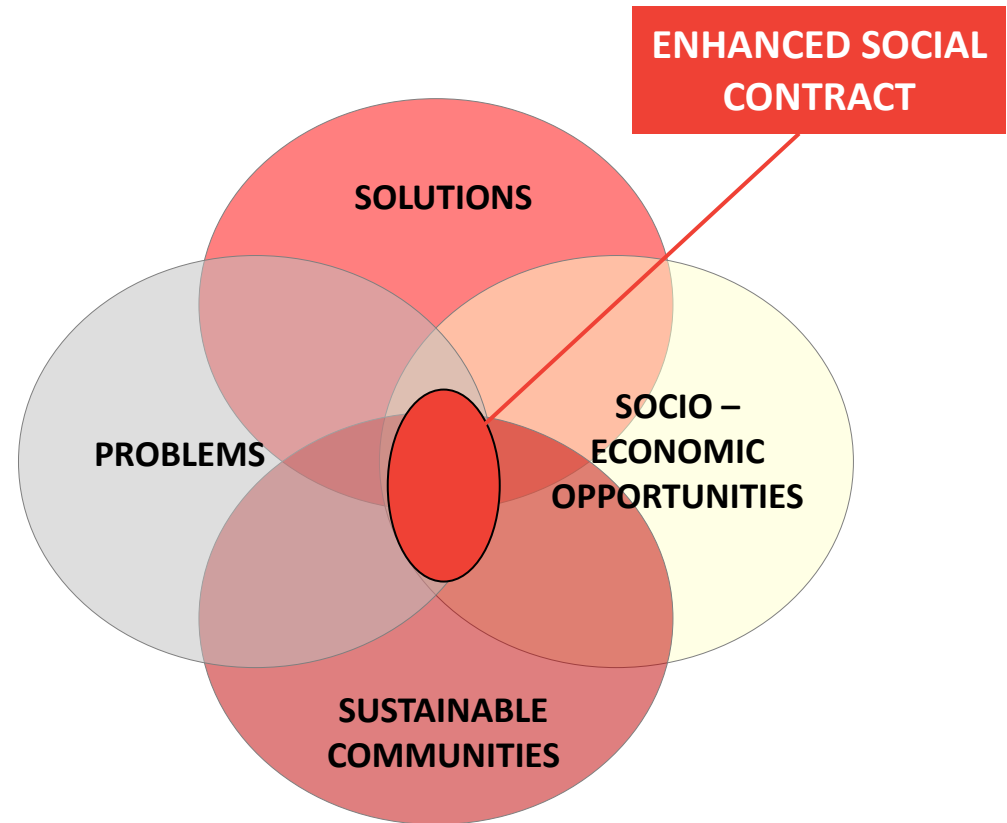


# Importance of Urban Management

## A Demand-Driven Exercise

**How are successful Urban Management interventions conducted sustainably?**

- Promote citizen engagement
- Strengthen level & quality of participation
- Promotion of participatory governance
- Customize service delivery solutions
- Craft partnerships between public and private sector



“A sustainable version of urban management must begin with extensive community interaction and engagement. Projects must be demand driven, with up-front commitment and buy-in from communities regarding how precinct planning, development and management responsibilities will be shared.” – *The Art of Precinct Management: A Municipal Guide. National Treasury, 2014.*

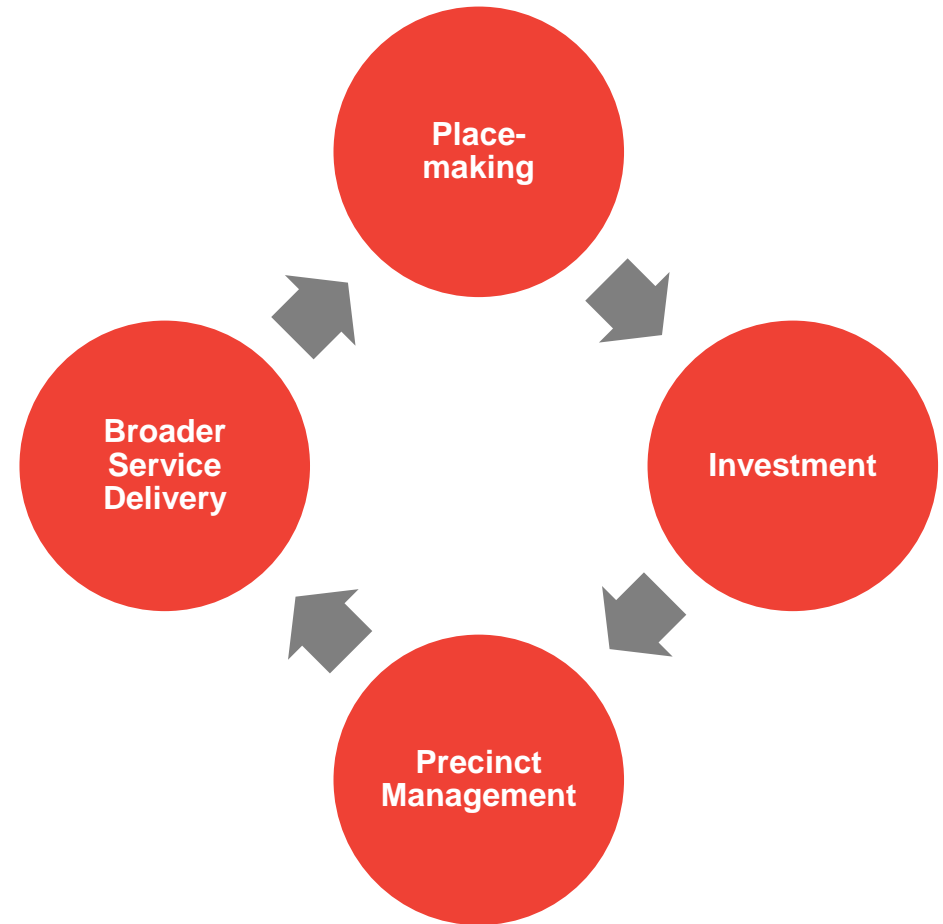
# Importance of Urban Management

## Relationship to Precinct Management

**Precinct Management is a sub-component of broader Urban Management, largely driven through partnership activity between private and public sector.**

As per definition by National Treasury, Precinct Management....

*“is focussed on the post-implementation management of public spaces knitting the public, private and community facilities and properties together.” – The Art of Precinct Management: A Municipal Guide. National Treasury, 2014.*





# Importance of Urban Management

## Precinct Management as Intervention in nodal lifecycle

**The stage of a precinct informs the design and structure of the precinct operating model and must be contextualised to be effective.**

Precinct management strategies targeted to specific stages further support the aims of national government and the needs of strategic, specific investment because in an environment of limited resources, the focus of public investment should be where it can act in a “catalytic” manner. There are a number of characteristics that inform the classification of precincts:

1. The **socio-economic profile of the area**: the characteristics of household income or socioeconomic circumstances that give indication of the population served.
2. The **existing land use**: what is the mix of land use in the area and how does that reflect the area's spatial character.
3. **Stakeholder mix**: an understanding of public and private actors within the area and their interests and needs.

*Precincts and spatial areas have several stages of life but all of which exist on a continuum, suggesting that the right intervention at the right point can energize an area into the next stage of development.*



*Source: Economic Areas Management Programme Report. Rabie, Klaus. 2012*

# Importance of Urban Management

## Typologies of Precinct Management

Precinct management can take many forms ...



# Importance of Urban Management

## Typologies of Precinct Management

Precinct management can take many forms;

**Public sector initiatives & programmes at various levels of local (City level), provincial and national government,**

**Private sector initiatives in the form of Management Districts**

**Municipal-led Area Based Management**

**Community-based Management**

### ***Formal establishment processes ...***

Property Owner's Associations or where participation in and contribution to local urban management is written into title deeds, Areas in which special rates are legislated, Areas where there is a legislated or voluntary

### ***Legislated Management Districts***

Legislated Management Districts, as established entities, also provide the capacity to undertake additional urban management activities for specific spatial areas beyond precinct management functions.



# Importance of Urban Management

## Precinct Types and Precinct Management Responses

<i><b>Lifecycle of precincts*</b></i>	<i><b>Emerging</b></i>	<i><b>Established/Stable</b></i>	<i><b>Declining</b></i>
<b>Definition and Characteristics</b>	<ul style="list-style-type: none"> <li>• New centres and hubs of socio-economic activity. Unique in that they can represent a burgeoning population but still have a mix of formal and informal land use/ economic activity. Require pragmatic and flexible arrangements to adapt to evolving context. Can face a range of challenges from constrained social/ economic infrastructure to poor spatial definition.</li> </ul>	<ul style="list-style-type: none"> <li>• Characterized by a healthy property market and organised formal private sector. Functional service delivery but still must maintain and preserve viability in a competitive market place.</li> </ul>	<ul style="list-style-type: none"> <li>• Experiencing a decline in investor confidence and stagnation in the property market. Needs to address issues to catalyse regeneration and performance.</li> </ul>
<b>How does Precinct Management (PM) support these areas and address national objectives?</b>	<ul style="list-style-type: none"> <li>• Can act as an “advocate” to ensure attention and coordination of service delivery as well as build private sector confidence. PM can work to ensure that public sector investment is catalytic and the private sector is mobilised as well as reduce risk to investment and unlock potential.</li> </ul>	<ul style="list-style-type: none"> <li>• Works to deliver top up and complimentary services that can improve the value proposition of the node. This includes a range of activities from typical crime and grime support to innovative initiatives that drive place-making and vibrancy.</li> </ul>	<ul style="list-style-type: none"> <li>• Can work to pilot a turnaround strategy and investment programme that is reflective to the exact needs of the area and avoid ill-fitted investment. Can re-energize existing private sector and mobilise their support.</li> </ul>

\* As defined in the Urban Network Strategy

# Importance of Urban Management

## Summary Points

---

- **Urban Management is an expansive practice and includes:**
  - Supporting the creation of a “cohesive spatial identity”
  - Facilitation of inward investment and existing business retention and support
  - The provision of service delivery to “compliment and augment” existing municipal services
  - “Active” and “ongoing” management of spatially defined areas (a critical difference from sole municipal service delivery)
- In these respects, it offers unique value proposition, which a local authority can be a participant in and supporter of, but not necessarily duplicate these roles, as it is not their core business
- Precinct management can take a variety of forms, ranging from ad hoc and informal to formal
- Precinct management that is formalised and established through covenants and legislative arrangements has a greater chance of sustainability
- There are a number of permutations for formally established precinct management initiatives and each have implications regarding locus of control, responsibility, and limitations

# Contents

---

- Introduction
- Importance of Urban Management
- **Legislated Management Districts**
- Urban Management Districts in South Africa
- Legal Framework in South Africa
- International Practice Review
- Sector Stakeholder Perspectives
- Initial Implications



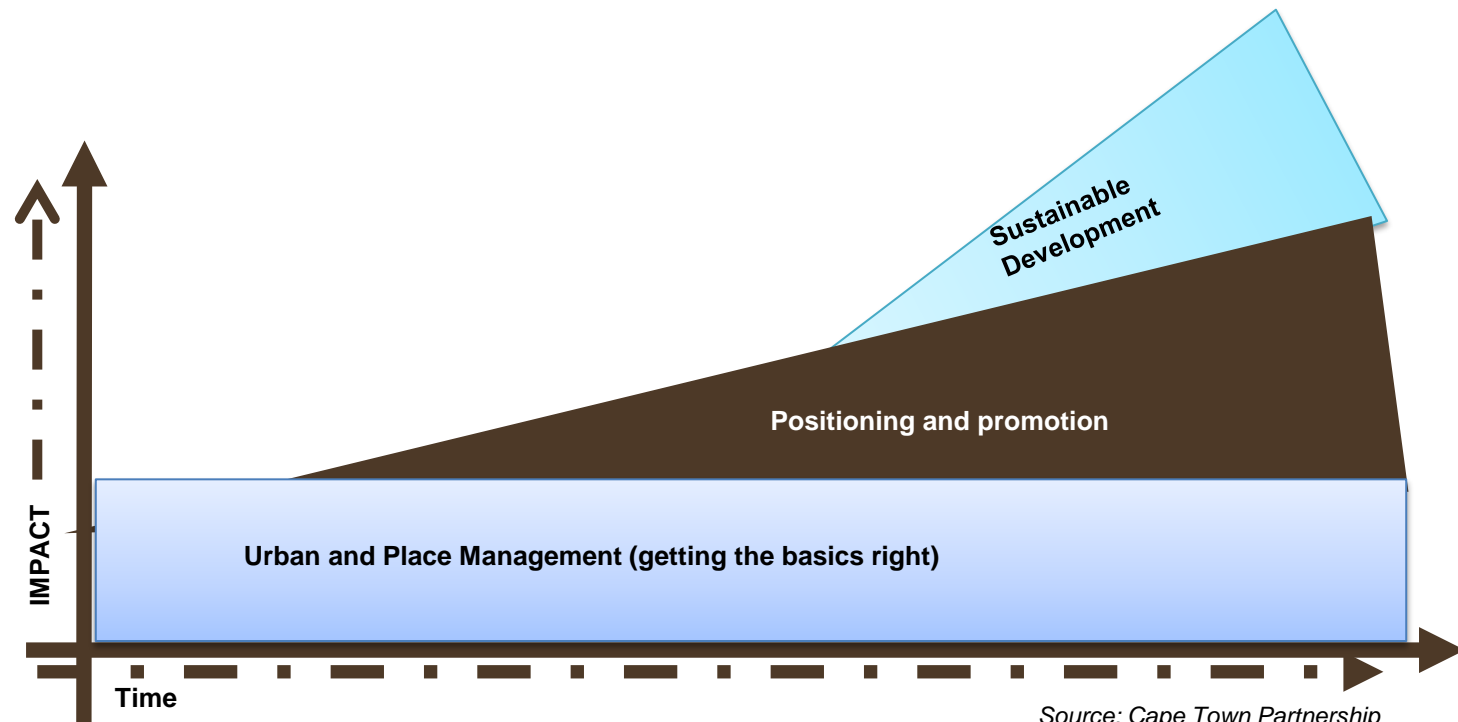
# Legislated Management Districts

## Definition and Approach

A “**Legislated Management District**” is a defined geographic area within which property owners agree to pay for certain complementary and supplementary services to those offered by the local authority to enhance and promote the physical and social environment of the area and by doing so create a ‘managed area’ that is established through a formal process.

There are thousands of Legislated Management Districts world wide; in the USA, the UK, Germany, New Zealand, Australia etc. The Legislated Management Districts concept was brought to South Africa in the mid 1990s.

Legislated Management Districts’ ultimate aim is to merge urban development and urban management into one complete system to improve the value across the area - **creating economically viable places.**



Source: Cape Town Partnership

# Legislated Management Districts

## Improvement Precinct / Management Districts: Terminology

**Currently, all Legislated Management Districts in South Africa are established through four avenues - through:**

- Provincial enabling legislation (such as the Gauteng Community Improvement District Act of 1997)
- City by-laws that enable establishment
- City by-laws for Special Ratings Area (that falls under the implications of the Municipal Property Rates Act (MPRA); the Municipal Finance Management Act (MFMA) and the Municipal Systems Act (MSA)
- Voluntary establishment

Yet, there are **additional permutations in the labeling of Legislated Management Districts** including:

- Special Ratings Areas (SRA's)
- Urban Improvement Precincts (UIP's)
- City and Business Improvement Districts (CID's and BID's)
- Management Associations (MA)

# Legislated Management Districts

## Legislated Management Districts : Historical Context

### Canada

- World's first Legislated Management Districts was started in Toronto in 1963 in response to decentralised shopping malls and declining Inner City centre.
- Started as a voluntary organisation with a focus on cleaning and security to attract and retain retail and shoppers.
- Lack of enabling legislation was considered a threat to continuity of the initiative – legislation was drawn up and passed in 1969.
- First Legislated Management Districts was established in Toronto's Bloor West Village in 1971. CID's then spread throughout out Canada.





# Legislated Management Districts

## Legislated Management Districts : Historical Context

### United States

- US BID's (Business Improvement Districts) – 1970, New York City experienced significant problems in public and private space. Property owners began to establish BID's to implement maintenance and restore a sense of pride and ownership in the City
- BID legislation was passed in the US in 1982 and BID's spread rapidly throughout the country.
- BID's then spread from the US to South Africa. The Executive Director of the Central Johannesburg Partnership (CJP) travelled to the US to study the BID initiatives and their approach to urban renewal. He recommended that a CID be started as a pilot project in the Inner City of Johannesburg.
- No legislation existed so the first SA CID was started on a voluntary basis. The first service introduced was security which rapidly brought down the crime rate in the CID area, followed by cleaning and then upgraded facilities for informal traders. All staff were highly visible. CID demarcation including flags and banners were later introduced along with limited greening programmes.

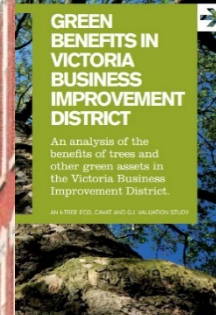


# Legislated Management Districts

## Legislated Management Districts: Historical Context

### United Kingdom

- Cities in the UK suffered the same urban degradation as in the US. Their response was the establishment, by National Government, of Town Centre Management (TCM).
- Response was to develop broad based partnerships to ensure that the needs and expectations of communities was met and to retain business and retail in the town centres. Local planning controls were no longer viewed as enough.
- UK TCMs were heavily involved in marketing initiatives and in bringing in voluntary sector stakeholders related to tourism. The key driver was to boost retail in the town centres.
- The Association of Town Centre Management raised funding from central government to establish pilot BID's in London. The CID initiative then spread to towns throughout England and Wales.
- Government Piloted the first 5 BID's with the aim of identifying UK BID best practice through "doing it themselves" and as a result of their learning in these pilots then developed manuals/legislation etc., so that other communities could establish BIDs.



One BID	Two BIDs	Three BIDs	Six BIDs
LB Bexley LB Brent LB Croydon LB Havering LB Islington RB Kingston upon Thames LB Wandsworth	LB Ealing LB Hammersmith & Fulham LB Lambeth LB Merton LB Redbridge LB Sutton LB Waltham Forest	LB Camden LB Southwark	City of Westminster





# Legislated Management Districts

## Improvement Precinct / Management Districts: Historical Context

### South Africa

- The Central Johannesburg Partnership (CJP) was established as a special purpose vehicle enabling City, business and community to work together towards the delivery of key programmes - CID legislation and establishment being one of them - to the benefit of all Inner City Stakeholders. (important to note that the SPV Partnership enabled CID's to be established/CID legislation to be developed as well as other critical partnership structures and programmes.
- In 1996, the CJP together with the ATCM (Association of Town Centre Managers) and IDA (International Downtown Association) organised a City studies tour of the US BID's for Gauteng provincial government, Johannesburg municipal officials, Johannesburg business and community organisations.
- As a result, the provincial government drew up relevant CID legislation which was approved by Provincial Legislature in 1997 but only became effective in 1999.
- Subsequently numerous Legislated Management Districts have been established across South Africa.



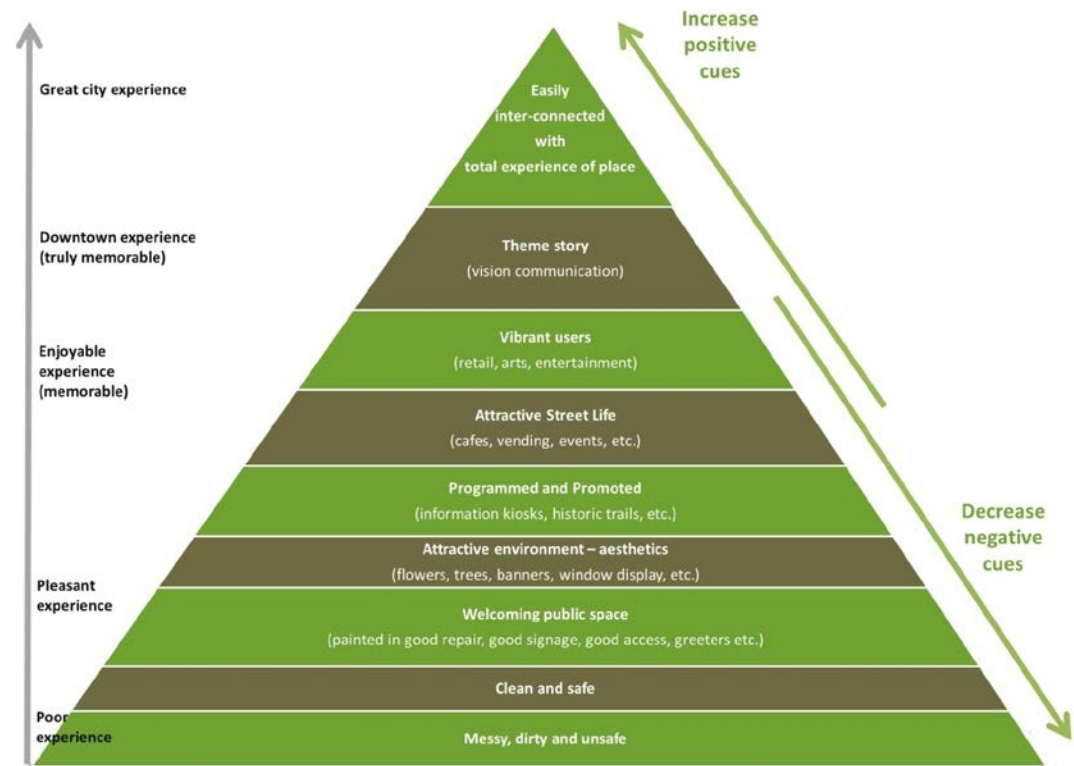


# Legislated Management Districts

## Hierarchy of Services

### Focused on an EXPERIENTIAL approach to urban revitalization

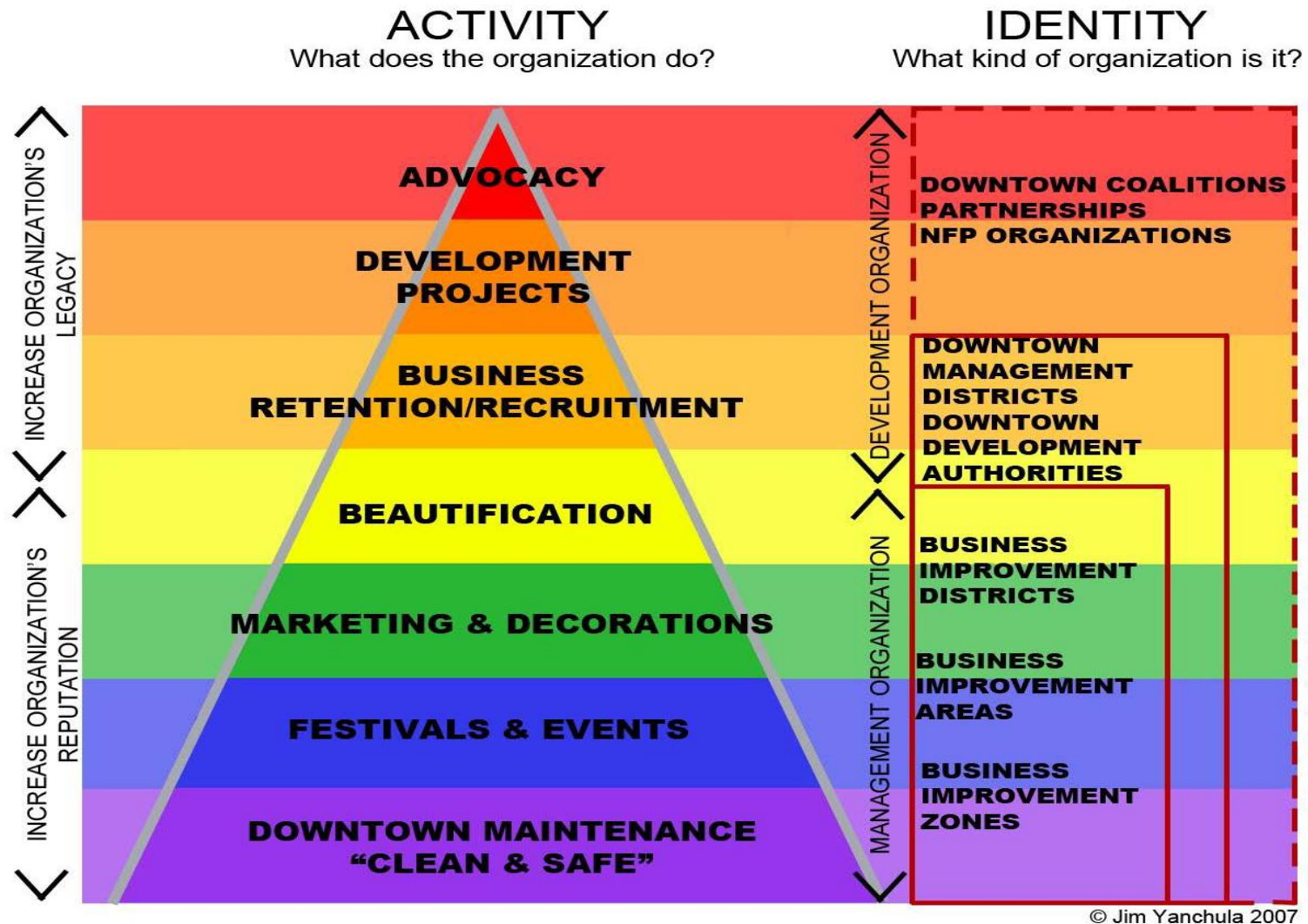
- Improvement Precincts/ Management Districts sought to improve the **experience** that they offer city-users and dwellers in order to ensure visitors had pleasant experience and desired to repeat the visit.
- To encourage good **experiences**, i.e. these entities assisted local government in ensuring that the experience offered to **all** city-users, city-goers and city dwellers will be increasingly enhanced by providing above average services and specific interventions.
- The initial focal point is generally to tackle crime and grime and social issues because, unless these are dealt with, no investment will be attracted to the area nor will existing owners wish to invest further. Once this basic level has been met, entities tend to work through a **specific hierarchy** to address issues and provide services systematically.



Source: R Bradley, Downtown DC BID, 2002

# Legislated Management Districts

## Activities and Entity Identity



# Legislated Management Districts

## Typology - Six broad types of management district ...

1

### Basic Model

- Developed originally as maintaining a clean and safe area thus focusing on security and general maintenance.

2

### Marketing Model

- Whilst still retaining clean and safe as the base, these Management Districts focus heavily on the marketing of the area to draw more visitors to the area and they also hold numerous events aimed at attracting feet through the area.
- Times Square Business Improvement District is a good example. The BID manages the “Dropping the New Year Ball” and other major events, runs a centre where tours through New York City can be booked, provides information regarding NYC, organises a “Night of The Stars” event which brings together all the stars of shows running on Broadway, etc.

3

### Super Model

- These are Legislated Management Districts that encompass some of the following services over and above safety and security and maintenance:
  - Place Marketing Business Recruitment & Retention
  - Regulatory Advocacy and Enforcement
  - Parking and Transportation
  - Input to city policy & strategy
  - Urban Design
  - Social Services
  - Visioning
  - Capital Improvements / infrastructure & place making
- Examples include Central City District in Philadelphia, Downtown DC in Washington DC and the Grand Central BID in NYC.

# Legislated Management Districts

## Typology - Six broad types of management district ...

4

### Public Space Upgrade & Maintenance Model

- Example -Bryant Park in New York City, This public park backs against the New York City Library and under Council management became a 'sinkhole'.
- The Council eventually gave up trying to maintain and manage the park and asked that a BID be established. This was done and a great deal of money raised by the BID to totally re-landscape and plant the Park creating a magnificent inner city public space together with a restaurant and outdoor entertainment. The Park is now used by the BID to host many community events and activities including movies and Fashion Shows.
- Examples in Johannesburg include Main Street Mall, Gandhi Square, 120 End Street Park.

5

### Specific Focus Model

- Starting with a clean and safe agenda, some Legislated Management Districts have been established to develop the major industry or business that operates in the area of the Legislated Management Districts.
- Examples are the Fashion District and Toy District in Los Angeles, LA's Chinatown, the Hollywood Media District, Philadelphia's Historic precinct, Washington's Georgetown area, etc.
- Legislated Management Districts have been established in Industrial areas, often older areas that are suffering from the competition with new Industrial Parks. Legislated Management Districts have also been established to cover University Campuses and their surrounding areas.

6

### Residential Model

- Very few Legislated Management Districts initiatives in purely residential areas although there are a number that have been established in mixed-use areas where there is a preponderance of residential accommodation.
- The paucity is due in part to the often rapidly changing nature of residential areas where tenants constantly change and investors do not live in the area themselves.
- There also is the issue of enabling legislation – most legislation is targeted at the city centre areas which makes residential models challenging.
- However a CID model, Legae La Rona, has been successfully implemented in Berea as a 100% residential CID as has eKhaya Neighbourhood which has now spread to 15 city blocks.



# Legislated Management Districts

## Summary Points

---

- Historically these entities were developed to fulfil a deficiency and explicit need with regard to the management of spatial areas.
- Legislated Management Districts of a formal nature represent a diversity of typologies, showcasing the range of focus and targeted activities that can be applied to a diversity of communities.
- These range of activities are reflective of the range of issues and concerns that affect precincts and their constituent stakeholders.
- The chosen activities and focus affects the identity and functions of the management organisation. Thus, they should be capacitated, structured, and enabled to fulfil such functions.

# Contents

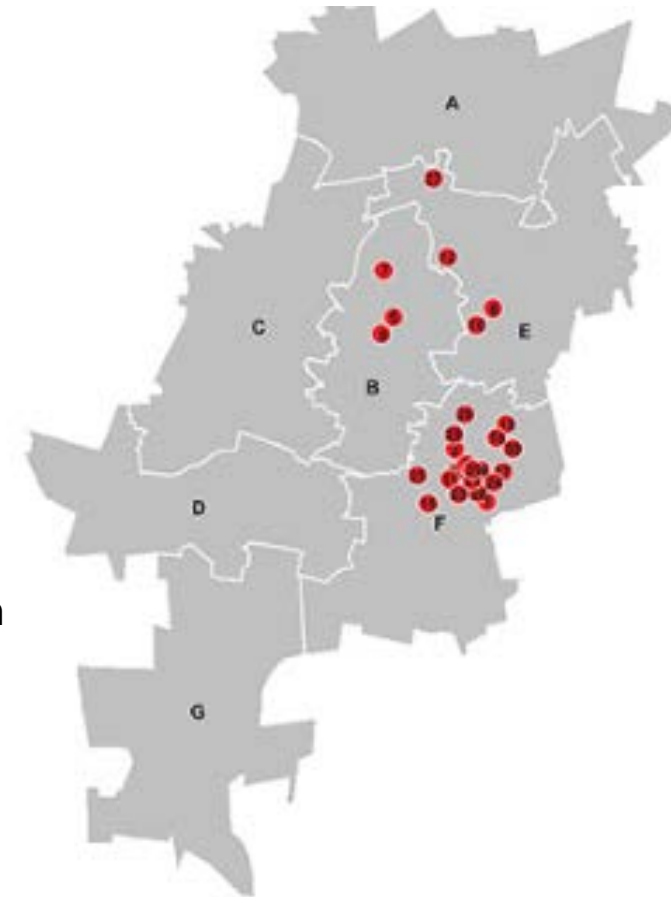
---

- Introduction
- Importance of Urban Management
- Legislated Management Districts
- **Urban Management Districts in South Africa**
- Legal Framework in South Africa
- International Practice Review
- Sector Stakeholder Perspectives
- Initial Implications

# Urban Management Districts in South Africa

## City of Johannesburg: Current Status

● Legislated CIDs	18
● Voluntary CIDs	11
● Annual levies collected	R 91 m
● Expenditure on supplementary services exceeds	R 61 m
● Investment in infrastructure over last 5 years	R 50 m
● CID properties have municipal value over	R 80 b
● Private investments over last 10 years	> R 70 b
● Direct employment	740 / mth
● Average number of jobs per CID	41
● Estimated total size	7.6 km <sup>2</sup>



Source: Fact Sheet, CID Forum, 2016

# Urban Management Districts in South Africa

## City of Johannesburg: Current Status

- Extent of services provided by JHB CIDs: Cleaning, Security (surveillance, crime control), maintenance, marketing (place making, branding), infrastructure upgrades, special programs, social programs, support of bylaw and law enforcement agencies - (informal trade, taxi, land use change), urban planning frameworks conceptualisation.
- CID's tend to spend a larger proportion of their budget on security (56%), with cleaning expenses recorded at 19% of the budget at least in the initial years. Maintenance expenditure therefore takes up most of CID's budgets as the focus and foundation is on providing clean and safe environments, from where further development and investment can be attracted and encouraged. Maintenance expenditure is estimated to be more than R 29 million annually.





# Urban Management Districts in South Africa

## City of Johannesburg: Current Status

- Where CID's have been introduced the objectives of the CID Act have generally been achieved and often surpassed.
- In the Johannesburg inner city itself, the amount of private sector investment that has been achieved over the period of CID's (before investment was influenced by the 2011 World Cup) was significant in comparison to the prior half-decade or in fact the full decade 1990 – 2000. The basis for this investment was the fact that CID's had restored confidence in providing large areas of cleanliness and safety throughout the Inner City and surrounding neighbourhoods followed by Rosebank, Sandton, etc.
- The Act also had a major impact on property owners from a financial point of view, in terms of greater occupancy, increased investment returns etc. There has been a positive return in terms of increase in property values, and by extension, rates income.



# Urban Management Districts in South Africa

## City of Cape Town: Current Status

---

**The City has built its policy and by-law around Section 22 of Municipal Property Rates Act.**

- Initially, a Metro-wide By-Law was drafted and a public meeting held in August 2003 to consider the proposal.
- The CID By Law was thereafter gazetted in the Provincial Gazette No 6118 dated 26<sup>th</sup> March 2004.

**Following legal advice in regard to the compliance of the CID By Law with the Constitution of South Africa, Section 22 of the Municipal Property Rates Act (MPRA); the Municipal Finance Management Act (MFMA) and the Municipal Systems Act (MSA), it was determined to repeal the CID By-Law and replace it with a Special Rating Area By-law.**

- The City of Cape Town Special Rating Area By-Law was published in Provincial Gazette No. 6651 of 21 August 2009 in accordance with the provisions of Section 22 of the Municipal Property Rates Act.

# Urban Management Districts in South Africa

## City of Cape Town: Current Status

---

**The City of Cape Town Special Rating Area By-Law identifies the following objectives for a Special Ratings area - to:**

- Enhance and supplement the municipal services provided by the City.
- Facilitate investment in the special rating area.
- Facilitate a cooperative approach between the City and the private sector in the provision of municipal services.
- Halt the degeneration and facilitate the upliftment of distressed business and mixed-use areas; and promote economic growth and sustainable development and in this way assist the Council in the fulfilment of its objects and developmental duties as set out in its Integrated Development Plan ("IDP").
- Allow the City to fulfil its constitutional and statutory obligations to:
  - Promote social and economic development; and a safe and healthy environment in a way which balances the guiding principles underlying its Rates Policy.
  - Allow property owners within a geographical area to improve and upgrade their area by means of a property rate in addition to the standard property rate.

# Urban Management Districts in South Africa

## City of Cape Town: Current Status

- The determination of CID's within the Special Rating area have to be consistent with the City's Integrated Development Plan (Section 22 (4) of PRA) and within the geographic boundaries of metropolitan area.
- The SRA Policy is reviewed annually as part of the City's budget process, including public participation, and the SRA By-law is reviewed and amended as legislative changes occur.
- The establishment and/or renewal process (extension of term) is approved by Council.
- The additional rate is calculated by the City and approved by Council as well as being promulgated by the Western Cape Government in terms of the MPRA.





# Urban Management Districts in South Africa

## City of Cape Town: Current Status

---

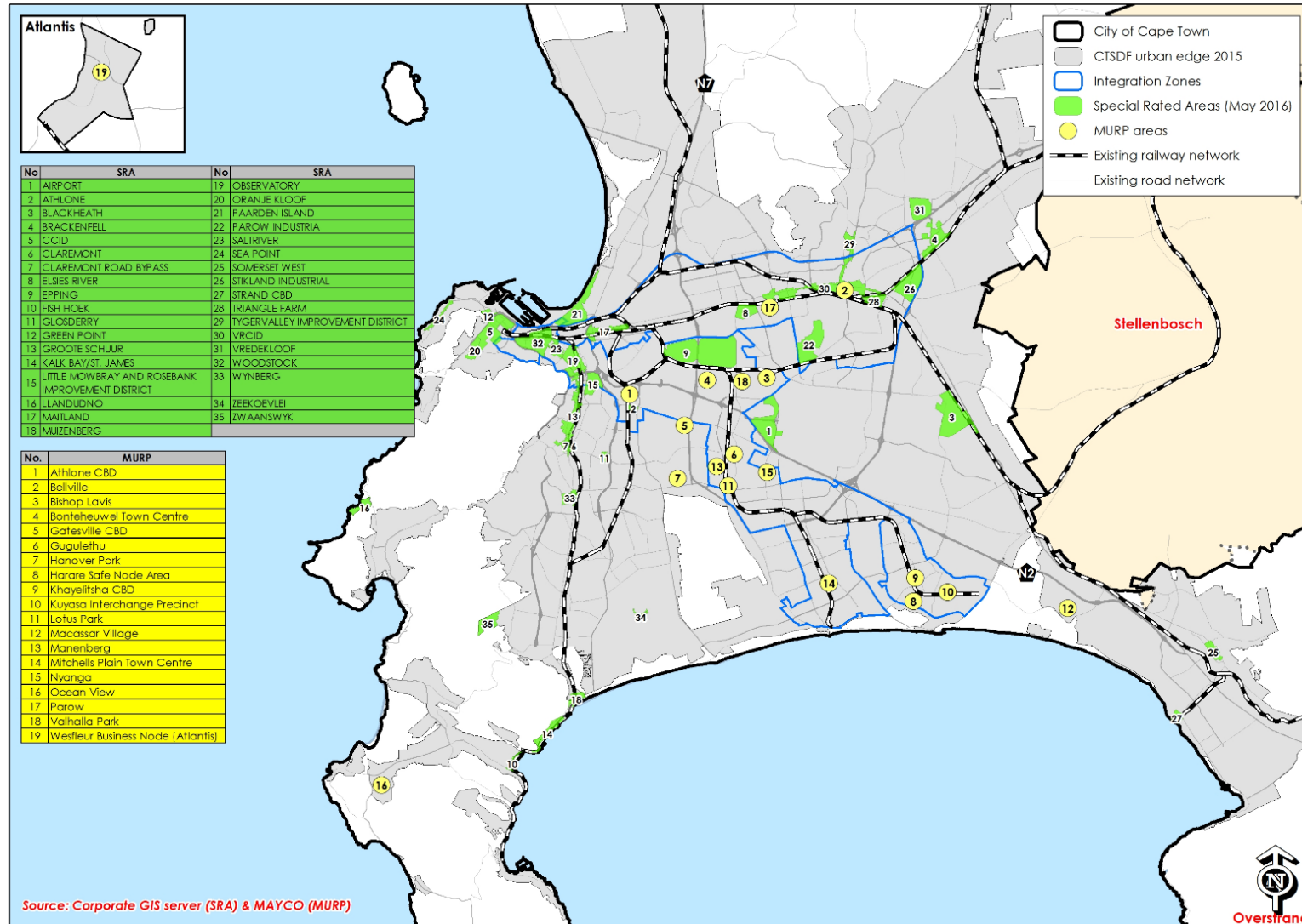
● Total number SRAs	35
● Total annual budget	180 million
● Total number employed	1,000
● CBD new investment in 2014	R 6 billion
● CBD new investment in 2015	R 2 billion
● CBD property values (municipal values for 2005/ 6)	R 6 billion
● CBD property values for 2014/15	R 23.5 billion

**Investment:** Cumulative investment in the Central City since 2000, measured in terms of the capital value of current leases, new developments, investment purchases, upgrades and renewals, is currently R 24 billion, heading for R 38 billion in five years time.

Sources: Evangelinos, 2016; [www.capetownpartnership.co.za](http://www.capetownpartnership.co.za) in Wright B, 2016

# Urban Management Districts in South Africa

## City of Cape Town: Current Status



# Urban Management Districts in South Africa

## Nelson Mandela Bay: Current Status

- Currently there is one established SRA which is running on a voluntary basis and three in the process of being established:
  - Richmond Hill,
  - Central Heights
  - Walmer Heights
  - Mount Croix & Summer Strand (proposed)
- Total annual budget is R 720,000 with 7 permanent employees. All security etc. is outsourced.
- Drafted an *SRA Policy in 2014* that was adopted by Council in March 2014 and informed by the Property Rates Policy, Property Rate By-Law, Municipal Property Rates Act, Companies Act 61 of 1973, Companies Act 71 of 2008.
- Purpose of the Policy is to provide a framework within which owners of properties may establish an SRA and consequent upgrades funded by SRA levies, subject to an agreement between the Municipality and the SRA management body.
- The Policy also recognises that services to be provided by the Management of the SRA and funded by the SRA rates, that the Municipality may dispense with official procurement processes and prequalify prospective parties, who's members carry the majority of support of the management of the SRA, to render these services

Source: MB Development Agency, 2016





# Urban Management Districts in South Africa

## Nelson Mandela Bay: Current Status

- The Policy sets out requirements for the establishment of an SRA, the application procedure including necessity of a Business Plan, and Mol, proposed service level agreements between the SRA and the Municipality, written proof that the majority of property owners support the establishment of the SRA, a motivating memorandum, public participation procedures, how objections are to be handled, timelines and guidelines for approval or rejection of the SRA by the Municipality including mitigating measures and circumstances for re-application.
- Also stipulates the conditions of establishment of the SRA and implementation of the Business Plan, amendments to the Business Plan and extensions thereto.
- Establishment and composition of the SRA management body as well as it's powers and duties, financial details and duties and dissolution.





# Urban Management Districts in South Africa

## Nelson Mandela Bay: Current Status

---

- NMB is undertaking an effort to draft legislation (focused on SRA enablement) that establishes a mechanism that will encourage property owners and tenants to:
  - Participate in the process of sustainable development of the city
  - Consolidate and give effect to urban renewal imperatives
  - Facilitate the recognition of defined geographical districts for the enhancement and supplement of municipal service provision
  - Clearly define the process in which a SRA must be established
  - Consolidate in a single policy the policies passed by the predecessors – in law of the NMBM and extend the ambit thereof throughout the Municipality's area of jurisdiction.
  - SRA's in NMB sit in the Budget and Treasury department.
- The Levy collections are included in the property monthly rates and taxes which are collected by the City and ring-fenced for that particular SRA.
- The legislation allows for the establishment of residential SRA's e.g. Summer Strand and Mount Croix are in the process of establishing SRA's.

# Urban Management Districts in South Africa

## eThekweni: Current Status

### Background to Urban Improvement Precincts (UIP's):

- Started as voluntary initiatives under Michael Sutcliff as no official legislation existed – City historically weary of UIP's.
- UIP's were based on the previous Property Rates Act – 4 were initially set up in eThekweni and later one was established in Umhlanga.
- UIP's were established in response to a decaying eThekweni Inner City and Umhlanga CBD (a result of years of inter-nodal competition).
- Until recently, the UIP initiatives had little buy in or support from the City.
- There has been a slow process but over the last 3 to 4 years the City has started to buy into the precinct management initiatives and now supports them.

### Two urban management structures:

1. UIP's which are based on the CID model and a levy collected from property owners
2. Managed Precincts where the levy is entrenched in the sale agreement upfront



# Urban Management Districts in South Africa

## eThekweni: Current Status

### Special Ratings Areas / Urban Improvement Precincts (UIP's)

- Enabled by Municipal Property Rates Act 2004.
- Approved by majority of property owners in a specific area.
- Allows the Municipality to levy an additional rate to fund supplementary services to public areas.
- Administered by a Non Profit Company constituted by property owners.

### Management Associations / Lot Owners Association

- Membership entrenched in a property sales agreement.
- Allows for a levy to be raised to fund supplementary services to public areas.
- Administered by a Non Profit Company constituted by property owners.



Source: Wright B, 2015

# Urban Management Districts in South Africa

## eThekweni: Current Status

- Policy and legal framework has been neither enabling nor sustainable. eThekweni has always had very loose policy, which has been under a period of review since 2012 with many drafts but no implementation.
- Legal department has been reviewing the SRA Section within the Rates Act.
- Serious collective drive between urban management initiatives, National Treasury and the Council began 18 months ago around reviewing the policy and the Act.
- SRA's currently sit in the Revenue Department, but the City is restructuring this to form a dedicated internal unit for SRA's within the Economic Development cluster.
- Umhlanga is particularly notable success story, between 2008-2016 it led the location from a state of economic crisis to some R5+ billion in investments.

### *Current UIP's*

- Umhlanga Promenade UIP
- Umhlanga Village
- Ballito UIP
- Florida Road UIP
- Bridge City Management Association
- Cornubia Industrial Business Estate
- Riverhorse Valley Business Estate Management Ass.
- Burlington Heights – Residential
- Giba Gorge – Environmental
- Maytime Community - Residential
- 3 Inner City UIP's:
  - South Beach
  - North East Business Precinct
  - CBD Precinct



# Urban Management Districts in South Africa

## Mbombela: Current Status

---

### Riverside Park – Part 1 and 2

- In October 2004 Council approved the establishment of two legislated CID's through a by-law.
- Riverside has hardcoded residential contribution through body corporates. In Phase 2 of the CID expansion the CID will be written into title deed conditions.
- Riverside has SLAs with the municipality and in terms of these SLAs and the rates policy, receive 10% of the rates collected from CID POs paid back into the CID.
- The City's SLA with the Riverside Park includes a significant "urban monitoring" component – where services by the city are given explicit thresholds and the CID works to report and provide feedback.
- The Riverside Park CID has gone beyond Safety and Security/ Urban Cleanliness/ Marketing activities to do work on special projects including:
  - Pedestrian safety improvements and branded street furniture
  - Green projects-such as eco grids and storm water inlets
  - ICT infrastructure such as free wifi
  - Community building and engagement

# Urban Management Districts in South Africa

## Mbombela: Current Status

---

### **Riverside Industrial and Mbombela CBD**

- Although actually legislated in 2004, the Mbombela CBD was not fully operationalised until 2010 when an application for an amendment to its boundaries was approved by council.
- The newest CID, Riverside Industrial, was legislated in 2015 with main emphasis is on safe, clean, landscaping, branding and aims to tackle more areas such as signage, informal trade management, etc.

### ***Commonalities of all Mbombela CIDs***

- CID's that have been established in Mbombela have their own founding legislation in the form of a by-law for the establishment of City Improvement Districts.
- All of these CID's have a core functional focus on safety and security, communications and urban beautification, but also have additional activities such as environmental projects, place making, social projects, community building etc.
- The CID's have signed SLAs with the municipality and in terms of these SLAs and the rates policy, receive 10% of the rates collected from CID property owners paid back into the CID.

# Urban Management Districts in South Africa

## South Africa: Summary by Province

City	No. CIDs	No. SRAs	No. Mgt. Districts	Voluntary	Legislated	Annual income (R)	No. people employed
Gauteng	33		3 <sup>4</sup>	11	22	91 m <sup>6</sup>	740 <sup>8</sup>
Western Cape		35 <sup>2</sup>			33	180m	1 000
KwaZulu-Natal		10	3 <sup>4</sup>		10	20.5 m <sup>7</sup>	138 <sup>9</sup>
Eastern Cape		1 <sup>3</sup>		1		0.72 m	7
Mpumalanga	3 <sup>1</sup>					n/a	31
<b>Total</b>	<b>38</b>	<b>51</b>	<b>6</b>	<b>12</b>	<b>65</b>	<b>295.3 m</b>	<b>1885 <sup>10</sup></b>

(1) Riverside - 2 Parts and Mbombela CBD; (2) 2 in process of being established (3) 3 in process of being established in Nelson Mandela Bay; (4) Waterfall, Menlyn and Illovo; (5) Riverhorse, Bridge City, Cornubia; (6) Johannesburg only; (7) Excludes 6 in Durban; (8) Johannesburg CID's only; (9) Excludes 6 in Durban; (10) Excluding private management districts.

# Urban Management Districts in South Africa

## Residential Areas

---

### Community Active Protection Groups

- Residential only Legislated Management Districts are rare with Legae la Rona being the only notable exceptions. Yet, there are many examples of communities that have engaged with the service provider Community Active Patrol (CAP) to establish support groups.
- CAP runs as the umbrella company for the various area CAP initiatives.
  - It is a section 21 (non-profit) organization, as are each of the regional committees, and these are run by small groups of volunteer community members.
  - Committee members earn no remuneration for their involvement,
  - The focus is primarily safety and security, with numerous reports indicating significant success in reducing the incident of crime in these neighbourhoods
- Within the Gauteng area there are CAP initiatives in Glenhazel, Sandown, Sydenham, Melrose, Birdhaven, Waverley, Houghton, Oaklands, Orchards, Senderwood, St Andrews and Linksfield.
  - Five of these areas petitioned for Legislated Management Districts in 2008, but were turned down by City of Johannesburg that stated the act was not intended for owners of residential property....*this has translated expressly to the proliferation of “boomed” neighbourhoods.*



# Urban Management Districts in South Africa

## Summary Points

---

- The assessment shows that the number of Legislated Management Districts in existence are heavily weighted to two regions, Gauteng and the Western Cape.
- Mostly, these Legislated Management Districts operate in the traditional improvement district functions:
  - Safety and Security
  - Social Development
  - Communications and Awareness
  - Cleaning and Urban Management
- Often cited as challenges for the establishment of “residential only” management districts is both the willingness of individual homeowners to take on additional rates burden and policymakers hesitant to foster “gated community culture.”
- A key trend is that areas looking to establish Legislated Management Districts are focusing on the SRA establishment route as it adheres closest to the current legislative context.

***A growing trend is the effect of competition between private-sector led megaprojects with built in and integrated management district function against brownfield neighbourhoods that must battle with complex urban precinct / management district establishment processes.***

# Contents

---

- Introduction
- Importance of Urban Management
- Legislated Management Districts
- Urban Management Districts in South Africa
- **Legal Framework in South Africa**
- International Practice Review
- Sector Stakeholder Perspectives
- Initial Implications

# Legislated Management Districts Legal Framework in South Africa:

## Routes to Establishment

### Constitution

- Municipalities are established under Chapter VII of the Constitution and read with the Municipal Systems Act of 1998, it provides the framework for valuing property and imposition of rates on property from Section 229 (2)(b) the Constitution.

### Special Ratings Area

### Local By-law only

### Enabling Legislation

### Voluntary Establishment

### National Legislation

**Municipal Rates Act of 2004**

### Provincial Legislation

**Gauteng CID Act of 1997**

### Local Acts or By-law

**CoCT By-Law, Nelson Mandela Bay By-Law, eThekwin By-Law**

**Mbombela By-Law**

Under this Establishment Option:

- City of Cape Town
- Port Elizabeth (NMB)
- EThekwin

Under this Establishment Option:

- All Mbombela CIDS

Under this Establishment Option:

- All Gauteng CIDS, yet impacted by recent court decision

Under this Establishment Option:

- All Gauteng CIDS, after *West Dunes* court case
- Volunteer management districts

**Additional Legislation which generates implications, conditions, and considerations in the establishment Improvement Precinct/ Management Districts:**

- Municipal Finance System Management Act No 58 of 2003**
- Local Government: Municipal Structures Act 117 of 1998**
- Municipal Fiscal Powers and Functions Act 12 of 2007**

All above impact the potential for entities to impose levies and conditions under which actions by third-party entities are found to be constitutionally valid.

- Companies Act 2008** - This act governs the creation of entities that serve the management function for nearly all routes take towards establishment.

# Legislated Management Districts Legal Framework in South Africa: Gauteng CID Act no 12 of 1997

## Background

- A multi-sectoral 'Strategic Workshop' was held in November 1991 as a result of growing concerns regarding the general degradation, increasing crime and accelerating flight of business from the centre city (CBD) of Johannesburg. The major outcome of the workshop was to establish a tri-lateral organisation (Business, Community and City Council) to develop practical solutions to the problems being experienced in the centre-city.
- The resultant organisation, the **Central Johannesburg Partnership (CJP) was established in mid-1992**. The Executive Director of the CJP, visited the USA to examine the Business Improvement District (BID) concept as well as to look at how a number of US cities were dealing with urban revitalisation issues.
  - In his report to the Board, he recommended that a BID be established on a pilot basis in the Johannesburg City Centre.
- The problem in establishing the BID was that, unlike the USA, **no legislation existed at the time** and the BID thus had to be established on a voluntary basis. Within a short period of time the CJP was under pressure to extend the BID programme to other parts of the city but this proved to have practical limitations in the absence of appropriate legislation. As a result BID's were established only in areas where groups of contiguous property owners wanted the service.

**Between 1994 and 2000 the CJP established five voluntary BID's in the inner city area and subsequently also provided limited BID services in three additional areas.**

- During 1996 the CJP in conjunction with the Washington DC based International Downtown Association (IDA) and the UK organisation Association of Town Centre Management (ATCM), arranged a 'cities study tour' of the UK and USA for senior officials of the City Council and the Provincial Government together with Business and Community representatives.



# Legislated Management Districts Legal Framework in South Africa:

## Gauteng CID Act no 12 of 1997

### Background *continued* ...

- Provincial Government officials included the Director General and Deputy Director General of the Department of Planning and Urban Development. City Council councilors included the current Executive Mayor of the City of Johannesburg, Parks Tau. Community representatives included Hope Papo now Gauteng MEC for Health.
- Following the international cities tour the Provincial Government officials agreed that the BID's initiative was the way forward not just for Johannesburg but for all towns and cities within Gauteng. ***They felt strongly that GPG should introduce enabling legislation as they didn't believe that, left to themselves, local authorities would adopt a BID approach.***
- Hofmeyrs was appointed to produce the draft documentation and the CJP was consulted during the process. Clauses such as ***City Council approval of CID applications were deliberately written so as not to provide local authorities with excuses to reject applications.***
- The legislation was approved by the Provincial Legislature at the end of 1997 as the 'City Improvement District Act No. 12 of 1997.' Before the legislation could be signed off by the Provincial Premier, he resigned his position (early 1998). The newly appointed Premier refused to sign the Act as it had not been developed under his tenure. The delay resulted in the legislation only becoming effective in November 1999.
- Subsequently, many CID's were established in terms of the Act in Gauteng.

*NOTE: Attempts by the CJP on a number of occasions over the last few years to engage with the Gauteng Government regarding updating of the CID Act have not been successful.*

# Legislated Management Districts Legal Framework in South Africa: Gauteng CID Act no 12 of 1997

## Provisions and Structure

- In terms of the Gauteng CID Act and current by-laws, a CID application may be submitted to the local authority once 25 percent of “owners of rateable property” in the area have approved a petition for the initiative.
- The petition takes the form of a “3-year CID business plan.....and must include the prescribed form and prescribed requirements.”
  - This includes a clear explanation of the proposed services and levels of services the municipality must provide in conjunction with the private partner.
- The Act prescribes certain procedures for public participation in the consideration and approval in the prescribed format as well as engagement and notification of property owners.
- Once the relevant municipal council approves the CID application, the CID may only be formed if more than 50% of the property owners plus one other – representing more than 50% of the total property valuation of the area – approve of the CID’s formation as well as the CID 3-year plan as approved by council.
- Then a CID management body must be set up as not for profit (NPC) in terms of the new Companies Act (No. 71 of 2008) (previously a section 21 company under the Companies Act No. 61 of 1973). This enables private sector management and accountability for CID operations.
- The board of directors of the management company must include at least three representative of owners of rateable properties and one representative of the municipality. The board can have more directors but owners of rateable property must always be in the majority.

# Legislated Management Districts Legal Framework in South Africa: Gauteng CID Act no 12 of 1997

## Limitations and Considerations

- The Gauteng CID Act has been impacted by some key court cases, most notably:
  - City of Johannesburg vs Renzon & Sons of June 2005
  - Randburg Management District v West Dunes Properties 2013 and 2015
- These cases have impacted the viability of future establishment as there have been several key findings.
- The language of the legislation has been identified as having significant inconsistencies and vulnerabilities, of particular and far reaching impact are the following findings:
  - In its judgement, the Court ruled that all CID levies raised under the provincial legislation have the potential for challenge. As the levies, which the Supreme Court of Appeal found to be 'taxes, levies and duties' as defined, could only be levied by full council under section 22 of the MPRA (as required by section 229 (1) (b) of the Constitution). This means that only CID's that are formed by full council approval can continue to operate.
  - That the language of the GCID Act is in conflict with the Municipal Fiscal Powers and Functions Act of 2007 which challenged the basis of the Gauteng CID act as it superseded its grandfathered status.
  - That the very act of levy collection by a private sector actor is open to potential challenge.

# Legislated Management Districts Legal Framework in South Africa:

## Gauteng CID Act no 12 of 1997

### Limitations and Considerations

- A key concern is the actual activity of rate collection:
  - References within the GCID Act (sections 6.1 to 6.3 of the GCID Act) focus on the council collecting the levy and billing it as a separate item on the municipal bill.
  - However, it can be argued that the 2013 West Dunes Judgment leaves the door open for a CID to continue collecting levies provided that the CID itself, as well as the levies, has been authorised by full council and the CID is operating in terms of a valid, council approved, plan, which plan must specify the levy amounts due as well as any annual increases.
- The discussion centres around a question of definition:
  - The 2013 findings do not specifically exclude the levy being collected by the CID management body if the term 'impose' simply means 'to authorise' and not 'to authorise and to collect'. So it can be argued that levies that have been approved and imposed by council (when the plan specifying the levy amounts & annual increases was approved by council) can be collected by the CID management body without conflicting with the provisions of the Constitution, although ironically this would appear to conflict with section 6 of the GCID act itself.

***Yet, these arguments have not been tested in court and some stakeholders have asserted that mere collection of the levies by a management body conflicts with the non-delegation provisions of the Constitution, regardless as to whether or not the levies were approved and authorised by council and thus many have steered clear.***

Additionally, the final SCA judgement raised a few opinions that suggested the Act was open possible challenges that included:

- CID's established by the Gauteng CID Act have traditionally been established for a period of 3-years, with the assumption of renewal. The Court found that the language of the Gauteng Act does lends itself to the possible re-interpretation that CID's should to undergo a complete re-application every three years.

***The GCID Act has not been declared invalid or unconstitutional, and no finding has made on the need for improvement district legislation to be in the form of national legislation.***



# Legislated Management Districts Legal Framework in South Africa: Special Ratings Area (Municipal Property Rates Act of 2004)

## Background and Origination

- The MPRA of 2004 was initiated to address issues with existing Property Rates policy and to make provision for municipalities to implement a transparent and fair system of exemptions, reductions and rebates through their rating policies.
- THE MPRA also aimed to provide legislation that allows for more fair and equitable valuation methods of properties and make provision for an objections and appeals process.
- The MPRA 2004 included specific amendments to the Local Government: Municipal Systems Act, 2000.
- The MPRA was created to bring terminology into congruence with the Constitution.
  - For example, Section 2(1) of the MRA empowers the municipality to levy a rate on property in its area and that definition of “rate” in the MRA (see Section 1(1)) means a **municipal rate** on property as envisaged in Section 229(1)(a) of the Constitution.

## Provisions and Structure

- The MPRA 2004 has within its provisions a section titled “Special Ratings Area” which states that a municipality may by resolution of its council:
  - determine an area within that municipality as a ***special rating area***.
  - levy an additional rate on property in that area for the purpose of raising funds.
  - differentiate between categories of properties when levying an additional rate for improving or upgrading that area.

# Legislated Management Districts Legal Framework in South Africa: Special Ratings Area (Municipal Property Rates Act of 2004)

## Provisions and Structure *continued* ...

- Before determining and defining a special rating area a municipality must consult the local community, including on the following matters:
  - the proposed boundaries of the area.
  - the proposed improvement or upgrading of the area.
  - obtain the consent of the **majority of the members** of the local community in the proposed special rating area who will be liable for paying the additional rate.
- Section 22 (3) states that when a municipality determines a SRA it must:
  - indicate how the area is to be improved or upgraded by funds derived from the additional rates.
  - establish separate accounting and other record-keeping systems regarding the revenue generated by the additional rate and the improvement and upgrading of the area.
  - establish a committee comprised of community representatives that advises the municipality on the improvement and upgrading of the area.
- All SRA's are established as Not-for-Profit companies and governed under the Companies Act.

# Legislated Management Districts Legal Framework in South Africa: Special Ratings Area (Municipal Property Rates Act of 2004)

## Cape Town Case Study

- Cape Town conducts a process of having individual non-profit management bodies submit expenditure budgets detailing their proposed expenditure for council review.
- Cape Town passes the fitness test of the MPRA with regard to “majority support,” by having the applicant provide written proof to the Council that support is established for owners of rateable property within the boundary of the special rating area for not fewer than **60% (sixty percent) of the total property**.
- The additional rate is imposed by the Council, **is a debt owing to the City and is payable and collected in the same manner as other property rates imposed by the Council**. This places collection burden on city, both with positive and negative implications.
- The management body must recommend the annual budget amount of the additional rate to the City by 31 January each year, with appropriate motivation including an Implementation Plan for the next financial year, and the Council will consider the recommendation during its budgeting process. This allows for yearly scrutiny of budgets and operations by the City.
- Before the City will pay over any additional rate collected to the management structure, the management structure and the City must have concluded a written finance agreement that also clarifies disbursement processes and timelines between the two entities. This allows for compliance with Section 67 of the Municipal Finance Management Act of 2003.

# Legislated Management Districts Legal Framework in South Africa: Special Ratings Area (Municipal Property Rates Act of 2004)

## Considerations and Limitations

- Most of the SRA by-laws being established around the country are compliant with the Constitution of South Africa; Section 22 of the Municipal Property Rates Act (MPRA); and the Municipal Finance Management Act (MFMA), which guides fiscal governance; and the Municipal Systems Act (MSA) and the decisions of **Randburg Management District v West Dunes** have had little impact.
- The Special Ratings Area route has a rigid municipal oversight component, given the establishment and/or renewal process (extension of term) is approved by Council. The additional rate is calculated by the City and approved by Council in many cases. Additional rates are included on the municipal account for collection by the City.
- **Sectional title is an issue:** In 2004 the definition of rateable property changed to include each sectional title owner. The debate centres on the definition of rateable property as **Section 16 of the MPRA Amendment Act (No. 29 of 2014)** confirms that a municipality may not recover rates on a sectional title unit, or any part of such rates, from the body corporate controlling a sectional title scheme, except when the body corporate is the owner of any specific sectional title unit or the holder of such right.
- The model is reliant on the support and capacity of municipal infrastructure for the collection and timely disbursement of funds from public coffers to the management entities which results in a direct correlation between municipal capacity and management district effectiveness.
- **Section 22(3)** places significant constraints on versatility and responsiveness because many of the things that need doing only come to the attention of the SRA Board after it's budget has been determined and Council will not allow the CID to alter line items .



# Legislated Management Districts Legal Framework in South Africa: Overall Findings

## Current state of various establishment routes

- The current routes available for the establishment of Legislated Management Districts each have specific limitations and none would be identified as “**broadly enabling**.”
- **Voluntary establishment** has no standing or legislative backing and thus is reliant on the goodwill and consistency of its constituent property owners to remain viable. Thus, it has serious risks to sustainability.
- **By-law establishment** (non-SRA) risks challenge as, again, it has limited legal standing and thus is open to challenge.
- The **Gauteng CID Act of 1997** provides specificity of design and an enabling framework for Legislated Management Districts in a particularly helpful manner as it was designed to explicitly give private sector agency when public sector might have limited capacity or effectiveness, but the existing language and provisions have issues that are problematic:
  - Constitutionality of Private Sector levy collection not explicitly enabled or provided for.
  - Limitation of entity establishment to that of a full council vote due to language within the Act.
  - No clear oversight process on CID budgeting and approval (three years versus annual).
- Establishment by route of by-law in support of a **Special Ratings Area** as per the **MPRA of 2004** have become the de facto approach for Legislated Management Districts establishment, but limitations remain. Most particularly, that it relies on public sector collection mechanisms and, as such, operates as an extension of City rates collecting activities.

# Contents

---

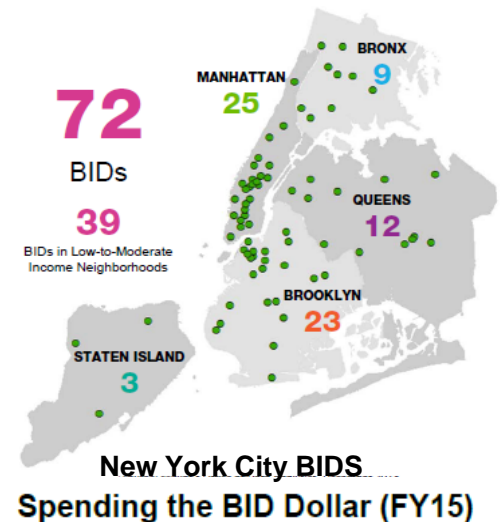
- Introduction
- Importance of Urban Management
- Legislated Management Districts
- Urban Management Districts in South Africa
- Legal Framework in South Africa
- **International Practice Review**
- Sector Stakeholder Perspectives
- Initial Implications

# International Practice Review:

## United States Business Improvement Districts

### Origination and Current Context

- Business improvement districts (BIDs) were created to address issues of trash, security, redevelopment, and other tasks such as place making, community building, marketing.
- New York City was the first US city to introduce the Improvement District concept, generally based on the principles of the Canadian model.
- The first NYC BID established was in 1984 in Union Square after the 14th St.-Union Square Local Development Corporation lobbied City Hall to create New York City's first business improvement district. Union Square, at the time was a center for drug dealers and criminals who roamed the park at night, making it unsafe to walk through.
- Following the implementation of the highly successful Union Square model, other geographic areas in New York City applied for BID status and there are currently 68 legislated BID's operating in New York City.
- The International Downtown Association (IDA) reported that by 2011 there were over **1,000 BID's in the United States** and that all US States, except Wyoming, but including the District of Columbia, had at least one BID.
- US BID's vary from merely marketing a single street to the private urban management of complex areas in cities where large varieties of services are provided
- US BID's have a proven track record in helping revitalize neighborhoods and catalyzing economic development.



Category	FY15 Amount	%	FY14 Amount
Sanitation	\$ 31,312,619	25%	\$ 28,812,322
Public Safety	\$ 21,036,574	16%	\$ 20,564,763
Other Program*	\$ 18,233,808	14%	\$ 16,765,643
Marketing	\$ 18,184,762	14%	\$ 15,225,885
Streetscape & Beautification	\$ 8,480,405	7%	\$ 7,037,811
Capital Improvements	\$ 5,085,144	4%	\$ 7,996,326
Holiday Lighting	\$ 1,486,175	1%	\$ 1,467,373
Salaries & Payroll	\$ 11,969,203	9%	\$ 12,160,746
Other G&A**	\$ 9,103,286	7%	\$ 8,001,898
Outside Contractors	\$ 2,609,774	2%	\$ 2,210,662
<b>Total</b>	<b>\$ 127,501,750</b>	<b>100%</b>	<b>\$ 120,243,429</b>

# International Practice Review:

## United States Business Improvement Districts

### *Range of Definitions*

- A Business Improvement District (BID) in the United States is a **public/private partnership** in which property and business owners elect to make a collective contribution to the maintenance, development and promotion of their commercial district.
- “A Business Improvement District (BID) is a defined commercial area where property owners approve a property assessment for services above and beyond what the city provides. BID's are nonprofit organizations managed by a board of directors. “ **Downtown DC BID.**
- A Business Improvement District (BID) is a public/private partnership in which property and business owners elect to make a collective contribution to the maintenance, development, and promotion of their commercial district. **New York City.**
- A Business Improvement District is a formal organization made up of property owners and commercial tenants who are dedicated to promoting business development and improving an area's quality of life. BID's deliver supplemental services and capital improvements, and beautification for the area all funded by a special assessment paid by property owners within the area of the BID.
- A formal organization made up of property owners and commercial tenants who are dedicated to promoting business development and improving an area's quality of life.
- A Business Improvement District (BID) is a public/private partnership in which property and business owners elect to make a collective contribution to the maintenance, development, and promotion of their commercial district.
- **A business improvement district is a “self-imposed financing mechanism implemented by business and property owners for local improvements, specifically the enhancement of public services (Houston, 2004; Hoyt, 2004).**



# International Practice Review:

## United States Business Improvement Districts

---

### ***Range of Objectives***

- The range of objectives identified in the literature for BID's varies:
  - Cleaner, safer and more attractive business districts
  - A steady and reliable funding source for supplemental services and programs
  - The ability to respond quickly to changing needs of the business community
  - The potential to increase property values, improve sales and decrease commercial vacancy rates
  - To develop an area that is better able to compete with nearby retail and business centres
  - To improve conditions for businesses in a specific area, attract and retain businesses, generate jobs and improve quality of life for those who use the district.
- A BID enables stakeholders to decide which services to provide in order to meet their district's specific needs.
- The most visible contribution to the City is the cleaning and safety staff that BID's provide.
- They also contribute in many other significant but less visible ways. BID's work closely with existing businesses to help them grow and thrive, and recruit new stores and restaurants to their areas. BID's market their areas, organize community building events, provide homeless outreach services, and activate and beautify public space, e.g. DC .
- Specific Geographic area - all BID's have clearly delineated geographic boundaries within which they operate. Funds collected can only be spent within these areas.

# International Practice Review:

## United States Business Improvement Districts

---

### ***Range of Services***

- Services delivered are in accordance with the business needs of individual BID areas.
- Services thus range from additional security and public space maintenance to capital improvements, management of specialist areas and entertainment districts and even internships in local businesses and access to schools within the BID area to top role models in the worlds of fashion and business,.
- Business Improvement Districts deliver a range of supplemental services in coordination with municipal services and invest in the long-term economic development of their districts.
- Supplemental services include a range (a few provided):
  - Maintenance " Street/sidewalk cleaning " Graffiti removal
  - Public Safety/Hospitality " Public safety officers "
  - Visitor assistance
  - Business Development "
  - Commercial vacancy reduction "
  - Business mix improvement
  - Long term economic development
  - Marketing " Special events "
  - District public relations " Promotional materials "

# International Practice Review:

## United States Business Improvement Districts

---

### ***Legal Framework***

- US BID's are enabled at State (Provincial Level) and then by individual cities in each state.
- Before formally creating a BID, enabling legislation must already be in place that will allow for the creation of the district.
- Government oversight: In New York City, BID's fall under the Department of Small Business within the City Council. A member of staff will be allocated to each BID Board and serve as the BID's primary point of contact with City Government. The Department of Small Business assists the BID's .
  - In developing and implementing programs and services that enhance their districts
  - Share best practices on BID management and operations
  - Provide oversight of the BID's governance and financial/procurement procedures to ensure compliance with non-profit and BID legislation
  - Coordinate with other City agencies on BID-related projects and issues
  - Connect BID's with other resources and organizations to help them best achieve results for the commercial districts they serve.
- Period: Usually four to five years renewable by either a new ballot or a survey only to determine the numbers of those opposed to the BID.

# International Practice Review:

## United States Business Improvement Districts

---

### ***Governance and Compliance***

- Each BID is governed by a NPO whose Board of Directors is elected by the members of the district.
- The Board of Directors has a fiduciary responsibility to the BID and hires the management that administers the BID on a day-to-day basis.
- The Board is divided into classes that include: commercial property owners, commercial tenants, residents and public officials. (Public officials include the Mayor, Comptroller, Borough President and a member of the City Council and are de facto board members.)
- BID members vote for directors in their respective classes.
- The majority of directors must be property owners.



# International Practice Review:

## United States Business Improvement Districts

---

### *Levies and Funding*

- Different cities work on different bases for calculating the amount of the total budget to be recovered per annum (assessment) for whatever the objectives of the BID may be.
- **In New York City** funds to pay for BID programmes and services are generated from a special assessment paid by the benefited property owners. (Note: Many leases have a clause that allows property owners to pass the BID assessment on to their tenants.)
  - The total yearly assessment is unique to each BID in NYC, ranging from \$53,000 to over \$11 million.
  - The assessment is billed and collected by the City of New York and then disbursed to the BID, which in turn delivers the district's services.
  - The BID uses an assessment formula to compute the amount each property owner must pay on a yearly basis. The assessment of each property can be on differing bases but usually are made up of a combination of different types of assessments.
  - The amount paid by each commercial or industrial property owner is determined by a formula that each BID creates for its district during the formation process. Formulas are based on property size and/or value.
  - The objective of the assessment formula is to determine that the amount each property owner pays is roughly proportional to the benefit received by the property.

# International Practice Review:

## United States Business Improvement Districts

---

### **Levies and Funding** *continued ...*

- Different cities work on different bases for calculating the amount of the total budget to be recovered per annum (assessment) for whatever the objectives of the BID may be.
- **In Washington DC** a DC Business Improvement District tax is paid by commercial property owners within a particular BID.
  - This tax is in addition to real property taxes imposed by the city.
  - Both taxes are due twice each year in October and April.
  - If residents (i.e. owners of residential apartment blocks) also opt to be taxed, the BID can be called a Community Improvement District (CID).
  - The members of each BID generally meet annually to adjust their tax rate. Those rates are then approved by the City Council and the Mayor's Office.
  - Most DC Business Improvement Districts tax hotels at \$90-95 per room each year.

**Business Improvement District tax revenue is not the only source of funding. The DC government and federal government also contribute, especially for transportation and security.**

# International Practice Review:

## United States Business Improvement Districts

---

### ***Key Findings***

- BID's are explicitly business initiated.
  - Government cannot create a BID and force an area to accept it.
  - A BID needs the acceptance of fifty percent of the number of landowners. This means fifty percent of the number of landowners, not fifty percent of the land owned.
  - Landowners play an important role as these are the people paying the levies.
- In most of the material available on business improvement districts, there are some essential components for their success outlined in an article by Sharon Colley (1999). The three main points of successful BID's are:
  - Business initiated
  - Business planned
  - Business led
- These simply stated points are what makes or breaks a BID proposal.
  - According to findings, without local business owners' desire to make their streetscape cleaner, safer, and more marketable, BID's would never be initiated.

# International Practice Review:

## UK Business Improvement Districts

---

### *Origination and Current Context*

- As a response to declining town centres and attempts to retain high street retail activities, an extensive **investigation and education process** amongst all role-players took place through the **Association of Town Centre Management (ATCM)** before appropriate Business Improvement District legislation was first introduced in the British Parliament (including Wales) This legislation was promulgated in 2003.
- The first BID in England started in January 2005, the first Scottish BID started in April 2008 as did the first Welsh BID.
- (BIDs) operate across England and the UK. The Government is supportive of BID's and wants to see many more created to help deliver improvements and give **businesses a stronger voice in shaping their local area.**
- There are now over **200 BID's** operating across the UK. The majority are **town centre BID's** but there are over **20 Industrial BID's** operating, while **sector specific Tourism BID's** have been established in some areas.



# International Practice Review:

## UK Business Improvement Districts

---

### *Definitions*

- BID's are **business led partnerships, i.e. private sector driven**, which are created following a ballot process in order to deliver additional services to local businesses over a defined period (normally five years). They allow the business community and local authorities to work together to improve the local trading environment.
- Business is the primary relationship in UK not the owner of rateable property, because of the UK's peculiar property ownership structures.
- A BID is a defined area in which a modest levy is charged on all non-domestic ratepayers in addition to the non-domestic rates bill. A BID can only be established and a levy charged following approval of proposals setting out what the BID will do, via a ballot of those businesses liable to pay the levy. This levy is used to develop projects which will benefit businesses in the local area.
- There is no limit on what projects or services can be provided through a BID. The only requirement is that it should be something that is in addition to services provided by local authorities. Improvements may include, but are not limited to, extra safety/security, cleaning and environmental measures.
- The BID mechanism allows for a large degree of flexibility and as a result BID's vary greatly in 'shape' and size.

# International Practice Review:

## UK Business Improvement Districts

---

### *Legislative Framework*

- The legislative framework governing BID's is contained in Part 4 of Local Government Act 2003, the Business Improvement Districts (England) Regulations 2004 and, for property owner BIDs, the Business Rate Supplements Act 2009 and the Business Improvement Districts (Property Owners) (England) Regulations 2014.
- The Business Improvement Districts (England) Regulations 2004 are based on:
  - the Local Government Finance Act 1988;
  - the Non-Domestic Rating (Collection and Enforcement)(Local Lists) Regulations 1989 as modified by paragraph 9 of Schedule 4
  - the Local Government Act 2003;
- The BID Proposal or Business Plan sets out businesses' priorities for improvements for the area and area services, as well as how the BID will be managed and operated.
- This document becomes legally binding once a ballot has been won and becomes the framework within which the BID will operate.
- **An Operating Agreement** is entered into between a BID and their local authority governing how the BID levy monies are collected and administered and passed over to the BID.
- BID's enter into **Baseline Agreement** with their local authority and other service providers, which specify the level of service provision in the area. These ensure that any services the BID provides are additional.
- The maximum period that a BID levy can be charged is for 5 years. Once the term is completed the BID will automatically cease. If the BID Company wants to continue its activities it must hold a new ballot.

# International Practice Review:

## UK Business Improvement Districts

---

### *Funding and Revenue*

- A BID is funded through the BID levy, which is a small percentage of **a businesses' rateable value**. The majority of BID's charge **between 1% and 1.5% of rateable value**, the higher levies are used particularly in smaller locations with lower rateable values and industrial areas.
- Once a ballot is successful the BID levy is **mandatory** for all eligible businesses.
- BID's can choose to **exempt certain businesses** from paying the levy (and therefore from voting in the BID ballot). Many BID's exempt the smallest businesses; and some exempt certain business sectors.
- BID's are often successful at attracting funding in addition to the BID levy. They are particularly attractive **to public sector grant** making bodies due to the private sector match-funding available through the BID levy. Local authorities, property owners, and businesses outside the BID area can all provide additional income for BID's through **voluntary agreements**.

The Government recognises that areas looking to establish BID's may be put off by the costs involved and has established a £500,000 loan fund to help communities who wish to create a BID overcome prohibitive initial start-up costs. Managed under contract by the British BID's organisation, areas can apply for up to £50,000 which is repayable.

The combined levy income from BID's in 2014 was £65,500,000 with BID's securing further income of £130,300,000. **This is additional funding that is targeted at improvements to BID areas.**

# International Practice Review:

## Canada Business Improvement Area

---

### ***Origination and Current Context***

- The world's first Business Improvement Area (BIA) was started in Toronto in 1970.
- BIA's are considered to be public/private partnerships.
- Toronto has over 80 BIA's that are considered to be “a dynamic and influential part of the city's economic and cultural fabric”.
- BIA members employ more than 400,000 people in full-time and part-time positions.
- Over 7.4 million people attend the more than 160 community events and street festivals supported and produced by BIA's throughout the year.
- For every public dollar the City invests towards BIAs, \$10 in private sector funding for marketing, promotion, festivals and neighbourhood beautification projects is generated.
- In 2013, the City's \$3-million investment resulted in \$30 million in BIA spending.

# International Practice Review:

## Canada Business Improvement Area

---

### Definition

- A Business Improvement Area is an area designated as an improvement area by a by-law passed under the City of Toronto Act, 2006 or predecessor legislation, and...
- A Business Improvement Area (BIA) is an association of commercial property owners and tenants within a defined area who work in partnership with the City to create thriving, competitive, and safe business areas that attract shoppers, diners, tourists, and new businesses.

### Process

- The decision to start a BIA can only be made by people who own or lease commercial and/or industrial property in the area. Sections 19.4 and 19.5 in the Municipal Code detail the processes required to establish a BIA.
- The Process then is as follows:
  - Establish a Steering Committee
  - Determine Community Interest
  - Hold Public Meetings
  - Polling Process
- The City will conduct a poll of all commercial and industrial property owners within the proposed boundary. Property owners must forward a copy of the poll to their tenants.
- The Steering Committee is responsible for distributing a copy of the notice to commercial/ industrial tenants in the area. Property owners and business tenants are asked to return ballots to the City Clerk's Office.



# International Practice Review:

## Canada Business Improvement Area

---

### ***Process***

- City Council can approve the establishment **of a BIA if:**
  - at least 30% of the ballots mailed (or a minimum of 100, whichever is lower) are returned to the City Clerk's Office
  - more than 50% of the ballots are in favour of creating a BIA.

### ***Legislative Framework***

- The responsibility for the overseeing of BIA's was transferred from Provincial to city level in 2006.
- BIA's must however comply with the Conflict of Interest Act; the Municipal Conflict of Interest Act; the Municipal Freedom of Information and Protection of Privacy Act and the Assessment Act, The City of Toronto Act. The legislation regarding the establishment and management of BIA's is as set out in the Toronto Municipal Code Chapter 19 which provides the regulations regarding:
  - Establishing, expanding and repealing BIAs
  - Rights of BIA members
  - Establishment of Boards
  - Council rights to appoint members
  - Financial and reporting requirements
  - Collection of levies
  - What BIA's can do
  - What BIA's cannot do
- Once approved Council must issue a specific by-law for each BIA and these BIA's have taxing powers.

# International Practice Review:

## Canada Business Improvement Area

---

### ***Oversight***

- The Boards of BIA's are considered City Boards and must comply with the City requirements for such Boards and Board Members
- The City provides a **BIA Office** which is responsible for:
  - Professional advice and support
  - Acting as a conduit to City Hall
  - Providing Financial Initiative Programmes
  - Legislative oversight to ensure accountability to members and City
  - Respond to complaints and intervene when necessary

### ***Funding and Revenue***

- Once the BIA members approve the budget and City Council ratifies it, funds are raised through a levy on all commercial and industrial properties within the BIA's boundary.
- Calculation of this levy is based on the proportionate value of each property's commercial and/or industrial assessment.
- Once the City collects the levy, it returns the funds to the BIA to manage.

# International Practice Review:

## Canada Business Improvement Area

---

### ***Period***

- Once established the BIA continues however Board members are appointed for a four year term of office.
- Budgets have to be approved annually.
- The decision to expand a BIA can only be made by people who own or lease commercial and/or industrial property in the area and follows the same procedure followed in the initial establishment

### ***Reporting***

- The BIA Management Reporting Dashboards provide statistical information and key indicator variables for 81 of Toronto's 81 Business Improvement Areas (BIAs) at the time of this publication. These variables are the Retail Mix, Property Assessment, Operating Budget and Employment.

# International Practice Review: Findings

## Comparison - Establishment and Structure

### England

- Businesses decide and direct what they want for the area
- A BID can be set up by the local authority, a non-domestic ratepayer or a person or company whose purpose is to develop the BID area, or that has an interest in the land in the area.
- A BID can only be formed following consultation and a ballot in which businesses vote on a BID Proposal or Business Plan for the area.
- The ballot is run by the local authority or outsourced by the local authority to a third party.
- All businesses eligible to pay the levy are balloted for a minimum of 28 days.
- In the UK, for a BID to go ahead the ballot must be won on two counts: straight majority and majority of rateable value. This ensures that the interests of large and small businesses are protected.
- A successful ballot will lead to the proposal being considered by the local authority who provide permission to proceed.

### USA

- Business initiated and led
- A typical process for a BID establishment in New York City is a complex affair starting with the development of a detailed BID proposal document by the BID steering Committee which is submitted through the Small Business Services department to the City Council.
- A highly detailed Council process follows which includes a number of public hearings by different departments, Planning, Community Boards, Borough Boards, Finance, advertising and a mandatory period for objections.
- A resolution and Local Law is drafted, the resolution contains the district plan and all information about the BID.
- Mayor signs BID Local Law at public hearing.
- City sends statements regarding the financial impact of the BID to State (Provincial) Controller for review and approval.
- After Controller's approval the Local Law is published in the City Record and public has final opportunity to seek judicial review.

### Canada Toronto example

- The decision to start a BIA can only be made by people who own or lease commercial and/or industrial property in the area.
- The establishment process:
  - Establish a Steering Committee
  - Determine Community Interest
  - Hold Public Meetings
  - Polling Process
- The City conducts a poll of all commercial and industrial property owners & tenants within the proposed boundary.
- City Council can approve the establishment of a BIA if:
  - at least 30% of the ballots mailed (or a minimum of 100, whichever is lower) are returned to the City Clerk's Office
  - more than 50% of the ballots are in favour of creating a BIA.
  - The BID Proposal or Business Plan sets out businesses' priorities for improvements for the area and area services, as well as how the BID will be managed and operated.
- This document becomes legally binding once a ballot has been won and becomes the framework within which the BID will operate.

# International Practice Review: Findings

## Comparison - Service Delivery Focus

### England:

- The levy is used to develop projects which will benefit businesses in the local area. There is no limit on what projects or services can be provided through a BID. The only requirement is that it should be something that is in addition to services provided by local authorities. Improvements may include, but are not limited to, extra safety/security, cleaning and environmental measures.
- Objectives of projects or services
  - To increase footfall
  - To improve staff retention
  - To reduce Business costs
  - To promote BID areas
  - To facilitate networking with neighbouring businesses
  - To assist in dealing with the Council, Police and other public bodies

### USA

- Services delivered are in accordance with the business needs of individual BID areas.
- Services thus range from additional security and public space maintenance to capital improvements, management of specialist areas and entertainment districts and even internships in local businesses and access to schools within the BID area to top role models in the worlds of fashion and business,.
- Business Improvement Districts deliver a vast range of supplemental services in coordination with municipal services and invest in the long-term economic development of their districts.

### Canada Toronto example

- To oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the business improvement area beyond City standard levels provided at the expense of the municipality generally;
- To maintain business improvement area-initiated street-scaping capital assets within the business improvement area;
- To promote the business improvement area as a business, employment, tourist or shopping area;
- To offer graffiti and poster removal services respecting building façades visible from the street, to all business improvement area member property owners who provide written consent, upon approval of the program by the business improvement area members;
- To undertake safety and security initiatives within the business improvement area;
- To undertake strategic planning necessary to address business improvement area issues; and
- To advocate on behalf of the interests of the business improvement area subject to certain limits.



# International Practice Review: Findings

## Comparison - Management and Operations

### England

### USA

### Canada Toronto example

- In all the international examples, the entity usually employs the management directly.
- However, operational staff – cleaners, security officers, etc. – are sometimes in the direct employ of the entity or are engaged as sub-contractors to the entity.
- South Africa generally followed the same pattern as above EXCEPT in Gauteng where, in order to rationalise costs, the cost of management functions were spread over a number of established districts.
- In the USA it is not permitted for BID management Companies to provide their services to more than one BID. In New York, the Chief Executive of three BID's was forced to resign from two positions by the Mayor of New York City.

# International Practice Review: Findings

## Comparison - Governance

England	USA	Canada Toronto example
<ul style="list-style-type: none"><li>• The vast majority of BID's are not-for-profit companies limited by guarantee.</li><li>• BID's set out how they will be governed in their BID Proposal or Business Plan and Company Articles of Association.</li><li>• Most BID's are governed by a board made up of BID levy payers representing the BID area.</li><li>• Government Department responsible for BIDs:<ul style="list-style-type: none"><li>– Department for Communities and Local Government High Streets, Town Centres and Coastal Division.</li></ul></li></ul>	<ul style="list-style-type: none"><li>• Each BID is governed by a NPO whose Board of Directors is elected by the members of the district.</li><li>• The Board of Directors has a fiduciary responsibility to the BID and hires the management that administers the BID on a day-to-day basis.</li><li>• The Board is divided into classes that include: commercial property owners, commercial tenants, residents and public officials. (Public officials include the Mayor, Comptroller, Borough President and a member of the City Council and are de facto board members.)</li><li>• BID members vote for directors in their respective classes.</li><li>• The majority of directors must be property owners.</li></ul>	<ul style="list-style-type: none"><li>• The management of BIA's is through non-profit companies with Board members elected by the levy contributors.</li><li>• The incorporation of the not-for-profit governance/management association for each BIA area is initiated by the founding directors of each society. This creates an arms-length relationship between the BIA associations and City Council.</li><li>• Council cannot appoint or replace association Directors, although it can exert influence through the budget/levy approval process (relatively rare).</li></ul>

# International Practice Review: Findings

## Comparison - Legislation

### England *Legislation is National*

- The legislative framework governing BID's is contained in Part 4 of Local Government Act 2003, the Business Improvement Districts Regulations 2004 and, for property owner BID's, the Business Rate Supplements Act 2009 and the Business Improvement Districts Regulations 2014.
- The Business Improvement Districts (England) Regulations 2004 are based on:
  - the Local Government Finance Act 1988;
  - the Non-Domestic Rating Regulations 1989 as modified by paragraph 9 of Schedule 4
  - the Local Government Act 2003.
- An Operating Agreement is entered into between a BID and their local authority, governing how the BID levy monies are collected and administered and passed over to the BID.
- BID's enter into Baseline Agreements with their local authority and other service providers, which specify the level of service provision in the area. These ensure that any services the BID provides are additional.

### USA *Legislation is State and City*

- BID's are enabled at State (Provincial Level) and each city local authority within the State is required to promulgate appropriate legislation or by-laws.

### Canada *Legislation is City*

- The responsibility for the overseeing of BIA's was transferred from Provincial to city level in 2006. (Municipal government is a creature of the Provinces, not a separate level of government in the Constitution; therefore all municipalities drive their powers through provincial enabling legislation, within which BIA enabling legislation is contained).
- BIA's must however comply with the Conflict of Interest Act; the Municipal Conflict of Interest Act; the Municipal Freedom of Information and Protection of Privacy Act and the Assessment Act.
- BIA's have taxing powers.

# International Practice Review: Findings

## Comparison – Funding / Revenue Model

### England

- A BID is funded through the BID levy, which is a small percentage of a businesses' rateable value. The majority of BID's charge between 1% and 1.5% of rateable value, the higher levies are used particularly in smaller locations with lower rateable values and industrial areas.
- BID's are often successful at attracting funding in addition to the BID levy. They are particularly attractive to public sector grant making bodies due to the private sector match-funding available through the BID levy.
- Local authorities, property owners, and businesses outside the BID area can all provide additional income for BID's through voluntary agreements.

### USA

- Different cities work on different bases for calculating the amount of the total budget to be recovered per annum (assessment) for whatever the objectives of the BID may be.
- A BID assessment is a fee that each property owner pays to support the operations of the BID. The sum of all the individual assessments that property owners pay comprise the total yearly assessment of the BID, and underwrite most, if not all, annual operating expenses.
- Business Improvement District revenue is not the only source of funding. The state government and federal government also contribute, especially for transportation and security.

### Canada Toronto example

- Once the BIA members approve the budget and City Council ratifies it, funds are raised through a levy on all commercial and industrial properties within the BIA's boundary.
- Calculation of this levy is based on the proportionate value of each property's commercial and/or industrial assessment.
- Once the City collects the levy, it returns the funds to the BIA to manage.

# International Practice Review: Findings

## Comparison – Review Periods

### England:

- The maximum period that a BID levy can be charged is for 5 years. Once the term is completed the BID will automatically cease.
- If the BID Company wants to continue its activities it must hold a new ballot.

### USA

- Usually four to five years renewable by either a new ballot or a survey only to determine the numbers of those opposed to the BID.

### Canada Toronto example

- Once established the BIA continues, however Board members are appointed for a four year term of office.
- Budgets have to be approved annually.
- The decision to expand a BIA can only be made by people who own or lease commercial and/or industrial property in the area and follows the same procedure followed in the initial establishment.



# International Practice Review: Findings

## Common Characteristics

---

According to the literature and Prof. Mitchell specifically, BIDs/CIDs/BIA's exhibit seven characteristics ...

1. Recognised by law – (formally recognized)
2. Created according to a process
3. Formed as an organisation
4. Financed by a special assessment
5. Governed by a board
6. Managed by people, and
7. Reviewed periodically.

There is an eighth characteristic not included by Mitchell:

8. Deliverers of services

Source: Professor Jerry Mitchell, Professor of Public Affairs at the City University of New York

# International Practice Review: Findings

## Summary Points

---

- Most are initiated by: business and property owners (USA); businesses or local authority (UK)
- Most take a specific form: public/private partnership; a formal organization
- Most are defined by: a local authority boundary (but there is nothing to stop crossing local authority areas if the area itself remains a coherent entity)
- Most are funded by: Self-imposed mechanisms whether- Levy; assessment; collective contribution
- Service delivery focuses on: Projects; maintenance, development and promotion; promoting business development and improving an area's quality of life; local improvements, specifically the enhancement of public services; for services above and beyond what the city provides.

Most international models focus on board authority; it is usual for the board to decide whether entity is effective or not, as it is their money - if it isn't effective they will vote it out at the next AGM.

- This applies across the board, whether voluntary or legislated.

# International Practice Review: Findings

## Implications

- The major and critical difference between a South African Legislated Management District and the UK, USA, and Canada models is that:
  - **In all international cases the resultant levy is seen as a ‘voluntary’ contribution (i.e. businesses money) made by business to achieve mutually approved improvements in a given area.**
    - With the levy collected by local government and dispersed back to the individual BID's or BIA's **this is critical difference given that emerging markets (like SA) have greater issues with municipal capacity.**
- One notable takeaway from the international examples is that when establishment is voted for, they base the percentage on total number of votes received not the number of properties. That forces people to reply.
- Secondly, at the end of the initial period they try not to go to the expense of a re-vote but call for only those people who feel the Legislated Management District isn't achieving its mandate to vote against the retention of the Legislated Management District and to provide reasons – these saves costs and reduces bureaucracy.

# Contents

---

- Introduction
- Importance of Urban Management
- Legislated Management Districts
- Urban Management Districts in South Africa
- Legal Framework in South Africa
- International Practice Review
- **Sector Stakeholder Perspectives**
- Initial Implications

# Sector Stakeholder Perspectives

## Interview Feedback and Key Points

---

- The Legislation needs to be more enabling to a broader base of property owners.
- Legislation should account for areas that work well:
  - Some municipalities have found a good partner in City collection and have excellent collection rates.
  - Clearly defined and structured SLAs with the city have enabled some areas to work in partnership for infrastructure upgrades.
- Suggestion to model legislation on Cape Town where SRA's are protected from renegade entities.
- New legislation should be allowed to have buy-in, ratios should be 80 – 90% for residential use and 51% for mixed/commercial/industrial use, or at least be on a sliding scale.
- Municipal / Private Sector partnerships – neither the Municipality nor the private sector 'on their own' can deliver cost effective infrastructure, management & services to the public realm to ensure competitive economic nodes.
- Partnerships require: Co-funding, delivery on respective responsibilities, respect, collaboration and understanding of the others challenges.



# Sector Stakeholder Perspectives

## Interview Feedback and Key Points

---

“The current concern is that many municipalities do not have the capacity to execute additional rates and amounts. They even state that they support initiatives but feel they could not take on additional responsibility” — Renate Scholle, Riverside Industrial

- Credible private sector precinct management institutional structures are essential for proactively engaging with municipalities.
- “UIP’s/MA’s/SRAs/CID’s are in essence an economic development model”
- “UIP is best suited to economic / mixed use / tourism / nodes. CID’s can work in residential areas” — eKhaya & Legae la Rona
- “.....without wishing to be arrogant, we have evolved a SRA model with processes that are legally compliant and sound as advised by a variety of legal boffins including senior counsel. I am of the opinion that the existing legislation works and that the Northerners should rather meet with the deep south and agree on a uniform approach.” — Eddie Scott
- The processes can be tweaked for local usage. The knee jerk reaction in the North could jeopardise the future of SRA's as it appears that we could become victims of their not working according to national legislation nor even complying with their own processes. The issues around the law and the local authority involvement is horrific and extremely complex but we have complied and put systems in place allowing the SRA's to get on with the job.” — Eddie Scott

# Sector Stakeholder Perspectives

## Interview Feedback and Key Points: Legislative Challenges

- Concern that the SRA approach had the potential to make each Legislated Management District a Municipal Owned Entity and that then removes it from a private sector driven initiative.
- Speaking for Gauteng CID Legislation: “A broad but accurate answer would be that all aspects that were required to be driven by the business section worked and those by the local authority worked in part and mostly not at all.”
- Speaking for Gauteng CID Legislation: “The major problem experienced was that most Gauteng local authorities were incapable of collecting the CID levies and remitting them to the CID management Company.”
- Residential (e.g. sectional title) vs commercial votes are a threat to urban management entities - Need to ensure that the Legislation is written in such a way that residential use, within a mixed use area, cannot hijack an initiative, i.e. the owner of an 80m<sup>2</sup> apartment currently has the same voting rights as a commercial property owner.

# Contents

---

- Introduction
- Importance of Urban Management
- Legislated Management Districts
- Urban Management Districts in South Africa
- Legal Framework in South Africa
- International Practice Review
- Sector Stakeholder Perspectives
- **Initial Implications**

# Initial Implications

## The Benefits of Urban Management Formal Structures

---

**The history and survey of Urban Management formal structures, both globally and in South Africa, show that they provide significant benefit to the communities and areas where they are established.**

**This is because they harness Private Sector entrepreneurial ability and expertise to:**

- Provide “additionality” in key service areas for spatial locations
- Execute place-making functions to generate vibrant, and dynamic spatial areas because they are not constrained to acting like municipal departments with line item deliverables
- Drive and encourage private sector investment and encourage a functional, vibrant spatial economy

**Yet, what the international review and research shows is that a core pre-requisite is the empowerment of Provincial and/or local authorities to generate space for private sector initiatives to be established.**

# Initial Implications

## International Good Practice

---

- It is clear that most Legislated Management Districts that are formally established (within the global case study set) exhibit some key comparable characteristics... but their mandate and focus is highly contextual, which suggests Urban Management entities can cover a variety of functions.
- It cannot be over emphasized that the success of BIDs/CIDs/BIA's internationally has been that they have always been business initiatives, i.e. they have been initially proposed by business in geographic areas where business has had the responsibility of themselves raising majority interest in voluntarily paying a levy to cover the costs of whatever services business requires for the specified area whether through supplementary and/or complementary services to those provided by the local authority.
- Internationally, the relevant local authority traditionally bills and collects the voluntary levies and disburses them directly back to the improvement district management body; ensures transparency and accountability of the BID management body; this shows that most models globally rely on sufficiently capacitated and sophisticated local authorities.



# Initial Implications

## Legislative Review

The options and routes to Legislated Management Districts establishment are varied and each provides specific set of benefits, but each come with distinct limitations:

- **Voluntary establishment** has no standing or legislative backing and thus is reliant on the goodwill and consistency of its constituent property owners to remain viable. Thus, it has serious risks to sustainability
- **By-law establishment (non-SRA)** risks challenge as, again, it has limited legal standing and thus is open to challenge.
- The **Gauteng CID Act of 1997** provides specificity of design and an enabling framework for management districts in a particularly helpful manner as it was designed to explicitly give private sector agency when public sector might have limited capacity or effectiveness, but the existing language and provisions have issues that are problematic
- Because the **Special Ratings Area** is funded by “rates” as opposed to “levies”, Cape Town, as an example, is able to collect the additional charge as part of their rating process where an SRA has been approved, and pays the management body. **However because the “rates” are local authority income, the initiative is no longer that of business and requires far more than Local Authority oversight.**

**As these routes to establishment all have limitations, it is clear a broader, more enabling framework is in needed to provide growth opportunities to Urban Management structures.**

# Initial Implications

## Legislative Review - MPRA

### *Issues of Definitions and beyond*

- One cross-cutting consideration for both SRA route and the Gauteng CID Act route is the impact of MPRA's definition of rateable property. Special Ratings Areas have more flexibility in defining "majority" as it is not given clear definition in that section of the MPRA of 2004 and can therefore be established in each by-law, yet the issue of majority is still problematic with regard to Sectional Title.
- In the MPRA sectional title owners are the owners of rateable property, and that they each have a vote in the establishment of an SRA (and CID). Previously, the body corporate of each sectional title building had one vote. and each need to be billed once the SRA (or CID is established). Before the MPRA Amendment, the relationship was with the body corporate/ trustees.
- This amendment effectively makes the establishment of SRA's and CID's in areas where sectional title ownership is the predominant form of property ownership extremely difficult, even when all sectional title owners may be correctly identified, as each sectional title owner has the same voting power as a single block or building. In the case of many low-income and marginal or economically distressed areas, sectional title owners are largely absent and often unknown. In such event, the legislation precludes block voting by the body corporate or by rental residents, making establishment of an SRA (CID) virtually impossible.
- Yet, revising the Municipal Property Rates act will have limited impact on the broader concern that it is critical for a public-private partnership based approach to national government's area-based investment objectives. As previously stated, the MPRA focuses on municipal collection mechanisms and the experience to date has had variable results. Moreover, a focus on amending the MPRA would be misplaced, as it dependent on a functional and formal property market and active property owners. This results in significant gaps for marginal community and tenant engagement.

# Initial Implications

## Legislative Review - More Analysis of the SRA ...

---

- At the same time it should be recorded that the Cape Town Municipality has been extremely efficient in the collection of the additional rates and the prompt disbursement thereof as well as in their relationship with the SRAs. It appears as though only the smaller SRA's have difficulties and these generally relate to their inability to fulfil the bureaucratic requirements of the Act and of the administration by the municipality .
- Because the public sector has such a dominant role in SRA's the work of the Management District has to conform with municipal requirements to a far greater extent than where the initiative is private sector/ property owner driven.
- There is a major concern that Legislated Management Districts under the current SRA legislation will become perceived by politicians in particular as Municipal Owned Entities as the “rates” will be looked at as subject to their requirements and thus become MOEs and subject to political interference .

# Initial Implications

## How do you further enable flexible Public/Private Relationships?

**The framework for Public-Private Partnerships in South Africa is enshrined in very specific definition and structure which makes it less suitable for Urban Management Purposes:**

- “a contract between a government institution and/or municipality and a private party where the private party performs an institutional function and/or uses state property in terms of output specifications; and substantial financial, technical and operational risk is transferred to the private party, which benefits through unitary payment from government budget and user fees. This definition is limited to contractual commitments between the public and private party when risk is transferred.”
- The role out per year at national and provincial level is distinctly slow (average of 2 per year since 2004) which shows the rigidity of the framework (Fombad; 2014).
- The framework is primarily aimed at a client-contractor arrangement for the delivery and operation of public projects, rather than a partnership based management model aimed at the district/precinct level.

# Initial Implications

## Need to fill an identified gap ...

---

**It is clear a broader, more enabling framework is in needed to provide growth opportunities to Urban Management structures:**

- Urban Management structures are not fully enabled through any existing avenue as current routes to establishment all have clear limitations.
- The South African Public-Private Partnership framework is too cumbersome and ill-fitted for these types of initiatives.
- The focus should be rather on a holistic approach to enabling various configurations of interaction between the public and private sector for the purposes of urban and precinct management.
- We recommend that either a consultative set of engagements or a strategic workshop be undertaken to understand the scope of what such legislation will entail.



# Initial Implications

## Way Forward

---

**There are three streams of activity that are coming through as critical:**

- **Activity Stream 1:** Enabling Urban Management Policy/Legislation - Crafting a policy and legislative framework.
- **Activity Stream 2:** Examining particular aspects of the SRA component of the Municipal Property Rates Act of 2004 - This activity stream shall focus on the aspects of the MPRA practitioners have identified as needing either refinement, clarity, or revision.
- **Activity Stream 3:** Supporting Knowledge Management and Dissemination of Urban Management Best Practice - This stream of activity shall be focused on building a knowledge management infrastructure for the sector and playing an advocacy role.

# Interviews

Organisation	
Cape Town CCID	●
Durban Urban Improvement Precincts	●
Joburg CID	●
Joburg CID	●
Expert Legal Advisor	●
CoCT Revenue Department	●
Nelson Mandela Bay	●
Mbombela Place Management	●
Riverside Park CID	●
Mbombela Local Municipality	●
Expert Opinion (Neil Fraser)	●
Tongaat	●

Organisation	
International Downtown Association	●
UK Association of Town & City Management	●
Institute of Place Management	●
Association of German Chambers of Commerce and Industry	●
Downtown Yonge BIA	●
Downtown Vancouver	●
African Real Estate Society	●

## ***Additional Interviews***

- Professor Jerry Mitchell, Professor of Public Affairs at the City University of New York
- Eddie Scott
- Brian Wright

# References

- Bradley,R. *Downtown DC BID*. 2002.
- Business Rate Supplements Act 2009 (UK)
- Business Improvement Districts Regulations 2004 (UK)
- Business Improvement Districts Regulations 2014 (UK)
- Cape Town Central Improvement District. *CCID Annual Report 2015*.
- Kagiso Urban Management. *City Improvement Districts Changing Mandate: Area Based Management and Development Programme, National Conference 2006*.
- City of Cape Town: Special Rating Area By-law, 2012.
- City of Toronto Economic Development Department. *Downtown Improvement District Operating Handbook*. Toronto, Canada 2003.
- City of Johannesburg vs Renzon & Sons of June 2005.
- Companies Act No.71 of 2008.
- Constitution 108 of 1996 Section 229.
- Davey, Kenneth J.. 1993. *Elements of Urban Management. Urban Management Programme Discussion Paper* ; UMPP no. 11. Washington DC ; World Bank.
- Dilworth, Richardson. *Business Improvement Districts and the Evolution of Urban Governance*. Drexel Law Review. Vol 3:1 2011.
- Downtown Yonge BIA. *Downtown Yonge Annual Plan 2015*.
- Gauteng City Improvement District Act No. 12 of 1997.
- Johannesburg CID Forum. Fact Sheet, 2016.
- Local Government Act 2003. (UK)
- Local Government: Municipal Structures Act 117 of 1998
- Mandela Bay Development Agency. *Annual Report 2011/12*.
- Municipal Financial Act No. 58 of 2003.
- Municipal Finance System Management Act No 58 of 2003.
- Municipal Fiscal Powers and Functions Act 12 of 2007.
- Municipal Property Rates Act of 2004.
- Municipal Systems Act No.117 of 1998 MFPFA No 12 of 2007.
- National Treasury. *The Art of Precinct Management: A Municipal Management Guide*. 2014.
- NYC Small Business Services. *BID Trends Report*. 2015.
- Randburg Management District v West Dunes Properties 2015.
- Riverside Park Precinct Association. *PO Circular*. April 2016.
- Sanford, Mark. *Business Improvement Districts*. House of Commons Library. Number 04591, 12 August 2016.
- Urban Improvement District Company. 2016.
- [www.mbda.co.za](http://www.mbda.co.za)
- [www.durban.gov.za](http://www.durban.gov.za)
- [www.umhlangatourism.co.za](http://www.umhlangatourism.co.za)
- [www.riversidepark.co.za](http://www.riversidepark.co.za)
- [www.capetownpartnership.co.za](http://www.capetownpartnership.co.za)
- [www.cidforum.co.za](http://www.cidforum.co.za)

## Disclaimer

All care has been taken in the preparation of this document and the information contained herein has been derived from sources believed to be accurate and reliable.

RebelGroup does not assume responsibility for any error, omission or opinion expressed as well as any investment or other decisions based on this information.

## Project Team

Andreas Bertoldi (RebelGroup)  
Christian Gable (RebelGroup)  
Katherine Cox (Urban Inc)  
Neil Fraser (Urban Inc)  
Andrew Meldrum (Andrew Meldrum Attorneys)

## Contact

RebelGroup Advisory SA  
2<sup>nd</sup> Floor, West Wing, 158 Jan Smuts Avenue, Rosebank, Johannesburg,  
South Africa, 2196  
T +27 010 591 1232  
F +27 88 011 447 0272  
M +27 83 289 4135  
Email: [andreas.bertoldi@rebelgroup.com](mailto:andreas.bertoldi@rebelgroup.com)

Version: Final

Date: 28 September 2016



## Advisory Implementation Investment

R O T T E R D A M  
A N T W E R P E N  
J A K A R T A  
J O H A N N E S B U R G  
M A N I L L A  
W A S H I N G T O N