

July 2020

Re-imagining the future of .nz

Options Report of the
.nz Policy Advisory Panel.



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Foreword

Like many other Kiwis, I have recently taken the opportunity to see more of my own backyard. The East Cape to be specific. And what a glorious and diverse backyard it is. From awe-inspiring cliffs to warm golden sand beaches, from the significant Māori culture resplendent in the carved interior of St Mary's church, Tikitiki, to the pioneering endeavour of the Tolaga Bay Wharf – this is Aotearoa. My journey of discovery is somewhat akin to the work our InternetNZ-appointed Panel has been doing these past few months – discovering how the .nz domain name space works and then, importantly, what policies should drive future participation for the benefit of all New Zealanders. A very broad church!



Our Panel of nine (originally 10) was to have launched this Options Report in April but the COVID-19 pandemic put an end to that. This was not necessarily a bad thing. While we spent time with whānau and friends in lockdown, we also saw how precious the Internet could be in connecting us – if not physically – with those outside our bubbles. Beyond lockdown much of that remote connectivity remains.

When the Panel set out in July last year to review InternetNZ's .nz domain name space policies, we were tasked with talking to New Zealanders from all walks, to help develop recommendations that reflected their (our) attitudes and interests. That was not always easy given the limited ways to engage in the immediate aftermath of lockdown. So, that makes responses and feedback to this Options Report, in whatever form, especially important.

Despite the limitations we have spoken or heard from many New Zealanders. We want to test the vision that has resulted from those conversations with you. We think the .nz domain name space should be trusted, safe and secure, open and accessible, and managed in a way that develops .nz for all New Zealanders. We also want .nz to support the use of te reo on the Internet and support Māori participation in .nz.

In this Options Report you will find the thinking behind each of those visionary statements and, unsurprisingly, options for progressing them. The Panel, itself selected from vastly different backgrounds and vastly different interactions with the .nz domain name space, has worked tirelessly with the Secretariat to develop this paper. Not all of us agree on all options but we all agree it is important to seek feedback on those selected, before putting our final recommendations to InternetNZ this year.

So, why does any of this matter? If nothing else COVID-19 put the importance of the internet into perspective. It affects all our lives every day. Government delivers its services on .nz domain names, small businesses got through the pandemic lockdown on .nz names, local groups and not-for-profits use it to connect their communities. It is the invisible foundation on which Kiwis communicate with each other and the world. Now is your chance to have your say about how it is managed.

The Options Report is a weighty beast. We would love feedback on all aspects of it. But do not be put off by thinking you need to respond to everything. If you have a particular expertise or interest, please feel free to only comment on those areas in which you feel comfortable.

Over the next month, we will be talking to as many New Zealanders as possible about the issues we discuss in the Options Report. We will host online events, use mainstream media and share more information on specific areas of the paper through InternetNZ's and other social media channels.

This has been the most wide ranging review of .nz domain names policy in the organisation's history. The Panel could not have produced this Options Report without the work of the Secretariat, namely Kim Connolly-Stone, Nicola Brown and Dominic Kebell. The Panel has also worked diligently and with purpose in what has been exceptionally challenging times. Thankfully we had the internet to get us through! Now it is your turn to review our work.



Sue Chetwin
Chair

.nz Policy Advisory Panel
July 2020

Executive Summary

This Report expands on the issues identified in the Panel's previous paper Re-imagining the future of .nz. It looks at different options to respond to these issues, and how they would affect the .nz domain name space and the people who participate in it.

The first part of this Report looks at the existing principles that inform the management of .nz. The Panel has proposed a new set of guiding principles that are better suited for a modern Internet. The Panel sees some of the previous guiding principles as more 'operating guidelines' to follow beneath the guiding principles. For that reason, some of the previous principles have been carried forward as operating principles.

The Panel wants to hear from New Zealanders if they agree that the following should be the guiding principles for the .nz domain space:

- .nz should be secure, trusted and safe
- .nz should be open and accessible
- .nz should be safe-guarded and operated for the benefit of New Zealanders
- .nz should support te reo Māori and participation in .nz by Māori
- .nz should enable New Zealand to grow and develop

The second part of this Report explores issues related to .nz policy, and the possible options for responding. Many of the issues stem from the growing sophistication and complexity of the Internet and how it is used. Privacy, security, and response to the harmful use of the Internet are pressing issues today, and the .nz policies were developed in a context where these were not priorities.

The Panel has looked at how the .nz domain name space, and the policies themselves can be made more accessible and useful for people who do not speak English primarily, or who use written languages with characters that .nz currently does not support.

It has also considered who should be able to hold a .nz domain name, and whether there should be more restrictions on who can register names based on where they are located.

The .nz policies are currently underpinned by a 'no concern for use' principle. The Panel has considered what it would mean for this principle to be revised, to enhance people's safety and security, and reduce the harmful uses of .nz domain names.

The Panel has also looked at how to end a process that InternetNZ and DNCL have been using for conflicted names. There are many domain

names that cannot be registered because multiple parties have claimed rights to them, and this Report looks at ways to move past this.

The Panel has noted that the current model of collecting domain name registration information and sharing it publicly in a searchable database may be failing registrants and undermining their privacy. This Report looks at ways to enhance privacy for registrants, while retaining the accountability and oversight that comes with an open WHOIS protocol.

In the earlier Issues Paper, the Panel identified areas to protect the use of te reo Māori in domain names and enhance Māori participation in the domain name space. In this Report the Panel provides a roadmap for how they think InternetNZ should be collaborating with tangata whenua to achieve positive outcomes.

Finally, this Report looks to the future growth and development of .nz for the benefit of all New Zealanders. The Panel has proposed options for improving how the market operates, and to ensure the relationships between registrants, registrars, resellers and the Registry are working in a way that protects registrants rights and enables the use of .nz to flourish.

This Report, and the options proposed within it, are a starting point for a conversation with New Zealanders about the future of .nz. Following your feedback, the Panel will provide a set of recommendations to InternetNZ on what the new policy framework for .nz should look like.

How to have your say

While the .nz Advisory Panel has identified the issues and proposed a set of options to remedy them, it wants to hear from a range of people living in New Zealand and those who use and interact with .nz domain names to help it form its recommendations.

To that end, the main purpose of this document is to provide you with the information so you can contribute your views.

Participate online

Alongside this paper, we will be releasing bite-size content on InternetNZ's social media channels and the InternetNZ website.

The Panel will also be hosting webinars where you can come and discuss your thoughts on the Report. To find out more and register your interest, visit <https://internetnz.nz/nz-have-your-say>

Make a submission

This can take the form of a written submission on the questions raised in this document. Submissions on the questions are due by **Friday 14 August**.

This Report contains a number of questions. You may wish to respond to one, many, or all of them.

We are interested in any views you have. If you are able to support your views with evidence, we are keen to see this too. This might include facts, figures, research, or examples.

For the purposes of your submission on this paper, you should include your name (or your organisation's name) and your contact details.

You may use the submission template provided at:

<https://internetnz.nz/nz-have-your-say>

You can make your submission by:

- Email to dotnzreview@internetnz.net.nz
- Post to PO Box 11-881, Manners Street, Wellington 6142, New Zealand

Use of information

The information provided in submissions will be used to inform the Advisory Panel's recommendations to InternetNZ on changes to the .nz policies. The Panel or InternetNZ may contact you directly to clarify anything in your submission.

The Privacy Act 1993 establishes certain principles with respect to our collection, use and disclosure of information about individuals. Any personal information you supply to the Panel and InternetNZ in the course of making a submission will only be used by the Panel or InternetNZ in their consideration of what changes should be made to the .nz policies.

InternetNZ has an open policy making process and typically publishes all submissions to encourage open conversation. Individual names and contact details will not be published. If you need to include confidential information in your submission, to discuss what arrangements InternetNZ might implement if we were to agree to receive the confidential information, please contact dotnzreview@internetnz.net.nz.

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Useful Acronyms

2LD - Second Level Domain

DNC - Domain Name Commissioner

DNCL - Domain Name Commission Limited

DNS - Domain Name System

DNSSEC - Domain Name System Security Extensions

IDN - Internationalised Domain Names

IRPO - Individual Registrant Privacy Option

PAMO - Provisional Address Masking Option

TLD - Top Level Domain

ccTLD - country code Top Level Domain

gTLD - generic Top Level Domain

URL - Uniform Resource Locator, for example, a web address for a page

Introduction

The domain name system (DNS) is a vital component of the Internet - it is like the Yellow Pages for the Internet. It helps people to access the Internet resources they want. The .nz domain is the country code top level domain (ccTLD) assigned to New Zealand.¹ It represents New Zealand on the internet.

InternetNZ is responsible for managing the .nz domain name space. It is the home and guardian of .nz - providing the infrastructure, security and support to keep it humming. InternetNZ directs the funding from the registration of .nz domain names to support the development of New Zealand's Internet through policy, community grants, research and events. Its mission is to help New Zealanders harness the power of the Internet.²

The .nz Advisory Panel (the **Panel**) has been asked to review the policy framework that guides the running of .nz, to ensure it is fit for purpose. This part of the review enables you to provide your views on the options proposed by the Panel to remedy the issues it has identified.

What are the .nz policies?

The .nz policy framework sets out the operation of the .nz domain name space. The policies, which have been reviewed and amended from time to time since 2002,³ include the:

- .nz Framework Policy⁴
- .nz Policy development process⁵
- .nz Principles and responsibilities⁶
- .nz Operations and procedures⁷

¹ Examples of ccTLDs of other countries include .uk for the United Kingdom, .jp for Japan and .fj for Fiji.

² InternetNZ, *InternetNZ: An Internet for all and an Internet for good*, <https://internetnz.nz/blog/internet-for-all>

³ In 2015 the framework was consolidated from 14 policies to the listed 5 policies currently in use.

⁴ InternetNZ, '.nz Framework Policy', <https://internetnz.nz/assets/Archives/nz-Framework-2.0.pdf>

⁵ InternetNZ, '.nz Policy Development Process', <https://internetnz.nz/nz-policy-development-process>

⁶ InternetNZ, 'Principles and Responsibilities', <https://internetnz.nz/nz-principles-and-responsibilities>

⁷ InternetNZ, '.nz Operations and Procedures', <https://internetnz.nz/nz-operations-and-procedures>

- .nz Dispute resolution service.⁸

The policies cover registration and management for .nz domain names, second level domain (2LD) structure, conduct of .nz registrars, and resellers⁹ with sanctions for misuse or harm, handling of complaints and disputes and how the policy development process is to run. The last comprehensive .nz policy review was undertaken in 2004.

The Panel has noted previously that InternetNZ has several sets of principles relating to the management of domain names and .nz specifically.¹⁰ The Panel has confirmed with InternetNZ the *TLD principles*¹¹ are out of scope of this analysis. We therefore focus on the principles in the *.nz Framework Policy* in this Options Paper.

What is the purpose of the review?

InternetNZ wants the updated policies and principles to be robust and reflect the wider needs and expectations of the .nz Internet community and New Zealand society.

In this report we consider how .nz can be managed in a way that benefits all New Zealanders. When we refer to ‘New Zealanders’ in this Options Report we are referring to the New Zealand public broadly - New Zealand citizens, residents, and people overseas with a substantial New Zealand connection.

This is a chance to refresh the .nz policy framework through a Panel review process. This comprehensive review will provide a chance to assess the current frameworks performance, how it can be further improved, and to allow the community to identify and raise current or emerging issues that need a policy response either today or in the near future.¹²

⁸ InternetNZ, ‘.nz Dispute Resolution Service’, <https://internetnz.nz/dispute-resolution-service-policy>

⁹ For more information on domain names, 2LD structure and the role of registrars and resellers in the See InternetNZ’s Briefing for the .nz Panel - Part 1, https://internetnz.nz/assets/Archives/Briefing_for_the_.nz_panel_part_one.pdf

¹⁰ See the Issues Report, <https://internetnz.nz/publications/nz-policy-review-issues-report> p. 14.

¹¹ See the TLD Principles, <https://internetnz.nz/about-internetnz/tld-principles>

¹² .nz comprehensive policy review Advisory panel terms of reference, <https://internetnz.nz/assets/Archives/DotNZ-review-panel-ToR.pdf>

The .nz domain name space is managed for the benefit of all New Zealanders. InternetNZ appointed an external advisory panel to reflect the diverse stakeholders of the New Zealand's Internet community.

The Panel has been asked to provide InternetNZ with independent advice on the policies that shape and regulate the .nz domain name space.¹³ More specifically, the Panel's remit is to provide policy, technical and operational input as well as seek wider stakeholder views and advice to help InternetNZ identify issues, develop options and recommendations, and lead community engagement.

The Panel was asked to provide advice to InternetNZ through two reports:

- an Issues Report completed in February 2020
- a Recommendations report which is due at the end of September.¹⁴

Who is on the Panel?

The Panellists, with a diverse mix of skills and knowledge, were appointed in June 2019 to help champion this work and bring experience but also fresh perspectives. They are:

- Sue Chetwin (Chair)
- Alma Hong (Vice Chair)
- Mark Boddington
- Matt Brown
- Charlie Gavey
- Tim Johnson
- Ty Kahu
- Robert Rolls
- Mark Thomas.¹⁵

What has happened so far?

The .nz policy review commenced in July 2019. The Panel undertook a range of engagement activities to produce its Issues Report in February 2020. The Issues Report set out the issues the Panel identified with the current .nz policies and policy framework.¹⁶

¹³ See clause 4.4 of the [.nz Policy Development Process](#).

¹⁴ Note that the Panel process was extended from its original end date in July 2020 to mitigate impacts to the consultation period caused by COVID-19.

¹⁵ Nita Wirepa was part of the .nz Advisory Panel until February 2020 (maternity leave).

¹⁶ See the Issues Report, <https://internetnz.nz/publications/nz-policy-review-issues-report>

After the Panel released its Issues Report it began deliberating on options to respond to the identified issues. This included targeted engagement with a number of industry stakeholders to further inform our thinking although the COVID-19 pandemic limited the extent of this.

The Panel has framed its analysis around a set of core strategic objectives, access, openness, security, and worked through particular lenses (privacy, human rights, Te Tiriti and interests of Māori, and market growth).

What is the purpose of this Options Report?

This Options Report looks at options to solve the issues identified by the Panel in our Issues Report.

It is the launch pad from which the Panel will be consulting and getting feedback from the wider community about the future of .nz.

The paper aims to provide members of the Internet community and New Zealand society with the information to provide their views on which options they believe will best address the issues facing the .nz domain space.

The consultation process is also an opportunity for New Zealanders to tell us how InternetNZ should be thinking about its guardianship of the .nz domain space now and into the future.

Timeline for the .nz policy review

The .nz policy review process has two stages. The External Advisory Panel will complete their review and make recommendations to InternetNZ. Following this review, InternetNZ will begin a process to evaluate the recommendations and implement changes to the .nz policy framework.

External Advisory Panel Review

- Issues Report
- Options Report
- Submissions on Options Report
- Final recommendations to InternetNZ

InternetNZ next steps

- Consider Panel recommendations
- Further engagement with the public where necessary
- Make changes to .nz policies

Implementation of changes

- Changes are made to .nz policies

Navigating this report

Part I: Guiding Principles for .nz

Part I of this Options Report analyses the guiding principles for .nz set out in the .nz Framework Policy.¹⁷ It:

- sets out the recommendations the Panel intend to make to InternetNZ
- explains why we intend to make those recommendations
- seeks feedback on the proposed recommendations before we finalise our view on them.

The Panel has used the principles as a key part of the criteria to assess the substantive options in Part II of this Options Report (see under *Part II: Options analysis* below).

A key recommendation is to create two different categories of principles that assist InternetNZ manage the .nz domain: guiding principles and operational guidelines. On pages 33-34, there is a summary of the proposed guiding principles and operational guidelines.

Part II: Options analysis

Part II of this Options Report assesses various issues related to .nz, most of which were identified in the Issues Report.¹⁸ It contains sections on:

- Openness and accessibility of the .nz domain
- Security and trust
- Conflicted domain names
- Enhancing privacy across the .nz domain name system
- The .nz domain space and Māori
- Opportunities to enhance .nz growth and improve market operation.

To assess the options in each section, the Panel has sought to apply the following criteria:

- Consistency with the guiding principles the Panel has proposed in Part I
- Flexible and adaptable for a changing Internet environment
- Practical to implement.

¹⁷ nz Framework Policy, v2.0., <https://internetnz.nz/assets/Archives/nz-Framework-2.0.pdf>

¹⁸ See [Re-imagining the future of .nz: Issues report of the .nz Policy Advisory Panel](#),

Paragraphs preceded by a tick (☑) describe the advantages the Panel considers would be associated with an option. Paragraphs preceded by a cross (✗) describe the disadvantages the Panel considers would be associated with an option. We welcome feedback on our analysis.

Some of the options under each issue are mutually exclusive, and others can be taken forward together. We indicate where options can be taken forward together.

How certain issues in the Issues Paper have been dealt with

The Panel released its Issues Paper in February 2020. Since the release of the Issues Paper, the Panel has continued to develop its approach. As a result, there are a few changes to note.

Human Rights: The Panel considers Human Rights is an important lens through which to consider all .nz policy issues. However, the Panel considered that the issues included in the *Human Rights* section of the Issues Paper would be better dealt with in various other sections of the paper.

Issues we have not discussed in this Report: There are issues the Panel had identified in the Issues Paper that it would like InternetNZ to consider (for example, issues related to education about .nz and domain names, and ways to improve the .nz marketplace). However, where the Panel did not consider these were strictly policy issues, it has not discussed them in this Options Report. The Panel may make recommendations to InternetNZ to do further work in these areas.

Policy issues not taken forward: There are issues the Panel has not taken forward as it has since determined that they were not significant issues. The Panel has noted these throughout the paper.

Principles

Why do we have principles?

Clear principles help to direct and unify an organisational purpose. They also make it easier for people to understand the policy priorities. This is particularly important when public interest issues are involved and many of the policy issues are technical.

The guiding principles for .nz set out what the .nz policies are seeking to achieve and guide their interpretation and implementation. They serve as a guide or ‘rules of thumb’ in regulating the .nz domain name space.

What are the current guiding principles?

The *.nz Framework Policy*¹⁹ sets out the current guiding principles that govern the operation of New Zealand’s domain name system:

Rule of law	The laws of New Zealand apply, and the lawful instructions of the courts and authorities made as part of due process will be complied with – noting that this may require action that overrides the following principles.
First come first served	Any domain name can be registered if available for registration on a first come, first served basis.
Registrant rights come first	The rights and interests of registrants are safeguarded.
Low barriers to entry	Entry requirements are not set higher than necessary to maintain a competitive, stable market for registrars.
No concern for use	The ccTLD manager is not concerned with the use of a domain name.
Structural separation	Regulatory, registry, and registrar functions are structurally separated.

¹⁹ InternetNZ, [.nz Framework Policy](#).

Clear chain of relationships	All registrants have agreements with their registrar, and all registrars with the registry and with DNCL. Where appropriate the DNCL can intervene in these relationships consistent with this policy, the .nz policies and associated agreements and contracts.
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The Panel identified a number of issues with these principles on pages 13-20 of the Issues Report.²⁰

What does the Panel consider the guiding principles should do?

The Panel considers that the guiding principles for the .nz policies should:

Provide a vision

The principles should provide a vision of the sort of .nz domain space New Zealand wants to have. This vision should reflect contemporary issues and align with New Zealanders' priorities.

The current principles tend to express specific rules or aspects of the system rather than painting a picture of the sort of domain space New Zealand wants .nz to be.

Be holistic

The principles should be directed towards all existing system users, potential system users and the broader New Zealand public rather than to specific parts of the system.

Many of the current guiding principles appear to have been developed primarily for the registry, the regulator and registrars. Many of them are difficult to properly understand unless you are an industry 'insider'.

Be instructive not operational

The guiding principles should seek to provide the underlying rationale for rules rather than the rules themselves. That will help ensure they are more enduring and serve their main aim of directing and unifying an organisational purpose and making it easier for

²⁰ See [Re-imagining the future of .nz: Issues report of the .nz Policy Advisory Panel](#), p. 13-20.

people to understand the policy priorities.²¹ Anything operational in nature can still be captured - but elsewhere in the .nz policies.

As discussed in the Issues Report,²² certain principles are operational rather than providing direction on a shared organisational purpose or guide to regulating the overall .nz space.

Be inclusive and accessible

The guiding principles (and the .nz policies more generally) should be written in a simple, inclusive and accessible way that enables all users of the domain name system to understand and engage with.

As discussed in the Issues Report,²³ the principles (and .nz policies themselves) could be written in a more inclusive and accessible way and there is currently no guidance on how to resolve tensions between principles.

1. Do you consider that the .nz guiding principles should be visionary, holistic, inclusive and instructive rather than operational? Why / why not? What else should they be?

Panel's proposed recommendations to address these issues

The Panel intends to make a number of recommendations to InternetNZ to address these issues, including:

- rewriting and simplifying the whole .nz policy framework
- replacing the guiding principles with new guiding principles
- transferring some of the existing guiding principles into a new set of operational guidelines.

The Panel considers that these changes will help realign the .nz guiding principles with today's world and stakeholder priorities. The Panel has set out our reasons for these proposed recommendations in the following sections.

²¹ See *Why do we have principles* section above.

²² See [Re-imagining the future of .nz: Issues report of the .nz Policy Advisory Panel](#), p. 19.

²³ See [Re-imagining the future of .nz: Issues report of the .nz Policy Advisory Panel](#), p. 20.

Rewriting and simplifying the policy framework

The Panel intends to recommend that InternetNZ restructure and simplify the set of .nz policy documents. This will provide an opportunity to simplify how and where the principles appear in the policy documents, and to more clearly distinguish principles, policies, processes and business rules. For example, this could be done by:

- Rationalising the different ‘sets’ of principles currently in different .nz policies.²⁴ There should, for example, be a clear division between:
 - guiding principles as described in the *What does the Panel consider guiding principles should do* section above
 - operational guidelines that guide the various types of operational decisions that are made in the management of the .nz domain.
- Consolidating the policies that are spread across five documents from two organisations (InternetNZ and DNCL) into one document (or linking them in a user-friendly way).
- Rewriting the principles in plain English with less industry jargon.²⁵
- Using an index to show how different parts of the .nz policies and their principles are linked.

2.

Do you think the .nz policies should be rewritten and simplified? Why / why not? If yes, how?

Proposed new guiding principles

The Panel considers that the .nz domain space should:

- be secure, trusted and safe
- be open and accessible
- be safe-guarded and operated for the benefit of New Zealanders
- support te reo Māori and participation in .nz by Māori
- help enable New Zealand to grow and develop.

The Panel therefore intends to recommend that InternetNZ incorporate this vision for the .nz domain space into the guiding principles.

²⁴ See section above ‘*what are the .nz policies?*’.

²⁵ Many existing or potential registrants will not readily understand terms like “no concern for use”, “first come first served” or “ccTLD”.

Secure, trusted and safe

A potential 'secure, trusted and safe' principle could be developed along the following lines:

.nz should be secure, trusted and safe: .nz infrastructure should be dependable and secure and .nz should be a domain space people trust and feel safe using.

There are two main aspects to this principle. First, the infrastructure underlying the .nz domain space should be dependable (it should always be operational, work well and be robust enough to withstand threats to its operation) and secure (both secure as a system itself and in terms of the security it provides its users).

Second, as a user experience, .nz should be a domain space that people trust and feel safe using. Respecting privacy is an important aspect of trust. People using the domain name system need to know when personal information they provide the .nz Registry, DNCL or registrars will be made public and that all other personal information will remain private. People using the .nz domain space should know how personal information they provide online will be used. They should also be able to trust that people they engage with online are who they say they are.

The Panel considers that people using the .nz domain space are also entitled to feel safe when doing so. We acknowledge that it is not realistic to expect that everybody will feel safe all of the time. We do, however, think it is important to aim for a .nz domain space where people feel safe and InternetNZ should take steps to achieve it. This will include providing people with options and support when something makes them feel unsafe and ensuring these are widely known. In other words, we consider that it is time for InternetNZ to move away from a strict 'no concern for use' mindset.

3.	Do you think there should be a new 'secure, trusted and safe' principle? Why / why not? Do you have any comments on the proposed formulation of the new principle?
4.	What would be the main benefits and disadvantages of moving from a 'no concern for use' approach to a 'secure, trusted and safe' approach?

Open and accessible

A potential ‘open and accessible’ principle could be developed along the following lines:

.nz should be open and accessible: The .nz domain should be an inclusive space where everybody can observe, participate, innovate and enjoy online benefits.

The Panel considers that the .nz domain should be managed in a way that facilitates an open and accessible domain.

“Open” in this context adopts InternetNZ’s top-level definition and means that the .nz domain supports people to observe and participate online, creating new uses of .nz and the ability to innovate.²⁶ People should be enabled to observe and participate in the operation and development of the technologies, the governance structures and how decisions are made about the Internet and the Domain Name System.

“Access” in this context means that people who want a .nz domain name understand how the .nz space operates,²⁷ can readily gain the know-how and skills to set up one and use it, and can afford to do so.²⁸

The Panel considers that access and openness in the .nz domain space should be considered widely: for registrars, for resellers, for registrants and all others in or interacting with the system.

5. Do you think there should be a new ‘open and accessible’ principle? Why / why not? Do you have any comments on the proposed formulation of the new principle?

For the benefit of all New Zealanders

A potential ‘New Zealand benefit’ principle could be developed along the following lines:

²⁶ InternetNZ, *Internet openness: What it is and why it matters*, p. 6,

https://internetnz.nz/assets/Archives/InternetNZ_Internet_Openness.pdf

²⁷ See [Re-imagining the future of .nz: Issues report of the .nz Policy Advisory Panel](#), p. 20-21.

²⁸ See [Re-imagining the future of .nz: Issues report of the .nz Policy Advisory Panel](#), p. 21.

.nz should be safe-guarded and operated for the benefit of New Zealanders: The .nz domain space should be safe-guarded and operated for the benefit of New Zealanders, reflecting and being responsive to our diverse social, cultural and ethnic environment.

The Panel considers that the domain name system is a good thing for people and the Internet. It is low cost, open and accessible, and it is managed by a wide range of people around the world in the best interests of the Internet. This is preferable to a system that is built upon closed systems controlled by corporate or state actors (walled gardens).²⁹

In that context the .nz domain space is a critical resource that provides enormous benefit for the New Zealand public. It should therefore be safe-guarded for the benefit of New Zealanders and managed in a way that:

- recognises and is responsive to New Zealand’s social, cultural and ethnic diversity
- seeks to realise the social and cultural benefits it can provide to all New Zealanders

6. Do you think there should be a new ‘New Zealand benefit’ principle? Why / why not? Do you have any comments on the proposed formulation of the new principle?

Te reo Māori and Māori participation in .nz

A potential principle on te reo Māori and Māori participation in .nz could be developed along the following lines:

.nz should support te reo Māori and participation in .nz by Māori:
The .nz domain space should contribute to the protection and use of te reo Māori and facilitate participation in the .nz domain space by Māori.

The Panel considers that the .nz domain space should be operated in a way that supports te reo Māori and facilitates Māori participation in the use and management of .nz.

This principle has links to the above ‘open and accessible’ principle and ‘New Zealand benefit’ principle. However, the Panel considers there should be an additional guiding principle that reflects that te reo is a

²⁹ InternetNZ, [Internet openness: What it is and why it matters](#), p. 6.

national language and taonga of Māori and the unique status of Māori as tangata whenua.

7. Do you think there should be a new principle on te reo Māori and Māori participation in .nz? Why / why not? Do you have any comments on the proposed formulation of the new principle?

Enabling New Zealand to grow and develop

A potential ‘growth and development’ principle could be developed along the following lines:

.nz should enable New Zealand to grow and develop: The .nz domain space should help people, businesses and organisations connect, create, innovate and grow.

The .nz domain space provides economic, social and cultural value to New Zealand businesses, organisations and individuals. The Panel believes it should be managed in a way that takes into account whether any proposed action would constrain or enhance people’s ability to connect, create, innovate and grow. Therefore it is important that the .nz policies should support market dynamics that promote innovation, competitiveness, creativity, fairness, and transparency.

The Panel received strong feedback that the .nz policies should support business and that .nz needs to be more creative and innovative. Supporting New Zealand’s social and cultural organisations, communities and individuals to grow and develop is also a key element.

How the .nz market operates is also a key part of how it grows. The Panel found the market is well established, and competition and choice are considered to be functioning effectively. However there are issues limiting the benefits to be gained from the .nz system. The report considers options to enhance the operation and competitiveness of the existing .nz market to enable healthy future growth in the .nz domain name space.

8. Do you think there should be a new guiding principle on enabling New Zealand to grow and develop? Why / why not? Do you have any comments on the proposed formulation of the new principle?

Transferring existing principles into operational guidelines

The Panel intends to recommend that several of the existing guiding principles³⁰ be transferred into a set of operational guidelines.³¹ In this section we set out the purpose behind each existing guiding principle and our recommendation about whether it should be retained as an operational guideline, retained as an operational guideline in a modified form, or removed entirely.

The Panel intends to recommend that the guiding principles prevail if there is any inconsistency between them and the operational guidelines.

9. Do you think there should be two types of principles (guiding principles and operational guidelines) to help manage the .nz domain? Why / why not?

Rule of Law

What is the principle and what is its purpose?

The principle states that New Zealand law governs the operation of the .nz domain and that the lawful instructions of the courts and authorities will be complied with. The principle also notes that following the principle may require action that overrides the other principles. For example, DNCL may take action to restrict certain uses (despite the ‘no concern for use’ principle) following a court order.

This principle is therefore primarily concerned with the aspects of the rule of law concerned with due process. These include that powers exercised by decision-makers should be based on legal authority, that people should be safeguarded against the abuse of wide discretionary powers and that people should not be deprived of their status or other

³⁰ See the table above in ‘*What are the current guiding principles*’ section.

³¹ See above how guiding principles should “be instructive not operational” section.

substantial interest without the opportunity of a fair hearing before an impartial court or tribunal.³²

The former Domain Name Commissioner indicated that the principle:³³

...encompasses safeguards against the abuse of wide discretionary powers and ensures that a person or party is given the opportunity of a fair hearing before an impartial court or tribunal before they are negatively impacted by a decision of which they had no knowledge or input.

The Panel proposes that it be removed

The Panel does not consider that the principle adds anything to the default scenario - that New Zealand law applies to the management of the .nz domain. It does not therefore provide meaningful guidance to participants in the domain name system.

The Panel also notes that a 'rule of law' principle did not typically feature in the domain name systems of the countries included in the international review.³⁴

10.

Do you agree that the 'rule of law' principle should not be retained as an operational guideline? Why / why not?

First come first served

What is the principle and what is its purpose?

This principle states that a domain name available for registration will be registered on a first come, first served basis. It corresponds to Principle

³² See the Ministry of Justice's website, <https://www.justice.govt.nz/about/learn-about-the-justice-system/how-the-justice-system-works/the-basis-for-all-law/>. See also page 23 of the Legislation Design and Advisory Committee's 2018 *Legislation Guidelines*, <http://www.ldac.org.nz/assets/documents/abd05c2ba9/Legislation-Guidelines-2018-edition-2019-01-16.pdf>

³³ See D Monahan, *Takedown of domain names - the rule of law and due process*, March 2017, <https://internetnz.nz/blog/takedown-domain-names-rule-law-and-due-process>

³⁴ InternetNZ, *Regulating the domain name system: approaches to ccTLD policies internationally*, to be published August 2020.

3 of the TLD Principles.³⁵ The detailed explanation of that principle explains that it is based on the following ideas:³⁶

- all things being equal, people should be free to register any domain name that has not yet been registered
- there should be no pre-qualifications, banned names lists, sunrise registration periods³⁷ or any other steps
- there should be a level playing field - political or economic factors should not provide some people easy access to registration or arbitrarily deny others
- disputes about a person's right to register a domain name should be resolved after its registration rather than as part of the registration process
- disputes should be determined by whether the registrant has any legitimate rights to the name rather than whether their rights are "greater" than the person challenging the registration.

The Panel proposes it be modified and retained as an operational guideline

This principle states that any domain name can be registered if available for registration on a first come, first served basis. The Panel intends to recommend that this principle be:

- converted into an operational guideline
- modified to recognise that in the future there may need to be some words that should not be freely available for registration (this might, for example, be the outcome of conversations between Māori and InternetNZ in the subsequent phases of this review about how te reo Māori should be used in domain names).³⁸

The practical effect of this becoming an operational guideline rather than a guiding principle is to signal that there might be some guiding principles (for example the principle on te reo Māori and Maori participation in .nz) that justify a departure from what would otherwise be a strict 'first come, first served' approach.

³⁵ See the TLD Principles, <https://internetnz.nz/about-internetnz/tld-principles>

³⁶ See the TLD Principles.

³⁷ The TLD Principles clarify that sunrise periods can legitimately be used to protect the rights of registrants if a top level domain is being launched or restructured.

³⁸ See the *.nz domain space and Māori* section of this Options Report.

Proposed new wording of operational guideline

A revised ‘first come, first served’ operational guideline could be developed along the following lines:

First come, first served: A domain name will be registered on a ‘first come, first served’ basis if it is unregistered and available for registration.

The Panel does not intend to recommend any substantive change to the ‘first come, first served’ rule immediately. Unregistered domain names that are not prohibited by policy would therefore still be available for registration.³⁹ The new formulation is intended to provide the flexibility to enable certain names to be made unavailable for registration in the future.⁴⁰

11. Do you think the ‘first come first served’ principle should be modified and retained as an operational guideline? Why / why not?

Registrant rights come first

What is the principle and what is its purpose?

This principle states that the rights and interests of the registrants are safeguarded. The principle appears to be written primarily with registrars and registrants in mind.

The Panel proposes it be removed

There are four main reasons the Panel considers this principle should be removed:

- The Panel considers that the .nz policies should take a more holistic approach to actors in the domain name space.⁴¹ This principle focuses primarily on the relationships between the Registry, registrars and registrants.
- When taking a more holistic approach, it is not clear why registrants’ rights should be prioritised over the rights of the New

³⁹ For instance, ‘gov’, ‘government’, ‘com’, ‘edu’ and ‘nic’ cannot be registered at the second level, as per Clause 9.1 of [Operations and Procedures Policy](#).

⁴⁰ Any changes to policies related to the new operational guideline would need further consultation according to the InternetNZ’s [.nz Policy Development Process](#).

⁴¹ See the *What does the Panel consider the guiding principles should do?* Section above.

Zealand public or at least balanced with them. The principle also suggests that current registrants would be prioritised over prospective registrants. It is not clear why they should - especially if the process is to allow registrations to be completed initially, then disputes resolved later.

- The principle is not well-reflected by the .nz policies and processes. For example, the .nz policies require registrars to provide registrant details on registration of a domain name. However, the policies do not require resellers to ensure that their registrants do the same.
- The principle does not appear to be common internationally. The other ccTLDs the Panel looked at do not use this principle. More common are statements on the importance of connecting with and being responsive to users.⁴²

12.

Do you think the ‘registrants’ rights come first’ principle should be modified and retained as an operational guideline? Why / why not?

Low barriers to entry

What is the principle and what is its purpose?

This principle states that entry requirements are not set higher than necessary to maintain a competitive, stable market for registrars. The detailed explanation of the TLD principle on competition states that:⁴³

Competition is a vital driver of good outcomes for domain name registrants. It drives a range of price, service and other options. In the domain name arena, choice between registrars is a fundamental driver of competition.

The ‘low barriers to entry’ was therefore intended to facilitate greater competition among registrars to put downward pressure on the price they charge registrants.

The Panel proposes it be removed

⁴² InternetNZ, *Regulating the domain name system: approaches to ccTLD policies internationally*, to be published August 2020.

⁴³ See the detailed explanation of Principle 1 of the TLD Principles, <https://internetnz.nz/about-internetnz/tld-principles>

There are two main reasons the Panel considers the ‘low barriers to entry’ principle should now be removed:

- The principle is too narrow. The ‘low barriers to entry’ principle focuses solely on competition between registrars. The Panel considers that a better approach would be to focus on openness in the .nz domain space more generally: for registrars, for resellers, for registrants and all others in or interacting with the system.⁴⁴
- We need to move to a more secure, trusted and safe .nz. The Panel considers that focusing on low barriers to entry may risk impeding the development of a more secure, trusted and safe .nz in the next decade and beyond.⁴⁵

13.

Do you agree that the ‘low barriers to entry’ principle should be removed? Why / why not?

No concern for use

What is the principle and what is its purpose?

This principle states that DNCL as manager of the .nz domain is not concerned with the use of a domain name. Its purpose is to prevent DNCL from making decisions about how a domain name can or must be used.

The principle is based on the notion that the infrastructure of the Internet, like the domain name system, constitutes mere pipelines of data flow. The manager of the .nz domain should therefore be neutral about who uses its infrastructure and what they use it for.⁴⁶

The Panel proposes it be modified and retained as an operational guideline

Subject to our engagement on domain name abuse and online harms in the security section of this Options Report, the modified operational guideline (when read together with the new guiding principles) should enable DNCL to cooperate with trusted notifiers and act if a domain name

⁴⁴ See the discussion above on openness as a new guiding principle.

⁴⁵ The Panel intends to recommend that a new guiding principle be added that the .nz domain space should be secure, trusted and safe. See the section on the new principle above.

⁴⁶ The effect of this is that the registrant is free to choose what it is used for (for example, email or web pages), which IP addresses it connects to and what content is hosted on it. The manager cannot act on any concerns they may have about the content.

is being used for illegal activity. See the *Security and trust* section of this Options Report for further discussion on how this might work in practice.

Proposed new wording of operational guidelines

A revised ‘no concern for use’ operational guideline could be developed along the following lines:

Restrictions on use should be minimised: The ccTLD manager should keep restrictions on the way domain names can be used to the minimum necessary to enable the .nz domain to be trusted and safe.

An option explored in the *Security and trust* section is that DNCL cooperates with trusted notifiers to respond to illegal activity, and has limited powers in exceptional emergency circumstances.⁴⁷ This operational guideline would clarify that DNCL should restrict its interventions on use to that situation only.

14.

Do you agree that the ‘no concern for use’ principle should be modified and retained as an operational guideline? Why / why not?

Structural separation

What is the principle and what is its purpose?

This principle states that regulatory, registry, and registrar functions are structurally separated. The principle is directly related to competition objectives. As the detailed explanation of the corresponding TLD principle states:⁴⁸

A competitive market between registrars cannot be maintained if the registry operator also participates in the market as a registrar for that [top-level domain]. The risk is that the registry will unfairly advantage its own registrar operation, through differential service quality, information provision, access to its competitor’s information, or other discrimination. There is a clear conflict of interest in doing so. As a general principle, therefore, registries

⁴⁷ See ‘*Security and trust*’ section for more on responding to illegal uses of a domain name.

⁴⁸ See principle 6 (Registry / Registrar operations within a TLD should be split), <https://internetnz.nz/about-internetnz/tld-principles>

should not operate registrars and should not have relationships with registrants themselves.

The Panel proposes it be retained as an operational guideline

The Panel supports the ‘structural separation’ principle but considers that it is more suitable as an operational guideline rather than a guiding principle.

15.

Do you agree that the ‘structural separation’ principle should be retained as an operational guideline? Why / why not?

Clear chain of relationships

What is the principle and what is its purpose?

This principle states that all registrants have agreements with their registrar, and all registrars with the registry and with DNCL. It also states that where appropriate the DNCL can intervene in these relationships consistent with the .nz Framework Policy, the .nz policies and associated agreements and contracts.

This principle was intended to protect the registrant of a domain name, for example by ensuring that no registrar, web host or other IT provider could assume control of their domain name without their authority. Having a chain of contractual relationships linking registrants and DNCL ensured that DNCL could use those contracts to uphold the rights of registrants.

The Panel proposes it be retained as an operational guideline

The Panel supports the ‘clear chain of relationships’ principle but considers that it is more suitable as an operational guideline rather than a guiding principle.

The Panel has considered the need to create more visibility of resellers in the chain of relationships. See the section *Improving the regulation of resellers* below for more on this issue.

16.

Do you agree that the ‘clear chain of relationships’ principle should be retained as an operational guideline? Why / why not?

Summary of proposed changes to the guiding principles for .nz

The Panel intends to recommend that the guiding principles for .nz be:

- **.nz should be secure, trusted and safe:** .nz infrastructure should be dependable and secure and .nz be a domain space people trust and feel safe using.
- **.nz should be open and accessible:** The .nz domain should be an inclusive space where everybody can observe, participate, innovate and enjoy online benefits.
- **.nz should be safe-guarded and operated for the benefit of New Zealanders:** The .nz domain space should be safe-guarded and operated for the benefit of New Zealanders, reflecting and being responsive to our diverse social, cultural and ethnic environment.
- **.nz should support te reo Māori and participation in .nz by Māori:** The .nz domain space should contribute to the protection and use of te reo Māori and facilitate participation in the .nz domain space by Māori.
- **.nz should enable New Zealand to grow and develop:** The .nz domain space should help people, businesses and organisations connect, create, innovate and grow.

The Panel intends to recommend that the .nz policies contain the following operational guidelines:

- **First come, first served:** A domain name will be registered on a 'first come, first served' basis if it is unregistered and available for registration.
- **Restrictions on use should be minimised:** The ccTLD manager should keep restrictions on the way domain names can be used to the minimum necessary to enable the .nz domain to be trusted and safe.
- **Structural separation:** Regulatory, registry, and registrar functions are structurally separated.
- **Clear chain of relationships:** Registrants have agreements with their registrar, and all registrars with the registry and with DNCL. Where appropriate the DNCL can intervene in these relationships

consistent with this policy, the .nz policies and associated agreements and contracts.

17.	Should the Panel consider any other principles?
18.	Is there anything else the Panel should bear in mind when making recommendations on the principles or operational guidelines for the .nz policies?

Accessibility and openness of .nz domains

This section analyses two issues relating to access and one issue relating to openness.^{49 50}

Access:

1. .nz policies are written only in English.
2. Inhibited access to .nz because of the limited range of permitted characters supported in IDNs in the .nz space.

Openness:

3. No geographical limits on registrants.

The Panel considers “access” to mean that people who want a .nz domain name have the know-how and skills to set one up and use it, and can afford to do so.⁵¹

“Openness” in this context adopts InternetNZ’s top-level definition and means that the .nz domain supports people to observe and participate online, creating new uses of .nz and the ability to innovate.⁵²

The .nz policies are written only in English

New Zealand is a multicultural society, far more so than when the policies were formulated. The majority of New Zealand's population is Pākehā (70 percent), with Māori being the second largest ethnic group (16.5 percent), followed by Asian people (15.3 percent), and Pacific Islanders (9.0 percent).⁵³

⁴⁹ The Issues Report also identified issues relating to a lack of understanding, knowledge and skills and the cost of registering a domain name. We have not analysed the lack of understanding issue because it is not clear that the lack of knowledge is causing a significant problem and InternetNZ has limited levers to improve the situation. On the cost of registering a domain name, the Issues Report concluded that as long as the cost remains below \$100 per year for individuals, then it is unlikely to generally present an access issue.

⁵⁰ Addressing digital exclusion is outside the scope of this policy review, however the Panel notes that the .nz policy framework needs to acknowledge the role of supporting access for digitally excluded communities.

⁵¹ This definition was used in the Panel’s online survey on .nz to the wider public.

⁵² InternetNZ, *Internet openness: What it is and why it matters*, p. 16.

⁵³ *Demographics of New Zealand*

https://en.wikipedia.org/wiki/Demographics_of_New_Zealand. Many commercial sites

The .nz policies are made available only in English and use highly technical language. This may be impeding people who do not speak English as a first language from registering .nz domain names.

As stated in the above section on .nz guiding principles, the Panel intends to recommend rewriting the .nz policies in plain English.⁵⁴ In this section we consider options that might remove impediments to people registering domain names additional to rewriting the policies in plain English.

Option A: the current situation

Under this option, the .nz policies would be written in plain-English as proposed in the *Principles* section above to make them accessible. The policies would not be provided in any other language.

- ✓ Accessible for people who have proficiency in English.
- ✓ Practical and least cost to implement.
- ✗ Barriers for people who do not speak English as a first language to participate and enjoy online benefits.
- ✗ Potential negative impact on trust in .nz, the use of .nz by a wider range of ethnic groups and the online growth and development of ethnic groups.
- ✗ Lack of flexibility - not keeping up with changing demographics in New Zealand.
- ✗ Implementation costs to rewrite the policies.

Option B: Make the policies available in te reo Māori as well as English

This option would involve making the policies available in te reo Māori as well as English.

such as businesses, government agencies and local councils have already introduced other languages on their web pages to support their target customers.

⁵⁴ Australia's auDA has recently revisited its policies and is undertaking to ensure all documents will be drafted in plain English: Panel meeting with auDA on 28 November 2019.

- ✓ Reduced barriers for some speakers of te reo Māori as a first language to participate and enjoy online benefits compared to Option A, resulting in greater access for them.
- ✓ Greater trust in .nz, the use of .nz by Māori, and online growth and development of Māori compared to Option A.
- ✓ Supporting te reo Māori and Māori participation in .nz.
- ✗ Still barriers for many people who do not speak English or te reo Māori as a first language to participate and enjoy online benefits.
- ✗ Still potential negative impact on trust in .nz, the use of .nz by a wider range of ethnic groups and the online growth and development of a wider range of ethnic groups.
- ✗ Lack of flexibility - not keeping up with changing demographics in New Zealand.
- ✗ Slightly higher implementation costs than Option A.

Option C: Make the policies available in te reo Māori and take other accessibility measures like adding other languages over time according to how widely used they are

This would be the same as Option B except the policies would also be made available in other languages over time in accordance with how widely used they are.⁵⁵ It would also ensure that the policies available in an accessible format for people who are blind or have low vision.⁵⁶

- ✓ Further reduced barriers for people who do not speak English or te reo Māori as a first language, or who are blind or have low vision, to participate and enjoy online benefits compared to Options A and B, resulting in greater access for them.
- ✓ Greater improvement in trust in .nz, the use of .nz by people who do not speak English or te reo Māori as their first language, or who are blind or have low vision, and the online growth and

⁵⁵ The 2013 New Zealand Census states that the most spoken languages in New Zealand, after English and Māori, are Samoan, Hindi and Northern Chinese (including Mandarin), see <http://archive.stats.govt.nz/Census/2013-census/profile-and-summary-reports/quickstats-culture-identity/languages.aspx#gsc.tab=0>

⁵⁶ The New Zealand government has developed Web Accessibility Standards, <https://www.digital.govt.nz/standards-and-guidance/design-and-ux/accessibility/>


development of a wider range of people compared to Options A and B.

- ✓ Supporting te reo Māori and Māori participation in .nz.
- ✓ Option most able to keep up with changing demographics in New Zealand.
- ✗ Still immediate barriers for many people who do not speak English or te reo Māori as a first language to participate and enjoy online benefits.
- ✗ Still potential short-term negative impact on trust in .nz, the use of .nz by a wider range of ethnic groups and the online growth and development of ethnic groups.
- ✗ Short term lack of flexibility - not keeping up with changing demographics in New Zealand.
- ✗ Higher implementation costs than Options A and B.

19.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
20.	Which option do you prefer? Why?

Lack of availability of characters other than English and te reo Māori alphabets in .nz domain names

Internationalised Domain Names (**IDNs**) enable people around the world to use domain names in local languages and scripts.⁵⁷ IDNs are formed using characters from different scripts, such as Arabic, Chinese, or Cyrillic. These are encoded by the Unicode standard⁵⁸ and used as allowed by relevant IDN protocols. IDNs can contain these characters in any part of a domain name (subdomain, domain or TLD).

Unicode encoded label (U-label - What you see in IDN-supporting applications)	ASCII Encoded version (A-label - stored in zone file, or displayed by non IDN-supporting applications)
māori	xn--mori-qa
	xn--e28h

Australia is looking at introducing Internationalised Domain Names (IDNs) to support and reflect an ethnically diverse and multicultural country.⁵⁹ In 2012 the United Kingdom created gTLDs under ICANN’s related program for Welsh people. Under this program there are provisions for enabling and protecting IDNs (e.g. when an IDN is registered, a non-IDN variant is included at no cost to the registrant, so if the original registration is ‘tôbach.cymru’ they can also have ‘tobach.cymru’).⁶⁰ The current .nz policies do not allow for providing this bundling service for domain names

⁵⁷ See ICANN’s infographic on IDNs:

<https://www.icann.org/sites/default/files/assets/idn-access-domain-names-03sep15-en.pdf>

⁵⁸ Today, most of the non-English and English documents on the Web are in Unicode, <http://www.unicode.org/>

⁵⁹ Afilias, ‘IDNs and the development of a multilingual DNS for .au, 20 August 2019, <https://afilias.com.au/newsroom/blog-posts/idns-and-development-multilingual-dns-au>

⁶⁰ Nominet, ‘Registrar resources’, <https://registrars.nominet.uk/gtlds/gtld-registrar-systems/internationalised-domain-names-idns/>

with macrons in them, registrants would have to register two names separately.⁶¹

Under the current .nz policies, only the letters a-z, digits (0-9), the ‘-’ hyphen and macrons can be used in a .nz domain name.⁶² Characters other than macrons (ā, ē, ī, ō, ū) cannot be used to register an IDN under the .nz ccTLD. For example, IDNs containing Arabic or Vietnamese character sets cannot be used.

The inability to use characters other than macrons may be restricting access to people wanting to register a domain name who primarily use a written language that has non-latin characters in it.

While IDNs offer obvious accessibility benefits, additional characters can also cause security and trust issues, primarily through IDN homograph attacks⁶³, where visually similar but technically distinct characters are used by a malicious party to deceive or trick users about what remote system they are communicating with. While some mitigations for this are present in common clients such as web-browsers, these protections are insufficient and registry side mitigations are also recommended.⁶⁴

Option A: the current situation

Under the current situation, people cannot use non-ASCII characters other than macrons used in te reo Māori. Domain names can therefore be registered in New Zealand’s official written languages.⁶⁵

- ✓ Security risks greatly reduced.
- ✓ No additional implementation costs.
- ✗ Least accessible option - people cannot use IDNs to register .nz domain names in their own language if it uses characters that are not available.
- ✗ No improvement in trust in .nz.

⁶¹ The second level domain .māori.nz/maori.nz has a similar bundling function. If someone registers a name, i.e, ‘anyname.maori.nz’ (without a macron), they also have ‘anyname.māori.nz’ (with a macron) and they will function as a mirror.

⁶² See sub-clauses 5.6.1 and 5.6.2 , [.nz Operations and Procedure Policy](#).

⁶³ *IDN Homograph attack*, https://en.wikipedia.org/wiki/IDN_homograph_attack

⁶⁴ <https://www.icann.org/resources/pages/implementation-guidelines-2012-02-25-en>

⁶⁵ Sign language is also an official language but cannot be used to register a domain name given they need to be in writing.

✗ Inhibits .nz reflecting New Zealand's social, cultural and ethnic diversity.

✗ Does not help many people who speak a first language other than English or te reo Māori to connect, create, innovate and grow.

✗ Lack of flexibility - not keeping up with changing demographics in New Zealand.

Option B: support additional characters as demand arises

This option would enable the registry to progressively add characters as demand arises, assuming that any potential security risks associated with introducing the additional characters for each language could be adequately mitigated. InternetNZ would need to provide a process for people to apply for new characters to be added.

✓ More accessible than Option A but less than Option C - people able to use IDNs to register domain names in more languages over time if demand for that character set can be demonstrated.

✓ Greater trust in .nz by people who speak a first language other than English or te reo Māori compared to Option A.

✓ Enables .nz to better reflect New Zealand's social, cultural and ethnic diversity than Option A.

✓ Helps many people who speak a first language other than English or Māori to connect, create, innovate and grow.

✓ Most flexible option - adoption of further character sets could be done over time in accordance with demographic changes.

✗ Greater security risks than Option A.

✗ Greater compliance and support costs than Option A.

Option C: support all characters for most widely used New Zealand languages

This option would involve enabling all characters to be used to register a .nz domain name for the five most widely used languages in New Zealand, assuming any security risks associated with any additional characters could be adequately mitigated.

✓ More accessible than Options A and B - people able to use all characters needed to register domain names in languages widely used in New Zealand immediately without requiring them to demonstrate the level of demand.

✓ Improved trust in .nz by people who speak languages whose characters are added more quickly than Option B.

✓ Helps many people who speak a first language other than English or Māori.

✗ Greater security risks than Option A (but similar to Option B).

✗ Higher immediate implementation costs than Options A and B.

21.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
22.	Which option do you prefer? Why?

No geographical limits on registrants

People can acquire a .nz domain name without having a New Zealand presence or connection with New Zealand. This reality differs from many people's understanding of who can hold a .nz domain name.⁶⁶ This creates a risk that .nz users will receive a surprise about who can hold a .nz domain name, leading to reduced trust in .nz and corresponding drop in the value of .nz.

It can also be difficult to hold overseas-based registered domain name holders (registrants) to account for illegal .nz-related conduct. Overseas-based holders with no connection to New Zealand are also less likely to face reputational consequences for harmful .nz-related conduct. This

⁶⁶ See UMR, 'Public perceptions of policy review for .nz: a qualitative study - in depth telephone interviews', p. 8, 15, UMR, 'Public perceptions of policy review for .nz: a qualitative study-focus groups', p. 13. See also page 27 of the Issues Report, <https://internetnz.nz/assets/Archives/dotNZ-issues-report.pdf>

may be making .nz less trusted,⁶⁷ less secure and more vulnerable to harms facilitated through it. It may also be restricting the actual and perceived value⁶⁸ of the .nz domain space as a space with close connections to New Zealand and New Zealanders. However, one in five people born in New Zealand were living overseas in 2009 - the second highest proportion in the developed world.⁶⁹ More offshore Kiwis may want to stay connected via a .nz domain and the existing rules environment makes that very easy.

Option A: The current situation

Under this option, no geographical restriction would be imposed on the ability to acquire a .nz domain name. People would continue to be able to acquire a .nz domain name from anywhere in the world without any connection to New Zealand.

- ✓ Open and accessible - everybody able to enjoy the benefits that being the registered holder of a .nz domain name provides.
- ✓ Growth and development benefits related to the ease of doing business in New Zealand (for example, anybody can set up a .nz website and email from anywhere in the world).
- ✓ Practical to implement - minimises compliance burden on system participants.
- ✓ Flexible - no rules restricting who can hold .nz domain name.
- ✗ It might be difficult to hold an overseas-based person to account for .nz-related conduct, increasing security risks and potential for harm within the .nz domain space.

⁶⁷ Often people using the .nz domain space falsely assume that it is restricted to people in or with a connection to New Zealand. See UMR, 'Public perceptions of policy review for .nz: a qualitative study - in depth telephone interviews', p. 8, 15, UMR, 'Public perceptions of policy review for .nz: a qualitative study-focus groups', p. 13. See also page 27 of the Issues Report, <https://internetnz.nz/assets/Archives/dotNZ-issues-report.pdf>

⁶⁸ See UMR, 'Public perceptions of policy review for .nz: a qualitative study - in depth telephone interviews', p. 8, 15, UMR, 'Public perceptions of policy review for .nz: a qualitative study-focus groups', p. 13. See also page 27 of the Issues Report, <https://internetnz.nz/sites/default/files/dotNZ-issues-report-Feb-2020.pdf>

⁶⁹ *Life in 2030: NZers becoming wired citizens of global society*, https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10617796

- ✗ Risk that trust in the domain space reduced because of mismatch between expectation of who can hold a .nz domain name and the reality.
- ✗ Potential lack of growth and development and restriction of actual or perceived value if people do not use .nz as much because of concerns about security or harm.

Option B: Educate .nz users that .nz domain names can be held from anywhere around the world

This option would be the same as Option A but there would be an attempt to ensure that the users of .nz know that domain names can be held from anywhere around the world.

- ✓ Open and accessible for New Zealanders - no change to Option A.
- ✓ Potential reduction in security risks and harm compared to Option A.
- ✓ Increased transparency may lead to greater trust in .nz compared to Option A, given the lack of ‘surprise’ factor that the domain is different to expectations.
- ✗ Increased transparency may lead to a potential short term decrease in trust in .nz as people learn that a .nz domain name can be registered from anywhere.
- ✗ Implementation could be difficult - it is not clear how you would reach the .nz users or whether they would understand why they were being informed.

Option C: Impose a local presence requirement

Under this option, there would be a local presence requirement to hold a .nz domain name.⁷⁰ This could be done by either:

- Requiring individuals who are not New Zealand citizens or permanent residents and overseas-based entities to have a legal presence in New Zealand. The legal presence would enable legal notices and proceedings to be served on the registered holder of a .nz domain name.

⁷⁰ If this Option was introduced, it would require a data verification policy. For more on this see the section on *domain name registration abuse* below.

- Requiring:
 - individuals to be New Zealand citizens or permanent residents
 - entities and trusts to be established, registered or incorporated under New Zealand law
 - overseas-based entities to trade in New Zealand or be the applicant or holder of a New Zealand registered trade mark.
- ✓ Open and accessible for New Zealanders - no material difference to Options A or B.
- ✓ Easier to hold registered holders to account for .nz-related conduct, leading to a potential improvement in security and reduction in harm.⁷¹
- ✓ Potential reduction in security risks and harm, and increased trust in .nz, compared to Options A and B.
- ✓ Potential greater growth and development of .nz domain if people use it more because of increased trust and reduced concerns about security or harm.⁷²
- ✗ Lesser accessibility for overseas people wanting to hold a .nz domain name.
- ✗ Potential public good benefit of .nz lost compared to Options 1 and 2 due to new barrier to entry to acquire a .nz domain name.
- ✗ Although potentially improved security compared to Option 1, it might still be difficult to hold an overseas-based person to account for .nz-related conduct.

⁷¹ CIRA staff said they considered their local presence requirement contributed to reducing and managing harms in .ca.

⁷² CIRA considers that its local presence requirement improves the value of .ca as a public good platform: see “Canadian Presence Requirements For Registrants Version 1.3”, <https://www.cira.ca/policy/rules-and-procedures/canadian-presence-requirements-registrants>The Overview of this document states: “*After public consultation, CIRA has determined that the .ca domain space should be developed as a key public resource for the social and economic development of all Canadians. Accordingly, persons who wish to register a .ca domain name or sub-domain name...must meet certain Canadian Presence Requirements.*”

- ✘ Difficult and costly to implement - both to impose new requirements for new registrations and in respect of existing overseas holders of .nz domain names overseas.⁷³
- ✘ Significant reduction in .nz domain names and potential consequential reduction in economic activity in New Zealand.
- ✘ Lack of flexibility for overseas based people wanting to hold a .nz domain name.

23.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
24.	Which option do you prefer? Why?

⁷³ The Registrar Advisory Group considers that adopting a local presence requirement after .nz had been unrestricted for many years would be impractical: Registrar Advisory Group, 'Response to the Initial briefing for .nz Panel from InternetNZ' p 6, (unpublished), November 2019.

Security and trust

This section analyses seven issues relating to security and trust:

1. Domain and website content abuse
2. The interim emergency circumstances clause
3. Domain name registration abuse
4. Grace periods and domain name tasting
5. Misleading, deceptive, and offensive domain names
6. Ensuring security best practice across the .nz domain name system
7. Technology specific approach

Issues 1 and 2 are interrelated. The interim emergency circumstances clause issue focuses on the response in an emergency situation (for example, the March 15 attacks on Christchurch mosques). The domain name and website content abuse issue looks at harmful and illegal use of .nz domain names more broadly.

Domain and website content abuse

The current ‘no concern for use’ guiding principle⁷⁴ states that ‘the ccTLD manager is not concerned with the use of a domain name’.⁷⁵ In theory, this means anyone can register a domain name, and use it for any purpose, and InternetNZ and DNCL will not intervene unless lawfully directed to do so, usually by the New Zealand courts.

This principle may produce an enabling environment for registrants, who can operate with predictability and stability, and have confidence that DNCL cannot terminate their registration without a legal basis. However, the policy has meant that DNCL cannot act when clear and immediate harm is occurring via a .nz domain name.

Following the terrorist attacks on Christchurch mosques on March 15 2019, InternetNZ implemented an interim policy which gives DNCL powers to act in an emergency or in exceptional circumstances. Clause 11.8 of the *Operations and Procedures policy* gives DNCL the ability to temporarily transfer, suspend, or lock a domain name registration. This power may be invoked in emergency or exceptional circumstances, when the DNC believes use of the .nz domain name is causing or may cause irreparable

⁷⁴ See *Principles* section above.

⁷⁵ InternetNZ, [.nz Framework Policy](#).

harm to any person or to the operations or reputation of the .nz domain space (the **interim provision**).^{76 77}

The Panel has considered options for the role of DNCL with respect to regulating domain and website content abuse. This includes how the policies could be adapted to enable DNCL to respond quickly to online harms in a transparent and accountable way. It also includes considering the future of the interim provision and whether it should be kept, revised, or allowed to lapse.

Option A: The current situation

DNCL can only act under the interim provision to respond to harmful use of a domain name in an emergency or in exceptional circumstances. Otherwise, DNCL will abide by the direction of a New Zealand Court or Tribunal in regard to how to handle a domain name registration record.

Although DNCL does not regulate content on websites and in emails, DNCL is concerned with harm occurring in the .nz domain name space. DNCL is known to investigate when domain names are flagged by trusted notifier partners or members of the public.⁷⁸ The current suite of policies permit DNCL to address illegal content or activity within the .nz space indirectly through their domain name registration policy. DNCL may cancel domain names found to be registered with fake registrant details.

☑ Permissive, low-intervention approach to regulating how people use .nz. This allows for high levels of freedom of expression to be exercised by registrants.

✗ .nz domain names may be used to cause immediate harm to Internet users through publication of extreme content, distribution of malware, phishing and fraud. The DNCL must meet an “irreparable harm” test before it can intervene on harmful domain name use.

✗ .nz domain names associated with obvious illegal content or activity cannot be cancelled if the registrant’s details are found to be correct.

⁷⁶ Clause 11.8 of the [.nz Operations and Procedures](#).

⁷⁷ The status of the ‘emergency circumstances’ clause remains that of an interim provision. Renewal every six months must be approved by InternetNZ’s council.

⁷⁸ Domain Name Commission Limited, ‘Think globally, act locally - what we do to keep .nz safe’ <https://dnc.org.nz/node/1970>

✗ Existing remedies are not equipped to deal with Internet-related harms, like malware attacks which require immediate responses to mitigate or discourage harmful use.

Option B: ‘No concern for use’

Under this option, DNCL would retain the principle ‘no concern for use’ and accordingly would not be concerned with the use of a .nz domain name. The interim provision, which permits intervention by DNCL, would not be extended. DNCL would only be able to sanction a registrant for malicious use of a .nz domain when and as directed by the New Zealand courts in most cases.

✓ ‘No concern for use’ is a policy that takes a permissive, no-intervention approach to regulating how people use .nz. This allows for a lot of freedom of expression for registrants.

✗ As with the current situation (Option A) existing remedies through New Zealand courts are too slow to mitigate or discourage harmful use of .nz domain names.

Option C: Suspension of a domain name on advice by a trusted notifier

Under this option, DNCL would develop and implement a policy permitting suspension of a .nz domain name on the advice of trusted notifier partners.⁷⁹ Suspension would occur when the trusted notifier identifies a domain name is currently being used to facilitate illegal activity and following validation by DNCL.

DNCL already has a memorandum of understanding with trusted notifier partners who draw attention to registrants who may have provided fake registration details. Examples of organisations whose expertise could be called upon to suspend domain names associated with harmful use of the .nz space include organisations such as Netsafe, independent crown entities such as the Office of Film and Literature Classification, public service organisations like CERT NZ, as well as public authorities such as the Police.

⁷⁹ ICANN defines a trusted notifier as “an entity dedicated to examining illegal behavior, or with demonstrated extensive expertise in the area in which it operates and ability to identify and determine the relevant category of illegal activity.”
<https://www.ip-watch.org/2017/02/28/icann-moving-toward-copyright-enforcement-academic-says/>

This option would require InternetNZ and DNCL to put in place measures to ensure that any action is done in a way that is trusted, transparent and accountable, especially when the trusted notifier has its own enforcement powers.

✓ Practical to implement. DNCL would not need to invest heavily in organisational capacity.

✓ Trusted notifier model has been proven to be an effective tool for DNCL in dealing with domain name registration abuse.

✗ Success of the trusted notifier scheme would be dependent on partnerships with appropriate agencies. An agency may possess suitable expertise but be unwilling to participate. This may lead to gaps in the notification scheme whereby illegal content can continue to proliferate within the .nz space.

✗ If the trusted notifier was a public authority, care would need to be taken to ensure any domain suspension was based on notification.

✗ May undermine a person's Right to due process.

Option D: Implement an 'acceptable use' policy

Under this option InternetNZ and DNCL would develop and implement an acceptable use policy that governs how a domain name may be used by a registrant. In addition to prohibiting illegal activity, this policy would prohibit website content and online activities which meet criteria deemed to be inappropriate or unwelcome in the .nz space. The DNCL would be able to suspend a domain name identified as being used in a way that contravened the acceptable use policy.

This option would respond to calls to do more to further public interest objectives – which ones exactly would depend on what content was regulated. The panel considers this a question for the Public to answer.

The policy would set out the process for determining what is acceptable use and what is a breach of the policy. Determination could be made internally by suitably qualified DNCL staff. Alternatively, where appropriate, the .nz Disputes Resolution Service could be expanded to enable experts to make binding determinations on the suspension of a domain name.

✓ Language across registrars for clarity and transparency standardised.

✗ An acceptable use policy has the potential to significantly curb freedom of expression.

✗ Resource-intensive to implement. The DNCL would need to invest heavily in organisational capacity or expansion of the .nz Dispute Resolution System to acquire the necessary expertise and resources to implement.

✗ Enforcement tools available to the DNC to address a breach of an acceptable policy could be considered a disproportionate response in a number of circumstances, especially with respect to freedom of expression matters.

25.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
26.	Which of these options do you prefer? Why?

The interim emergency circumstances clause

The status of the 'emergency circumstances' clause remains that of an interim provision. Renewal every six months must be approved by InternetNZ's council.

As described in the above section on domain name abuse, the interim provision was created under urgency to respond to the Christchurch Mosques shootings terror attack. This was the first time that the DNCL was able to transfer, suspend, or lock a domain name registration at its discretion. The power was used once in the immediate aftermath of this tragedy, and the nature of its use is detailed in DNCL's annual Transparency Report.⁸⁰

⁸⁰ DNCL, *Trust in the .nz domain name space: Transparency annual report 2018/2019*, p. 3, https://dnc.org.nz/sites/default/files/2019-06/201819_transparency_report%20v0.2.pdf

The interim provision was again triggered again in the wake of the global pandemic of COVID-19 and the national state of emergency.⁸¹ It was available to the Commission to use should it have to. However, no domain names were suspended under this provision. All COVID-19 related domain names that were suspended were suspended through other mechanisms.

The interim provision has proven itself to be a useful tool to protect .nz users from online harms in very different exceptional circumstances. The Panel believes making this a permanent part of the .nz policy toolkit will boost DNCL's ability to respond in emergency circumstances.

However, InternetNZ cannot retain the interim provision indefinitely. Public consultation is required to determine the future of the interim provision.⁸² Therefore the Panel is seeking feedback on options to remove, amend, or make this policy permanent.

Option A: Allow the interim policy to lapse

✓ No interim policy means the DNCL is adopting a no intervention approach to regulating how people use .nz. This allows for high levels of freedom of expression to be exercised by registrants.

✗ .nz domain names may be used to cause immediate and irreparable harm to Internet users through publication of extreme content, distribution of malware, phishing and fraud. The risk of harm is higher in emergency circumstances.

✗ This would not contribute to making .nz more trusted, safe or secure.

Option B: Make the interim policy permanent as it is currently phrased

The DNCL must meet an "irreparable harm" test before it can intervene on harmful domain name use.

✓ The interim policy shown to be an effective tool for DNCL in responding to domain name abuse in emergency circumstances.

✓ The interim policy as currently phrased is practical to implement. It does not require the DNCL to invest in organisational capacity.

⁸¹ DNCL, *COVID-19*, <https://dnc.org.nz/covid-19>

⁸² InternetNZ, *.nz Policy Development Process*.

A permanent policy would contribute to making .nz more trusted and secure.

This would create a provision for the DNCL to have concern for use in limited situations. This option would require transparency and accountability measures.

Option C: Modify the interim policy and make it permanent

This option is the same as Option B, but the Panel will recommend that InternetNZ change the interim policy based on feedback during this .nz Policy review. This option may result in a policy with more buy-in and support from the Internet community.

27.	Do you agree with our assessment of the options? Why / why not?
28.	Which of these options do you prefer? Why?

Domain name registration abuse

While fraudulent or invalid registration details⁸³ are prohibited by the .nz policies, this is only enforced reactively, i.e. when complaints are made.⁸⁴ Currently, the Registry presumes registration information supplied by a registrar is accurate. It does not validate details before a domain name is registered.

This reactive approach increases the risk that people register a domain name with fraudulent details and use it to cause online harm until they are detected by law enforcement.

⁸³ As per clause 7 of [Principles and Responsibilities](#), the registrant must provide accurate contact details upon registration of a domain name.

⁸⁴ In addition to responding to complaints, DNCL also undertakes compliance activity such as spot checking.

The Panel sees an opportunity for registrars to check registrant details upon registration, to aid efforts to curb harm and dissuade bad actors from attempting to use .nz domain names maliciously.

In the options the Panel has considered below, we look at **validation** and **verification** of registration information. For our purposes:

- **validation** is a technical check, that ensures the data submitted exists (ie, confirming an address provided is a real address)
- **verification** is a more rigorous process, ensuring the data provided by the Registrant is accurate (ie, the email address they provided is their email address).

Option A: Current situation

The DNCL can suspend or cancel a domain name registration if a person is found to have provided false contact information.

DNCL has the flexibility to verify registrant details more often if they see the value, while not putting a compliance burden on other actors in the domain name space.

Weakest protection against harm out of the options.

Option B: Introduce data validation for all domain name registrations

Under this option, details about the registrants would be validated when the domain name was registered. This may be at time of registration, or in a grace period after registration. The registrar would request data from the registrant, and the registrar would confirm that the data is reliable based on its own knowledge or information from a trustworthy third party.⁸⁵

Help make .nz more trusted and secure.

Validating everybody seeking to register a .nz domain name for the first time would ensure that every .nz domain name was associated with a valid person or organisation.

Would not contribute to making .nz more open and accessible, as registrants may fail data validation for arbitrary reasons (e.g. the

⁸⁵ Nominet has implemented a 'Data Quality Policy' which requires data validation for registrant information, <https://media.nominet.uk/wp-content/uploads/2018/09/13094001/Data-Quality-Policy.pdf>

registrant's address is entered incorrectly, or the name they use does not match against a data source).

✗ Could delay new registrations, which may inhibit growth of .nz.

✗ Expensive to implement, and costs may be distributed across the registry and registrars.

Option C: Introduce data verification for high risk domain name registrations

Under this option, details about the domain name holder (registrants) would be verified before the domain name was registered if the proposed domain name registration included features that meet predetermined 'high risk' criteria. The registry would contact the registrant via the registrar and request appropriate supporting documentation. For example, if a domain name was confusingly similar to domain names registered by banks or government, or a requested domain name used macrons on non-Māori words.⁸⁶ This could also occur when registration fails data verification for registrant as per option b.⁸⁷

This option would also be likely to involve InternetNZ developing guidelines for identifying 'high-risk' domain names, and consulting with the community.

✓ Would contribute to making .nz more trusted and secure.

✓ 'High-risk' could be defined by the InternetNZ community, and could change as the Internet does, responding to new threats.

✗ Would require development of guidelines for identifying high-risk names.

✗ Guidelines may be contentious, and there would need to be a disputes mechanism developed. Names may undermine guidelines and go undetected.

✗ Would be expensive to implement.

⁸⁶ For example, the current principles allow the registration of ānz.co.nz, and an actor could use that domain name to mislead Internet users for fraud or phishing.

⁸⁷ Any contradiction or confusion with the .nz Dispute Resolution Service Policy would need to be considered.

29.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
30.	Which of these options do you prefer? Why?

Grace periods and domain tasting

Domain names are licenced to a person when they register through a registrar or reseller. They are licenced for a maximum of ten years at a time, but can be renewed after each registration period.

Currently, the .nz policies provide for a five day grace period for new registrations and renewals. If a domain name is cancelled during the grace period, the registration or renewal will not be billed. This grace period also allows registrants time to rectify failed payments without losing their domain name service.

There is a grace period of five days upon a domain name first being registered, during which time the Registrar may cancel the registration.⁸⁸ Grace periods are widely used by other domain managers because they enable mistakes to be corrected and permit registrants to rectify missed payments without losing their domain name.

Grace periods may however facilitate abuse by enabling short term registrations at no cost to the registered holder of a domain name. This is known as domain tasting. A domain name could be used for phishing or malware, cause harm to users, and be de-registered within the grace period.

Option A: The current situation

Under this option, registrants would continue to be able to cancel a domain registration or renewal within the five day period.

- Benefits to registrants retained, for example, permitting them to rectify failed renewal payments. This would keep .nz easy to access.

⁸⁸ See Clause 7.11, [.nz Operations and Procedures](#).

✓ Registrars have built domain name renewal systems that rely on a five day grace period, so they can renew a name on behalf of the Registrant with the confidence that they have time to collect the registration fee.

✗ Enables people to register domains for a short period of time without facing domain name registration costs, which may facilitate harmful use of those registrations and make .nz less trustworthy and secure.

Option B: Removal of grace periods

Under this option, grace periods would be removed from the .nz policies and registrars would no longer be able to cancel a new domain name registration or renewal within five days.

✓ Would prevent domain tasting and registrants from using grace periods to avoid domain name registration costs associated with malicious activities like phishing.

✗ Registrants would no longer receive the benefits of grace periods on registration, for example the ability to correct mistakes in domain names, or to have second thoughts on the suitability of a domain name. This option may negatively affect Internet accessibility by discouraging people from registering domain names.

✗ Registrants would no longer receive the benefits of grace periods on renewal, primarily permitting them to rectify failed renewal payments in the five day period after their domain name registration would have lapsed. This would keep .nz easy to access.

✗ The disadvantages to registrants may outweigh the benefit of improved security. There is no evidence that grace periods are being abused by malicious registrants in the .nz space.

Option C: Adopt different policies towards new registration and renewal grace periods

Under this option, there would be no grace period for new registrations but the current grace period for domain name renewals would be retained.

- ✓ People prevented from using grace periods to avoid domain name registration costs when using a .nz domain name for malicious activities like phishing.
- ✓ Benefits to registrants retained, for example, permitting them to rectify failed renewal payments. This would keep .nz easy to access.
- ✓ Benefits to registrars retained, for example, registrars are insulated from bearing the potential cost of unwanted domain renewals.
- ✗ Registrants would no longer receive the benefits of grace periods at point of registration, for example the ability to correct mistakes in domain names, or to have second thoughts on the suitability of a domain name.
- ✗ The disadvantages to registrants may outweigh the benefit of improved security. There is no evidence that grace periods are being abused by malicious registrants in the .nz space.

31.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
32.	Which option do you prefer? Why?

Misleading, deceptive, and offensive domain names

Current domain name registration policy imposes minimal restrictions on what words may be registered. This promotes registrant choice and shows respect for freedom of expression, but may negatively impact other human rights as well as have implications for security and people's trust in the .nz space.

Recent events have highlighted how domain names can be used to cause harm or to take advantage of people.⁸⁹ The .nz policies do not discourage or prohibit registration of misleading domain names or typosquatting.⁹⁰ There is also a lack of restrictions on the registration of domain names containing offensive expressions such as abusive and discriminatory terms.

The Panel has considered options to make .nz less prone to people registering misleading and deceptive and offensive domain names. This includes reviewing options used by overseas ccTLD managers. Listed below are those options the Panel felt were appropriate for New Zealand's unique circumstances.

Option A: The current situation

Almost any word or string of text characters may be registered as a domain name so long as its use is not prohibited under legislation,⁹¹ and it conforms to the relevant Internet standards as well as technical .nz policy requirements.⁹² To avoid confusion, the current policies restrict a very limited number of words and abbreviations from being registered as domain names. These are 'gov', 'government', 'com', 'edu', and 'nic'.⁹³ There is no procedure for adding additional words, phrases, or abbreviations to this list of prohibited domain names.

The .nz Dispute Resolution Service (**DRS**) provides a mechanism whereby someone who has rights to a name which is identical or similar to a registered .nz domain name can dispute the current registration on the grounds of unfairness.⁹⁴ This typically occurs where the use of the domain name is misleading - for example, when someone is typosquatting or using a domain name that is the same or similar to the complainant's registered trademark.

⁸⁹ DNCL, *COVID-19, WHOIS and combatting .nz domain name system abuse*, <https://dnc.org.nz/node/1971>

⁹⁰ See *Re-imagining the future of .nz: Issues report of the .nz Policy Advisory Panel*, p. 32.

⁹¹ Clause 28A Protection of name, *Ombudsman Act 1975*, <http://www.legislation.govt.nz/act/public/1975/0009/latest/whole.html>

⁹² Clause 5.6, *.nz Operations and Procedures*.

⁹³ Clause 9.1, *.nz Operations and Procedures*.

⁹⁴ Clause 4.2, *.nz Dispute Resolution Service policy*. Complainants must show that 'on the balance of probabilities' they have rights to a name which is identical or similar to the domain name in dispute; and that the current registration is unfair.

✓ The current situation takes a permissive, low-intervention approach to regulating domain name registrations. This promotes registrant choice and allows for high levels of freedom of expression to be exercised by registrants.

✓ Rights holders would continue to be able to lodge a dispute with the DNCL when they believe a registrant has unfairly registered a misleading domain name.

✗ There would be no change to the status quo, and therefore no impact on the number of misleading and deceptive or offensive domain names.

Option B: Introduce a ‘reserved and restricted names’ policy

Under this option, the Registry would maintain a list of words, phrases, and acronyms that are not openly available for registration. The focus of this list would be words that were misleading, offensive, or restricted by legislation. Registration of domain names containing some words or phrases would be banned outright, other words would need to be verified prior to registration such as a domain name that contains words restricted under New Zealand law. The policy could apply specifically to listed words, or in relation to a criteria or class of words such as obvious misspellings of domain names of high traffic or high profile websites.

✓ Greater transparency regarding the basis for restricting names.

✓ Help make the .nz domain space more trusted and secure.

✗ The implementation and ongoing administration of a prohibited and reserved names list would generate an increased compliance burden.

✗ A reserved and restricted names policy would reduce available domain names and negatively impact freedom of expression.

33.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
34.	Which of these options do you prefer? Why?

Ensuring security best practice across the .nz domain name system

Cybersecurity threats grow more complex and sophisticated and core infrastructure like the domain name system is increasingly vulnerable. The .nz domain name system could be better equipped to prevent and respond to security incidents. The current policies do not permit InternetNZ or DNCL to specify minimum security standards on registrars, nor can InternetNZ provide its own security features directly to registrants. However, registrars lack incentives to prioritise security, and security features provided by the registry such as DNSSEC have not been made widely available by registrars due to technical complexities and lack of demand from registrants.⁹⁵

Globally, ICANN and TLD operators are all grappling with threats to the security and stability of the domain name system, and there are ongoing working groups on these issues.⁹⁶ While the chances of a security threat compromising .nz or its users are low to moderate, the impact would be highly significant.

The Panel has considered options for improving the security environment of .nz.

Option A: The current situation: Registry has no levers to monitor or improve registrar security

As discussed in the *Principles* section, currently the .nz policies are guided by a principle of ‘low barrier to entry’ for registrars. There are no minimum security requirements for becoming a registrar, and once a party becomes a registrar there is no ongoing oversight of their security practices.

- ✓ Provides flexibility for registrars to develop security features as consumer demands require.
- ✓ .nz names are accessible and affordable as there are fewer compliance overheads.
- ✗ Does not contribute to making .nz more trusted, safe or secure.

⁹⁵ As of June 2020, three .nz registrars have implemented DNSSEC.

⁹⁶ GAC, *DNS abuse mitigation*, <https://gac.icann.org/activity/dns-abuse-mitigation>

Option B: Require all registrars to adhere to minimum security standards

This option would involve the registry developing a set of security requirements in conjunction with the registrar community. These would specify the minimum standard of security that registrars must adopt for any parts of their operations which affect the security of .nz. The policy would refer to the standard, which would be given effect through amended registrar agreements and updated entry criteria for becoming a registrar. As part of this option, the security requirements would be able to be amended from time to time and registrars could be audited from time to time to check compliance with the security standard.

- ✓ Increased trust in .nz as the minimum security practices for the domain name space will be clear to registrants.
- ✓ The .nz domain name could be promoted as a secure space, enabling growth in its use.
- ✗ Would be easy to implement for new registrars but harder to apply retrospectively. Could be mitigated by a phased introduction period.
- ✗ Risk of creating requirements that are not flexible or future-proofed for a changing Internet.
- ✗ The cost of meeting ongoing requirements would affect registrars unevenly, as there would be baseline costs rather than costs per registration. Might be mitigated by a risk-based approach.

Option C: Incentivise or mandate security features or practices

This option would involve the registry creating or promoting key security features and best practices and either mandating their implementation or providing incentives (through flexible pricing or rebates) to encourage implementation.⁹⁷

- ✓ Would increase trust in .nz as the minimum security practices for the domain name space will be clear to registrants.
- ✓ The .nz domain name could be promoted as a secure space, enabling growth in its use.

⁹⁷ See page 91 on more on introducing incentives for registrars

✘ The cost of meeting ongoing requirements would affect registrars unevenly.

✘ Risk of registry being unable to sustain effective incentivisation due to business pressures.

35.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
36.	Which option do you prefer? Why?

Technology specific approach

The current suite of policies is technology specific, as opposed to technology neutral. They refer to security products such as DNSSEC.⁹⁸ This drafting approach has implications for the longevity and the enduring quality of the policies.

Option A: The current situation

The technology specific approach to policy drafting is retained.

☑ The current situation provides precision and clarity of understanding concerning security concerns.

✘ The current situation risks favouring specific technologies. It may prevent the adoption of prospective solutions to security problems by fixing requirements before a particular technology matures.

✘ The current situation means the policies may become quickly outdated and lead to additional costs associated with redrafting the policies to incorporate new technologies.

⁹⁸ Clause 12, [.nz Operations and Procedures](#).

Option B: A ‘technology neutral’ approach to policy drafting replaces the current prescriptive approach

The policies are redrafted in a manner that does not recognise or advantage any particular technology.

A technology neutral approach would mean more adaptable and responsive policies to address security concerns.

A technology neutral approach would risk leading to policy whose meaning is so vague that compliance is difficult to determine.

37.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
38.	Which of these options do you prefer? Why?

Conflicted domain names

Since 2014, the Registry has allowed registration of .nz domain names at the second level for registrants who already held any third level equivalent. People who already held a third level name before a previous date, i.e, **anyname.org.nz** or **anyname.co.nz**, were able to express interest in registering the second level equivalent, i.e, **anyname.nz**. If two or more eligible registrants expressed an interest before October 2017, this created a “conflicted name”.⁹⁹ The .nz name is unable to be registered until the registrants resolve the conflict amongst themselves.¹⁰⁰

Under the current .nz policies, conflicted domain names will remain conflicted indefinitely, as they do not contain any guidance for forcing resolution.¹⁰¹

The Panel has explored options for ending the conflicted names process. All of these options would create clarity and certainty for registrants, and enable the Registry and DNCL to stop supporting the conflicted names process. The analysis below considers how each option may favour different registrants, or create burdens on different actors in the system.

This section analyses ways to resolve two types of conflicted domain names:

1. Self-conflicted names continue to be unresolved
2. Other conflicted names continue to be unresolved

Self-conflicted names continue to be unresolved

If the same registrant holds two or more identical domain names at the third level, these domain names are said to be 'self conflicted'. There are approximately 300 domain names that are self conflicted.¹⁰²

The remaining self conflicted names are creating unnecessary complexity and ongoing operational load to DNCL to manage and operate the conflict resolution scheme.

⁹⁹ InternetNZ Secretariat, *An Initial briefing for .nz Panel from InternetNZ (Part Two)*, p. 24, https://internetnz.nz/assets/Archives/Briefing_for_the_.nz_panel_part_2.pdf

¹⁰⁰ Clause 10.11, [.nz Operations and Procedures](#).

¹⁰¹ Clause 10.11, [.nz Operations and Procedures](#).

¹⁰² There are potentially more conflicts where the same individual or organisation holds multiple names, but the registrant details are not an exact match. This number does not include self conflicts where a registrant holds two or more names, but other parties also have claims.

Option A: The current situation - the Registry continues to allow self conflicted names to remain unresolved

- The registrant is able to hold multiple third level names.
- Self conflicted registrant essentially has a free blocking registration preventing access to a .nz name.
- There is a .nz domain name that cannot be accessed by interested registrants.
- An unnecessary complex and ongoing operational load to DNCL to manage and operate the conflict resolution scheme.
- Hinders growth of the use of .nz domain names.

Option B: Provide a deadline for the registrant to resolve the conflict themselves to avoid release of domain names.

If the deadline was not met, all such remaining self-conflicted 2LD's would be scheduled to be released via a drop-list.

The registry could choose how they drop, including an auction process, or first come first served registration.

- Would allow more domain names to be registered by people, keeping .nz open and accessible.
- Easy to implement for the registry and registrars.
- Some registrants may not understand the issues and how to resolve them, and may therefore lose their claim to a domain name they wanted.

Other conflicted names continue to be unresolved

There are approximately 5000 third level domain names causing just over 2000 conflicts at the second level where there are two or more registrants who want the .nz name.

These conflicts have been unresolved for several years now and may be the most contentious to come to a resolution.

Option A: The current situation

- Does not favour one existing registrant's rights over another.

- ✓ As registrations lapse, some conflicts will resolve.
- ✗ The open-ended process does not incentivise resolution.
- ✗ Favours existing registrants over prospective registrants, as prospective registrants are barred from accessing .nz names that are conflicted.

Option B: Provide a deadline for all registrants to come to an agreement

Under this option, InternetNZ would provide a deadline for registrants to resolve conflicts amongst themselves. This could be supported by an optional mediation service.

If the deadline was not met, then all remaining conflicted 2LD's would either be added to a prohibited names list and be unable to be registered by anyone, or go to an auction managed by the Registry.

- ✓ All conflicted domains would be resolved quickly.
- ✓ Registrants could make a choice about their names.
- ✓ Would encourage consensus amongst conflicted registrants.
- ✓ Growth in the use of .nz domain names facilitated.
- ✗ Would enable registrants to block registration of a .nz name indefinitely.
- ✗ Would require the implementation of a technical prohibited names list for names taken out of circulation.

Option C: InternetNZ develops a criteria for prioritising registrants' right to a .nz name

This option would involve InternetNZ developing criteria for resolving conflicts. These criteria developed through consultation in accordance with the Policy Development Policy. The Panel has identified two options to prioritise registrants' rights to a name:

1. The registrant with the longest held third level name equivalent would have priority, in line with the current 'first come, first served' principle.

2. The registrant who holds the 'co.nz' name has priority, as historically it is seen to be the most valuable of the 2LDs, and may have the most legitimate claim.

The Panel would like feedback on these options. We note that for conflicts that involve a party who holds a .maori.nz or .iwi.nz third level domain name, resolution of conflicts is likely to need to be informed by the engagement we are recommending in the section of the paper entitled *The .nz domain space and Māori*. Both options would:

- Provide a definitive answer and be quick to implement
- Increase availability and use of .nz names
- Would not provide flexibility for any cases that do not fit the criteria
- Would involve registrants being disappointed with the outcome

39.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
40.	Which of these options do you prefer? Why?

Enhancing privacy across the .nz domain name system

What privacy means online, and the obligations service providers have to protect people's privacy, are some of the most pressing Internet issues today. As Internet users grow more savvy, and governments around the world introduce stronger data protection laws, the Panel considered it critical to look at how the .nz policies impact the privacy of people in the .nz domain name system.¹⁰³

The .nz policies require registrants to provide specific personal details when registering a domain name. These details are then searchable via a query service.¹⁰⁴

Many people are not aware that their personal name, email address, phone number and home address are publicly searchable against their domain name. Often it is not well communicated or clearly understood upon registration, and individuals may not know that they are entitled to request the Individual Registrant Privacy Option (**IRPO**), which withholds their contact details from the public database.

This open-by-default approach to registrant information is an artifact of the early days of the Internet, where transparency was thought to achieve the best outcome, upholding accountability and openness by ensuring that the registrant of a domain could be easily identified. But making personally identifiable information (**PII**) publicly available can facilitate registrant information being used for malicious purposes, or deter people from registering a .nz domain name due to privacy concerns.

To improve safety and security across the .nz domain name space, the Panel has considered how the .nz policies can enhance people's privacy whilst still maintaining accountability and transparency, so that:

- only essential information is collected from registrants,
- this information is stored securely, and

¹⁰³ Note this review focuses on privacy issues associated with registrant personal information, which is a .nz responsibility, rather than wider Internet privacy concerns which entities such as the New Zealand Privacy Commission monitor.

¹⁰⁴ WHOIS is an Internet protocol which enables the search of any domain name in the world, and will return information about the status of the name, and some information about the registrant.

- registrants are aware of how their information is accessible online, and when and how it can be accessed on request by other people, including government agencies.

Level of registrant data collected and stored

The .nz policies currently require registrars to provide the registry with the same set of data for every domain name registration regardless of the type of registrant: contact details for the registrant, an administrative contact, a technical contact and details for provisioning the domain name.¹⁰⁵ Registrars are required to capture three contacts' details. This makes more people's PII publicly available than might be necessary.¹⁰⁶

Option A: The current situation

- ✓ Requiring the same data points for every registration is consistent and predictable.
- ✓ There is simplicity in the current model and registrar platforms have been set up to deal with the current level of data collection.
- ✗ The one size fits all model makes more individuals' PII publicly available.

Option B: Introduce different registrant profiles, requiring different levels of contact data to be collected for each.

This option would require registrants to provide information upon registration about what kind of user they are, ie individual or organisation. The Registry could then request only necessary data including PII based on the registrant's profile as well as specify what privacy options are available to each profile.

- ✓ More flexible framework to respond to different transparency expectations for registrants

¹⁰⁵ To provision a name the registry requires information about the zone file, domain name, billing term. For a complete list of information required by the registry, see Clause 7.8 of the *Operations and Procedures* policy, <https://internetnz.nz/nz-operations-and-procedures>

¹⁰⁶ The registrar may require more information from the domain name registrant at the point of registration for their own purposes, but this data collection is unrelated to the requirements of the Registry.

- ✓ Increased transparency and an increased ability to report on registrant types.
- ✓ Collection of more minimal data from certain types of registrants may eliminate the need and complexity of maintaining IRPO style frameworks.
- ✗ Difficult to implement for the registry - greater complexity for the .nz Registry's WHOIS system.
- ✗ Difficult to implement for registrars and resellers - greater complexity for the registration process.
- ✗ Increased barriers to entry for registrants.
- ✗ Increased risk that classes of registrants not eligible for IRPO try to register under a different registrant class, reducing the trust and security of .nz.

41.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
42.	Which of these options do you prefer? Why?

Registrant data is made public by default

The Individual Registrant Privacy Option (IRPO) allows individuals to opt-in to having their address and phone number withheld from the WHOIS database. Registrars must make the IRPO available to domain customers who are 'individuals not in significant trade' when registering a domain name.¹⁰⁷ The IRPO is not the default option - registrants must choose to activate it. Many registrants may not understand the option or know it is available, let alone choose to activate it.¹⁰⁸

¹⁰⁷ Clause 8.3, [.nz Operations and Procedures](#).

¹⁰⁸ The Panel's early engagement on this issue highlighted a significant lack of awareness about what (if any) contact data was made publicly available as a result of a domain registration.

Publicly Identifiable Information for individuals who have not opted in to the IRPO is disclosed through a query service lookup, and this may not comply with requirements of the General Data Protection Regulation or the updated New Zealand Privacy Act.^{109 110}

Option A: Current situation

- ✓ Retains requirement for those in trade to have publicly available contact details, which promotes safety of people interacting with commercial domain names.
- ✗ Does not actively promote a registrant's right to privacy, as it is not well advertised or promoted by the registry, and this may reduce safety for registrants
- ✗ Requires knowledge and awareness on the part of the registrant that their contact details will be public unless they opt-in, which is a barrier to accessing the privacy option.

Option B: The IRPO is opt out, i.e, individual registrants have the option activated by default

- ✓ Reduced risk that a registrant does not understand their contact data will be made public.
- ✓ Enhanced privacy and trust in the .nz domain as individual registrant details are proactively protected.
- ✓ Greater flexibility for registrants who may want their contact details public, while promoting privacy by default.
- ✗ More difficult for people to find registrants' physical address & phone number for valid reasons.
- ✗ Would require a method for validating eligibility for the IRPO at time of registration so only individuals not in trade have their data withheld.

¹⁰⁹ *Privacy Bill 2018*,

<http://www.legislation.govt.nz/bill/government/2018/0034/latest/LMS23223.html>

¹¹⁰ The General Data Protection Regulation 2016/679 is a regulation in European Union law on data protection and privacy, for more see: <https://gdpr-info.eu/>

Option C: All registrant contact details are withheld from query services for all individuals not in trade (no option to opt out or in)

This option would have all contact details be withheld from query services, including registrant email addresses, which are currently not withheld.

- ✓ Reduced risk that a registrant will not know that their contact details are made public, increasing privacy of registrants.
- ✓ Reduced risk that mistakes are made during the registration process that result in an inadvertent disclosure of contact details.
- ✓ Enhanced privacy for registrants.
- ✓ Simplified registration process for individual registrants, keeping .nz accessible.
- ✗ Would remove the option to have an individual's registrant details made public, reducing accountability and transparency.
- ✗ More difficult for people to find registrants' physical address & phone number for valid reasons (for example, independent oversight and journalistic purposes).
- ✗ Would require a method for validating eligibility for the IRPO at time of registration so only individuals not in trade have their data withheld.

43.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
44.	Which option do you prefer? Why?
45.	Under the IRPO, which contact details do you think should be withheld from WHOIS?

Implementation of the IRPO and access to registrant information when required

The introduction of the IRPO has created barriers for people seeking the contact details of registrants, which decreases accountability and ‘contactability’ of registrants.¹¹¹ The existing procedure in which to request the disclosure of ‘private withheld data’ of a registrant is specified in clause 22 of the Operations and Procedures policy.¹¹² The clause refers to a form a person needs to submit to request access to withheld data. However, this form is only available upon request, and the DNCL verifies the legitimacy of the request before beginning the process.¹¹³ This process is complex and inaccessible.

The Panel has heard from the community there are reasons for accessing a registrant’s contact details, or being able to contact them, that would not meet the legitimacy threshold of in the *.nz Operations and Procedures Policy*.¹¹⁴

The options considered here could be implemented alongside other changes to the IRPO discussed above.

Option A: The current situation

- ☑ There appears to be very little use of the access process, so there may be no demand for a better process.
- ✗ Barriers to making requests for withheld data make it difficult for independent oversight.
- ✗ Difficult evaluate the current situation, given lack of data around requests that do not make it past validation process of DNC.

¹¹¹ See [Re-imagining the future of .nz: Issues report of the .nz Policy Advisory Panel](#), p. 37.

¹¹² Clause 22, [.nz Operations and Procedures](#).

¹¹³ Between March 2018 and May 2019, there appears to be three times this process has been used, all from government agencies/departments, with only one request relating to a domain name with the IRPO applied. See [Trust in the .nz domain name space, transparency annual report 2018/2019](#).

¹¹⁴ Clause 22, [.nz Operations and Procedures](#).

Option B: Streamline the process described in clause 22 of the *Operations and Procedures* policy and make it more user friendly for requests to access ‘Withheld Data’

The form for making a ‘Withheld Data’ request would be provided on the DNCL website, with clear guidelines about how a request is processed.¹¹⁵

- ✓ Would enhance the IRPO framework by illuminating the aspects of that framework that allow for legitimate disclosure of private contact data.
- ✓ Request process clearer and more accessible to the public.
- ✓ Could introduce the requirement for DNCL to improve the depth and frequency of reporting around this service.
- ✗ May increase frivolous requests to access withheld data, potentially adding to the difficulties of implementing this option.

Option C: The creation of a form that allows people to communicate with a registrant without requiring the registrant’s email address

This option needs to be considered alongside option C of the previous issue. If contact details are withheld from the database, there needs to be a provision for contacting registrants.¹¹⁶

- ✓ Would provide a simple communication method for people to contact a registrant for reasons that do not meet the criteria of clause 22.
- ✓ Would further enhance the privacy-enhancing purpose of the IRPO framework while enabling regulated and monitored communication to the registrant from the public.
- ✓ Could help mitigate the increase of processing required by the DNC, if option b) was also adopted and there are more requests for withheld data.

¹¹⁵ CIRA provides information about how to request registrant information online, <https://www.cira.ca/policy/rules-and-procedures/request-disclosure-registrant-information>

¹¹⁶ CIRA does not release registrant contact details in WHOIS. CIRA runs a contact system to facilitate communication with registrants whose contact information is not displayed in WHOIS, <https://www.cira.ca/ca-domains/contact-a-domain-holder>

✗ Registration details would not be searchable via a query service, which would not enable independent oversight or accountability.

✗ May be open to abuse by people using the form for unsolicited communication.

46.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
47.	Which option do you prefer? Why?

The .nz domain space and Māori

The Panel has identified various issues with the .nz policies in relation to the .nz domain space and Māori.¹¹⁷ In this section the Panel:

- sets out how we have approached consideration of these issues
- seeks your views on our proposed recommendations for InternetNZ in this area.

The Panel considered the nature of these issues, and the importance of ensuring that Māori are at the centre of any conversation about them, this required a different approach to other sections in this Options Report.

One of the Panel's primary considerations in approaching these issues is who is best placed (the Panel or InternetNZ) to undertake the substantive engagement with Māori on the issues identified in the Issues Report. For the reasons given in the "*Engaging with Māori on the issues that the Panel has identified*" section below, the Panel considers that InternetNZ should carry out this engagement after the Panel has completed its work.

The Panel's approach to considering these issues

In forming its proposed recommendations on the .nz domain space and Māori, the Panel has been informed by:

- Te Tiriti o Waitangi / The Treaty of Waitangi¹¹⁸
- The United Nations Declaration on the Rights of Indigenous Peoples¹¹⁹
- The Waitangi Tribunal's report Ko Aotearoa Tēnei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, known as the 'Wai 262 report' (the Wai 262 report)¹²⁰

¹¹⁷ See [Re-imagining the future of .nz: Issues report of the .nz Policy Advisory Panel](#), p. 46-51.

¹¹⁸ See Schedule 1 of the Treaty of Waitangi Act 1975 for the text of the Treaty of Waitangi in English and Te Tiriti o Waitangi in te reo Māori, http://www.legislation.govt.nz/act/public/1975/0114/latest/DLM435834.html?search=ts_act%40bill%40regulation%40deemedreg_treaty+of+waitangi_resel_25_a&p=1

¹¹⁹ See the United Nations Declaration on the Rights of Indigenous Peoples, https://www.un.org/development/desa/indigenoupeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

¹²⁰ See the Wai 262 Report, <https://www.waitangitribunal.govt.nz/news/ko-aotearoa-tenei-report-on-the-wai-262-claim-released/>

- The 2019 Domain Name Report: Regulatory Review¹²¹
- Te Arawhiti guidance on engaging with Māori¹²²
- Te Ture mō Te Reo Māori 2016 / The Māori Language Act 2016.¹²³

The Panel has used this material together with its engagement informing the Issues Report to consider what would establish best practice for InternetNZ's policy development in this area. The Panel has not been made aware of any ccTLD manager around the world which integrates the perspectives of any Indigenous Peoples into its policy development and, given the status of Māori and te reo in New Zealand, considers there may be an opportunity for InternetNZ to lead the world in this area. The Panel welcomes feedback on this issue.

Te Tiriti o Waitangi / the Treaty of Waitangi

Te Tiriti o Waitangi / the Treaty of Waitangi is regarded as a founding document of government in New Zealand¹²⁴ and one of the major sources of New Zealand's constitution.¹²⁵

Over the past few decades a significant body of jurisprudence has been developed about what best practice partnership looks like when decisions need to be made that affect Māori. Although InternetNZ is not part of the Crown, the Panel considers that a best practice approach in a Tiriti context should be adopted by InternetNZ as manager of the .nz domain as it considers Māori interest issues such as the role of te reo Māori.

¹²¹ See the Domain Name Report: Regulatory Review by David Pickens, August 2019, <https://dnc.org.nz/sites/default/files/2019-08/Pickens%20Report%20-%20Independent%20Regulatory%20Review%202019v0.1.pdf>

¹²² See <https://tearawhiti.govt.nz/assets/Maori-Crown-Relations-Roopu/6b46d994f8/Engagement-Guidelines-1-Oct-18.pdf>. See also Te Arawhiti's Engagement Framework, <https://tearawhiti.govt.nz/assets/Maori-Crown-Relations-Roopu/451100e49c/Engagement-Framework-1-Oct-18.pdf>

¹²³ See Te Ture mō Te Reo Māori 2016, <http://www.legislation.govt.nz/act/public/2016/0017/latest/DLM6174509.html?src=qs>

¹²⁴ See page 1 of the Cabinet Manual, 2017, <https://dpmc.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf>

¹²⁵ See clause 2 of Cabinet Office Circular CO (19) 5, *Te Tiriti o Waitangi / Treaty of Waitangi Guidance*, <https://dpmc.govt.nz/sites/default/files/2019-10/CO%2019%20%285%29%20Treaty%20of%20Waitangi%20Guidance%20for%20Agencies.pdf>

The importance of Te Tiriti¹²⁶ and its principles¹²⁷ when making decisions affecting Māori has been reinforced by the Crown both domestically and internationally, by New Zealand courts and tribunals, and by various public and private organisations.

However, it is important to acknowledge that any specific meaning of Te Tiriti, and its implications for particular issues, is not easy to specify in advance as it depends on circumstances and views that surround any issue at the time it arises.¹²⁸

The Panel considers that taking an approach informed by Te Tiriti for InternetNZ would involve developing partnerships with Māori, facilitating greater Māori participation in the .nz policy-making process and working with Māori to determine whether any steps are required to protect taonga Māori¹²⁹ (like te reo Māori) in the .nz domain space.

The United Nations Declaration on the Rights of Indigenous Peoples

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted in 2007. It is the most comprehensive international instrument on the rights of Indigenous Peoples.

UNDRIP is not legally binding but is “widely viewed as not creating new rights...it provides a detailing or interpretation of the human rights enshrined in other international human rights instruments of universal resonance – as these apply to indigenous peoples and indigenous

¹²⁶ We refer to Te Tiriti o Waitangi / The Treaty of Waitangi in this Options Report as ‘Te Tiriti’ for convenience.

¹²⁷ The principles of Te Tiriti are sometimes summarised as ‘the three Ps’: partnership, participation and protection. The partnership principle requires Treaty partners to act reasonably, honorably and in good faith and to make informed decisions. The participation principle requires Māori to be given the opportunity to participate, including in decision-making. The protection principle requires taonga Māori to be protected.

¹²⁸ See clause 8 of Cabinet Office Circular CO (19) 5, *Te Tiriti o Waitangi / Treaty of Waitangi Guidance*, <https://dpmc.govt.nz/sites/default/files/2019-10/CO%2019%20%285%29%20Treaty%20of%20Waitangi%20Guidance%20for%20Agencies.pdf>

¹²⁹ Taonga are treasures or anything prized. On page 17 of volume I of the Wai 262 report, the Waitangi Tribunal states: “Taonga include tangible things such as land, waters, plants, wildlife, and cultural works; and intangible things such as language, identity, and culture, including mātauranga Māori itself.”

individuals”.¹³⁰ UNDRIP has been endorsed by 150 States, including New Zealand.¹³¹

Article 13 of UNDRIP states:

1. Indigenous peoples have the right to revitalise, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 16 of UNDRIP states:

Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

The Panel is not aware of any ccTLD manager who formalises acknowledgement of the UNDRIP in their policy principles, but the Panel believes greater regard for the te reo Māori is needed in the .nz policy framework.

The Wai 262 report

The Waitangi Tribunal’s Wai 262 report provides guidance, among many other topics,¹³² on how the protection of Māori words, ideas and knowledge from offensive or derogatory might be balanced with other

¹³⁰ See *FAQs on the Declaration of the Rights of Indigenous Peoples*, published by the UN Department of Economic and Social Affairs: Indigenous Peoples, https://www.un.org/esa/socdev/unpfii/documents/faq_drips_en.pdf

¹³¹ New Zealand was not part of the original 144 States that adopted UNDRIP but announced its endorsement of it in April 2010.

¹³² The Waitangi Tribunal recommended changes to laws, policies and practices relating to intellectual property, indigenous flora and fauna, resource management, conservation, the Māori language, arts and culture, heritage, science, education, health, the making of international instruments and what partnership between Māori and the Crown requires.

interests¹³³ and how Māori should participate in decisions on matters that affect them. The Government is currently considering its response to Wai 262.

On engaging with Māori, the Waitangi Tribunal observed that:¹³⁴

Māori interests exist on a sliding scale. Where they are positioned on that scale will depend on the nature and importance of the interest when balanced alongside the interests of other New Zealanders, although conflict between the two should not be assumed.

The Tribunal considered that:¹³⁵

In practical terms, we think that the more significant the Māori interest, or the more specific the Treaty interest, the likelier it is that the Crown should be engaged at the more active end of the spectrum, working together with Māori to ensure that Māori interests are accorded sufficient priority. Success will only be achieved if the Crown engages early with Māori...and talks with the right people about the nature and extent of the Māori interests.

The Wai 262 report also comments directly on the domain name system, as part of a wider consideration of the interface between mātauranga Māori¹³⁶ and intellectual property systems:¹³⁷

Internet domain names have become extremely important trade and identity markers, and for that reason can have enormous value. There is a system of registration of domain names administered by a central authority, but its purpose is efficient administration of the

¹³³ See Chapter 1 of the Wai 262 Report, <https://waitangitribunal.govt.nz/news/ko-aotearoa-tenei-report-on-the-wai-262-claim-released/>

¹³⁴ Wai 262 Report, Volume 2 9.2.1, page 712, <https://www.waitangitribunal.govt.nz/news/ko-aotearoa-tenei-report-on-the-wai-262-claim-released/>.

¹³⁵ Wai 262 report, Volume 2, 8.5.1, page 682, <https://www.waitangitribunal.govt.nz/news/ko-aotearoa-tenei-report-on-the-wai-262-claim-released/>

¹³⁶ Mātauranga Māori is often translated as Māori knowledge. According to page 16 of the Wai 262 report, mātauranga Māori encompasses not only what is known but also how it is known - the way of perceiving and understanding the world, and the values or systems of thought that underpin those perceptions.

¹³⁷ Wai 262 report, volume 1, page 61, https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68356416/KoAotearoaTeneiTT2Vol1W.pdf

internet rather than intellectual property or cultural interest in these names. Minimal control is exercised over the choice of name.

In New Zealand, InternetNZ has authority to issue top-level domain names that end in '.nz'. The registration process does not prevent the acquisition of domain names that are Māori tribal, ancestral, or place names, for example. Names are issued on a first-come-first-served basis. Applicants are not required to prove entitlement to use the name. Disputes over entitlement can be dealt with in the ordinary courts, or through InternetNZ's dispute resolution process. A dispute before the courts requires the objector to establish a prior legal right (such as a trademark) to the disputed name. The Internet dispute resolution policy requires that the complainant prove it has rights to the name and that the registration of the domain name is unfair. There is a non-exhaustive list of what amounts to unfair. We do not know of anyone objecting to a domain name on the basis that it should not be used by anyone other than kaitiaki. However, that could arguably be an example of unfairness.

These dispute procedures alone are inadequate to prevent the use of Māori names in which there is a kaitiaki interest as internet domain names.

The 2019 Domain Name Report: Regulatory Review

DNCL commissioned David Pickens¹³⁸ to provide an independent regulatory review of its activities in 2019. The purpose was to understand how well DNCL was performing, recommend improvements if necessary and identify issues and areas for further review and consideration.

In a chapter entitled 'Policy making and implementation: the Maori [sic] dimension', Pickens recommended:¹³⁹

the DNCL, together with relevant Maori [sic] stakeholders, review its performance in incorporating Maori values, perspectives and ways of doing things into its decision-making and, having regard to the discussion in this chapter, take steps as necessary to ensure it is working towards achieving best practice.

¹³⁸ David Pickens is an experienced public policy consultant and contractor who has developed material and taught on public policy development techniques.

¹³⁹ See pages 80-85 of See *Domain Name Commission: Regulatory Review* by David Pickens, August 2019, <https://dnc.org.nz/sites/default/files/2019-08/Pickens%20Report%20-%20Independent%20Regulatory%20Review%202019v0.1.pdf>

Pickens considered there were a number of key things DNCL would need to “get right as they move towards best practice”. We summarise these as:¹⁴⁰

- Commitment from the DNCL leadership group: The leadership group needs to believe it is important to recognise and cater to Māori interests and perspectives, and “pursue best practice for Māori interests (along with the interests of other stakeholders)”. The leadership group must also want to be measured and be accountable for how the organisation does. This will ensure resources, process and capability linked to decision making on issues impacting Māori will follow.
- Identifying the issues the agency is responsible for that impact on and are of interest to Māori: This must be done by identifying Māori groups willing and able to contribute to this discussion.
- Putting in place a process appropriate for the Māori and interests involved: This could be iwi/hapū, industry or issue based.
- Investing in relationships: DNCL must seek to develop ongoing relationships with Māori. Aiming to build relationships around openness, respect, even-handedness, understanding and trust has proved robust and enduring.

Te Arawhiti guidance on engagement with Māori

Te Arawhiti, the Office for Māori Crown Relations, has published Guidelines for Engaging with Māori.¹⁴¹ Developed for Crown agencies, the guidance provides best practice guidance on engagement with Māori. A message emphasised in the Guidelines is: “Engage early. Be inclusive. Think broadly.” They also emphasise the need to be flexible and tailor the engagement approach for the specific circumstances:

There will be times where different methods of engagement are appropriate for different audiences and for different stages of your process, you should remain open and flexible to these situations, engagement is not a one size fits all model.

Page 6 of the Guidelines sets out the spectrum of potential engagement methods and the situations in which each are most appropriate. The

¹⁴⁰ For the full discussion, see pages 83-84 of [Domain Name Commission: Regulatory Review](#) by David Pickens, August 2019.

¹⁴¹ See *Guidelines for Engaging with Māori*, <https://tearawhiti.govt.nz/assets/Maori-Crown-Relations-Roopu/6b46d994f8/Engagement-Guidelines-1-Oct-18.pdf> and their Engagement Framework, <https://tearawhiti.govt.nz/assets/Maori-Crown-Relations-Roopu/451100e49c/Engagement-Framework-1-Oct-18.pdf>

methods, from light engagement to more intensive engagement, include informing, consulting, collaborating, partnering or co-designing to empowering (passing over the decision-making power).

The Guidelines also pick up the concept of the sliding scale of Māori interests discussed in the Wai 262 report. They advise that:

Assessing the level of significance of your kaupapa to Māori will help select an appropriate engagement method. Generally, the more significant a kaupapa is to Māori the more intensive the involvement from Māori should be.

...

There will be times where different methods of engagement are appropriate for different audiences and for different stages of your process, you should remain open and flexible to these situations, engagement is not a one size fits all model.

Te Ture mō Te Reo Māori 2016 / The Māori Language Act 2016

Te Ture mō Te Reo Māori 2018 recognises the importance of te reo Māori to Māori and to New Zealand as a whole. It also indicates what policy-makers should have in mind when making policies that affect te reo Māori.

Section 4 of Te Ture mō te Reo Māori 2016 states that:

- te reo Māori is a taonga of iwi and Māori
- iwi and Māori are the kaitiaki¹⁴² of the Māori language.

Section 8 of the Act sets out the principles intended to guide development of Māori language strategies the Act requires the Crown and Māori to develop.¹⁴³ Section 9 states, as far as is reasonably practicable, government departments¹⁴⁴ should be guided by the following principles:

¹⁴² The word 'kaitiaki' is often translated as a 'guardian', 'trustee' or 'steward'. In te ao Māori, being kaitiaki involves having rights to make decisions about taonga as well responsibilities in respect of it.

¹⁴³ These include principles like "the Māori language is the foundation of Māori culture and identity", "the Māori language has inherent mana and is enduring", the Māori language is protected as a taonga by article 2 of the Treaty of Waitangi", "iwi and Māori are the kaitiaki of the Māori language", "knowledge and use of the Māori language enhance the lives of iwi and Māori" and "the Māori language is important to the identity of New Zealand".

¹⁴⁴ InternetNZ is not a Government Department. The Panel has included this guidance merely because we think it is sound advice for anybody considering policies affecting the public use of te reo Māori.

- iwi and Māori should be consulted on matters relating to the Māori language
- the Māori language should be used in the promotion to the public of government services and in the provision of information to the public
- government services and information should be made accessible to iwi and Māori through the use of appropriate means (including the use of the Māori language).

Issues

In the Issues Report, the Panel identified various issues with the .nz policies in relation to the .nz domain space and Māori:

- Considering Te Tiriti and Māori interests: The .nz policies do not contain explicit provisions linked to Te Tiriti or Māori interests and there is no express mention of Māori interests in the principles.
- Lack of culturally appropriate provisions in .nz policies: The .nz policies do not take into account Māori perspectives. There is no restriction on Māori-related domain names being used in an offensive way¹⁴⁵ or any provision for resolving disputes in a culturally appropriate way in terms of te ao Māori.^{146 147}
- Protecting te reo in .nz domain names: There is no restriction on te reo Māori being used in .nz domain names inappropriately or offensively¹⁴⁸ and registrations cannot be rectified once made. The ability to use macrons when registering domain names does not appear to be widely known.¹⁴⁹

¹⁴⁵ The Issues Report noted section 17(1)(c) of the Trade Marks Act 2002, which prohibits the registration of a mark which would be offensive to a section of the community, including Māori. It also establishes an advisory committee to advise the Commissioner of trade marks whether a proposed trade mark would be offensive to Māori (see sections 177 and 178 of the Act).

¹⁴⁶ InternetNZ, [.nz Dispute Resolution Service](#).

¹⁴⁷ The Panel noted in the Issues paper that this general issue is also relevant for other ethnic communities in New Zealand and this is addressed in the ‘New Zealand benefits’ section.

¹⁴⁸ In contrast, the Trade Marks Act 2002 prevents the registration of a trade mark that would be offensive to Māori and other sections of the community. It also establishes an advisory committee to assess trade marks offensive to Māori. See sections 17(1)(c) and 178 of the Trade Marks Act, <http://www.legislation.govt.nz/act/public/2002/0049/latest/DLM164240.html?src=qs>

¹⁴⁹ Macrons are used in Māori by some iwi to demarcate how words should be pronounced. However, the issues are complicated. Not all iwi use macrons and the fact that a word has, or does not have a macron, does not necessarily mean that it has been

- Protecting the use of maori.nz and iwi.nz domain names: The Panel identified maori.nz¹⁵⁰ and iwi.nz as subdomains of .nz with heightened relevance to these issues and noted the difference in moderation status between them.

We think these issues can be summarised as:

- Participation and engagement with Māori has not been part of .nz policy development.¹⁵¹
- There is no .nz policy on whether and, if so, how te reo Māori should be protected in the .nz domain space
- Do any changes need to be made to .iwi.nz and .maori.nz to improve on how they operate?

Proposed recommendations

The Panel considers the principal issue in this area is that the .nz policies have been developed without facilitating sufficient participation by Māori. We do not intend to perpetuate this by making substantive recommendations without more extensive engagement with Māori.

The Panel therefore intends recommending:

- the .nz Policy Development Process policy be amended to require InternetNZ to take reasonable steps to engage with Māori in the policy-making process
- InternetNZ ensure it has the capability needed to lead this work
- InternetNZ engage with Māori on the issues the Panel has identified (and any others identified in InternetNZ's engagement process).

Engaging with Māori in the policy-making process

The Panel intends to recommend the .nz Policy Development Process policy be amended to require InternetNZ to take reasonable steps to engage with Māori when amending the .nz policies. We consider that

spelt incorrectly. There are many words in Māori whose meaning changes if a macron is added (for example 'tangata' (person) & 'tāngata' (people), 'whawhai' (fight) & 'whāwhai' (hurry) etc). This differentiates Māori place names (for which there is generally a correct approach to macron use) to other Māori words, for which macrons sometimes merely alter the meaning.

¹⁵⁰ Including the māori.nz IDN 2LD that duplicates all entries in maori.nz. For brevity the remainder of this paper use maori.nz to refer to both 2LDs.

¹⁵¹ This issue encompasses the issues in the Issues Report entitled 'Considering Te Tiriti and Māori Interests' and 'Lack of culturally appropriate provisions in the .nz policies' on pages 47 and 50 of the Issues Report.

<https://internetnz.nz/assets/Archives/dotNZ-issues-report.pdf>

participation and partnership is very much the route to protection of te reo Māori and potentially other taonga Māori in the .nz domain space.

Taking reasonable steps would in our view involve InternetNZ first identifying whether any Māori interests are affected by the relevant change to the policies and then deciding on an engagement process in accordance with the nature and strength of those interests, balanced against other relevant interests. We consider the analysis of the ‘sliding scale’ of interests used in the Wai 262 report and Te Arawhiti’s Guidelines is appropriate here.

Reasonable steps to engage with Māori would mean knowing what issues were likely to be of greater significance to Māori (and therefore required more involved engagement) and tailoring the engagement accordingly.¹⁵²

For example, a proposed technical change to the .nz policies that affected all .nz users equally would be unlikely to require engagement with Māori different to that of other .nz users. On the other hand, any consideration of a potential change to the .nz policies to restrict how macrons could be utilised in domain names would require engagement with Māori as the kaitiaki of te reo Māori from the outset.

To engage well, we agree with the Pickens review InternetNZ needs to develop ongoing and trusting relationships with Māori - in particular with Māori who can help InternetNZ determine the nature and strength of issues likely to come up in the domain name system (for example, reo Māori experts, people knowledgeable about te ao Māori, technology experts and people who are involved in the domain name system).

48.

Do you agree that following the Panel’s work, InternetNZ should take reasonable steps to engage with Māori when amending the .nz policies? Why / why not?

¹⁵² What this requires in practice will differ depending on the issues and interests involved. As the Waitangi Tribunal observed, “[a] one-size-fits all prescription is not possible.” Wai 262 Report, 8.5.3, page 683, <https://www.waitangitribunal.govt.nz/news/ko-aotearoa-tenei-report-on-the-wai-262-claim-released/>

Building strong capability within InternetNZ to engage with Māori

For InternetNZ to engage effectively with Māori in the policy-making process, including building ongoing and trusted relationships with Māori, it will need to ensure it has the appropriate capability.

The Panel therefore intends recommending InternetNZ ensure it has this capability. This would involve having people with the skills, networks and knowledge needed - ensuring a good integration within the wider organisation for any new policy making to be effective.

49.

Do you agree InternetNZ should ensure it has adequate capability to facilitate engagement with Māori? Why / why not?

Engaging with Māori on the issues that the Panel has identified

The Panel intends to recommend that InternetNZ engage with Māori on the issues that we have identified. The purpose of this engagement would be to confirm whether the issues we have identified are issues and, if so, explore potential solutions to them.

In **Appendix B** we offer some questions that might help to facilitate conversations between Māori and InternetNZ on these issues. We provide them merely to stimulate thought about the types of questions Māori and InternetNZ might want to ask themselves. It will be up to Māori and InternetNZ where they take this conversation.

We consider that it is important that InternetNZ conducts the engagement. This is because:

- Doing this properly will take time. The type of engagement that is likely to be required is not engagement that the Panel could do in the timeframe we have available. Even without the Covid-19 ‘shutdown’, we would not have been able to engage with Māori in the way we have described above.
- Engaging well on these issues as part of the .nz review is likely to enable InternetNZ to develop the sorts of relationships with interested Māori that it will need if it chooses to follow the proposed recommendations set out above.

- There might be benefit in considering the issues related to .nz and Māori on a slower time frame from the rest of the .nz review. This will be a decision for InternetNZ when planning the next phase of the .nz policy review, which will include its response to our recommendations and its engagement on proposed policy changes.

InternetNZ will need to determine, following conversations with interested Māori, the appropriate level of engagement (i.e., from inform to empower). As stated above, we do think that some of the issues we have identified - particularly those that affect te reo Māori - are somewhere towards the end of the sliding scale where Māori interests are strongest.¹⁵³ However, also relevant is the public nature of the .nz domain space and the other important interests involved like freedom of expression.

Lastly, InternetNZ will need to be open to considering other issues that arise through the engagement and how these might be addressed. Identifying the nature and extent of any new issues and potential solutions is something that must of course be done alongside Māori.

50.

Are there any other .nz-related issues affecting Māori that you think should be considered?

¹⁵³ We note in particular the principles in Te Ture mo Te Reo Māori 2011 that iwi and Māori are kaitiaki of te reo Māori, which is a taonga of theirs.

Opportunities to enhance .nz growth and improve market operation

The .nz domain name space has created significant community, social and economic benefits for New Zealand. Ongoing growth in the .nz environment means increasing .nz domain numbers but the Panel believes there is a big opportunity to demonstrate more clearly the way business, government, other organisations, communities and individuals create connections and grow value.

The Panel's engagement has shown that what .nz means and how it contributes to New Zealand's growth and the value it creates is not widely understood.¹⁵⁴

Growth in New Zealand is generally defined as value creation fairly distributed across society creating opportunities for all. This draws from OECD work which has also fed into the New Zealand wellbeing budget approach¹⁵⁵, but there is currently no specific definition of how .nz growth is valued. A greater understanding of this value, which could include core .nz domain income, the value registrars add and the value registrants then create, and the introduction of new tools to drive value will greatly assist both the .nz growth strategy and registrant understanding.

Growth in the overall number of .nz domain names has stalled in recent years. Registrations reached a peak of 719,266 by the end of 2018, but by March 2020 they had fallen to 708,507.¹⁵⁶ In the year April 2019 - April 2020 total domain name registrations decreased by 0.65%.¹⁵⁷ Note there has been a significant uptake in April and May resulting from the Covid-19 lockdown.

¹⁵⁴ UMR, 'Public perceptions of policy review for .nz: a qualitative study-focus groups', p. 9, <https://internetnz.nz/sites/default/files/2.2%20Final%20Rpt%20Focus%20Groups%20-%20Internet%20NZ%20-%20.nz%20Policy%20Research%20-%20Nov%20>

¹⁵⁵ OECD, *Inclusive growth*, <http://www.oecd.org/inclusive-growth/>

¹⁵⁶ InternetNZ, *.nz Statistics and Service Reports: .nz and 2LD domain totals* <https://docs.internetnz.nz/reports/> retrieved on 16.06.2020

¹⁵⁷ InternetNZ, *.nz statistics and service reports*, <https://docs.internetnz.nz/reports/> retrieved on 16.06.2020

Yet the Panel has received strong feedback indicating that the .nz policies should support business and that .nz needs to be more creative and innovative.¹⁵⁸

How the .nz market operates is also a key part of the growth jigsaw. The market is well established and competition and choice are considered to be functioning effectively.¹⁵⁹ However this section also considers issues that may be limiting benefits to be gained from the .nz space in the areas of e-commerce and wider New Zealand enterprise. It also considers options to enhance the operation and competitiveness of the existing .nz market and strengthen relationships between registrants, registrars and the .nz Registry.

The Panel has considered enhancements to the way the market (and its participants) operate that would ensure the roles are clear and the market structure enables optimal growth in the .nz domain name space.

This section analyses eight issues relating to enhancing .nz growth and market operation:

1. The current flat wholesale fee structure limits innovation
2. The scope of incentives to enhance market operation
3. Empowering registrants could improve market performance
4. Improving the regulation of Resellers could enhance market operation
5. The Registry's role in market activity
6. Improving Registrar monitoring may enhance market operation
7. Greater industry data collection and publication could improve growth opportunities
8. Second level (2LD) market opportunities

The current flat wholesale fee structure limits innovation

The .nz policies currently require the Registry to charge registrars a flat wholesale fee for their domain name registration and renewals. This limits the Registry's ability to vary the wholesale fee price and use it to offer

¹⁵⁸ See [Re-imagining the future of .nz: Issues report of the .nz Policy Advisory Panel](#), p. 52.

¹⁵⁹ [Domain Name Commission: Regulatory Review](#) by David Pickens, August 2019, p. 26.

discounts to encourage more domain name registrations or encourage uptake from any target groups i.e, small to medium businesses, or underserved communities. As a result, Registrars are not encouraged to differentiate their subsequent pricing, marketing and sales activity to provide additional benefit to registrants - the end of line customers.

An alternative approach could be for the Registry to offer a wholesale fee rebate to target registrant groups with the Registrar obliged to pass the rebate to the registrant.

The Panel received feedback during its initial consultation about the importance of .nz policies in supporting business, te reo Māori and other priorities. A flexible Registry pricing approach could increase the capacity to deliver this and help boost more innovative solutions for registrants.

Safeguards would likely be required to ensure Registry pricing practices and incentive programmes are fair and reasonable.

Option A: Flat wholesale fee, no rebates or incentives (Current situation)

- It is simple to implement and administer for registrars and the registry
- Does not allow for flexible, innovative pricing approaches to encourage growth of .nz
- Does not enable pricing that improves accessibility to harder-to-reach potential users
- Does not enable pricing that encourages uptake of features or names.

Option B: Enable variable wholesale pricing to Registrars

This option would allow the registry to adjust the wholesale fee for certain classes of registration (e.g. to priority registrant groups) or groups of names (e.g. bundling of all 2LDs for a particular name, or set of names etc).

- It could better support .nz market growth by making it easier for registrants to acquire new domains (assuming that the Registrars pass on the discounts)

- ✓ It could incentivise Registrars to adopt new practices to increase the .nz participation of priority groups such as SMEs or underserved communities
- ✓ It could incentivise Registrars to invest more into marketing for the benefit of the sector
- ✓ It creates more flexibility to allow the Registry and registrars to adapt to a changing Internet
- ✗ Implementation may introduce complexity for registrars
- ✗ Additional investment could be needed from InternetNZ (to fund the discount if not all incremental new domain name registrations).
- ✗ Implementation could lead to unfair pricing practices by the Registry which will need to be safeguarded against

Option C: Allow Registry to offer rebates to the registrant via the wholesale fee

This option would allow the registry to define criteria for registrations that when met would qualify for a rebate (discount) on the wholesale fee. The registrar could be mandated to pass through the value of the rebate to the registrant in some reasonable circumstances.

- ✓ Provides a mechanism to encourage growth in registrations of specific priority groups, or with specific features enabled
- ✓ Provides direct benefit to priority groups of registrants independent of the registrar chosen
- ✗ Additional work to define criteria (upfront) and evaluate and check eligibility at registration/renewal (ongoing)

51.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
52.	Which of these options do you prefer? Why?

The scope of incentives to enhance market operation

As commented previously, .nz domain growth has been flat in the New Zealand market for a while. This impacts the ability for registrars to make features/services available to registrants and could restrict the investment made into supporting technology and security standards etc that might benefit all market participants including the registrants.

The previous section seeks feedback on specific wholesale pricing mechanisms that could help address this, but in addition to those questions on which pricing mechanisms to support, the Panel believes there are further questions around when such mechanisms would be desirable to use, and/or whether there is also an opportunity for the registry to incentivise registrars to be more innovative through specific initiatives to drive .nz market growth outside of the wholesale pricing.

The incentives are different to rebates or flexible wholesale fee charges as mentioned in the previous sections and might include one-off incentive payments or ongoing incentive programmes, which may or may not be linked to domain name transaction volumes of each registrar.

Option A: Do not incentivise registrars or registrants (the current situation)

- It is simple to implement and administer for registrars and the registry
- Does not allow for ongoing incentives to encourage growth, new product launches of the .nz namespace
- It may reduce accessibility to harder-to-reach potential users (that can be incentives to be reached)

Option B: Allow registrar incentives to drive specific initiatives

This option would provide the ability for the registry to incentivise registrars to be more innovative through specific initiatives to drive .nz market growth. This could include joint marketing campaigns (i.e. matched funding from the Registry for initiatives), new product campaigns to target priority sector growth (eg, [.co.nz](#), [maori.nz](#)), incentives to offer different languages.

- Allows registry to incentivise registrars more flexibly and using techniques that may have more impact than wholesale price changes (e.g. advertising)

✓ Easier to run short-term/non-permanent incentives outside of the wholesale fee

✗ Greater risk of unaligned outcomes (e.g. advertising may not result in growth)

Option C: Require any incentive payment criteria to be designed to promote .nz policy goals

This option would enable the registry to use incentives for purposes specifically designed to further a goal of the .nz policies (e.g. increasing security or access in/to .nz), growth in the .nz market in-line with the goals of the .nz policies.

✓ Limits complexity in the market by restricting the types of incentive and scope of use.

✗ Additional investment would be needed from InternetNZ

✗ Implementation may introduce complexity for registrars

53.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
54.	Which of these options do you prefer? Why?

Empowering registrants could improve market performance

An independent regulatory review by David Pickens in 2019 found registrants do not have the incentive, capability or capacity to engage in a way that drives better performance (best practice) from registrars or the operators of TLDs.¹⁶⁰ Pickens also commented that relationships between registrants and registrars (the providers of domain names) does not appear healthy and that a greater understanding of registrants would improve the DNCL's performance.

¹⁶⁰ [Domain Name Commission: Regulatory Review](#) by David Pickens, August 2019, p. 28.

The Panel agrees that healthy, competitive markets typically see customers (registrants) more engaged and with stronger relationships with suppliers (registrars).

The extent to which registrars are actively responding to registrants' choices and demands varies. A key barrier determined through the Panel process is the lack of awareness among registrants about key aspects of .nz.¹⁶¹

The Panel believes there is an opportunity to adopt some of the best practice approaches from other industries by both improving market information, highlighting registrants' rights and establishing a customer service ranking system.

Option A: Current situation

- Registrars take responsibility for communicating registrants' obligations to them
- The lack of engagement by registrants in the .nz market is likely to lead to missed growth and development opportunities

Option B: InternetNZ works with registrars to establish a statement of registrant rights which the DNC monitors and registrars are accountable for by annual monitoring

- Would likely boost trust among registrants by promoting awareness of their rights and how they are protected
- May lead to greater registrar/registrant engagement and improved market outcomes
- May assist the Domain Name Commission's understanding of registrants
- Additional resourcing would be required to establish and monitor to ensure it is practical

¹⁶¹ InternetNZ Secretariat, '.nz survey: summary and analysis', p. 34-37, https://internetnz.nz/sites/default/files/2.1%20dotnz%20survey%20results_%20analysis%20and%20insights.pdf

Option C: DNCL publishes expanded objective market information to better inform registrant choice eg. market share and renewal rates

Could mirror Consumer NZ’s model of publishing available information on broadband and electricity options for consumers.

✓ May lead to improved trust in the .nz market and also boost growth in .nz domain names and boost community, social and economic benefits

✗ Additional resourcing would be required to establish and monitor to ensure it is practical

55.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
56.	Which of these options do you prefer? Why?

Improving the regulation of Resellers could enhance market operation

In the .nz market, a reseller is a person or entity that provides domain name registration services to the public who is not a .nz Authorised Registrar. Resellers buy .nz domain names and ultimately manage domain name records for their registrants through an existing .nz Authorised Registrar.

The term reseller captures a broad scope of activity. Someone who registers a domain name on behalf of their family member is technically a reseller, as is a large IT company that has been given direct access to a registrar’s services through an API. Resellers are often the intermediary between the end user (the registrant) and the registrar and can provide value added services, like website creation or hosting. Although they often operate like a registrar there is no criteria specified as to who can be one. Additionally unlike a registrar a reseller is not recorded in the Registry, so there is no transparency to the reseller market.

Although InternetNZ records that there are 73 registrars (listed on the DNC website), it does not know how many resellers there are or who they are. The DNCL encourages resellers to hold a formal agreement with their Authorised Registrar but this is not enforced.

The Panel believes the overall lack of regulation of resellers creates an inability to hold them to account for inappropriate or harmful activities. This situation creates frustration for registrars, registrants and the registry.

The Panel believes that resellers need to be more effectively regulated and proposes establishing a new additional registrar category that all existing resellers would be required to join. This category could exist as:

- i) a sub-registrar (ie. as a customer of an existing Authorised Registrar) or,
- ii) an independent new Additional registrar.

The new Additional registrar category is needed for resellers to take account of the varying nature of the reseller market as described above. Not all resellers operate commercially. Many operate privately and their .nz market impact is different to existing registrars.

This new registrar category should contain essential .nz accountability and security standards but reflect the different market nature of this sort of operator. Internet NZ would need to work with the industry to develop a specific definition.

The existing \$3,000 +GST registrar establishment fee would likely be a barrier for many current resellers. This fee level was last fully reviewed in 2008. Pickens' suggested DNCL should consider introducing a variable component to reduce fee levels for some registrars. The Panel believes a variable fee approach should be part of the new registrar category.

The Panel has considered the following options for creating more visibility of resellers in the .nz domain name system.

Option A: The current situation

- ✓ It is relatively straightforward for anyone to become a reseller in the .nz domain system
- ✗ The absence of effective regulation negatively impacts on both the trust and security of the .nz system

✗ It is difficult to hold resellers accountable, and to ensure they minimise inappropriate or harmful activities

Option B: Establish a two-tier registrar system which incorporates resellers

✓ Improves accountability and builds trust and security within the .nz system

✓ May improve the quality and therefore performance of existing resellers

✓ Could improve accountability and minimise inappropriate or harmful activities.

✗ Additional resourcing would be required to establish and monitor the new system to ensure it is practical to implement

✗ Existing registrar revenues could be negatively impacted if their reseller customers become stand-alone new registrars

Option C: Reduce the \$3,000+GST registrar establishment fee for existing resellers as part of the proposed two-tier registrar system

✓ Make it more practical and provide more of an incentive for existing resellers to transition to be new second-tier registrars

✓ Encourage growth of new registrant entrants into the .nz market

✗ May reduce InternetNZ fee income in the short-term

57.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
58.	Which of these options do you prefer? Why?

The Registry's role in market activity

The Registry currently cannot directly communicate to registrants with products and/or service offers. Currently it must make these available via registrars who have no obligation to promote them.

The Panel believes there needs to be a way to resolve a situation where, for example, the registry wants to implement a security feature it believes registrants would benefit from, like DNSSEC or registry lock, but which registrars think is not commercially viable to provide. The opportunity to offer flexible pricing to encourage growth has been assessed in a previous section, as has the ability to incentivise registrars to offer more products. This section is concerned with what to do in a scenario where registrars choose not to provide the products/services even if incentives are provided by the registry.

Option A: No requirement on scope of registrar offering. Registry may not sell/market directly to customers (The current situation)

- ☑ Protects the existing registrar/registrant (supplier/customer) relationship
- ✗ May not allow new registry products or services which may benefit registrants.

Option B: The Registry defines minimum service/feature set all registrars must provide. The Registry may not sell/market directly to registrants. The Registry incentivises registrars to provide services it provides under agreed rules

Under this option, the registry would define a set of core services/features (e.g. those necessary to directly support a .nz policy goal) that all registrars must offer.

- ☑ Maximises accessibility of core features and services to registrants. It could better support .nz market growth by allowing new products and services
- ☑ Protects the existing registrar/registrant (supplier/customer relationship). It encourages adaptation and better responds to a changing Internet
- ✗ Increases requirements on registrars. Additional investment would be needed from InternetNZ

Option C: No requirement on scope of registrar offering. The Registry may sell/market directly to registrants under strict controls.

- ✓ Maximises accessibility of full set of features and services to registrants.
- ✗ Adds complexity in managing criteria for how and when registry may sell/market directly to customers.

59.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
60.	Which of these options do you prefer? Why?

Improving Registrar monitoring may enhance market operation

A new issue raised with the Panel during its preliminary consultation related to registrar eligibility criteria and whether there needs to be new ongoing conditions or requirements that should be monitored or reported on.

The Pickens' Report commented that entry and ongoing requirements for registrars operating in the .nz space were generally considered appropriate. However suggestions for improvement included better training and guidance and revisiting the experience requirements for registrars entering the .nz space.

The Panel agrees that a more visible method for monitoring and reporting on agreed Registrar Service Levels could improve market operation.

We would be interested in feedback on introducing a new Registrar Service Level Agreement System similar to a comparable system ICANN operates.¹⁶²

¹⁶² ICANN, SLA Monitoring System (SLAM)

<https://www.icann.org/en/system/files/files/presentation-slam-13may17-en.pdf>

Option A: The current situation

- The existing eligibility and monitoring arrangements are generally considered practical
- The existing system may not be adaptive enough to ensure consistent reliability and performance of all registrars

Option B: Establish a Registrar Service Level Agreement System to enhance market operation.

- Would build trust in the .nz market
- Improve accountability and security within the .nz system
- May improve the quality and therefore performance of new and existing registrars
- Additional investment would be needed from InternetNZ
- Additional costs may be imposed on Registrars

61.	Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
62.	Which of these options do you prefer? Why?

Greater industry data collection and publication could improve growth opportunities

The current data about the .nz domain name system is shared for a technical audience on the Internet Data Portal.¹⁶³ The registry publishes technical information from a ‘zone scan’ online, but this is not published in a plain English accessible format that could be used by domain name holders or registrars to inform their decisions.¹⁶⁴

¹⁶³ Internet Data Portal, <https://idp.nz/>

¹⁶⁴ Internet Data Portal, *.nz zone scan*, <https://idp.nz/Domain-Names/nz-Zone-Scan/ep35-2s5u/data>

The Panel struggled to get access to comprehensive industry data showing domain name utilisation, product usage and registrant analysis.

The presence of good quality, understandable market information is common in other regulated industries. Its absence makes it more challenging for Internet NZ to understand how to best facilitate the growth and development of the .nz domain system for the benefit of New Zealanders.

A requirement to regularly produce this material could also benefit registrars, registrants and other market participants. Registrars would likely value greater shared intra-market reporting including on such things as on new create trends and churn rates.

This could be achieved by amending the existing Register Data policy.

Option A: The current situation

- No additional resources need to be invested in gathering, analysing and communicating market information
- Insights derived from data would inform decisions to support growth across the .nz domain name space

Option B: The Registry collects and communicates market information including customer segments, activity/utilisation and product use for industry to better understand and develop the .nz market

- Market growth opportunities could be enhanced by greater industry data collection, analysis and publication
- The .nz environment could be more adaptive to a changing internet with access to greater market information
- Additional investment would be needed from InternetNZ and potentially other industry participants

63.

Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?

64. Which of these options do you prefer? Why?

Second level (2LD) market opportunities

Since the release of .nz domain names directly at the second level (i.e. 'anyname.nz'), the list of new second level domain names (ie.'govt.nz') was closed.¹⁶⁵ In the Issues Paper, the Panel raised the opportunity for expanding second level domain (2LDs) options, currently generally restricted, to contribute to greater value through more choice and better reflect New Zealand's diversity.¹⁶⁶

Subsequently, the Panel has not received feedback on this specific issue and we are not aware of support for an expanded unmoderated 2LD market.

There are 10 unmoderated second level domains (including '.geek.nz', '.co.nz' and '.maori.nz') and a further 6 moderated domains (including '.govt.nz' '.health.nz' and '.iwi.nz').¹⁶⁷ Moderated names can offer Internet users a sense of security, because they know that the domain name they are accessing has had a level of verification before it can be used. An example of this is '.govt.nz'. When an Internet user sees .govt.nz they can be confident they are dealing with a government agency or approved initiative. The Panel is aware that there may be interest in new moderated second level domains.

65. Do you agree with our assessment of the issue? Why / why not?

66. Is there a role for additional second level domain names (moderated or not) within the .nz domain? If so, what domains in which area?

¹⁶⁵ Clause 6.2, [.nz Operations and Procedures](#).

¹⁶⁶ See [Re-imagining the future of .nz: Issues report of the .nz Policy Advisory Panel](#), p. 58.

¹⁶⁷ For a full list of second level domain names see clause 6.1, [.nz Operations and Procedures](#).

Appendix A. Summary of questions

Guiding principles

Purpose of the guiding principles

1. Do you consider that the .nz guiding principles should be visionary, holistic, inclusive and instructive rather than operational? Why / why not? What else should they be?

Rewriting and simplifying the policy framework

2. Do you think the .nz policies should be rewritten and simplified? Why / why not? If yes, how?

Secure, trusted and safe

3. Do you think there should be a new 'secure, trusted and safe' principle? Why / why not? Do you have any comments on the proposed formulation of the new principle?
4. What would be the main benefits and disadvantages of moving from a 'no concern for use' principle approach to a 'secure, trusted and safe' principle approach?

Open and accessible

5. Do you think there should be a new 'open and accessible' principle? Why / why not? Do you have any comments on the proposed formulation of the new principle?

For the benefit of all New Zealanders

6. Do you think there should be a new 'New Zealand benefit' principle? Why / why not? Do you have any comments on the proposed formulation of the new principle?

Te reo Māori and Māori participation in .nz

7. Do you think there should be a new principle on te reo Māori and Māori participation in .nz? Why / why not? Do you have any comments on the proposed formulation of the new principle?

Enabling New Zealand to grow and develop

8. Do you think there should be a new guiding principle on enabling New Zealand to grow and develop? Why / why not? Do you have any comments on the proposed formulation of the new principle?

Transferring existing principles into operational guidelines

9. Do you think there should be two types of principles (guiding principles and operational guidelines to help manage the .nz domain? Why / why not?

Rule of law

10. Do you agree that the 'rule of law' principle should not be retained as an operational guideline? Why / why not?

First come first served

11. Do you think the 'first come first served' principle should be modified and retained as an operational guideline? Why / why not?

Registrant rights come first

12. Do you agree that the 'registrants' rights come first' principle should be removed? Why / why not?

Low barriers to entry

13. Do you agree that the 'low barriers to entry' principle should be removed? Why / why not?

No concern for use

14. Do you agree that the 'no concern for use' principle should be modified and retained as an operational guideline? Why / why not?

Structural separation

15. Do you agree that the 'structural separation' principle should be retained as an operational guideline? Why / why not?

Clear chain of relationships

16. Do you agree that the 'clear chain of relationships' principle should be retained as an operational guideline? Why / why not?

Summary of principles

17. Should the Panel consider any other principles?
18. Is there anything else the Panel should bear in mind when making recommendations on the principles or operational guidelines for the .nz policies?

Accessibility and openness of .nz domains

The .nz policies are written only in English

19. Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
20. Which option do you prefer? Why?

Lack of availability of characters other than English and reo Māori alphabets in .nz domain names

21. Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
22. Which option do you prefer? Why?

No geographical limits on registrants

23. Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
24. Which option do you prefer? Why?

Security and trust

Domain and website content abuse

25. Do you agree with our assessment of the options? Why / why not? Are there viable options that we have not mentioned?
26. Which of these options do you prefer? Why?

The interim emergency circumstances clause

27. Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
28. Which option do you prefer? Why?

Domain name registration abuse

29. Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
30. Which of these options do you prefer? Why?

Grace periods and domain tasting

31. Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
32. Which option do you prefer? Why?

Misleading, deceptive, and offensive domain names

33. Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
34. Which of these options do you prefer? Why?

Ensuring security best practice across the .nz domain name system

35. Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
36. Which option do you prefer? Why?

Technology specific approach

37. Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
38. Which option do you prefer? Why?

Conflicted domain names

- 39.** Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
- 40.** Which of these options do you prefer? Why?

Enhancing privacy across the .nz domain name system

Level of registrant data collected and stored

- 41.** Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
- 42.** Which option do you prefer? Why?

Registrant data is made public by default

- 43.** Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
- 44.** Which option do you prefer? Why?
- 45.** Under the IRPO, which contact details do you think should be withheld from WHOIS?

Implementation of the IRPO and access to registrant information when required

- 46.** Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
- 47.** Which option do you prefer? Why?

The .nz domain space and Māori

Engaging with Māori in the policy-making process

- 48.** Should there be a requirement to take reasonable steps to engage with Māori when amending the .nz policies? Why / why not?

Building strong capability within InternetNZ to engage with Māori

49. Should InternetNZ ensure it has adequate capability to facilitate engagement with Māori? Why / why not?

Engaging with Māori on the issues that the Panel has identified

50. Are there any other .nz-related issues affecting Māori that you think should be considered?

Opportunities to enhance .nz growth and improve market operation

The current flat wholesale fee structure limits innovation

51. Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
52. Which option do you prefer? Why?

Other Registrar incentives could enhance market operation

53. Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
54. Which option do you prefer? Why?

Empowering registrants could improve market performance

55. Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
56. Which option do you prefer? Why?

Improving the regulation of Resellers could enhance market operation

57. Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
58. Which option do you prefer? Why?

The Registry's role in market activity

- 59.** Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
- 60.** Which option do you prefer? Why?

Improving Registrar monitoring may enhance market operation

- 61.** Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
- 62.** Which option do you prefer? Why?

Greater industry data collection and publication could improve growth opportunities

- 63.** Do you agree with our assessment of the options? Why / why not?
Are there viable options that we have not mentioned?
- 64.** Which option do you prefer? Why?

Second level (2LD) market opportunities

- 65.** Do you agree with our assessment of the issue? Why / why not?
- 66.** Is there a role for additional second level domain names (moderated or not) within the .nz domain? If so, what domains in which area?

Appendix B. Potential questions for engagement with Māori

In this section the Panel offers some questions that might help facilitate initial conversations between Māori and InternetNZ on these issues discussed in the *.nz and Māori* section.

Engagement with Māori on changes to .nz policies

InternetNZ and Māori might ask themselves questions of the following nature:

- How should InternetNZ be required to engage with Māori on proposed changes to .nz policies? Is the sliding scale proposed in the *Wai 262* report and by Te Arawhiti appropriate?
- Should InternetNZ develop relationships with Māori to enable it to make initial judgements on the nature and strength of any relevant Māori interests? How should it do this?
- How should Māori interests be balanced against the other important interests? Who should decide how these should be balanced?
- Should any InternetNZ communications be in te reo Māori? How should this be done?
- Should ideas and practices from te ao Māori play any role in resolving domain name disputes? If so, what role and should it have a role in all or only part of the .nz domain space?

Protecting te reo Māori in the .nz domain space

InternetNZ and Māori might ask themselves questions of the following nature:

- Does te reo Māori need protecting in the domain name system? What form should that protection take?
- Should te reo Māori be protected from offensive and derogatory treatment, incorrect use and/or something else? Who should decide whether the treatment or use constitutes a breach? How should breaches be prevented?
- Should there be restrictions on how te reo Māori can be used in .nz domain names? Should these restrictions apply to all users equally?
- Is the Māori Advisory Committee in the Trade Marks Act a good model or should some other approach be taken?

- How should regional variations in te reo Māori be addressed?¹⁶⁸
Should there be rules on the use of macrons?
- Should registrars be obligated / incentivised to have te reo Māori on their websites promoting Māori domains?
- How can InternetNZ help normalise the use of te reo Māori in Aotearoa through the domain name system?

.iwi.nz and .maori.nz

InternetNZ and Māori might ask themselves questions of the following nature:

- Are the existing .iwi.nz and .maori.nz 2LDs, and the differing moderation status of each, meeting the needs of Māori? If not, is there anything InternetNZ can or should do to assist?
- Should Māori have a greater role in the governance of .iwi.nz or .maori.nz (i.e., over and above moderation in the case of .iwi.nz)?
- Should all registrars be obligated to sell all .nz domain name extensions, including .maori.nz?¹⁶⁹
- Should there be any additional second level domains related to or for the exclusive use of Māori?

¹⁶⁸ For example, not all iwi use macrons.

¹⁶⁹ We have not included .iwi.nz in this question, as it is a moderated domain name and has different requirements.

Appendix C. the roles of .nz market participants

Key participants who operate in the .nz domain space include the Registry, Registrars, Resellers and Registrants and each have distinct roles:

- **the Registry** – InternetNZ is the registry and has a number of key functions. Its main responsibility is to maintain and operate a central registry that holds all the information about .nz domains. The registry also provides associated technical services such as the Domain Name System (DNS) to facilitate delegation of registered domain names to registrants. The registry sets domain name prices, domain name policies and authorises registrars to resell domain name services on its behalf. InternetNZ created a subsidiary company, DNCL, which independently regulates the compliance of registrars, resellers and registrants with the .nz policies and deals with domain name related disputes. The registry receives a wholesale monthly fee from registrars for domain name registrations and renewals.
- **Registrars** – Registrars are authorised by the Registry to sell domain names. Registrars are responsible for marketing domain names and typically also sell attached products such as web hosting, email hosting to customers. New Zealand has approximately 90 registrars and about 710,000 .nz domains under management. Registrars have to operate within the .nz policies or face sanctions.
- **Resellers** – Resellers resell domain names and other services. They are typically contracted by registrars. These contracts are not standardised across the domain name industry. Resellers need to adhere to the .nz policies also. Registrars have a mix of IT systems and contract approaches to support resellers.
- **Registrants** – Registrants hold domain names and have a commercial relationship with registrars. Registrars are obligated to ensure registrants agree to adhere to the registries' policies when registering or renewing domain name licenses.
- **Regulator** - DNCL is the independent regulator of the .nz domain name space keeping .nz fair for everyone.