

Regulatory Impact Statement: Extending the New Zealand Business Number

Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by the Ministry of Business, Innovation and Employment. In December 2013, New Zealand Business Numbers (NZBNs) were allocated to companies. This RIS analyses the costs and benefits of extending NZBNs to all other businesses, including the collection, use and protection of information associated with the NZBN.

A significant constraint on the analysis contained in this RIS is that only limited benchmarks (from other countries' experience) are available for assessing the efficiency and effectiveness of single business identifiers for unincorporated businesses. No other country has explicitly identified the benefits of their single business identifier; instead the identifier was introduced to facilitate wider e-business initiatives.

A second issue for the success of the NZBN is ensuring that there is an efficient and rapid uptake of the number by businesses and state sector agencies. This is needed to build momentum for infrastructure development and private investment in commercial opportunities. A potential conundrum arises if agencies "wait" for all businesses and, conversely, if businesses "wait" for the agencies. Without significant uptake there is a risk that the identifier is not integrated and utilised widely, and just becomes another number, rather than a replacement for the many current identifiers – as is intended.

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Summary

1. The compliance costs of dealing with government adversely affect the productivity of business, and therefore reduce the potential for economic growth. Government established the Result 9 Programme to address this, and one of its first initiatives is the NZBN. However, the NZBN has currently only been allocated to companies, so the full benefits cannot be realised. This RIS examines the options for extending allocation of the NZBN, to enable fewer, more accurate business-to-government and business-to-business interactions, while adequately protecting private and/or commercially-sensitive information.
2. The issues requiring consideration are how widely to extend the NZBN, and whether it should apply to sole traders; whether to assign the NZBN to business entities or activities; whether its use should be voluntary or compulsory; how eligible businesses will obtain it; and the information that will be attached to the NZBN – including how to manage that information, and how to manage the requirement on agencies to collect information directly from individuals.
3. The key issue arising from consultation is maximising the benefits of the NZBN across the economy, while protecting the privacy of individuals in business, such as sole traders. Businesses wanted the economic benefits enabled by the NZBN to be as large as possible, and were comfortable with the privacy protections built into the proposals. The Privacy Commissioner and the Ministry of Justice generally supported the NZBN and proposed changes to improve protection of the privacy of individuals in business. While we do not consider it desirable to adopt all the Commissioner's recommendations, it is our view that the design of the NZBN mitigates the Privacy Commissioner's main concerns around the NZBN becoming a de facto unique identifier of individuals in business, and inappropriate sharing of information
4. The preferred legislative options include:
 - Setting rules regarding eligibility for NZBNs; allocation, administration, registration and obligations on the NZBN holder;
 - setting rules about the establishment and use of the NZBN record: the entity applying; the registrar; authorised users; notice holders; the level of information held, and fees;
 - limiting the use of the NZBN and personal information associated with it to authorised purposes only;
 - prohibiting the use of the NZBN for non-business purposes where a person is acting as a private individual;
 - requiring government agencies to adopt the NZBN by a prescribed date;
 - enabling agencies to require businesses to use the NZBN if certain criteria are met;
 - Legislative permission for authorised agencies to obtain business information from the NZBN register, and to provide information to the register.
 - Legislative provision for agencies to collect and use the NZBN in their administrative systems and statutory registers.
 - Legislative permission for agencies to include the NZBN in any existing information sharing arrangements, including those authorised under the Privacy Act Parts 9A and 10, and in international agreements.

- Legislative permission to allow the NZBN to be widely used as a business identifier across the economy and to prevent use of the NZBN to create an identity without the businesses' authorisation

5. Amendment to section 81(4) of the Tax Administration Act 1994 to enable Inland Revenue to share information on GST-registered businesses with MBIE. The combination of preferred options best meet the NZBN policy objectives of enabling fewer, more accurate business-to-government interactions, enabling fewer, more accurate business-to-business interactions and new commercial opportunities, and adequately protecting private and/or commercially-sensitive information. The table below outlines the net benefits of the preferred options.

[REDACTED]

[REDACTED]		[REDACTED]			[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Status quo

- In December 2013, NZBNs were allocated to 1.1 million companies, of which between 500,000 and 600,000 are believed to be actively trading. For these businesses, the NZBN is intended to enable information to be shared about uniquely-identified businesses in a more secure and efficient manner than is currently possible.
- New Zealand currently has a verification process facilitating easier interactions between individuals and government and business – RealMe. The NZBN (currently only for companies) sits alongside RealMe by facilitating easier interactions between businesses, and between businesses and government. However, New Zealand currently lacks a unique identifier for all businesses. We also do not have a central register for all businesses (although separate registers for some business types are maintained by the Companies Office).

Previous decisions

8. There have been several decisions that impact on the options available for extending the NZBN:
 - Work to create a Single Economic Market between Australia and New Zealand includes a commitment to mutual recognition of business numbers in both countries.
 - The implementation of the NZBN is a key initiative to achieve the Better Public Services Agenda Result Area 9 commitment to reducing the costs to businesses of dealing with government by reducing the effort required to work with agencies by 25% by 2017.
 - The NZBN also enables the government to progress its ICT Strategy and Action Plan commitments, through enabling services to be digital by design and enabling investment and shared capability¹. It will provide businesses with more joined-up government services, more certainty and less confusion when interacting with government.
 - In June 2013, MBIE signed an agreement with GS1 New Zealand to acquire Global Location Numbers (GLNs) for use as the NZBN. The NZBN is a 13-digit number that uniquely identifies a business. GLNs are provided by GS1 New Zealand and use internationally recognised standards. GLNs were chosen because they are globally unique and part of a credible international system with strong links to trade and supply chain logistics. The terms of the agreement with GS1 New Zealand impact how the NZBN register can be designed to operate in practice. For example, the terms stipulate limits around matters such as fees and responsibility for administration of the NZBN register.
 - In December 2013, NZBNs were allocated to companies. NZBNs have not been allocated to other businesses in New Zealand.
 - In March 2014, Cabinet agreed to public consultation on extending the NZBN.

The problem

9. The compliance costs of dealing with government adversely affect the productivity of business, and therefore reduce the potential for economic growth. Currently, government agencies take a siloed approach to dealing with business, resulting in duplication and inefficiencies from each agency developing the same capabilities (possibly purchasing the same software). Individual agencies also do not recognise the cost to customers from having to provide the same core information repeatedly. As a result, businesses find interacting with government confusing, unproductive and time-consuming. The challenge lies in changing how services are delivered to business by making it easier for businesses to manage the number of interactions with government and each other, and reducing the complexity of those interactions, while protecting the privacy of individuals in business, such as sole traders.
10. Extending the NZBN as a unique identifier to individuals in business raises privacy concerns if not properly regulated. The use of the NZBN could result in information about

¹ Government's investment in information and technology must be integrated, leveraging common capabilities to deliver effective and efficient public services. New Zealand Government ICT Strategy and Action Plan, p7.

individuals that is currently not publicly available, such as residential addresses, becoming widely known. The misuse of unique identifiers for individuals is known to facilitate identity theft in the US, where it imposes significant costs on the economy.

11. The benefits of extending the NZBN to all businesses must therefore be balanced against the potential consequences of introducing a poorly regulated unique identifier. This means that measures to protect privacy must be built into the proposals. Businesses were comfortable with the privacy protections that we had proposed. The Privacy Commissioner and the Ministry of Justice were generally supportive of the NZBN and proposed changes to improve protection of the privacy of individuals in business.

12. Businesses² told us that they want to spend more time on their business, and less time on administration. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13. Businesses want joined-up government services and more certainty and less confusion when interacting with government. They want an economic infrastructure that better enables and supports e-commerce and business innovation. New Zealand does not have this infrastructure, as it is not currently possible for businesses or government agencies to link information about a business in a secure and authoritative way through a unique identifier.

14. The NZBN will do this for companies. However, 19 percent of actively trading businesses in New Zealand are sole traders, 15 percent are trusts, and 12 percent are partnerships. A further four percent of entities that are not businesses in the traditional sense undertake business activity, such as government agencies and the not-for-profit sector. The full benefits (network effects) of the NZBN to the wider economy depend on all businesses being able to have an NZBN. These benefits include efficiencies for government agencies implementing new systems that use the NZBN. Payoffs to business from e-commerce solutions leveraging the NZBN also only accrue if the NZBN is widely available.

15. Through the NZBN, companies and, if extended, all New Zealand businesses, are expected to experience a decrease in administrative costs and an increase in productivity through a reduction in the cost of every transaction⁴. NZIER suggests that introducing the NZBN could result in higher returns to capital, lower prices for consumers and higher wages for employees. In turn, these may then lead to positive impacts on tax revenues, household incomes, and government expenditure.

²ReseachNZ, November 2013. The Benefits of a New Zealand Business Number. The Opinions of New Zealand Businesses

³[REDACTED]

⁴Wider Economic benefits of a New Zealand Business Number. NZIER report to the Ministry of Business, Innovation and Employment, 24 December 2013.

Objectives

16. The NZBN has already been allocated to companies in New Zealand. Ministers would like to extend the NZBN to all businesses to enable a digitally-based economic infrastructure. Our options are therefore constrained to consideration of the best way to extend the NZBN to all businesses.
17. The options in this analysis have been assessed against the following objectives:
 - *Enables fewer, more accurate business-to-government interactions.* The NZBN is intended to simplify interactions between business and government.
 - *Enables fewer, more accurate business-to-business interactions and new commercial opportunities.* The NZBN is intended to enable e-commerce solutions, for example, automated business to business invoicing solutions based on NZBNs.
 - *Adequately protects private and/or commercially-sensitive information.* If the NZBN is extended to sole traders and other individuals in business, Privacy Act 1993 protections apply. In addition, the NZBN system will need to protect business' commercially sensitive information.
18. The options that best meet these objectives are expected to enable businesses to spend less time and effort on government forms and correspondence, and more time and effort on business. They are also expected to make it easier for businesses to provide their information in an accurate way and positively identify other businesses.

Regulatory impact analysis

Issues

19. There are seven issues requiring consideration for extending the NZBN:
- Issue 1 – Part 1: How widely should the NZBN be extended?
 - Issue 1 – Part 2: How should the NZBN apply to sole traders?
 - Issue 2: Should NZBNs be assigned to entities⁵ that carry on a business, or to business activities themselves?
 - Issue 3: How will eligible businesses get an NZBN?
 - Issue 4: Should government agencies be required to adopt the NZBN?
 - Issue 5: For businesses eligible for an NZBN, should the use of the NZBN be voluntary or compulsory?
 - Issue 6: – Part 1: What information will be attached to the NZBN and how will that information be managed?
 - Issue 6: – Part 2: How will the requirement on agencies to collect information directly from individuals be managed (IPP 2)?
- Issue 7: – Should fees be charged for getting and maintaining an NZBN? Or for using NZBN data?
20. This RIS uses tables for assessing the options for addressing the five issues against the relevant NZBN objectives. Where an option fully meets the objectives across all relevant aspects, it is given two ticks. Where an option meets the objectives on some aspects, it is given one tick. Where an option meets the objectives on some aspects but fails on others, it is given a tick and a cross. Where an option does not meet the objectives on any aspects, it is given a cross. Explanatory text is also included in the tables.

Issue 1 – Part 1: How widely should the NZBN be extended?

Problem definition




21. The compliance costs of dealing with government adversely affect the productivity of business, and therefore reduce the potential for economic growth. While the focus of the NZBN is on business the costs of dealing with government are also unwelcome in other parts of the economy – such as the not-for-profit sector, state-sector entities that need to interact with government in a similar way to businesses (such as schools and District Health Boards).
22. The NZBN potentially provides a mechanism for reducing these costs for all of these different types of activity.

⁵ In some instances, these will be legal entities, such as sole traders, and, in other instances, legal relationships through which activities are carried on, such as partnerships and trusts. Specific legislation will be needed to address this, but there are existing precedents such as the Goods and Services Tax Act 1985.

Options

Table 1, Issue 1 – Part 1: How widely should the NZBN be extended?

	Enables fewer, more accurate business-to-government interactions	Enables fewer, more accurate business-to-business interactions and new commercial opportunities	Adequately protects private and/or commercially-sensitive information
<p>Option 1: Status quo – NZBNs held by:</p> <ul style="list-style-type: none"> • Companies. <p>Overall administration costs for government are likely to outweigh the small benefits for companies realised through this options</p>	<p>✓✗</p> <p>Meets objectives only for businesses that are companies, and risks that government agencies will not change systems for only part of customer base, so objective may not even be achieved for companies.</p>	<p>✓✗</p> <p>Meets objectives only for businesses that are companies, and feedback from consultation is that private sector may not change systems for only part of customer base, so objective may not even be achieved for companies.</p>	<p>✓✓</p> <p>Meets objectives, as businesses carried on by individuals are not included.</p>
<p>Option 2: NZBNs held by</p> <ul style="list-style-type: none"> • Companies. • Entities such as government and the not-for profit sector <p>Overall administration costs for government are likely to outweigh the small benefits for companies realised through this options</p>	<p>✓</p> <p>Meets objectives for businesses that are companies, however, risk to agency implementation, because agencies will be required to keep existing systems in operation to interact with other entities such as sole traders, partnerships and trusts.</p>	<p>✓</p> <p>Meets objectives for all businesses, however, risk to third-party implementation, because a proportion of the market that are not businesses will be excluded (sole traders, partnerships and trusts.)</p>	<p>✓</p> <p>Meets objectives, as businesses carried on by individuals are not included.</p>
<p>Preferred option</p> <p>Option 3: NZBNs held by:</p> <ul style="list-style-type: none"> • Companies. • Entities such as government and the not-for-profit sector. • Other entities that carry on a business, such as sole traders, partnerships and trusts. 	<p>✓✓</p> <p>Meets objectives for all businesses</p>	<p>✓✓</p> <p>Meets objectives for all businesses.</p>	<p>✓</p> <p>Will meet objectives provided appropriate rules are in place around use of and access to private and/or commercially-sensitive data</p>

	Enables fewer, more accurate business-to-government interactions	Enables fewer, more accurate business-to-business interactions and new commercial opportunities	Adequately protects private and/or commercially-sensitive information
Option 4: NZBNs held by: <ul style="list-style-type: none"> • Companies. • Other entities which carry on a business, such as sole traders, partnerships and trusts. • Entities such as government and the not-for-profit sector. • Individuals acting in a personal capacity. • Overall privacy risks to individuals and cost to society of identity fraud are likely to outweigh benefits to business and to government 	 Meets objectives for all businesses.	 Meets objectives for all businesses.	 Enables the NZBN to become a de facto personal identifier, which is well beyond the scope of this project.

Option 1: NZBNs held by companies (status quo)

23. Under the status quo, only companies have NZBNs. This option has already been implemented as no legislation was required. However, the efficiency benefits to the wider economy will not be realised, as companies will only be able to use their NZBN with other companies. . If non-company businesses do wish to benefit from the NZBN, they may choose to register their business as a company, increasing the number of companies in New Zealand.
24. Under this option, government agencies such as Inland Revenue, ACC, Customs and the Ministry for Primary Industries will need to maintain their own systems alongside the NZBN to interact with non-company business customers.

Option 2: NZBNs held by companies and entities such as government and the not-for-profit sector

25. This option meets the objectives to a greater extent than option 1, because it extends the NZBN to a larger proportion of the economy. However, as other entities that carry on a business, such as sole traders, partnerships and trusts are excluded, the full benefits of the NZBN do not accrue.
26. Under this option, government agencies such as Inland Revenue, ACC, Customs and the Ministry for Primary Industries will need to maintain their own systems alongside the NZBN to interact with other entities that carry on a business. .

Option 3: NZBNs held by companies, entities such as government and the not-for-profit sector and other entities that carry on a business, such as sole traders, partnerships and trusts, and (preferred option)

27. This option is recommended because it enables the largest number of 'businesses' to hold an NZBN, allowing the greatest benefits to accrue across the economy. NZIER identify these as being experienced through a combination of lower prices, higher

profits, and benefits to workers through higher wages⁶. The Privacy Commissioner accepts the value of extending the NZBN widely.

28. Option 3 delivers 'windfall' benefits to other parts of the economy. Economic benefits will arise if government agencies and the not-for-profit sector can benefit from the compliance cost-savings and the ability to use new products devised by third parties which the NZBN enables. These benefits are hard to quantify but will be significant. For example, each Government agency currently has a siloed approach to dealing with business, resulting in duplication and inefficiencies from each agency developing the same capabilities (possibly purchasing the same software). Individual agencies also do not recognise the cost to customers from having to provide the same core information repeatedly.
29. Submitters who contributed to the NZBN public consultation generally felt that all entities that carry on business should have an NZBN. There was also agreement that no business should be ineligible for an NZBN. Some submitters noted that government agencies and government entities should also have a number. Those submitters that considered the issue agreed that people who did not carry on business, such as final consumers should not be able to get an NZBN. Submitters agreed that bankrupts should continue to have an NZBN, with this fact "flagged" on the NZBN register. Many submitters suggested a link with the Insolvency Register. Indications of bankruptcy should be removed when the bankruptcy period ends.
30. The key issue arising from consultation is maximising the benefits of the NZBN across the economy, while protecting the privacy of individuals in business. Businesses wanted the economic benefits enabled by the NZBN to be as large as possible, and were comfortable with the privacy protections that we had built into the proposals.
31. Under this option, government agencies such as Inland Revenue, ACC, Customs and the Ministry for Primary Industries will need to maintain their own systems alongside the NZBN to interact with non-business customers.

Option 4: NZBNs held by companies, other entities which carry on a business, such as sole traders, partnerships and trusts, entities such as government and the not-for-profit sector and individuals acting in a personal capacity

32. This option is not supported because it increases the risk of identity fraud through the NZBN becoming a *de facto* universal unique identifier for all individuals, including those who are not in business, which is beyond the scope of this project.

Conclusion

33. Option 3 was supported by submitters who contributed to the NZBN public consultation. It is preferred and detailed legislation will be needed to set out who can and cannot have an NZBN. Option 3 delivers the best outcome for businesses by providing the strongest possible case for government agencies and third parties to develop systems based on the NZBN. However, without good design this option could potentially compromise the privacy of individuals. This risk has been identified and will be mitigated by careful design of the appropriate rules, for example, by ensuring that only a small amount of information provided by businesses is publically attached to the

⁶ Wider Economic benefits of a New Zealand Business Number. NZIER report to the Ministry of Business, Innovation and Employment, 24 December 2013.

NZBN. Further, by excluding individuals who are acting in a purely personal capacity the largest privacy risks are managed.

Issue 1 – Part 2: How should the NZBN apply to sole traders?

Problem definition

34. The NZBN is intended to be a unique identifier that is intended to be assigned to a range of entities, including individuals who are sole traders, and be used by multiple agencies to identify the individual⁷ in relation to their trading activity. However, IPP 12(2) of the Privacy Act 1993 states that an agency shall not assign to an individual a unique identifier that has been assigned to that individual by another agency.
35. The prohibition is imposed on “agencies” (public and private); individuals cannot ‘give permission’ for unique identifiers that relate to them to be used in contravention of the principle. Without legislative permission, this prohibition will constrain NZBN use.

Options

Table 2. Issue 1 – Part 2: How should the NZBN apply to sole traders?

	Enables fewer, more accurate business-to-government interactions	Enables fewer, more accurate business-to-business interactions and new commercial opportunities	Adequately protects private and/or commercially-sensitive information
<p>Preferred option</p> <p>Option 1: Legislative permission to allow the NZBN to be widely used as a business identifier across the economy.</p> <p>This option is the lowest cost means of widely extending the NZBN, as it has the lowest administrative costs to government</p>	<p>✓</p> <p>Allows sole traders to benefit from reduced compliance costs.</p>	<p>✓</p> <p>Reduces transactions costs.</p>	<p>✓</p> <p>Protections are required to prevent inadvertent use of NZBN as unique identifier of individuals.</p>
<p>Option 2: Develop a code of practice or using information-sharing agreements.</p> <p>Neither method is favoured, because they are unlikely to provide the functionality needed for the NZBN, or to be implemented within the required timeframes</p>	<p>✗</p> <p>Development and issue of codes is at discretion of Privacy Commissioner. Harder for businesses to follow.</p>	<p>✗</p> <p>Reduced participation because arrangements not available to private groups.</p>	<p>✓</p> <p>Allows adequate protections.</p>

Option 1: Legislative permission to allow the NZBN to be widely used as a business identifier across the economy

36. This option allows both government and the private sector to use the NZBN, and has the potential to meet the timeframes for implementing the project.

⁷ The possibility of attaching the number to the individual's trading activity is also canvassed in this paper.

37. The Privacy Commissioner accepts the value of extending the NZBN to sole traders, unincorporated partnerships, and trusts but considers that legislation to extend the NZBN would need suitable privacy protections to mitigate the potential privacy risks that could result by creating a universal unique identifier. He recommended that these protections include:
- a clear statement of purpose for the NZBN and the register that is not overly broad or unclear.
 - a specific limitation that restricts the use of the NZBN to business purposes only and a prohibition on its use for non-business purposes such as social services purposes.
 - a definition of the personal information that may be collected.
 - clear maintenance of the Privacy Act prohibition (IPP 12 (4)) against an agency requiring an individual to disclose a unique identifier for a purpose other than that for which it was issued.
 - an explicit prohibition against agencies using the NZBN for a purpose other than that set out in legislation.
 - an explicit prohibition to prevent agencies from requiring an individual to provide an NZBN in order to receive a service or interact with government.
38. We agree that the NZBN legislation should include mitigations to prevent the NZBN from becoming a universal unique identifier of individuals. Accordingly we agree with the first five recommended protections above.
39. We partially agree with the last recommendation above. We agree that agencies should not be able to require individuals who they are dealing with in a personal capacity only to provide an NZBN, and agencies should not be able to use NZBN information when they are dealing with individuals in a personal capacity only.

Option 2: Using administrative practices, such as developing a code of practice or information-sharing agreements

40. Neither method is favoured, because they are unlikely to provide the functionality needed for the NZBN, or to be implemented within the required timeframes.
41. Codes of practice are issued at the discretion of the Privacy Commissioner. The Privacy Commissioner does not consider that a Code of Practice is a viable option for enabling NZBNs to be allocated to individuals. He considers that overriding IPP 12(2) to the extent required is a reversal of Parliament's intention, and is therefore an inappropriate use of a Code. Instead, he considers that this is a matter for Parliament to decide itself through law reform. .
42. Approved Information-Sharing Agreements cannot be used by the private sector to the extent desired.

Conclusion

43. On balance, we believe that the objectives are best achieved by a legislative permission to allow the NZBN to be widely used as a business identifier across the economy.









Issue 2 – Should NZBNs be assigned to entities⁸ that carry on a business, or to business activities themselves?

Problem definition

- 44. While agencies generally interact with businesses at an entity level, assigning NZBNs to sole traders identifies the individual as owner of the business, creating privacy concerns. The Commissioner would prefer to see NZBNs allocated to business activities to avoid tying all an individual’s business activities to one number. For example, an individual in a sensitive business may not want that activity linked to a more conventional business activity.

Options

Table 3. Issue 2 – Should NZBNs be assigned to entities or to business activities?

	Enables fewer, more accurate business-to-government interactions	Enables fewer, more accurate business-to-business interactions and new commercial opportunities	Adequately protects private and/or commercially-sensitive information
<p>Preferred option</p> <p>Option 1: Allocate NZBNs to business entities.</p> <p>This option has the lowest administrative costs to government, and compliance costs for businesses. It achieves the intended benefits of the NZBN.</p>	<p></p> <p>Direct relationship between a business and an NZBN means government can be sure which business they are interacting with.</p>	<p></p> <p>Direct relationship between a business and an NZBN means businesses can be sure which business they are interacting with.</p>	<p> (sole traders)</p> <p>Although relevant legislation will apply, risk is that sole traders are individually identifiable through their NZBN.</p> <p> (other business structures)</p> <p>This option meets this objective.</p>
<p>Option 2: Allocate NZBNs to business activities.</p> <p>This option has the high administrative costs to government, and compliance costs for businesses, meaning costs are likely to outweigh benefits.</p>	<p></p> <p>If a business entity has more than one NZBN, then government agency systems will need to be able to differentiate between these activities. This has a high administration cost, and introduces many points at which errors can occur.</p> <p>For these reasons, it is also likely to adversely affect the speed at which government agencies will be able to implement the NZBN.</p>	<p></p> <p>If a business entity has more than one NZBN, then business systems will need to be able to differentiate between these activities. This has a high compliance cost, and introduces many points at which errors can occur.</p> <p></p> <p>Where a sole trader sells a business activity, this option allows the NZBN to transfer with the business, enabling commercial relationships based on the NZBN to continue</p>	<p></p> <p>Protects the personal information of sole traders as the NZBN is no longer necessarily a unique identifier for individuals. This reduces the potential for the NZBN to act as a reference across many sources of personal information</p>

⁸ In some instances, these will be legal entities, such as sole traders, and, in other instances, legal relationships through which activities are carried on, such as partnerships and trusts. Specific legislation will be needed to address this, but there are existing precedents such as the Goods and Services Tax Act 1985.

Option 1: Assign NZBN to business entities (preferred option)

45. Under this option, the NZBN would attach to the entity, as it does for companies. For example, a sole trader would have one NZBN, regardless of the number of business activities that person carries on. If a sole trader sold their business activity, then the number would not transfer with the business activity, but would remain with that sole trader. This option best aligns with the objective of the NZBN to be a single identifier which businesses can use with all of the government agencies with which they interact. This is because agencies currently allocate their top-level identifiers on an entity basis, rather than by activity (although many also assign second-tier identifiers on an activity basis). If agencies were required to implement an activity-based structure, they would need to create a sophisticated matrix to match activity-based numbers to their existing entity-based systems. This would be expensive, and would be likely to delay agency uptake.
46. Public consultation proposed that the NZBN is attached to the business entity rather than the business activity. The general view of industry representative groups and larger businesses was that NZBNs should be allocated to legal entities rather than business activities. These submitters were comfortable with the NZBN being allocated to their legal entities, and were very clear that they wanted to be able to use the NZBN to identify other legal entities they dealt with, and not just a business operation carried on by a legal entity. This position was taken by NZ Retailers Association, Federated Farmers, GS 1, Veda Advantage and the New Zealand Institute of Chartered Accountants.
47. The main purpose of the NZBN is to act as a single number to replace the multiplicity of numbers which businesses use now in dealing with government agencies. We discussed this issue with the other R9 government agencies and their strong recommendation was that NZBNs be allocated on an entity basis. This was because their existing primary reference numbers are largely assigned on an entity basis. For these reasons, we recommend that the NZBN is allocated to the legal entity which carries on the business activity, and not to the business activity itself.

Option 2: Assign NZBN to business activities

48. Under this option, a single legal entity carrying on more than one business activity would have one NZBN for each business activity. If that entity was to sell a business activity, then the NZBN could be sold along with the business activity and used by the new owner.
49. This option gives priority to the business to business and business to government use of the NZBN over the government agency use of it (although there is strong B2B support for entity-based allocation). A consumer or supplier may be focused on a simple commercial relationship over time, and be completely disinterested in the legal entity carrying on the business, or any change to it.
50. This option is supported by a minority of submitters including the Privacy Commissioner. However, he understands that broader benefits may exist from allocating the number to the legal entity. The Commissioner received support from EMA (Northern).

Conclusion





51. This is a difficult issue, and there are material advantages and disadvantages to either approach. However, the NZBN will only be successful if both government agencies and businesses themselves adopt it as a transactional tool. The agency view is strongly in favour of the NZBN being implemented on an entity basis, and, while the business view is mixed, the weight of business opinion is also in favour of entity-based implementation.



Issue 3: How will eligible businesses get an NZBN?

Problem Definition

52. When considering how businesses (beyond companies) could receive their NZBN, businesses indicated that the most important factor was keeping compliance costs as low as possible, and that the NZBN needs to be easy to obtain and work with. Developers wanted the NZBN implemented quickly so that they can build products that reduce the time taken to invoice and to pay invoices, and the risk associated with transactions, particularly with new customers and suppliers. There are two options for allocating NZBNs and repopulating the NZBN register – automatic allocation, and an application process.
53. Automatic allocation will require legislative change to allow the allocating agency to receive information from the agency providing the data against which NZBNs are matched. The Privacy Commissioner's office is reasonably comfortable with this automatic allocation of the NZBN, provided that agencies could only use the NZBN for communication with the business but not to create an identity unless the business permits it.

Table 4. Issue 3: How will eligible businesses get an NZBN?

	Enables fewer, more accurate business-to-government interactions	Enables fewer, more accurate business-to-business interactions and new commercial opportunities	Adequately protects private and/or commercially-sensitive information
<p>Option 1A: Automatic allocation where possible through Inland Revenue, application process where not.</p> <p>Benefits of this option are administratively simple allocation of the NZBN, and wide uptake. However legislative and contractual barriers mean the costs are likely to outweigh the benefits.</p>	<p></p> <p>Fast and efficient allocation will allow fast uptake of the NZBN by both business and government</p> <p>This option has higher implementation costs to government than option 1B, as legislative amendment and a variation to the GS1 – MBIE contract for GLNs would also be required.</p>	<p></p> <p>Fast and efficient allocation will allow certainty for e-commerce providers and supports the NZBN benefits that result from all businesses having an NZBN.</p>	n/a
<p>Preferred option</p> <p>Option 1B: Automatic allocation where possible through</p>	<p></p> <p>Fast and efficient allocation will allow fast uptake of the</p>	<p></p> <p>Fast and efficient allocation will allow certainty for e-</p>	n/a

<p>MBIE (Companies Office), application process where not.</p> <p>Benefits of this option are administratively simple allocation of the NZBN, and wide uptake.</p>	<p>NZBN by both business and government</p>	<p>commerce providers and supports the NZBN benefits that result from all businesses having an NZBN.</p>	
<p>Option 2: Application process.</p> <p>High administrative costs for government and high compliance costs for businesses mean that the costs of this option outweigh the benefits.</p>	<p></p> <p>High costs for both government and business</p>	<p></p> <p>High costs for both government and business</p>	<p>n/a</p>

Options 1A and 1B: Automatic allocation

54. NZBNs have already been allocated to 1.1 million registered companies. We considered using the other registers maintained by the Companies Office to allocate further NZBNs. Consultation with affected bodies, such as incorporated societies, indicates that these business types support being allocated an NZBN automatically.
55. Submitters support automatic allocation of NZBNs, with an application process for those businesses for which automatic allocation might not be possible (e.g. sole traders not registered for GST). Sole traders were overwhelmingly in favour of being allocated an NZBN automatically, but sole traders are not easily identified as a group, as they are currently not listed on any register. A process is therefore required to match businesses to NZBNs for sole traders.
56. The Privacy Commissioner's office is reasonably comfortable with automatic allocation of the NZBN, provided that agencies could only use the NZBN for communication with the business but not to create an identity unless the business permits it. Legislation will be needed to prevent use of the NZBN to create an identity without authorisation from the business. We recommend that authorised government agencies not use NZBN information to create a new identity in their systems without authorisation from the business.

Option 1A: Automatic allocation where possible through Inland Revenue, application process where not

57. Under this option, MBIE would provide NZBNs to Inland Revenue (IR), which would then allocate NZBNs to all sole traders that are GST-registered. Other sole traders would need to apply for an NZBN. A variation to MBIE's contract with GS1NZ would be needed, as, contractually, only MBIE can allocate NZBNs. An amendment to section 81(4) of the Tax Administration Act 1994 would also be required to allow IR to share this information with MBIE, so an NZBN register could be created.
58. Risks with this option are the timeframe for amending the Tax Administration Act 1994 and the costs of varying MBIE's contract with GS1.

Option 1B (Preferred option) Automatic allocation where possible through MBIE (Companies Office), application process where not

59. Under this option, Inland Revenue would provide a list of GST-registered sole traders to MBIE, which would then allocate NZBNs to all those sole traders. Other sole traders would need to apply for an NZBN. An amendment to section 81(4) of the Tax Administration Act 1994 would be required to allow IR to share this information with MBIE.
60. A risk with this option is the timeframe for amending the Tax Administration Act 1994.

Option 2: Application Process

61. Under this option, businesses would need to apply for an NZBN. This option is not preferred, as it involves high compliance and administration costs, and does not promote uptake of the NZBN.

Conclusion

62. In our view, automatic allocation of the NZBN to as many businesses as possible is preferable for both businesses and government, as it promotes the widest uptake of the NZBN with the lowest compliance costs. While both automatic allocation options require an amendment to the Tax Administration Act 1994, MBIE allocation of NZBNs is administratively simpler, as a variation to the NZBN contract between GS1 and MBIE is not required.





Issue 4: Should government agencies be required to adopt the NZBN?

Problem Definition

63. The value of the NZBN will depend on the speed that government agencies adopt the NZBN. Businesses are unlikely to use their NZBN if they cannot use it with all or most of the government agencies they interact with.

Options

Table 5. Issue 4: Issue 4: Should government agencies be required to adopt the NZBN?

	Enables fewer, more accurate business-to-government interactions	Enables fewer, more accurate business-to-business interactions and new commercial opportunities	Adequately protects private and/or commercially-sensitive information
Option 1: Voluntary adoption of the NZBN by government agencies. This option minimises the costs to agencies, but is likely to result in slow uptake by agencies, reducing the benefits to business	 Benefits may be delayed if uptake by agencies is slow.	 Benefits may be delayed, as businesses may be reluctant to adopt the NZBN if uptake by government agencies is slow.	n/a
Preferred option Option 2: Government agencies are required to adopt the NZBN by a specified date. This maximises the benefits to	 Allows agency and developer investment in implementing the	 Benefits may be delayed if uptake by businesses is slow.	n/a

business, however, the trade-off may be higher implementation costs for agencies.	NZBN to be quickly realised.		
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Option 1: Voluntary adoption of the NZBN by agencies

64. Under this option, agencies would only adopt the NZBN when they see that there would be net benefits in doing so. This may mean that it might be many years before most government agencies actually adopt the NZBN. Some may never adopt the NZBN.
65. Until all agencies have adopted the NZBN, many businesses will have to maintain parallel systems for dealing with government agencies – one for those that do accept the NZBN and another for those that don't. If businesses are given an NZBN, but at least some of the agencies they deal with do not accept it, businesses may see the NZBN as a compliance cost.
66. The main advantage with this proposal is that it allows agencies to adopt the NZBN as and when their budgets and delivery timetables allow.

Option 2: Agencies are required by legislation to adopt the NZBN by a specified date (preferred option)

67. This option would require agencies to begin accepting the NZBN in their interaction with businesses by a specified date. This would mean that after that date, businesses could use their NZBN in all their interactions with government if they so wished. This will give businesses the confidence that they can implement the NZBN in their own systems, and gain the benefits of the NZBN from the specified date.
68. In their submissions, large businesses and industry representative groups were clear that they supported the NZBN largely because of the compliance cost savings they expect it to deliver in business' transactions with government. They stressed the importance of government agency uptake of the NZBN being broad and swift. Some suggested that government agencies should have a prescribed implementation date.
69. There are, however significant short-term costs and risks with this option. These include short term pressure on agency budgets and delivery timetables for implementation of the NZBN. We cannot estimate these costs, as they vary from agency to agency, and will be depend on whether agencies have planned system upgrades in the near future. To implement this option, some agencies will need to amend their governing legislation, either through omnibus legislation overriding necessary legislation or individual amendments, and to incorporate system changes within their own information technology system upgrades.










Issue 5: For businesses eligible for an NZBN, should the use of the NZBN be voluntary or compulsory?

Problem definition

70. The success of the NZBN in enabling businesses to interact more easily with each other and with government depends on how fast businesses and government agencies adopt the NZBN. Businesses are unlikely to use their NZBN unless agencies require them to; while agencies may be unwilling to adapt their systems to incorporate the NZBN unless their business customers will use them.

Options

Table 6. Issue 5: For businesses eligible for an NZBN, should the use of the NZBN be voluntary or compulsory?

	Enables fewer, more accurate business-to-government interactions	Enables fewer, more accurate business-to-business interactions and new commercial opportunities	Adequately protects private and/or commercially-sensitive information
Option 1: Fully-optional use of the NZBN by businesses.	 Slow uptake will mean e-commerce offerings are likely to be delayed.	 Slow uptake will mean e-commerce offerings are likely to be delayed.	 Businesses will only use the NZBN if they are comfortable with protections for their sensitive information.
Preferred option Option 2: Use of the NZBN is optional for businesses unless an authorised government agency requires the NZBN for their interactions.	 Benefits may be delayed if uptake by business is slow.	 Benefits may be delayed if uptake by agencies is slow.	 Allows time for agencies to safely embed the NZBN in their systems.
Option 3: Use of the NZBN by businesses is compulsory.	 The mandatory nature of the option may have unintended consequences for both businesses and agencies.	 The mandatory nature of the option may have unintended consequences for both businesses and agencies.	 Risk that implementation speed results in inadequate protections for sensitive information.

Option 1: Fully-optional uptake of the NZBN by businesses

71. We considered leaving uptake and use of the NZBN to the market. Under this option, businesses will continue to be able to transact with government indefinitely without an NZBN. This would allow them to adopt the NZBN when they can see a definite benefit to the business – for example, a reduction in compliance costs. However, until a critical mass is reached, agencies will need to continue to run their own systems in addition to the NZBN system. This will be an additional cost, with the only saving being a reduction in some customer contacts. Slow uptake will limit the benefits to government agencies, delaying investment and cross-agency engagement. It will also delay developer investment.
72. This option addresses privacy concerns, as businesses will only use their NZBN if they are comfortable that their sensitive information will be protected.

Option 2: Use of the NZBN is optional unless an authorised government agency requires the NZBN for their interactions (preferred option)

73. This option is preferred because it allows businesses to start using the NZBN as they see benefits accruing. However, true benefits will only be realised once more than one agency starts using the NZBN.

74. The Privacy Commissioner considered that agencies should not be able to require individuals to use an NZBN, because that could result in a de facto requirement for them to have an NZBN in order to carry out business activities. At the very least, the Commissioner's office indicated that if it is proposed that government agencies should be able to require the use of the NZBN, then this should be reflected in the legislation.
75. The Commissioner is particularly concerned that agencies may take their decisions to require the NZBN solely on the operational benefits to the agency and not consider possible detrimental effects on things like privacy. The Commissioner's office and MBIE agree that this concern could be managed through the NZBN legislation requiring agencies to consider privacy issues before they require the mandatory use of the NZBN. The NZBN registrar would be responsible for determining whether the legislated criteria to permit mandatory use have been met by agencies. The legislated criteria are proposed to be:
- a. nature of the agency, for example the scope and function of the agency and the range of business sophistication of its customers
 - b. benefits to the agency
 - c. nature of the services provided to the business by the agency
 - d. benefits to the individual arising out of the services provided by the agency
 - e. the costs and benefits to businesses and NZBN registered entities more generally
 - f. privacy impacts, with consultation with the Privacy Commissioner.
76. These criteria should ensure that there is an appropriate balance between the costs and benefits of mandating use of the NZBN and remove the risk of an excessive focus on operational benefits to the detriment of other outcomes. They are consistent with information matching criteria in the Privacy Act 1993.

Option 3: Use of the NZBN by businesses is compulsory

77. Under this option, all businesses would be required to have an NZBN by a specified date. Sanctions would be levied to support compliance. This option would mean that the NZBN is in place to enable easier business-to-business and business-to-government interactions. A critical mass will be achieved quickly, allowing agency and developer investment to be quickly realised. However, short-term costs and risks are large. If businesses are compelled to use the NZBN but their systems are not up and running, its reliability and public trust and confidence in the NZBN are likely to be eroded.

Conclusion

78. On balance, we believe that the objectives are best achieved by voluntary use of the NZBN by businesses until an authorised government agency requires it. Within this scenario, agencies will help drive the NZBN when they adapt their systems to recognise it. While compulsory uptake will achieve the objectives sooner, the significant risks attached to this option mean that it is more likely to fail than the more moderate recommended approach.










Issue 6 – Part 1: What information will be attached to the NZBN and how will that information be managed?

Problem definition

79. Part of regulating the information attached to the NZBN is regulating how that information is stored and accessed. For companies, and other business types already on a register, these rules are set out in existing legislation.
80. Decisions are needed on how to record the information attached to the NZBN. Without a record of this information, and clear governance of the information, there are risks around how the information is maintained, accessed and administered. A key risk for the NZBN is the need for proper management of personal information, which is highly dependent on proper governance and responsible stewardship. This cultural requirement cannot be legislated.
81. As a unique identifier, information will be attached to the NZBN. When the NZBN was allocated to companies, it was associated with the Companies Office number for that company. The Companies Act 1993 defines the information that must be made public for companies. Sole traders and other businesses not currently on a register are not required to make any information about themselves publicly available.
82. Businesses want the information attached to the NZBN to be managed efficiently. Sole traders and companies told us that they welcome the idea of updating their basic business information in one place, and making that information available to the government agencies with which they interact. We surveyed more than 600 companies and sole traders, asking them about registering and maintaining their details with government. 86 percent of businesses value all government departments with which they interact having the same up-to-date and accurate basic information about their business. 82 percent of businesses value the ability to provide basic information once to be shared across government.
83. Businesses are concerned that the NZBN may become 'just another number,' and that the information that government holds about their business must be valid and reliable, and protected from misuse or misappropriation.
84. We need permission for government agencies generally who have businesses as clients/customers to access NZBN data to keep their records current, or in time to act as an authoritative source for that information so the agencies do not have to keep it themselves. This permission needs to be restricted to data that the agency already collects from the business directly.

Options

Table 7. Issue 6 – Part 1: What information will be attached to the NZBN and how will that information be managed?

	Enables fewer, more accurate business-to-government interactions	Enables fewer, more accurate business-to-business interactions and new commercial opportunities	Adequately protects private and/or commercially-sensitive information
<p>Preferred option</p> <p>Option 1: Defining what information is attached to the NZBN, and regulating how that information is managed on a new register for currently non-registered entities.</p> <p>While there are high one-off administrative costs for government with this option, it also provides the highest levels of protection for personal information.</p>	<p></p> <p>Protects the reliability and validity of NZBN information, enabling its use for interactions between business and government.</p> <p>Restricts the ability for businesses to choose to attach additional information.</p>	<p></p> <p>Protects the reliability and validity of NZBN information, enabling its use for interactions between businesses.</p> <p>Restricts the ability for businesses to choose to attach additional information.</p>	<p></p> <p>Regulation will set out the information that is available publicly, and to be shared by agencies. Penalties for misuse will also be prescribed.</p>
<p>Option 2: Defining what information is attached to the NZBN, and regulating how that information is managed through an existing register.</p> <p>Like option 1, there are high one-off administrative costs for government with this option, but fewer protections for personal information.</p>	<p></p> <p>Protects the reliability and validity of NZBN information, enabling its use for interactions between business and government.</p> <p>Restricts the ability for businesses to choose to attach additional information</p>	<p></p> <p>Protects the reliability and validity of NZBN information, enabling its use for interactions between businesses.</p> <p>Restricts the ability for businesses to choose to attach additional information.</p>	<p></p> <p>The information that is available publicly will be determined by requirements of existing legislation.</p> <p>This may compromise the private information of individuals who choose to conduct business as sole traders.</p>
<p>Option 3: Regulating information on existing registers, no regulation of information attached to NZBNs for sole traders.</p> <p>This option has low administrative costs for government, but also high risks to personal information</p>	<p></p> <p>This option is flexible, sole traders can attach information of their choosing.</p>	<p></p> <p>This option is flexible, sole traders can attach information of their choosing.</p>	<p></p> <p>Information attached to the NZBN and its protection is not regulated.</p>

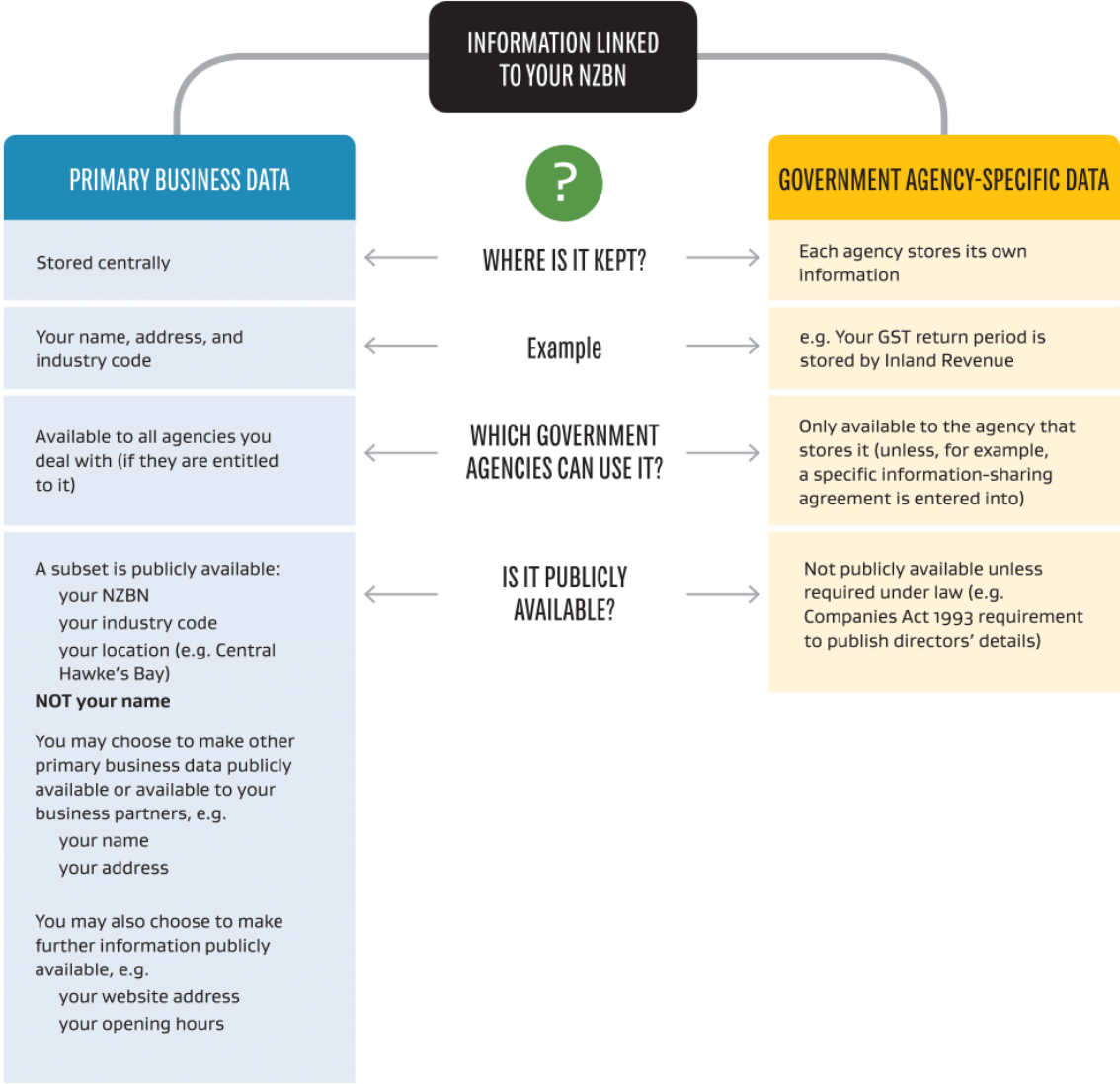
Option 1 (Preferred option): Defining what information is attached to the NZBN, and regulating how that information is managed on a new register for currently non-registered entities

85. This option is for legislation limiting the use of the NZBN and personal information associated with it to authorised purposes only. These controls are intended to ensure that the NZBN is a well-regulated identifier, and provide protection and sanctions for

the use (and misuse) of the NZBN and the collection and use of data associated with it. New legislation is needed, as information is being collected for the purposes of the NZBN and its register (new purposes).

86. This approach upholds the validity, reliability and integrity of information attached to the NZBN. Concerns about protecting individual privacy and commercially-sensitive information are also addressed, as regulation will outline what information is available through the NZBN, and to whom.
87. For companies and other businesses on existing registers, information that is already required to be publicly available will remain publicly available. That includes information made public under the Companies Act 1993, such as the names and residential addresses of company directors. Other information that the Companies Office holds about directors that is not now required to be made publicly available will not be affected, and Privacy Act 1993 protection will continue to apply.
88. Under this option, information attached to the NZBN (for all businesses) will include:
 - Primary business data – data that describes the business entity; this will include basic business data that is available to the public, and some data that is only available to authorised government agencies. Public information will differ according to business status. Most online respondents said that only a small amount of information should be required to be made public, with businesses having the option to make further information public if they wish.
 - Shared agency data – data that can only be shared with government agencies. Any business data shared by three or more agencies will be able to become shared agency data held by the NZBN. Agency-specific data is specific to a single agency and stored by that agency. Online respondents said that government agencies should only have access to the data to which they are legally entitled.
89. A new register would be established to maintain and administer information attached to the NZBN for sole traders. This information will be managed by MBIE in its role as NZBN registrar. The registrar will have powers to make regulations to govern the administration and management of a register containing information on the businesses.
90. There was support from submitters for making core business data public, together with any other information about a business that is already available to the public. Submitters felt that other information about a business could be made public if the business concerned consented. Some submitters agreed that the information made public relating to sole traders should be more limited than that for other businesses, to preserve privacy. Those submitters that dealt with the issue considered that third parties should only have access to information that is otherwise available to the public.
91. The Privacy Commissioner's submission sets out two principles with regard to agencies' access to information: individuals should be able to maintain control over how much information about them is accessed by agencies; and agencies should only have access to the information they are legally entitled to from the register.
92. Subsequent discussions with the Commissioner's office have indicated that the information on the register they are most concerned about is address information. While they would prefer a system where individuals consented to updated information being provided to agencies, they accept that individuals may have to deal individually with each agency separately if they want to maintain different addresses with those agencies. They agree that it may be useful to include specific provisions in legislation to authorise this mechanism in order to ensure legal clarity about Privacy Act 1993 requirements to collect information directly from the individual.

- 93. The Commissioner's office are less comfortable with the idea that agencies should be able to access address information from the register when they have been provided a different address by the individual and asked not to update that address from the register. They consider this type of mechanism gives agencies additional rights to obtain information about individuals. However, they accept that there may be situations (such as?) when this may be justified, and have indicated that their view is closely linked to whether having an NZBN remains optional.
- 94. This option will allow the NZBN to operate as described in **Figure 1** below:



Option 2: Defining what information is attached to the NZBN, and regulating how that information is managed through an existing register

- 95. Under this option, existing arrangements remain in place for NZBN holders on existing registers. In addition, NZBN holders not currently on a register would be added to an existing register; for example, the Companies Office register. This option is not preferred, as it has the potential to confuse the purpose of an existing register. A legislative amendment would be required to allow other businesses to be added to the selected register.

Option 3: Regulating information on existing registers, no regulation of information attached to NZBNs for sole traders.

96. This option is the 'lightest touch' for government – in that a new framework for collecting and managing information is not needed. Some holders of the NZBN will remain governed by their existing legislation (e.g. the Companies Act 1993).
97. However this option does not protect the integrity and reliability of the NZBN, as there are no safeguards on the information attached to it. This will detract from its usefulness. We consider that this option has the potential for loss of control over what information others (including government) hold about individuals, and how they use that information. Information is also vulnerable to falsification and error. Problems are also anticipated with the reliability of associated data and the potential for poor quality data to be propagated across many information systems.

Conclusion

98. Given the privacy and security risks around information attached to unique identifiers, we believe that the information that is attached to the NZBN, and who can access that information, should be regulated. This option requires new administrative infrastructure not required by the other two options, but it also provides the biggest safeguards for the integrity and reliability (and therefore usefulness) of the NZBN. On balance, given the widespread use envisaged for the NZBN, we support a registrar with powers to maintain a register effectively. We recommend that the legislation should create a process to establish authorised government agencies who are permitted to use non-public NZBN information with appropriate safeguards. These should include: limiting access to agencies that are approved by the NZBN registrar; limiting the use of the information to the functions of those agencies; and that the information can only be used in relation to individual's business and not in relation to their personal capacity.
99. Legislation is required to establish what information (other than that information already publicly available, such as information on the Register of Companies) collected for the NZBN will be made mandatorily public. We propose that, for businesses, such as sole traders, who are not listed on any public register, only the NZBN, the business industry code, a general indication of the business' location and whether the business is active or inactive should be publicly available. This will permit discretion for businesses that do not want widespread exposure of their information for commercial or personal reasons.
100. Legislation is needed to permit information-sharing about sole traders and others between government agencies authorised to hold that information. IPP 2 requires personal information to be collected directly from the individual concerned, and IPP 11 restricts disclosure of personal information to others. Several mechanisms exist within the Privacy Act 1993 to allow restrictions to be relaxed. However, none of these mechanisms have the required scope to clearly legitimise the wider-ranging use anticipated for the NZBN across the whole economy.
101. Formal legislative authority for agencies that already deal with a business to use NZBN information would remove uncertainty about whether this was authorised for businesses that are not separate legal entities. This is important, because 50 percent of businesses participating in the New Zealand economy are not separate legal entities from the individuals who own them.

Issue 6 – Part 2: How will the requirement on agencies to collect information directly from individuals be managed (IPP 2(1))?

102. The Privacy Act 1993 Information Privacy Principle 2 (IPP 2) states that, where an agency collects personal information, the agency shall collect the information directly from the individual concerned. The exceptions to this rule may not apply to the NZBN.

Options

Table 8. Issue 6 – Part 2: How will the requirement on agencies to collect information directly from individuals be managed (IPP 2)?

	Enables fewer, more accurate business-to-government interactions	Enables fewer, more accurate business-to-business interactions and new commercial opportunities	Adequately protects private and/or commercially-sensitive information
<p>Preferred option Option 1: Legislative permission for authorised government agencies to obtain business information from the NZBN register, and to provide information to the register This option has the lowest administrative costs for government, while still protecting personal information</p>	<p>✓ Allows sole traders to benefit from reduced compliance costs.</p>	n/a	<p>✓ Under this option, protections to prevent inadvertent use of NZBN information will be required.</p>
<p>Option 2: Sole traders would be asked to consent to sharing information with each government agency with which they interact This option achieves the same outcome as option 1, but with higher administrative and compliance costs</p>	<p>✓ More control over information, but increased compliance costs.</p>	n/a	<p>✓ Allows adequate protections to prevent inadvertent use of NZBN information</p>

Option 1: Legislative permission for authorised government agencies to obtain business information from the NZBN register and to provide information to the register (Preferred option)

103. It is envisaged that the NZBN system will share primary business data with government agencies that are legally entitled to collect that information, rather than those individual agencies seeking the information directly from the business. For example, if a sole-trader updates their contact details with the NZBN or through a common registration site, all government agencies that interact with the individual and who would collect that information from the individual will be able to use that information.

104. This option, the preferred option, proposes a legislative permission to allow agencies to access information in order to carry out their functions. Agencies will not be able to create a new identity in their systems without the business' authorisation, and the information will only be used in relation to individuals' business and not in relation to their personal capacity.

Option 2: Sole-traders would need to consent to individual agencies using NZBN information

105. Option 2 would require businesses to consent to the NZBN system sharing primary business data with any agency that the business interacted with. This option would

create the best privacy outcomes – individuals would be able to choose which agencies they dealt with had access to their primary business data and for what time.

106. Across participants of the NZBN system as a whole, this option would generate the largest compliance costs and administrative costs. The design of the NZBN system, would need to store and implement preferences on a business-by-business basis of which agencies can have access to which information for what time.
107. This option could allow users to maintain different primary data across different agencies. Reasons for doing so include the desirability of maintaining different contact information for different activities carried out by the business. The lack of flexibility to do so would introduce complexity for businesses and therefore could reduce participation. However, primary business data is not expected to replace agency specific information about the business. Government agencies will make their own decisions about what information they as an agency will maintain and use in relation to their interactions with businesses.
108. The Privacy Commissioner and the Ministry of Justice are also concerned that the NZBN may make links more evident between different business activities carried out by an individual. For example, an individual in a sensitive business may not want that linked publicly to a more conventional business activity. They argue that if individuals had control over which agencies have access to primary business data they could prevent those links becoming known.
109. We consider that the risks from such links are to be outweighed by the potential benefits of agencies automatically having access to primary business data – in particular it increases the potential for those agencies to tailor services for businesses.

Conclusion

110. On balance, we believe that the objectives are best achieved by legislative permission for authorised government agencies to obtain business information from the NZBN register, and to provide information to the register. Some businesses would value the ability to consent to each agency accessing their primary business data, however the costs imposed mean the majority of businesses would prefer a system that shares their information between entitled agencies. A process for each user to consent to the sharing of this information with each agency that they interact with would create a barrier to participation and create significant inefficiencies. The concerns raised could be incorporated into the build of individual systems and agency specific data would still be maintained at the agency level.

Issue 7 – Should fees be charged for getting and maintaining an NZBN? Or for using NZBN data?

111. There are arguments in favour of charging fees – new costs are incurred by government in establishing the NZBN, and businesses are expected to benefit from having an NZBN both in their transactions with government and commercially. The Companies Office charges both an application fee and an annual fee for companies to be on the Companies Register – which is necessary for them to exist.
112. There are also arguments against charging fees. The costs incurred by government in establishing the NZBN are expected to be offset by savings delivered to government. While some businesses will benefit substantially from having an NZBN, others may derive a very small benefit, or none at all. Charging fees will particularly be an issue for

businesses which are automatically allocated an NZBN ahead of when they otherwise might want or be required to use one.

Options

Table 8. Issue7 – Should fees be charged for getting and maintaining an NZBN? Or for using NZBN data?

	Enables fewer, more accurate business-to-government interactions	Enables fewer, more accurate business-to-business interactions and new commercial opportunities	Adequately protects private and/or commercially-sensitive information
<p>Preferred option Option 1: No fees, for getting and maintaining an NZBN. A fee may be charged to third parties who want access to bulk NZBN data for commercial purposes</p> <p>This option incurs administrative costs to government (from allocation and maintenance of the NZBN system), but also ensures the benefits of widespread NZBN uptake are enabled.</p>	<p>✓✓</p> <p>Making the NZBN free to have and maintain promotes widespread uptake at no cost to businesses</p>	<p>✓</p> <p>Making the NZBN free to have and maintain promotes widespread uptake at no cost to businesses using it in their own right A charge to those using the NZBN for commercial purposes reflects the costs of providing that information</p>	n/a
<p>Option 2: Fees may be charged for getting and maintaining an NZBN and for accessing bulk NZBN data for commercial purposes</p> <p>This option helps meet the costs of the NZBN but the benefits will not be realised.</p>	<p>✗</p> <p>Charging for the allocation of an NZBN and its maintenance directly contradicts this objective</p>	<p>✗</p> <p>Charging for the allocation of an NZBN and its maintenance directly contradicts this objective</p>	n/a

Option 1: No fees, will be chargeable for getting and maintaining an NZBN. A fee may be charged to third parties who want access to bulk NZBN data for commercial purposes

113. The most compelling argument for this option is that the NZBN is being marketed to businesses as a way that their costs of dealing with government will be reduced, and an fee would explicitly increase business' compliance costs (with the savings being implicitly delivered over a period of time, and so being less obvious).
114. Federated Farmers and Business NZ expressed the view that fees should not be attached to a business for obtaining or continuing to have an NZBN (e.g., an application fee or an annual fee).
115. For these reasons, we recommend that, no fee be chargeable for issuing or having an NZBN.
116. Some commercial users may want to access bulk NZBN data. MBIE's Business Registries already has a number of arrangements with commercial users of data from the registers by Companies Office, which are governed through data access agreements and memoranda of understanding. This kind of re-use of NZBN data is consistent with the government's vision of the NZBN of making the business environment more efficient.
117. Business NZ, [REDACTED], and Federated Farmers said that they were comfortable with this kind of commercial use being charged for. The registrar will incur

some costs in entering into these arrangements and supporting the data transactions, so we recommend that fees be charged on a cost recovery basis for these kinds of arrangement.

118. We recommend providing a regulation-making power under which fees can be charged for commercial use of bulk data.

Option 2: Fees may be charged for getting and maintaining an NZBN, and for accessing bulk NZBN data for commercial purposes

119. This option would assist in meeting the costs to government of implementing the NZBN. However, any fee for getting and maintaining an NZBN would offset the benefits to business of the NZBN.
120. Initially, many businesses will have their NZBNs allocated automatically. They are likely to perceive it as unfair to be charged for the allocation of a number that they did not ask for, and may not be able to use immediately. Companies have already been allocated NZBNs and have not been charged a fee for this allocation.
121. Charging a fee for NZBNs might also mean that businesses who are not automatically allocated an NZBN decide not to apply for one. This may reduce the benefits of the NZBN, as both businesses and government agencies may have to maintain two systems for their business customers – one for those who have an NZBN, and one for those that don't.

Net impact of the preferred options

122. The proposals in this RIS will extend the NZBN to all those carrying on business, including individuals carrying on business, with safeguards to protect individual privacy. Implementation of the NZBN will result in reductions in costs to businesses once government agencies begin using the NZBN in their own systems.
123. For existing active businesses, the savings result from the ability to update their details with the government agencies they deal with through a centralised register as opposed updating their details with each agency. [REDACTED]
124. There will also be savings for new businesses, which will be able to provide the information required by the government agencies they need to deal with through a centralised register. [REDACTED]
125. Extending the NZBN to all businesses will not result in any additional costs for those businesses. There may be costs for businesses who wish to use the NZBN for Business to Business transactions; however, businesses are only likely to incur these costs if they perceive that the benefits to themselves will exceed the costs.

126. [REDACTED]

[REDACTED] The benefits to business of the NZBN will only be realised when government agencies change their existing systems to allow centralised registration of businesses and maintenance of their business details through the NZBN system. Government

agencies will incur costs in making these changes. It is not possible at this stage to quantify these costs. In many cases it may be possible to absorb the costs within planned upgrades of agency systems.

128. The main benefits to government from implementation of the NZBN as proposed arise from the potential for fewer, more accurate business-to business transactions. It is not possible to quantify these benefits.
129. There will be costs to government agencies in adopting the NZBN. These costs will be spread across a wide customer base. . We cannot estimate these costs, as they vary from agency to agency, and will be depend on whether agencies have planned system upgrades in the near future.
130. Although the benefits and some of the costs to government of the proposal are not readily quantifiable, the proposal as a whole is considered to provide a net benefit to government, businesses and to the economy as a whole.
131. We do not consider there to be any social, environmental or cultural impacts for any of the options analysed in this RIS.

Consultation

132. We collected evidence for this proposal through public consultation (a discussion document, online consultation and meetings with key stakeholders), a survey of businesses, economic analysis by the New Zealand Institute of Economic Research (NZIER), and consultation with a wide range of government agencies. We received a relatively small number of submissions on the public consultation, with the majority coming from industry representative groups such as Business NZ, Federated Farmers and the New Zealand Institute of Chartered Accountants, and key stakeholders. A detailed stakeholder analysis is included as appendix 2.
133. There is widespread support amongst large industry representative groups for the NZBN as a useful step towards reducing compliance costs. Overall, stakeholders support the NZBN concept, and indicated a high level of agreement with our proposals. Common points made by stakeholders include:
 - the importance of implementing the NZBN in a business-friendly and efficient way
 - concerns around the ability of government agencies to access more data than they can at present
 - the importance of government agencies implementing the NZBN as quickly as possible.
134. The Privacy Commissioner submitted a formal submission and officials consulted with the Ministry of Justice in their roles as regulator and administrator of the Privacy Act 1993. Both would prefer that the NZBN be voluntary for individuals in business both in law and in practice.

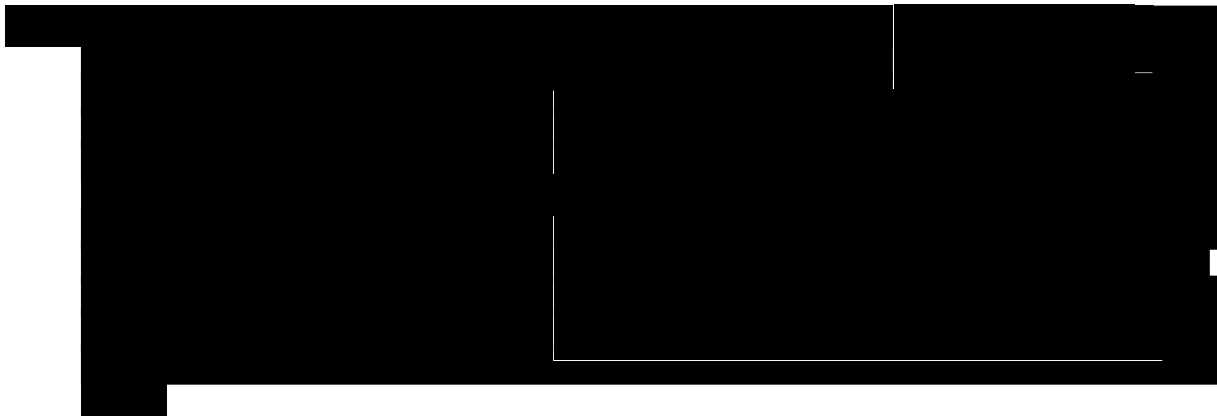
Conclusions and recommendations

135. On balance, we believe that the following set of options is the best combination for extending the NZBN

- NZBNs to be held by companies; other entities that carry on a business, such as sole traders, partnerships and trusts.
- Legislative permission to allow the NZBN to be widely used as a business identifier across the economy.
- Government agencies are required by legislation to adopt the NZBN by a prescribed date.
- NZBNs allocated to entities that carry on business, rather than to business activities.
- NZBNs are allocated automatically to businesses, but its use is optional unless an authorised government agency requires the use of the NZBN for their transactions.
- NZBNs are allocated automatically where possible by the Companies Office (through GST registration information provided by Inland Revenue); with an application process available for businesses where it is not possible to allocate an NZBN automatically.
- Information attached to the NZBN will be defined in legislation, which will regulate how that information is managed on a new register for entities that are currently not on a public register.
- Legislation will give permission for authorised agencies to obtain business information from the NZBN Register, and to provide information to the Register.

Implementation plan

Building the NZBN system and agency uptake



- [Redacted]
- [Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Agency uptake

143. This RIS outlines options for allocating NZBNs widely in the economy, and for regulating the information attached to the NZBN and its use. Legislative change to allow agencies to adopt and use the NZBN and to adopt the NZBN by a prescribed date will be needed. Agencies are identifying these changes. We recommend that the NZBN legislation authorise agencies to mandate use of the NZBN in interactions with their customers. Consequential amendments may be required to legislation administered by agencies to enable them to use NZBN information. Any necessary

changes can be included in later omnibus legislation or made on an agency-by-agency basis, with each agency reviewing all the legislation that it administers.

Implementation risks

144. Implementation risks are being mitigated by agencies implementing the NZBN in their systems as technology updates allow. Embedding the NZBN in agency systems may require legislative amendments for some agencies. MBIE is working with affected government agencies to identify these implications. Further legislation may be required to allow agencies to be able to implement the NZBN for their business customers.
145. Compliance costs are being minimised through the allocation of NZBNs through the Companies Office (for companies and others on a Companies Office register), and through MBIE for individuals in business. This will mean that very few businesses will face the cost of actively applying for an NZBN.

Monitoring, evaluation and review

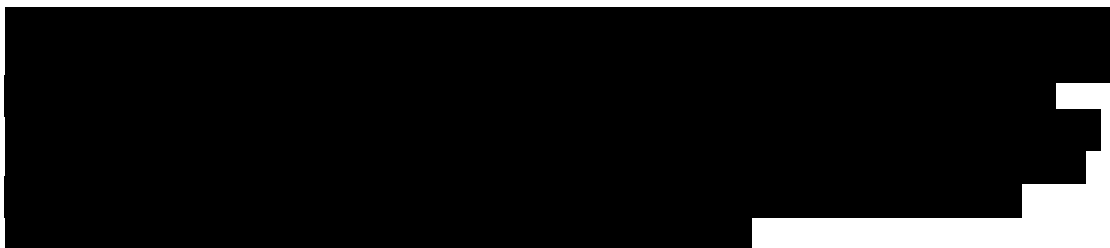
Evaluating benefits

146. Extending the NZBN is intended to have benefits to businesses in their interactions with each other and with government agencies, and benefits to government agencies. Business to business benefits will not be monitored, but are expected to include a decrease in administrative and compliance costs and an increase in productivity from spending more time managing business and less time providing information to government. Lower search and identification costs could lead to dynamic efficiency gains through businesses being able to perform different kinds of transactions with one another, and finding and exploiting new business opportunities.
147. Business benefits from the NZBN when dealing with government agencies will include less time and effort registering with government and maintaining information. Reporting on benefits realisation will be built into the NZBN system and will include, for example:
 - How many business address changes are made through the NZBN system, and how many agencies receive this information. This can be compared to baseline information from which business benefits assumptions have been derived. This will allow MBIE to begin to quantify the savings to business customers achieved through the NZBN.
148. Government agency benefits from implementing the NZBN will be measured against the benefits stated within their individual business cases. These may include:
 - Reduction in rework.
 - Reduction in manual processes.
 - A reduction in data validation and data migration costs.
 - Improved targeted communications and service offerings.

Monitoring and evaluating uptake

149. Uptake and, consequently, benefit realisation are dependent on achieving a critical mass of businesses and agencies using the NZBN, and technology enabling benefits to be realised. This is being modelled, and relies on co-ordination with various agencies.
150. Agency implementation will be monitored through existing governance structures for the Result 9 programme, which are in place until 2017. These arrangements have escalation and review processes in place.
151. Government agency implementation of the NZBN will be evaluated as follows:
 - Monitoring which agencies adopt the NZBN and when.
 - Tracking each agency implementation against their stated intentions within their implementation plans, business cases and road maps.
152. The number of NZBNs allocated will be monitored through the Companies Office through regular reporting processes

153.



Monitoring privacy risks

154. The Privacy Commissioner has authority under section 13(c) of the Privacy Act 1993 to 'monitor the use of unique identifiers, and to report to the Prime Minister from time to time on the results of that monitoring'.
155. Privacy impact assessment for complex, multi-year projects such as the NZBN is an ongoing process. As the project progresses and agencies have more clarity about how they intend to implement the NZBN, privacy risks can be reviewed and reassessed and more specific mitigations proposed. Privacy impact assessments will be incorporated into project and business risk management frameworks. Publishing the Privacy Impact Assessments for significant implementation stages will help with this.

Appendix 2 Stakeholder analysis

Proposal	Comments from those in support	Comments from those not in support
Information used repeatedly by government agencies is kept centrally.	There was general agreement that only core business information such as name (including trading name), address, contact details, business classification should be stored centrally. Some suggested that businesses should have the option to provide more information if they wanted. GS1 suggested that if it was intended that all government reporting requirements be satisfied by submitting data to the NZBN, then much more information would need to be held centrally.	No submitters disagreed with this proposal, although there was disagreement as to the details of what information is to be held centrally.
Government agencies would not have automatic access to all NZBN information. They will only have access to that information they are legally entitled to.	Submitters generally agreed that government agencies should have access only to that information they were entitled to by law. One submitter (Federated Farmers) said that information should only be shared amongst agencies where there are specific information sharing agreements. Another (NZ Retailers' Federation) suggested that businesses should be able to make more information available to agencies if they wish.	No submitter disagreed with this proposal.
For businesses not on a public register (such as the Companies Register) only a small amount of anonymous information such as NZBN, industry code and general location data is made publicly available. Names and addresses would not be required to be made public but the business could consent to their publication.	Only two submitters (Federated Farmers and NZ Institute of Chartered Accountants) agreed with this proposal.	Other submitters suggested that other information, such as business name, address or contact details be made public. MYOB noted that, for sole traders, the publicly available information could be more limited. Submitters also agreed that more information could be made public if a business consented.
Third parties would have access to NZBN information that was publicly available, and that businesses could choose what other information they allowed third parties to access, and which parties could access particular information.	Submitters agreed with this proposal, although there was disagreement on the amount of information that should be public. One submitter (MYOB) noted that for sole traders, the publicly available information should be more limited, to preserve privacy. However, since these proposals were developed, officials have ascertained that it will not be possible to launch the NZBN with the ability to make this kind of choice. Third parties will, initially at least, only be able to have access to publicly-available information.	No submitter disagreed with this proposal.

Proposal	Comments from those in support	Comments from those not in support
<p>What should happen Where an entity is a company, the NZBN will transfer with the sale. Where a business that is not a company is sold, the NZBN does not transfer to the new owner. If the new owner does not have an NZBN, he or she would need to apply for one.</p>	<p>Most submitters agreed with this proposal.</p>	<p>The EMA (Northern) suggested that businesses should be able to split out business units that they may wish to spin off or sell with a separate NZBN. Veda Advantage (NZ) Ltd thought that having an NZBN and a related NZBN for the trading name could enable the business name to transfer but not the entity NZBN. This is consistent with the approach taken in Australia.</p>
<p>NZBN registration continues for as long as the entity exists. The NZBN could be flagged as being inactive, either temporarily or indefinitely.</p>	<p>Submitters agreed that the NZBN should not expire. Some suggested that the NZBN should remain with changes of status of the business noted on the register. Others suggested that the NZBN should be cancelled when the entity has permanently ceased carrying on business. NZBNs allocated to individuals should remain on the register until death.</p>	<p>No submitters disagreed with this proposal</p>
<p>A person who is bankrupt should continue to have an NZBN, but with a link to the Insolvency Register.</p>	<p>Submitters agreed that that bankrupts should continue to have an NZBN, with this fact "flagged" on the NZBN register. They also agreed with a link with the Insolvency Register. BusinessNZ and the Retailer's Federation also added that indications of bankruptcy should be removed when the bankruptcy period ends.</p>	<p>No submitters disagreed with this proposal.</p>