



COVERSHEET

Minister	Hon Stuart Nash	Portfolio	Small Business
Title of Cabinet paper	Amending the New Zealand Business Number Act 2016 to include a Māori business identifier	Date to be published	By 11 September 2020

List of documents that have been proactively released

Date	Title	Author
4 August 2020	Amending the New Zealand Business Number Act 2016 to include a Māori business identifier	Office of the Minister for Small Business
4 August 2020	New Zealand Business Number (Māori Business Identifier) Order 2020 LEG-20-MIN-0132	Cabinet Office

Information redacted

YES / NO (please select)

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In Confidence

Office of the Minister for Small Business

Chair, Cabinet Legislation Committee

Amending the New Zealand Business Number Act 2016 to include a Māori business identifier

Proposal

- 1 This paper seeks agreement to amend the New Zealand Business Number Act 2016 (the Act) by Order in Council to include a Māori business identifier in the New Zealand Business Number (NZBN) Register and seeks authorisation for submission to the Executive Council of the *New Zealand Business Number (Māori Entity Identifier) Order 2020*.

Executive Summary

- 2 Māori economic development is a priority for Government, and reporting on Māori economic activity has been a recognised issue since the mid-1990s. Many attempts have been made to accurately quantify both the number of Māori businesses and their contribution to New Zealand's economy, yet none have succeeded. This is often due to the difficulty in systematically identifying Māori businesses.
- 3 A lack of data on Māori businesses and their economic activities has meant that it has been difficult for Government to make sound investments in Māori business and economic development, or measure the effectiveness of Government policies and interventions for Māori businesses.
- 4 Including a Māori identifier question in the NZBN Register will help identify Māori businesses better, will connect this information with other Government datasets and will enable more accurate reporting on Māori economic activity.
- 5 Māori businesses will be able to self-identify, which is consistent with Government's approach to reporting on Māori economic activity. However as it is a voluntary identifier, it may take up to two years to see a significant number of businesses identify as Māori through the NZBN Register.
- 6 Including a Māori identifier in the NZBN Register has the support of agencies across Government, and three Māori Economic Development organisations (New Zealand Māori Tourism (NZMT), Federation of Māori Authorities and Poutama Trust).

This is an issue that requires priority consideration

- 7 This proposal should be considered now, as:
 - 7.1 it supports Government's commitment to a partnership approach with Māori, as set out in the Speech from the Throne;
 - 7.2 it supports New Zealand's recovery from COVID-19, as better identification of Māori businesses will support us to measure the impact of COVID-19 on Māori businesses and our actions to support Māori businesses; and
 - 7.3 any delays to implementation will continue the inequity of information and reporting on Māori businesses, particularly when considering the impact of and recovery from COVID-19, which we know will have a disproportionate effect on Māori businesses.

Policy

Government is not able to accurately report on Māori economic activity

- 8 Māori economic development is important for New Zealand's economic prosperity. In 2013, Business and Economic Resource Ltd (BERL) estimated that the Māori economy was valued at approximately \$42 billion and that more than 70% of the Māori economy was made up of sole traders and small and medium enterprises (SMEs). The value of Māori economic activity is similarly recognised in the Crown–Māori Economic Growth Partnership Strategy *He kai kei aku ringa*.
- 9 However, there is a lack of official data relating to Māori businesses and their contribution to the economy. One of the key challenges to producing these statistics is being able to identify Māori businesses reliably. Stats NZ's periodic publication *Tatauranga umanga Māori – Statistics on Māori businesses* is the official source of Māori business data. There are known coverage issues in the statistics that Stats NZ produces, largely due to the lack of a central mechanism to comprehensively identify Māori businesses.
- 10 Other organisations also cannot provide the research that we need. NZMT has advised that should Māori businesses or Māori Economic Development organisations engage with private researchers; information is often expensive, has a high margin of error and/or cannot be relied on for detailed analysis.
- 11 The lack of accurate data makes it difficult to:
 - 11.1 understand the Māori business sector and to develop evidence-based policy for Māori businesses;
 - 11.2 make sound investments in Māori business and economic development;
 - 11.3 measure the effectiveness of government policies and interventions; and

- 11.4 measure the contribution of Māori businesses to the wider New Zealand economy.

COVID-19 and its impact on the Māori economy

- 12 This work has become more important due to COVID-19, which I believe has significantly disrupted Māori sole traders and SMEs, particularly in the tourism, hospitality and retail sectors. Government agencies have found it difficult to accurately measure the impact of the disruption on Māori businesses and the Māori economy as a whole due to the lack of data. I have been advised that agencies who support businesses found it difficult to reach out to Māori businesses during COVID-19 as they have no way to identify them and make contact with them.
- 13 Treasury modelling implies that the pre-COVID-19 disparities experienced by Māori will become more pronounced due to the effects of COVID-19 before they improve. Despite a relatively short lock-down, the disruption of employment, the devaluation of enterprise assets, the loss of enterprise markets and increased demands on whānau and communities overall, are already evident and will be more acutely felt among Māori communities. Better Māori economic activity data is one of the key tools to understanding and addressing these issues.

A Māori business identifier in the NZBN Register is the preferred option to identify Māori businesses

- 14 The NZBN Register is the most appropriate mechanism to identify Māori businesses, as it is the most effective and cost-effective option for identifying Māori businesses.
- 15 The Register is acknowledged for the quality of data and information that it collects and that it makes available to government and other users. The Register's core role as a central portal for business to interact with government and other businesses means that a broad range of information is gathered across a range of business activities. While voluntary, this information makes the NZBN Register invaluable across government and businesses, and highlights its ability to be more than the sum of its parts.

Other options are either not feasible or are expensive

- 16 Officials considered a Māori identifier field in the GST return form would not be an appropriate mechanism as businesses are not required to file GST returns if their turnover is less than \$60,000 per annum. This means it would produce similar outcomes to the status quo and not report data on Māori SMEs and sole traders.
- 17 In addition, Inland Revenue only has the legal authority to collect necessary and relevant data for tax purposes. The collection of data for identifying Māori business would not fall within its legal authority.

- 18 Officials did not recommend establishing a new database for Māori businesses, due to the cost of establishing and maintaining a new database (estimated up to \$1m with ongoing costs of \$200,000 per annum). Such a database may also duplicate the functionality of existing data resources such as the NZBN Register, and would not provide us with flexibility should additional ethnicities be added in the future.

Other ethnicities or identifiers could be included in the NZBN Register in the future

- 19 At this point in time, I propose that we only include a Māori business identifier in the NZBN Register. This is because:

19.1 there is a clearly defined issue around the accuracy of reporting on Māori economic activity;

19.2 it enables Government to better meet its responsibilities as a partner to Te Tiriti o Waitangi by seeking to have comparable data for Māori businesses as we do for businesses as a whole; and

19.3 we have a mandate from Māori business authorities to implement this change.

- 20 However, there may be value in adding additional ethnicities or identifiers in the NZBN Register in the future. If undertaken, it would take at least one year to determine what other business identifiers should be included in the NZBN Register, and to get a mandate from those communities. As a part of that process we would also need to determine if there is a problem with the accuracy or accessibility of how business data on those identifiers is currently reported, and the responsible agency(ies) to progress that work.

- 21 Once enough usable data has been collected (estimated to be mid-2022) I propose that the Ministry of Business, Innovation and Employment (MBIE), in consultation with Stats NZ, Te Puni Kōkiri and the Treasury report back to Cabinet on:

21.1 the success of identifying Māori businesses through the NZBN Register;

21.2 whether this has supported more accurate reporting on Māori businesses; and

21.3 whether other ethnicities should be included in the NZBN Register.

Businesses will self-identify as Māori

- 22 To ensure consistency with Government's approach to reporting on Māori economic activity, for example in how Stats NZ identifies Māori businesses for *Tatauranga umanga Māori*, businesses will self-identify as a Māori business. These businesses will provide additional information about what factors significantly influence their decision to identify as a Māori business (such as ownership, directors and staff). This process will be simple, easy to understand and take minimal time to complete.

- 23 Additional information will help agencies' understand as to why businesses are identifying as Māori businesses, and improve our support for Māori businesses in the future. It also future-proofs our approach by enabling Government to include or exclude businesses in various measures, based on the factors used for self-identification.

Consistency with the purposes of the Act

- 24 I have been advised by officials that including a Māori business identifier in the NZBN Register is consistent with the main purposes of the Act. This is because supporting the identification of Māori businesses through the NZBN Register should:
- 24.1 Enable Government agencies (as eligible NZBN entities) to interact better with Māori businesses. This includes through support programmes for Māori businesses and Government procurement through Māori businesses.
 - 24.2 Enable Māori business sector organisations (as eligible NZBN entities) to better interact with Māori businesses.
 - 24.3 Reduce transaction costs for both government and non-government agencies (both for the purposes above, and in purchasing data).

Legislative implications

- 25 I am proposing that we amend Schedule 4 of the Act to include a Māori business identifier as the vehicle to identify Māori businesses. Using Schedule 4 of the Act means that information is voluntarily provided by businesses and can be made private – businesses are not required to provide this information or make it publicly available if they do not wish to do so.
- 26 Under Section 22 of the Act, the Governor-General may amend Schedule 4 of the Act to include a Māori business identifier by Order in Council on the recommendation of the Minister responsible for the Act. In making a recommendation to the Governor-General, the Minister must have regard to the advantages and disadvantages of the information or type of information being included in the Register.
- 27 I have considered the advantages and disadvantages of amending Schedule 4 to include a Māori business identifier, and consider that the advantages far outweigh the disadvantages. This is because there are no disadvantages to including a voluntary Māori business identifier in the NZBN Register. The advantage is that more accurate identification of Māori businesses should lead to improved investment by, and for, Māori businesses and should address the issues raised in paragraphs 10 and 11.

Reasons for priority consideration

- 28 This proposal should be considered now, as:

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- 28.1 It supports our commitment to a partnership approach with Māori, as set out in the Speech from the Throne. This is because including a Māori identifier in the NZBN register should support the identification of, and reporting on, Māori businesses, who are currently underserved by the current approach to economic activity reporting.
- 28.2 It supports New Zealand's recovery from COVID-19, as better identification of Māori businesses will support us to measure the impact of COVID-19 on Māori businesses and our actions to support Māori businesses.
- 28.3 Any delays to implementation will continue the inequity of information and reporting on Māori businesses. This is particularly important when considering the impact of COVID-19 on Māori businesses, which we know will have a disproportionate effect on Māori businesses.

Implementation

- 29 MBIE, Stats NZ, Te Puni Kōkiri and the Māori business sector organisations will develop an implementation plan to work with Māori businesses to identify themselves in the NZBN Register and to keep their information up to date and accurate. Agencies will also make clear the purpose of identifying Māori businesses, and how this information would be accessed and used. This will include the implications of publicly identifying as a Māori business through the NZBN Register.
- 30 Including time taken to update the IT systems of the NZBN Register, I expect that it could take up to two years for the system to become fully functional and for businesses to update their information, given the voluntary nature of the NZBN Register.
- 31 The amended Schedule 4 does not create a new policy position for Government.

Financial implications

- 32 Including a Māori identifier field in the NZBN Register will cost around \$200,000. This cost will be met within MBIE's baseline. There will likely be additional costs to other agencies wanting to use this information, however these costs are expected to be negligible.
- 33 There are no financial costs to businesses in updating their information on the NZBN Register.

Timing and 28-day rule

- 34 I am not seeking an exemption to the 28-day rule. The commencement date of the Order in Council is September 14 2020.

Compliance

- 35 The proposed Order in Council complies with:

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- 35.1 the principles of the Treaty of Waitangi, as the proposed policy position will allow Māori businesses to be identified by Government and Māori business associations
- 35.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
- 35.3 the principles and guidelines set out in the Privacy Act 1993;
- 35.4 relevant international standards and obligations; and
- 35.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 36 I do not consider there are grounds for the Regulations Review Committee to draw the disallowable instrument to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

- 37 The draft Order in Council was certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

- 38 The Treasury has granted this proposal an exemption from the Regulatory Impact Statement requirements on the basis that the proposal has minor or no impacts on businesses, individuals or not for profit entities.
- 39 The Ministry for the Environment has confirmed that the Climate Implications of Policy Assessment requirements do not apply to this proposal as the threshold for significance is not met.

Publicity

- 40 I intend to issue a joint press-release with the Minister for Māori Development once Executive Council approves the Order in Council.

Proactive release

- 41 This paper will be proactively released within 30 business days of decisions being confirmed by Cabinet, subject to any redactions as appropriate under the Official Information Act 1982.

Consultation

- 42 I have informed the Ministers for Economic Development and Māori Development, and the Ministers of Tourism, Consumer Affairs and Statistics of the proposal in this paper.

- 43 Officials have consulted the Office of the Privacy Commissioner, the Treasury, Te Puni Kōkiri, Stats NZ, the Ministry for Primary Industries, Inland Revenue, New Zealand Trade and Enterprise, and the Māori Economic Development Advisory Board on this paper. The Department of the Prime Minister and Cabinet has been informed.
- 44 NZMT and a member of the Small Business Advisors Group were consulted on the development of the proposal in this paper. NZMT advised that the Federation of Māori Authorities and Poutama Trust authorised NZMT to speak on their behalf on this matter.

Recommendations

I recommend that Cabinet Legislation Committee:

- 1 note that due to the difficulty in identifying Māori businesses it has been difficult to accurately report on Māori businesses, make sound investments in Māori businesses, or measure the effectiveness of Government policies and interventions for Māori businesses;
- 2 note that including a Māori business identifier in the New Zealand Business Number (NZBN) Register will help address a long-standing issue of the lack of information about the Māori economy, by providing a mechanism to identify Māori businesses;
- 3 note that other options to identify Māori businesses are less effective and are not future-proofed, are more expensive, and may duplicate existing data collection;
- 4 agree that the NZBN Register be used to identify Māori businesses;
- 5 note that businesses will be able to self-identify as to whether they are a Māori business in the NZBN Register, and provide information about the factors significantly influencing their decision to consider themselves to be a Māori business;
- 6 note that the *New Zealand Business Number (Māori Entity Identifier) Order 2020* will give effect to the decision referred to in recommendation 4 above;
- 7 note that Section 22 of the New Zealand Business Number Act 2016 (the Act) empowers the Governor-General to amend Schedule 4 of the Act by Order in Council on the recommendation of the Minister responsible for administering the Act;
- 8 note that in making a recommendation to the Governor-General under Section 22 of the Act, the Minister must have regard to the advantages and disadvantages of the information or type of information being included in the Register;
- 9 note that I have considered the advantages and disadvantages of including a Māori business identifier in Schedule 4 of the Act, and that the changes fall within scope of the main purposes of the Act;

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- 10 authorise the submission to the Executive Council of the *New Zealand Business Number (Māori Entity Identifier) Order 2020*;
- 11 note that the *New Zealand Business Number (Māori Entity Identifier) Order 2020* comes into force on 14 September 2020;
- 12 note that this initiative will be funded from baseline within Vote Economic Development;
- 13 note that future ethnicities or identifiers could be included in the NZBN Register, and that this would be informed by the success of the NZBN Register in identifying Māori businesses for the purpose of reporting on Māori economic activity; and
- 14 direct the Ministry of Business, Innovation and Employment, in consultation with the Treasury, Te Puni Kōkiri and Stats NZ to report back to Cabinet in August 2022 on the success of identifying Māori businesses through the NZBN Register, whether this has supported more accurate reporting on Māori businesses, and whether further business identifiers should be added.

Authorised for lodgement

Hon Stuart Nash

Minister for Small Business