

**Annex 3: Discussion document: *Publication of Directors' Residential Addresses on the Companies Register***

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**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HIKINA WHAKATUTUKI

# Discussion Document

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Publication of Directors' Residential Addresses on the  
Companies Register

May 2018

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# How to have your say

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## Submissions process

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in this document by 5pm on 13 July 2018.

Your submission may respond to any or all of these issues. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.

Please use the submission template provided at: <http://www.mbie.govt.nz/page/URL>. This will help us to collate submissions and ensure that your views are fully considered. Please also include your name and (if applicable) the name of your organisation in your submission.

Please include your contact details in the cover letter or email accompanying your submission.

You can make your submission by:

- Sending your submission as a Microsoft Word document or PDF to [corporate.law@mbie.govt.nz](mailto:corporate.law@mbie.govt.nz).
- Mailing your submission to:

Business Law  
Building, Resources and Markets  
Ministry of Business, Innovation & Employment  
PO Box 1473  
Wellington 6140  
New Zealand

Please direct any questions that you have in relation to the submissions process to [corporate.law@mbie.govt.nz](mailto:corporate.law@mbie.govt.nz).

## Use of information

The information provided in submissions will be used to inform MBIE's policy development process, and will inform advice to Ministers on introducing a director identification number and the publication of directors' residential addresses. We may contact submitters directly if we require clarification of any matters in submissions.

## Release of information

MBIE intends to upload PDF copies of submissions received to MBIE's website at [www.mbie.govt.nz](http://www.mbie.govt.nz). MBIE will consider you to have consented to uploading by making a submission, unless you clearly specify otherwise in your submission.



If your submission contains any information that is confidential or you otherwise wish us not to publish, please:

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# List of Acronyms and Abbreviations

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<b>Address for service</b>	An address where notices and documents, including legal documents, may be sent. Documents sent to this address are considered "delivered"
<b>Companies Act</b>	Companies Act 1993
<b>DIN</b>	Director identification number
<b>IWG</b>	Insolvency working group
<b>MBIE</b>	Ministry of Business, Innovation and Employment
<b>SMEs</b>	Small-medium enterprises
<b>the Register</b>	The companies register
<b>the Registrar</b>	Registrar of Companies

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# 1 Introduction

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## Purpose of this discussion paper

1. This paper seeks your views on whether it remains appropriate for directors of New Zealand companies to have their residential addresses published on the companies register (the **Register**) if the government were to introduce a director identification number (**DIN**).
2. Through this paper we are also seeking feedback about additional topics relating to the publication of directors' residential addresses. These additional topics include design choices around the system and how to treat historical information.
3. It is envisaged that any change in approach to the publication of directors' residential addresses will be applied to the publication of shareholders' residential addresses on the Register. This is discussed further in Section 6.
4. The submissions received in response to this paper will inform MBIE's advice to Ministers about the implications and opportunities of introducing a DIN.

## What this discussion paper does

5. The key parts of this paper are:
  - **Section 2:** sets out background information for some of the key concepts and underlying rationale used throughout the paper.
  - **Section 3:** discusses the potential options in regards to publishing directors' residential addresses on the Register. It also includes our analysis of the potential costs and benefits of the options.
  - **Section 4:** builds on section 3, outlining potential design options for providing third party access to directors' residential addresses if they are not publicly available.
  - **Section 5:** identifies possible options for dealing with historical documents that include directors' residential addresses.
  - **Section 6:** discussed other locations where a directors' residential address may be found and possible approaches to these records.
6. There are questions throughout this paper to guide your submission. We welcome other relevant comments.



## Process and timeline

7. Submissions close on **Friday, 13 July 2018**. Instructions on how to make a submission are on pages 3-4.
8. All relevant matters raised in submissions will be taken into account and will form part of MBIE's advice to the Minister of Commerce and Consumer Affairs on introducing a DIN.
9. If the Government decides to make legislative changes, the public would have another opportunity to comment on any changes as part of the Select Committee's consideration of those changes.

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## 2 Background Information

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### Overview of companies registration system

#### Objectives of the company registration system

10. The company registration system seeks to balance two overarching objectives:
  - **Integrity:** businesses, investors, regulators and the public trust the information available about entities and can rely on it for making decisions. The key aspects contributing to integrity are transparency, accountability and accuracy.
  - **Efficiency:** the system is easy for companies to engage with and the costs of administering the system are proportionate.
11. An environment of trust, transparency and accountability fosters long term investment, financial stability and business integrity. Part of the trade-off of having the privilege of limited liability through a company, is the expectation that a company will be transparent in its activities and ownership.
12. However, the benefits of publishing information on the companies register (eg transparency and certainty about ownership and control of companies) are also weighed up against the privacy implications of publishing personal information such as directors' residential addresses.

#### The Companies Office and the companies register

13. The Companies Office administers the registration of companies in New Zealand. As part of this role, the Companies Office administers the Register, a public, electronic register containing a record of all companies registered in New Zealand<sup>1</sup>.
14. The Companies Act 1993 (the **Companies Act**) requires that each company's record includes:
  - details of the company, including its registered office, address for service and incorporation date
  - the full name and residential address of each director
  - the share allocation, full legal name and residential address of the company's shareholders<sup>2</sup>
  - the ultimate holding company<sup>3</sup> (if any).

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<sup>1</sup> Details of companies that have been removed from the register are also publicly available on the Companies Office website.

<sup>2</sup> For unlisted companies, only the largest 20 shareholders are on the record, the remainder are uploaded in a document attached to the record. For listed companies, only the largest 10 shareholders are listed on the companies register. The full share register of every company must be held by the company and made available upon request.

<sup>3</sup> An entity which has ultimate or overall control of the company. This control may be direct or via a number of intervening subsidiaries.



15. The Companies Act requires the Register, including all documents on it, to be publicly accessible.

### Users of the Register

16. Users of the companies register include:
- Government regulators: who search the companies register in the course of their investigations and monitoring
  - Third parties:
    - who may search the companies register to research an individual or company they are considering doing business with
    - who would like the contact details for a company.

### Directors

#### Role of directors

17. All New Zealand companies must have at least one director. At least one director must live in New Zealand or in Australia (if they are also a director of a company incorporated in Australia).
18. Company directors are elected or appointed to manage a company's business and affairs. This can include:
- determining and implementing policies and making decisions
  - preparing and filing statutory documents with the Companies Office or other agencies
  - calling meetings, including an annual meeting of shareholders
  - maintaining and keeping records.
19. A company's constitution may set out additional duties and responsibilities.

#### Directors' duties and responsibilities

20. A director is required to act honestly, in the best interests of the company, and with reasonable care at all times.
21. Directors must not act, or agree to a company acting in a manner that is likely to breach the Companies Act, any other legislation or the company's constitution.
22. The minimum standards of behaviour expected of directors within their role include:
- acting in good faith and in the best interests of the company
  - exercising their power as a director for a proper purpose
  - not allowing, agreeing or causing the business to be carried out in a way that is likely to create a substantial risk of serious loss to the company's creditors
  - taking the care, diligence and skill that a reasonable director would exercise in the same circumstances
  - ensuring the company can pay all its debts and has more assets than liabilities

23. Given the legal obligations of directors, it is important that directors are able to be contacted to serve legal papers and able to be contacted independent of their company. The latter may be important if a party is concerned that a company is engaged in illicit behaviour that a director may not be aware of.

## Publication of directors' residential addresses

### Publication supports the integrity of the Register

24. The publication of directors' residential addresses currently meet the objectives of the Register:
- **Integrity:** Residential addresses help to connect related companies through a common director. Individuals may legitimately share a name; the residential address provides another data point which helps users to connect or distinguish two directors. Publishing residential addresses supports accuracy as it provides a layer of public scrutiny. This is particularly important given the current requirement for every company to have a New Zealand or Australian resident director. Additionally, the publication of directors' residential addresses provides third parties with a mechanism to contact the director, independent of the company.
  - **Efficiency:** Residential addresses are easy for directors to provide and are largely unique to an individual director.
25. These functions are not duplicated by other information currently published on the Register. Accordingly, we presently consider the publication of directors' residential addresses is justified and proportionate.

### Concerns with publishing directors' residential addresses

26. There are concerns with publishing residential addresses, relating to accuracy and safety/security.

#### Accuracy

27. While the publication of directors' residential addresses supports integrity of the Register, difficulty arises when there are variations in the listed residential addresses. Each company record is created separately and director details are manually inputted by a person setting up or administering a company.

28. Each New Zealand address is verified against addresses in the New Zealand Post *Postal Address File* to ensure it is an accurate New Zealand address. However, variations in addresses may still occur due to data entry errors or addresses not being updated after a director moves house. In a few cases, directors may deliberately use a variety of residential addresses to reduce the likelihood of their company portfolio being connected.

#### Safety/Security

29. While we consider the current settings balance the transparency and privacy needs at an overall level, individual directors and their representatives have raised privacy concerns with the publication of directors' residential addresses.
30. The concerns of directors are largely centred around the following:



- **Directors with security or safety concerns due to their business.** This group includes directors whose companies are high profile or whose companies are engaged in activities which some people morally object to (eg companies involved in fracking, oil drilling or tobacco). These directors fear that the objection to their companies' activities could be personally directed at them or their families, as a result of the publication of their residential address.
  - **Directors with personal security or safety concerns.** These directors may have court orders against another individual, such as restraining orders or they may be working in occupations which may give rise to personal safety concerns (eg doctors or psychologists working with violent offenders). For current directors, the publication of their residential address may be a personal security concern. For potential directors in this position, knowing their residential addresses will be made public may be a barrier for them becoming a director.
  - **Directors who are concerned their data may be used for fraudulent purposes.** The companies register is freely-available online. This means that directors' full names, addresses and signatures<sup>4</sup> are accessible to any person, and available to users at any time. Directors are concerned that this information may be used for fraudulent purposes.
31. While specific incidents are rare, there have been examples in New Zealand where the homes and neighbours of high profile directors have been the target of leaflet campaigns.

## Director Identification Numbers

### What is a DIN?

32. A DIN is a unique identifying number assigned to an individual director. It is a number that each director would have through their life and would be recorded against their name on the companies register.
33. A DIN would allow third parties to connect directors across the director's full portfolio of companies to find related companies. Government departments (such as Inland Revenue or the Police) would be able to use a DIN to more accurately connect their data with that held by the Companies Office.
34. A DIN would also provide directors with an efficient mechanism to update their name or address across the companies register.
35. Introducing a DIN intended to support the integrity of the Register and provide the public with greater transparency about a company's governance.

### Background to DIN

36. In 2016, the Insolvency Working Group (IWG)<sup>5</sup> released its first report. In this report, it recommended introducing a unique identification number for existing and future directors, to make it easier for creditors and regulators to identify and trace the activities of a director.

<sup>4</sup> Contained in the Director Consent Form.

<sup>5</sup> A Government-appointed panel of experts whose purpose was to examine aspects of corporate insolvency law and provide independent advice to Government. <http://www.mble.govt.nz/info-services/business/business-law/insolvency-law-working-group>

37. The IWG's report was released for public consultation. In general, there was strong support for the proposal<sup>6</sup>. However, there were concerns about the compliance costs of introducing a DIN and potential privacy implications.
38. In May 2017, MBIE undertook wider consultation with the release of a discussion document. 13 submissions were received in response to the discussion document. 11 submitters supported the introduction of a DIN<sup>7</sup>.
39. As part of the May 2017 consultation some submitters raised existing concerns about the publication of directors' residential addresses and questioned the need to have residential addresses publicly available if a DIN were introduced.

### How the DIN issuing process might work

40. We are currently working on designing a process for issuing a DIN to inform overall decisions on whether a DIN should be introduced. It is likely that this would be a process outside of the company registration process.
41. This is a general indication of how the process might work:



42. Certain identity verification procedures would allow steps B and C to be completed automatically, such as using RealMe Verified. However, alternative options would need to be provided as RealMe is not available to foreign directors.
43. Step B would involve the verification by the system that a DIN has not already been assigned to a particular individual.
44. This process would allow a person registering a company to provide a director's DIN and have that information automatically populated. It is anticipated that a DIN would allow the director consent process to be conducted electronically.

### A DIN may perform the same function as the residential address

45. A DIN could support the integrity and efficiency of the Register and duplicate some of the functions of publishing a director's residential address:
  - **Integrity:** A DIN would make it easier to connect companies through shared directors. A DIN would involve a higher degree of identity verification and changes could be applied across the Register. This would make it more difficult for a director to have variations of their name across the Register. Additionally, searching the Register using a DIN would provide the searcher with a higher degree of certainty that their search results were complete.

<sup>6</sup> 16 submitters supported the proposal, 3 were unsure and 1 submitter opposed the introduction of a DIN.

<sup>7</sup> Submitters included the Institute of Directors, New Zealand Shareholders Association, Chartered Accountants Australia & New Zealand, major banks, insolvency practitioners, major law firms and the Council of Trade Unions.



- Efficiency: As a DIN could be linked to a director, the director may only need to verify their identity once. Existing systems could be used to verify a director's identity, including the use of RealMe Verified.

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### 3 Directors' residential addresses on the companies register

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46. This section discusses the future of publishing directors' residential addresses on the companies register. It identifies potential approaches that may be taken, as well as our preliminary analysis of the potential benefits and costs of these options. Your submission will help inform our final analysis.
47. Section 5 discusses possible approaches to historic information on the Register.

#### Status quo and problem definition

48. For the purposes of this discussion, the status quo assumes that a DIN has been introduced. The Companies Office collects and publishes directors' residential addresses on the companies register. The public has free access to this information. The publication of directors' residential addresses helps users to connect directors and companies across the Register, verify directors' identities and provides users with a way of contacting a director independent of their company.
49. Except in situations relating to domestic protection orders, the Companies Office does not have any statutory discretion to remove directors' residential addresses from public display on the Register.
50. As discussed in section 2, there are currently two concerns with the publication of directors' residential addresses: accuracy and safety/security. With this status quo a DIN would address the accuracy issue. However, the safety/security concern would remain, that is:
- security or safety concerns due to the nature of the business
  - personal security or safety concerns
  - concerns that personal data may be used for fraudulent purposes.
51. While specific instances of harm are rare, there have been instances where protestors and disgruntled parties have specifically targeted directors and their families at home.

#### Assessment criteria

52. It is important that any change supports the integrity and efficiency of the Register. To assess this we could consider the following questions:
- Integrity: Does the available information build a sense of openness and trust?
  - Efficiency: Is the system easy for companies to engage with and are the costs of administering the system by the Companies Office reasonable?
  - Privacy: Is the disclosure of personal information justified?



## Options

Option 1: allow directors with specific safety or security concerns to have an address for service published in lieu of their residential address

52. Option 1 would allow directors who have safety concerns to submit evidence of the concern to the Registrar. The Registrar would assess the director's evidence. If approved, the director would be able to provide an address for service for publication on the Register.
53. The evidence a director could provide to the Registrar could include:
  - a letter from their employer, lawyer, social worker, advocate or someone of standing in the community explaining why their work or personal circumstances place them or their families at risk
  - a copy of a protection order that is in force under the *Domestic Violence Act 1995*
  - a copy of a restraining order that is in force under the *Harassment Act 1997*
  - information from a Police officer or Corrections officer explaining why their personal safety, or that of their family, could be prejudiced by the publication their residential address.
54. This requirement is based upon the approach taken by the Electoral Commission when determining whether an individual may be registered on the unpublished electoral roll.

Option 2: allow all directors to have an address for service to be published in lieu of their residential address (preferred)

55. Under option 2, directors themselves could choose whether they wanted to provide an address for service for publishing on the Register.
56. Directors would still need to provide a residential address, but this would not be published.

## Analysis

Integrity: Does the available information build a sense of openness and trust?

57. With the introduction of a DIN, it is unlikely that substituting a director's residential address on the public register for an address for service will substantially affect the sense of openness and trust of the Register. An address for service would still provide a location for legal papers to be served and a mechanism to contact directors. A DIN would allow users to connect directors or companies across the Register.
58. Where a director provides an address for service under Option 1 or Option 2, there would be no public scrutiny of their residential address. There is less need for public scrutiny of directors' residential addresses to support the integrity of the Register given the increased identity verification process involved in acquiring a DIN,.
59. However, as it stands, both Option 1 and Option 2 remove information from the public register which would be available under the status quo. While the impact of this removal would be mitigated, it may still impact on the sense of openness and trust that currently exists. For this reason both Option 1 and Option 2 have been assessed as only partially

meeting this criterion. Though more directors' addresses are likely to be affected under Option 2 than Option 1, the difference in impact on integrity is likely to be minimal.

**Efficiency:** Is the system easy for companies to engage with and are the costs of administering the system by the Companies Office reasonable?

60. Option 1 would be more costly to administer as the Companies Office would need to assess the evidence with each application, to ensure it meets the requirements. Option 1 would also be slightly more costly for directors as they would need to acquire the evidence needed to support their application.
61. For Option 2, there may be an initial administrative cost if some directors choose to acquire an address for service. However, directors could continue to provide their residential address if they do not wish to incur this cost.
62. The costs associated with upgrading the Register's system would not be significant beyond the status quo. This is because any system change would be incorporated as part of the introduction of a DIN.

**Privacy:** Is the disclosure of personal information justified?

63. A DIN would perform much of the functionality as the publication of directors' residential addresses. If a DIN is introduced, there appears to be minimal justification for also having directors' residential addresses publicly available.
64. Option 1 partially meets this criterion as it allows some directors who are most at risk from having their personal information public, to have an address for service published. Option 2 wholly meets this criterion as individual directors can control whether their residential address is public.

Summary of the preliminary assessment

65. Table 1 has a summary of our preliminary assessment:

**Table 1: Summary of assessment**

Option	Integrity	Efficiency	Privacy
Status quo	✓✓	✓✓	x
1	✓	✓	✓
2	✓	✓✓	✓✓

Key:

- ✓✓ : wholly meets objective
- ✓ : partially meets objective
- x : does not meet objective



## Preferred option

66. Our preferred option is Option 2. We consider this option addresses the safety and privacy concerns of directors by ensuring that the public disclosure of private information is justified while supporting the integrity and efficiency of the Register.

1	Do you have any comments of our assessment of the options for approaching directors' residential addresses on the Companies Register?
2	What is your preferred option?

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## 4 Design choices - Access to directors' residential addresses

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67. It is our intention that the Registrar would continue to collect directors' residential addresses, regardless of whether or not the information is publicly available. This is to ensure the Companies Office is still able to conduct its enforcement activities.
68. This section discusses possibly giving others access to directors' residential addresses and the circumstances in which access may be provided. Specifically:
- interested parties' access to directors' residential addresses
  - government agencies' automatic access to directors' residential addresses

### Interested parties' access to directors' residential addresses

69. There may be certain circumstances where interested parties (other than government agencies) need to contact a director and the director is not responding through their address for service or through their company. Stakeholders have suggested that in these circumstances it may be appropriate for interested parties to apply to the Companies Office for access to a director's residential address.
70. If we were to allow interested parties to access directors' residential addresses, there would need to be clear criteria around:
- who can request the information.
  - the circumstances they can request the information.
71. The criteria would need to be clearly defined, so that it would not:
- undermine the rationale for suppressing director's residential addresses
  - be costly to administer or process.
72. One potential option would be to allow interested parties to access a director's residential address where:
- they have been unable to contact a director through their published address for service, or
  - a director's address for service is their company and an interested party is concerned a company is intercepting the correspondence.
73. Interested parties could include insolvency practitioners (liquidators), creditors, shareholders or legal professionals.
74. Including a potential access provision such as this, would incentivise directors who are concerned about their privacy to keep their address for service current and accurate.
75. We are interested in your views about the interested parties who may have a legitimate need to access a director's residential address and the potential conditions you think should be imposed on any release of this information.



3	Are there interested parties who may have a legitimate reason to need to access directors' residential addresses? If so, who?	Are there interested parties who may have a legitimate reason to need to access directors' residential addresses? If so, who?
4	Is there a public interest in directors' residential addresses being provided to third parties such as journalists?	Is there a public interest in directors' residential addresses being provided to third parties such as journalists?
5	Under what circumstances could directors' residential addresses be released to an interested party?	Under what circumstances could directors' residential addresses be released to an interested party?

### Government agencies' automatic access to directors' residential addresses

76. We have also been told that government agencies should have access to directors' residential addresses for the purpose of enforcing the law. This would include Inland Revenue, the Police and the Department of Internal Affairs.
77. Government departments and agencies often have information sharing arrangements. However, it may be more transparent and efficient for there to be a specific provision which allows this information to be shared or provided on demand for the purpose of enforcing the law.

6	Do you agree that government departments and agencies should have automatic access to directors' residential addresses?
7	Should this access be limited to the enforcement of law or are there other situations where it may be appropriate for government departments and agencies to have access to directors' residential addresses?

## 5 Historic documents attached to a company's record

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78. This section looks at possible approaches to the historic information found in the documents attached to a company's record should Option 1 or Option 2 be progressed.

### Status quo and problem definition

79. Directors' residential addresses can be found in documents attached to a company's record on the Register. These documents include the director consent form and the company's annual return. If all or some directors were able to provide an address for service as discussed in Section 3, the change would not be retrospective and would not affect the historic documents on record.
80. To redact a director's residential address, the Companies Office would need to correctly identify each instance of an address, redact the address and re-upload the document. This has to be completed manually as many of the documents are scanned image files.
81. Redacting residential addresses for all records would be a highly resource intensive task. The administrative cost of redacting this information would not be able to be absorbed by the Companies Office and it would not be appropriate to include the costs of providing this service within other fees such as annual return fees.
82. Currently, the Companies Office may redact the residential address of a director from historic documents where they have a domestic protection order, free of charge. However, this is not extended more broadly. For directors with other safety or security concerns, having their residential address still publicly accessible in documents attached to their company's record may still cause harm.

### Possible approaches

Option A: directors with specific safety or security concerns may apply to have their details suppressed from historic records for a fee (preferred)

83. Directors with specific safety or security concerns, may apply to the Registrar to have their residential address suppressed in historic documents.
84. Directors would need to provide evidence of why they would need their details suppressed, including<sup>8</sup>:
- a letter from their employer, lawyer, social worker, advocate or someone of standing in the community explaining why their work or personal circumstances place them or their families at risk
  - a copy of a protection order that is in force under the *Domestic Violence Act*

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<sup>8</sup> This is the same requirement for individuals looking to have their details removed from the electoral roll.



- a copy of a restraining order that is in force under the *Harassment Act*
  - information from a Police officer or Corrections officer explaining why their personal safety, or that of their family, could be prejudiced by the publication their residential address.
85. Directors would also need to identify the documents they are seeking to have their residential address redacted from and the location of their residential address within that document. Directors would be able to have their address redacted from documents which were filed up to five years before the date of the request – with the potential for the Registrar to have the discretion to go back further<sup>9</sup>.
86. A fee would be charged for processing the request.
87. Those with Court Orders would be exempt from the fee as their safety concerns are likely to be the most egregious.

Option B: All directors may apply to have their residential address suppressed from historic documents

88. Any director may apply to the Companies Office to have their residential address redacted from historic documents.
89. Directors would also need to identify the documents they are seeking to have their residential address redacted from and the location of their residential address. Directors would be able to have their address redacted from documents which were filed up to five years before the date of the request – with the potential for the Registrar to have the discretion to go back further.
90. A fee would be charged for processing the request.
91. Those with Court Orders would be exempt from the fee requirement as their concerns are likely to be the most egregious.

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Are there other factors which you think should be included in considering approaches to directors' residential addresses in historic documents?

## Assessment

92. Our preferred option is Option A. We consider this would allow directors with specific safety or security concerns to have their residential addresses redacted from the historic documents, without creating an unnecessary administrative burden for the Companies Office.

<sup>9</sup> We have identified five years as being appropriate because approximately half of the New Zealand adult population will have lived in their current residence for less than five years. Source: Stats NZ.

93. Our assessment is set out in the table below.

	Status quo – Residential addresses are publicly accessible through historic documents	Option A – Directors with safety concerns would be able to have their residential address suppressed from historic documents for a fee.	Option B – All directors may apply to have their residential address suppressed from historic documents for a fee.
<b>Advantages</b>	<ul style="list-style-type: none"> <li>• There is no additional administrative burden on the Companies Office.</li> <li>• Directors with a domestic protection order may be able to have their residential addresses removed from historic documents.</li> </ul>	<ul style="list-style-type: none"> <li>• Directors with safety concerns would be able to have their residential address suppressed from historic documents on the public register.</li> <li>• Directors in the most egregious situations (court orders) would not have to pay a fee.</li> </ul>	<ul style="list-style-type: none"> <li>• All directors, including those with privacy and safety concerns would be able to have their residential address suppressed from historic documents on the public register. Directors in the most egregious situations would not have to pay a fee.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>• Directors with other safety concerns would still have their residential address publicly available in historic documents.</li> </ul>	<ul style="list-style-type: none"> <li>• Directors who do not meet the threshold may still want their historic data suppressed.</li> </ul>	<ul style="list-style-type: none"> <li>• There may be a large number of requests as directors choose more privacy, placing a substantial administrative burden on the Companies Office.</li> <li>• A large number of requests may result in delays which negatively impact on directors with genuine safety concerns.</li> <li>• Little justification for redacting the majority of directors' details compared to the effort required<sup>10</sup>.</li> </ul>

What approach to you consider is appropriate for dealing with historic documents on the companies register?

<sup>10</sup> Directors have historically consented to their address details being made public. In this situation, the publication of directors' residential addresses was not a barrier to them becoming a director. As directors change addresses these documents may quickly become out-of-date.



## 6 Other locations of directors' residential addresses

94. A director's residential address is also publicly accessible through:
- documents held by the company
  - third party websites
  - shareholder records
  - other registers.
95. This section discusses possible approaches to these records in the event that directors' residential addresses are not required to be displayed on the record on the companies register.

### Documents held by the company

96. Under the Companies Act, a company is required to keep a list of the full names and residential addresses of the directors. This list is required to be physically available for inspection by the public<sup>11</sup> at the place at which the company's records are kept<sup>12</sup>.

It is not clear if there is an issue with the current approach

97. It is not clear whether a change is required. The main concerns with the publicly accessible information on the companies register appear to relate to the ease in which the public can access directors' residential addresses.
98. These concerns do not appear to apply to information being held by individual companies.
99. There are factors which reduce the concerns:
- the requestor must put their request in writing
  - the documents are kept at a physical location which may not be accessible to everyone.
100. At this stage we do not propose making a change to the requirement for companies to hold, and make available, certain information.

10

Have you encountered situations where you consider that members of the public have abused this provision? If so, please provide details.

<sup>11</sup> Section 215 of the Companies Act.

<sup>12</sup> Section 217 of the Companies Act.

## Third party websites

101. Third party websites, such as those who provide global company directories, have their own data sets which include directors' residential addresses.
102. Even if directors' addresses are not publicly available on the Register, it would not necessarily affect the existing information on external websites. The Companies Office does not have control over these websites. This means directors' residential addresses may still be publicly accessible online.
103. However, we anticipate, like the information contained in the documents attached to a company record, the information held by these third parties may become out-of-date over time.

## Shareholder record

104. Our advice to Ministers will recommend that any change to allowing directors to requiring their residential address is public, would also be extended to individual shareholders. We anticipate companies and the Companies Office would still collect shareholder residential addresses, only an address for service would be published.
105. Currently, shareholders who are companies or other entities are not required to provide a residential address.

Directors and shareholders are often the same individuals

106. The vast majority of registered companies in New Zealand are small-medium enterprises (SMEs). In most instances directors of SMEs are also the shareholders.
107. The residential address details of shareholders are publicly available on the Register, on both the company's record and documents attached to the record. This means that if an individual's residential address is suppressed as a director, it would still be available as a shareholder. In these situations, the publication of shareholders residential addresses is likely to undermine the proposed change to the publication of directors' residential addresses.

Public access to shareholders' residential addresses does not appear to be as necessary

108. At this stage we are not anticipating the introduction of a shareholder identification number, it does not appear that third parties have the same need to access shareholders' residential addresses as directors. Shareholders are not subject to the same liabilities as directors and an address for service would still allow third parties to contact shareholders.
109. Transparency on the Register is important. However, when it comes to shareholders, third parties are most interested in the overall ownership of a company. We are currently consulting on beneficial ownership information which would help to further the transparency of the companies register.

11 Do you agree that shareholders' residential addresses should be treated the same way as directors' residential addresses (ie replaced with an address for service)?

12 Are there circumstances where third parties might have a legitimate interest in the residential address of a shareholder?



## Other registers

110. The Companies Office is also responsible for a number of other registers, such as:

- Incorporated Societies register
- Industrial & Provident Societies register
- Building Societies register
- Friendly Societies register.

111. Individuals' residential address information may also be contained in documents attached to records on these registers. In most cases, the residential addresses contained in these registers are in imaged files attached to the record. They are not in a searchable format.

112. We have not heard specific concerns with the requirement to provide a residential address for publication on these registers, however, we are interested in any views you might have.

13

Do you think any changes need to be made to the residential address requirements for officers of other types of entities?

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## 7 Recap of questions

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1	Do you have any comments of our assessment of the options for approaching directors' residential addresses on the Companies Register?
2	What is your preferred option?
3	Are there interested parties who may have a legitimate reason to need to access directors' residential addresses? If so, who?
4	Is there a public interest in directors' residential addresses being provided to third parties such as journalists?
5	Under what circumstances could directors' residential addresses be released to an interested party?
6	Do you agree that government departments and agencies should have automatic access to directors' residential addresses?
7	Should this access be limited to the enforcement of law or are there other situations where it may be appropriate for government departments and agencies to have access to directors' residential addresses?
8	Are there other factors which you think should be included in considering approaches to directors' residential addresses in historic documents?
9	Are there other factors which you think should be included in considering approaches to directors' residential addresses in historic documents?
10	Have you encountered situations where you consider that members of the public have abused this provision? If so, please provide details.
11	Do you agree that shareholders' residential addresses should be treated the same way as directors' residential addresses (ie replaced with an address for service)?
12	Are there circumstances where third parties might have a legitimate interest in the residential address of a shareholder?
13	Do you think any changes need to be made to the residential address requirements for officers of other types of entities?

## **Annex 4: Talking points: Beneficial ownership and director residential addresses**

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**Cabinet Economic Development Committee: Wednesday, 23 May 2018**

### **KEY POINTS**

- I am seeking approval to release two discussion documents for public consultation.
- The first paper is on increasing the transparency of beneficial ownership information.
- The second is on how to treat company directors' residential addresses if a Director Identification Number is introduced.
- These documents seek to support the integrity of the corporate governance regulatory system and to promote transparency.
- Transparency is important for effective corporate governance and the efficient operation of markets. Transparency promotes accountability and informed decision making by businesses, investors and customers.
- This system is a critical part of the infrastructure supporting commercial activity in New Zealand.
- Public feedback will be used to inform what measures we put in place on these issues.

### **ADDITIONAL POINTS**

# Out of Scope



## **How to treat directors' residential addresses in the companies register**

- I am currently considering whether to introduce a unique identification number for company directors, also known as a DIN.
- A DIN would support accountability and transparency in the companies register by helping users to identify directors.
- There has been positive feedback on establishing a DIN.
- However, some stakeholders have raised concerns about the privacy and security of directors, because of their residential addresses being published on the register.
- If a DIN is introduced, there is an opportunity to address these concerns.
- This paper seeks public feedback on whether directors' residential addresses should be available on the publicly accessible companies register, if we were to introduce a DIN.

## **Q&As**

### **Will the proposals affect our World Bank 'ease of doing business' ranking?**

- Officials consider that these proposals would not impact our rating.
- However, I am mindful of the need to maintain the ease of doing business in New Zealand.
- I do not want to introduce policies which create unnecessary compliance burdens for businesses. I want to find the right balance in making sure that the system is effective and legitimate business is promoted in New Zealand.

## **BENEFICIAL OWNERSHIP**

# Out of Scope



# Out of Scope

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# Out of Scope

## **RESIDENTIAL ADDRESSES**

### **Why are directors' addresses published on the companies register?**

- Directors' addresses are published on the companies register to allow third parties to contact them directly, including to serve legal papers and documents.
- Residential addresses also provide a data point for users of the companies register to distinguish between directors with the same or similar names.
- However, if an identification number is introduced for directors, it may be more appropriate to allow directors to use an address for service to protect their privacy and security.
- A DIN would make it easier for users to identify directors on the register. Differences in residential addresses and the spelling of directors' names would not prevent users from identifying all the companies that a director is connected with.
- I consider that allowing some or all directors to use addresses for service would help protect their privacy while still allowing third parties to contact them.
- Residential addresses would still be collected but would no longer be publicly displayed.



### **What are other countries doing?**

- In Australia, director residential addresses are collected by the Registrar and included in the company extract. To access this information, a user must pay a fee. Director residential addresses are not included in the free company summary.
- In the United Kingdom, residential addresses are still collected; however, directors can choose to provide a different address for service to be published on the register.
- Historic documents containing directors' residential addresses are still publicly available. Directors' residential addresses may be provided by the Registrar to public authorities and credit reference agencies.

### **What would be the relationship between a DIN and the NZBN?**

- The NZBN is a unique number for every New Zealand business. A DIN would be a unique number for each company director, assigned to that person for their whole life.
- While they would be different numbers, they are both designed to make it easier to do business, by supporting transparency and accountability in the corporate governance system.