

# Second Level Domains Policy Review Submission

**From:** Rick Shera  
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## 1.

Q: Are the twelve second level domains still appropriate for their communities of interest?  
A: Since several of them have ill defined "communities of interest", that is a difficult question to answer. For example, .gen, .org, .net and even .co may have had defined communities of interest when established but those have long since disappeared and have never really been promoted to registrants.

## 2.

Q: Should any of the open 2LDs be moderated? (.ac, .co, .gen, .geek, .maori, .net, .org, .school)  
A: yes  
comments: .school should revert to being just for schools

## 3.

Q: Is there any need for the rationalisation of the current 2LDs?  
A: No - there is no technical problem and just because a few of them have very low numbers - so what - it does not cause any problem whatsoever and, if those people registered there thought there was an issue then they would register elsewhere. Conversely, closing a TLD would be difficult - see below. Finally, I note that RFC 1591 suggests that TLD structures should not be altered - whilst adding on might be argued to fall outside that prohibition, removing certainly does not.

### 3.1

Q: If so, what process should be used for the removal or closing of existing 2LDs?:  
A: I don't think they should be closed but if they are then that should only be done in two situations:

1. Where there are no registrants left in that space; or
2. Where all registrants in that space give prior consent. Even if there were only one registrant but that registrant was actively using their name (with, perhaps, associated goodwill and investment having been made), then what call is there for InternetNZ to interfere? If the space is moderated then the moderators prior consent should also be obtained.

### 3.2

Q: Should any such process be included in the 2LD policy?:  
A: No - it is such a rare event it should be handled as a one-off with separate consultation

## 4.

Q: What criteria (types of criteria and specific examples) should be applied to the creation of new 2LDs?  
A: Current ones are OK - just need tightening up a bit. Primary one is no confusion IMHO. Care does need to be taken that new spaces are not simply replicas of existing ones (as has been seen with .biz, where the vast majority of registrations have been of names already registered in .com)

**5.**

Q: Is the current process for creating new 2LDs too simple, too complex or about right?

A: too complex

comments: Collapse the two comment periods into one.

**6.**

Q: How much, if anything, should an application for the creation of a new 2LD cost?

A: Current cost is about right. If there is a community of interest then they should be able to fund the application fee very easily even if it means getting a dollar or so from each member of that "community"

**7.**

Q: Who, if anyone, should be able to block the creation of new 2LDs? If so, why and how?

A: InternetNZ council

**8.**

Q: Should there be different criteria or processes for the creation of moderated as opposed to open Second Level Domains?

A: Obviously, there is a need to make sure that the moderator has the appropriate mandate to approve/decline registrations. One might also consider some sort of indemnity arrangement from the moderator to InternetNZ to cater for the fact that we are departing from the first come first served principle and therefore potentially taking on liability.

**9.**

Q: Is the level of public input in the process adequate; excessive; or inadequate?

A: excessive

comments: See above

**10.**

Q: Are the methods currently used to seek public input (submissions; discussion period; straw poll) the best available, or would you suggest other/additional methods?

A: see above - strawpoll is still useful but it should come at end of the consultation process rather than as a threshold test

**11.**

Q: Do you think direct public registrations should be accepted at the second level?

A:

**11.1**

Q: Why? What are the advantages or disadvantages of such an approach?

A: Absolutely not. That horse has long since bolted, the milk is spilt and the stable door should be kept shut! Refer RFC 1591 again. I would also argue that there may well be legal arguments founded in estoppel, Fair Trading Act etc whereby aggrieved registrants who will inevitably lose their names in the grab for 2ld names, could successfully claim against InternetNZ. Many people will have paid their fees and invested large sums in their domain name in reliance on the current divided structure and policy from InternetNZ which makes no suggestion whatsoever of the structure being collapsed.

The chaos which would be caused by the collapse just does not warrant the benefit .... um, what benefit - search engines do most of the finding these days.

I would assume that those reading this understand the likely chaos that I am referring to, but just as an example - how does one decide who will get a popular

name like SouthernCross - who has a "better" right to that name? By making this change, InternetNZ will have to squarely face that issue and either decide it somehow or, as has been done overseas, effectively leave it to some sort of lottery process. Judgments based on number of current domain names or length of holding a current name are IMO so arbitrary as to make them no better than a lottery.

Finally on this point, there is a danger in rejigging the structure this way that in the process we are creating a chink in our first come first served policy which has stood InternetNZ well. What we are effectively saying is that whilst you might get a name first, it is open to us to InternetNZ to change the structure later in a way which might give someone else a "better" right to that name.

**12.**

Q: If direct registrations are allowed at the second level, what kinds of transition arrangements would need to be put in place for existing third level registrants?

A: No transition process will alleviate the issue raised above. This is the main reason NOT TO DO IT!

**13.**

Q: What is the best way to deal with any conflicts between existing third level registrants if the second level is opened?

A: There is no best way. All of them carry legal risk in my view.

**14.**

Q: Should registration fees be different (higher/lower) for Second Level domain registrations if they are opened directly to the public?

A: They should be much higher to cater for the increased monopoly right that is accorded. I would say 3 times higher to cater for collapse of the co-existing .co, .org and .net registrations which would then be monopolised by one .nz registration.

**15.**

Q: Are there other options around the future of the Second Level that the working group should consider?

A:

**16.**

Q: Are there any other issues you think the Working Group needs to consider in the course of the review?

A: