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20 November 2017

Document Number: B17-0617

Progressing a national organic standard

Purpose:

This briefing provides background on the potential need to strengthen how organic food is regulated in New Zealand and advises you on the steps needed to introduce a mandatory national organic standard and certification.

| Minister | Action Required: | Minister's Deadline |
|--|--|------------------------|
| <p>Minister of Agriculture</p> <p>Minister for Food Safety</p> | <p>Note that MPI considers that having a national standard will put New Zealand in the best position to negotiate new, preferential or more secure market access for organic primary products.</p> <p>Note that introducing a national standard will have costs and impacts on small domestic producers, importers and consumers.</p> <p>Agree to the proposed scope of this national standard, initially being food and primary products currently covered by MPI's organic export standard.</p> <p>Agree that MPI provides you with a draft Cabinet paper and consultation document to enable you to seek Cabinet agreement to consult on introducing a national organic standard.</p> | <p>When convenient</p> |

Contact for telephone discussion (if required)

| | Name | Position | Work | After Hours |
|----------------------|--------------|--------------------------------------|-----------|-------------|
| Responsible Director | Ruth Shinoda | Director, Food and Regulatory Policy | s 9(2)(a) | s 9(2)(a) |
| Responsible Manager | s 9(2)(a) | Manager Food Policy | s 9(2)(a) | |
| Principal Author | s 9(2)(a) | Senior Analyst | s 9(2)(a) | |

Key Messages

1. Demand for organic goods has grown exponentially in recent years and the global market is now worth over \$116 billion annually. Internationally, there is a trend towards more stringent regulation of terms like 'organic'. Of the world's top 25 organic markets, all have a mandatory organic standard of some kind.
2. Countries with a national standard for organic food increasingly expect their trading partners to have a comparable system that produces similar outcomes to their own. New Zealand's current voluntary arrangements have achieved market access success to date, but may not meet the demands of our trading partners in the future. New Zealand has a voluntary domestic standard for organic production and products labelled organic must meet the requirements of the Fair Trading Act 1986.
3. The Ministry for Primary Industries (MPI) has considered the potential need to strengthen how organic primary products are regulated in New Zealand. We anticipate a mandatory national standard and certification will put New Zealand in the best position to negotiate new, preferential and more secure market access and promote consumer confidence but it will also introduce costs and have impacts on small domestic producers, importers and consumers.
4. Organics Aotearoa New Zealand, the Organic Exporters Association of New Zealand and organic certification bodiesASUREQuality and BioGro, support the adoption of a mandatory national standard and mandatory certification for organic food. They see stronger regulation as an essential component to growing the sector, especially with respect to exports. They also consider a national standard could help protect the reputation of New Zealand organic products and increase consumer confidence.
5. Introducing a national standard will require legislative change, as there is currently no vehicle under which we could make organic regulations. We are working through legislative options as well as other matters that need to be resolved such as the impact of a national standard on imports (including those from Australia and from a biosecurity perspective) and existing trade agreements.
6. We recommend the next step is public consultation on a national standard to test and understand the impact of such a standard on a range of stakeholders, including small and uncertified operators, consumers and retailers. We will provide you with a draft consultation document and Cabinet paper in late January 2018.

Recommendations

7. The Ministry for Primary Industries recommends that you:

- a) **Note** that the Ministry for Primary Industries considers that having a national standard will put New Zealand in the best position to negotiate new, preferential and more secure market access for organic primary products.

Noted

- b) **Note** that introducing a national standard will have costs and impacts on small domestic producers, importers and consumers.

Noted

- c) **Agree** to the proposed scope of the national standard initially being food, and non-food primary products currently covered by the Ministry for Primary Industries-administered organic export rules.

Agreed / Not Agreed

- d) **Agree** that Ministry for Primary Industries provides you with a draft Cabinet paper and consultation document to enable you to seek Cabinet agreement to consult on introducing a national organic standard.

Agreed / Not Agreed

Deborah Roche
Deputy Director-General
Policy and Trade
for the Director-General

Hon Damien O'Connor
Minister for Food Safety

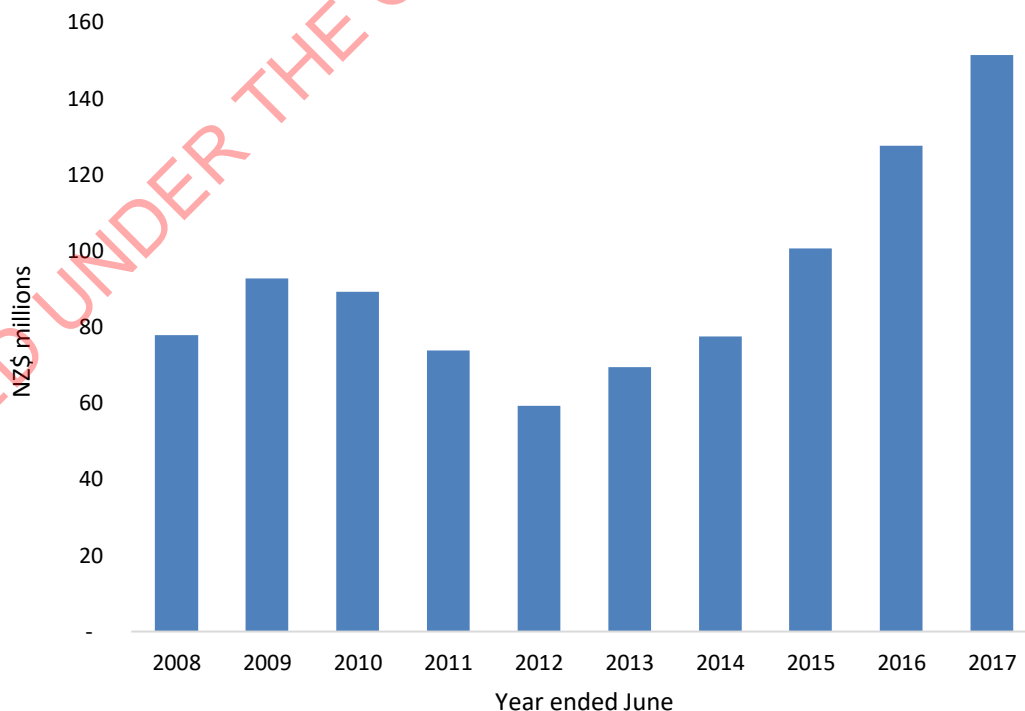
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Background

Organic primary products achieve a premium

8. New Zealand organic exports have grown exponentially in recent years, with the fresh fruit, vegetable, dairy and beverages sectors performing particularly strongly. Our organic sector is very diverse in terms of products, the size of organic producers and manufacturers and the range of motivations businesses have for choosing an organic production method. A table of key organic operators is attached at appendix one.
9. Globally the market for organic goods is worth over \$116 billion. Organic food is a high value product and can achieve a premium of more than 30 percent over conventionally produced food for some operators. Organics Aotearoa New Zealand estimate the New Zealand organic sector is worth \$0.5 billion, comprising \$260 million in exports and \$240 million of organic product sold domestically.
10. The Ministry for Primary Industries (MPI) administers an export programme for countries that require an official assurance to accompany organic products. It covers the European Union, Japan, Switzerland, Taiwan, and the United States. It will also include China when it is implemented (currently underway). The value of products exported under the Official Organic Assurance Programme has risen in value by between 12 and 40 percent each year since 2012. In the year ending June 2017 exports under the Programme rose 19 percent to \$151.4 million.

Graph 1: NZ organic exports through MPI's Official Organic Assurance Programme



The current system for organic exports works well, but may not be future proof

11. New Zealand's organic exporters currently export to over 90 markets. Appendix two sets out the top export markets for New Zealand organic products. Exporters must comply with importing country requirements, which are often organic standards that differ from New Zealand's voluntary standards. This adds complexity for organic operators hoping to move into exporting.
12. Where an official government-to-government assurance is required, organic operators export via the Official Organic Assurance Programme. The Programme's administrative and technical rules form the basis of New Zealand's market access negotiations for organic food and other primary products. The rules are consistent with international organic standards. Our objective when negotiating organic trade agreements is to reach agreement that these rules are 'equivalent' and deliver the same outcomes as those of our trading partners.
13. This system has allowed us to achieve market access success to date. Of the six organic market access arrangements New Zealand participates in, all but one (the United States) are equivalence agreements. The United States is not a full equivalence agreement, rather the United States has recognised New Zealand organic certification bodies as being competent to certify products against the requirements of the United States National Organic Programme regulations.

Existing protections for domestic consumers

14. New Zealand has a voluntary domestic standard for organic production, developed jointly between industry and Standards New Zealand in 2003. In addition to this standard, which has poor uptake, there are also a number of private standards including the AsureQuality and BioGro standards that operators can choose to be certified to.
15. There is no legal definition of 'organic' in New Zealand. Under the Fair Trading Act 1986 consumers are protected from false or misleading representations by traders. The Fair Trading Act requires that all representations made in trade are true, not misleading and are able to be substantiated. The Ministry for Business, Innovation and Employment administers this Act, and it is enforced by the Commerce Commission.

Rationale for changing how organic primary products are regulated

16. Internationally, there is a trend towards more stringent regulation of the term 'organic'. Recently, more countries have begun to seek reciprocity when negotiating market access for organic products. The trade arrangement that best provides for reciprocity is a formal mutual recognition agreement, or equivalence, where countries recognise each other's systems as having equivalent outcomes to their own.

17. Achieving equivalence allows the differing organic standards of two countries to remain unchanged (in each country) and treats the systems as being the same. Having the right mandatory national standard (that is, one for which the outcomes and objectives align with international standards and those of key trading partners) is therefore important and would strengthen our position when entering negotiations with our trading partners. Even with the right standard, however, there are no guaranteed outcomes in trade negotiations.
18. Of the world's top 25 organic markets, 23 have mandatory domestic standards for organic food, including the United States and European Union. New Zealand is out of step with these markets in not having a mandatory national standard for domestic organic production. In the future, this could make maintaining market access with the United States and European Union challenging, and securing access to new markets difficult.
19. For example, New Zealand and the United States have been negotiating toward a full organics equivalence arrangement for some years. Representatives from the United States Department of Agriculture visited New Zealand this year to assess our organic system. During this visit the head of the delegation advised us that the United States has a policy of not entering into organic equivalence agreements with countries that do not have a regulated domestic organic standard and the USDA have formally advised MPI of this policy.
20. Market access, particularly to the United States and European Union, is crucial to the success of our organic sector. Of the \$151.4 million exported under the Official Organic Assurance Programme, 97 percent by value was exported to these two markets, the United States (\$86.4 million) and the European Union (\$60.0 million).
21. MPI is aware the European Union, United States, and others who have mandatory national standards have formed an informal organic harmonisation working group to explore how individual countries' organic standards and technical regulations could be better aligned. New Zealand has not been invited to join this group as we do not have a mandatory domestic standard. This reduces our ability to influence the outcome of these discussions.

Introducing a national standard for organic primary products

A national standard will have benefits, but also introduce costs

22. Adopting a national standard would give New Zealand a stronger position in negotiations for better market access than we currently have. The key benefit of achieving equivalence would be that exporters meet the New Zealand standard rather than that of the importing country.

23. A mandatory national standard would however require compulsory, independent, third-party certification so that organic food producers can demonstrate their compliance. Such certification currently costs between \$900 and \$1900 depending on a range of factors, including whether an organic operator is exporting.
24. Small operators, who may be farming in accordance with organic principles but not seeking certification, are the most likely to be impacted by the adoption of a mandatory national standard and certification.
25. To mitigate the impact on small operators (for example, those selling through farmers markets), exceptions could potentially be made for those who are not selling more than a defined amount of organic food on the domestic market, or selling only directly to the end consumer. The United States exempts operators who sell less than USD \$5,000 per year in organic products from needing to be certified. Any exemption would need to be consistent with our WTO obligations.
26. For New Zealand consumers, having a regulated national standard would require all organic food and primary products labelled as organic to meet a minimum standard. This would reduce consumer confusion, increase the confidence of consumers to purchase organic products in the knowledge they are genuine, and consequently encourage growth in the sector.
27. However consumers may also face increased cost of organic primary products and may have less choice, because some uncertified operators may choose to no longer produce or import organic products.
28. To mitigate the impact industry representative bodies have asked Government to consider providing support for the sector to transition to a mandatory national standard and certification. Proposals have ranged from a fund to help uncertified operators move to being certified, to providing for an organic levy-funded body. However this could constitute a subsidy under the WTO and the legality will need to be carefully assessed. We can provide you with further advice on this, and any other ideas raised, following public consultation.

MPI recommendation

29. Based on our analysis to date, we anticipate that a mandatory national standard and certification puts New Zealand in the best position to negotiate better market access and increase consumer confidence in New Zealand organic primary products. We have explored other scenarios that could contribute to growth in the sector:
 - encouraging the uptake of existing voluntary organic standards, such as through a code of practice for the sector; and
 - adopting a mandatory export standard, with mandatory certification.
30. We consider that neither scenario would significantly improve market access or consumer confidence.

31. Organics Aotearoa New Zealand, the Organic Exporters Association of New Zealand and organic certification bodies AsureQuality and BioGro, support the adoption of a mandatory national standard and mandatory certification for organic food.

Scope of a national standard

32. We propose the scope of a national standard for organic primary and secondary processed products initially be limited to food, and those non-food products for which official assurances are issued under the Official Organic Assurance Programme. This means it would include organic:
- food;
 - unprocessed plant products (including mushrooms and seeds for planting);
 - live animals and unprocessed animal products (like honey);
 - processed agricultural products (like wine) for human consumption; and
 - wool.
33. The Programme does not currently include aquaculture and seaweed products, although early exploratory work has begun. To ensure a national standard is future-proof, we recommend these items also be included.
34. This approach would align with the staged approach most countries take to regulating their organic sectors, which is generally starting with food. Internationally, organic standards commonly comprise food and products that are used to produce food (for example animal feed), seeds for planting, plant propagation material and wool but not products such as cosmetics, textiles or timber and forestry products.
35. We propose to allow for future broadening of the scope through the legislative design. We will provide you with further advice on this.

Implementation issues to resolve before consultation

Legal frameworks

36. Crown Law have confirmed legislative change will be needed to enable MPI to make standard setting regulations for organic food, as it is not currently possible under the Food Act 2014. Legislative change will take time, on average a minimum of 18 months depending on Government priorities.
37. Regulation of food and primary products is currently for reasons of safety and suitability, and broadening the scope of the regulatory framework to include organics which is about customer preferences and would set a precedent. What this means for other customer preferences and similar claims such as free range, will be considered as part of the legislative design.

Impacts on imports and existing trade agreements

38. Any move to change how organic primary products are regulated will require us to update existing organic trade agreements, as an adopted national standard would apply to imports as well as domestically produced products. As part of implementing any mandatory national standard, New Zealand would need to notify the World Trade Organisation of our intention to adopt such a standard, and demonstrate that the standard is in line with international standards and is “not more trade restricting than necessary to fulfil a legitimate objective”.
39. Under the *Agreement between the Government of Australia and the Government of New Zealand concerning a joint food standards system* (the Food Treaty) and the *Trans-Tasman Mutual Recognition Agreement* we would need to consult with Australia on the impact of New Zealand adopting a national standard for organics. Industry stakeholders have informally advised MPI that Australia is itself considering a national standard for organics, which could represent an opportunity to align our standards. Whether a joint Australia-New Zealand standard should be explored needs to be worked through.
40. We are also looking at ways to address the potential issues related to imported fresh organic products that must be fumigated to manage biosecurity risks.

The content of a national standard will be determined post-consultation

41. Adopting a national standard will only assist in our market access negotiations if the standard we adopt can be recognised by our trading partners as being equivalent to their own.
42. Industry stakeholders have proposed that the Technical Rules MPI administers under the Official Organic Assurance Programme be used as the basis for a mandatory domestic standard. The Programme standard underpins current market access negotiations as well as New Zealand’s existing equivalency and mutual recognition agreements. The standard is also familiar to many organic operators, who are already meeting it in order to supply product for export.
43. Some aspects of the Technical Rules would need to be reviewed if it was extended to cover domestic production. This work could be done in parallel to legislative change.

Proposed next steps

44. Changing the regulation of organic food will require public consultation, agreed by Cabinet. Public consultation will enable us to understand the impact of a national standard on the organic sector more broadly, including uncertified operators, exporters and importers, retailers, consumers and certification agencies.

45. We are working to the following timeline:

| | |
|--|--|
| November – January | Finalise analysis, notify Australia |
| January – February | Discussion document drafting |
| Late January | Draft discussion document and Cabinet paper provided |
| Late February | Cabinet approval to consult |
| March – May | Public consultation (recommended minimum 6 weeks) |
| Legislative process and national standard design to follow | |

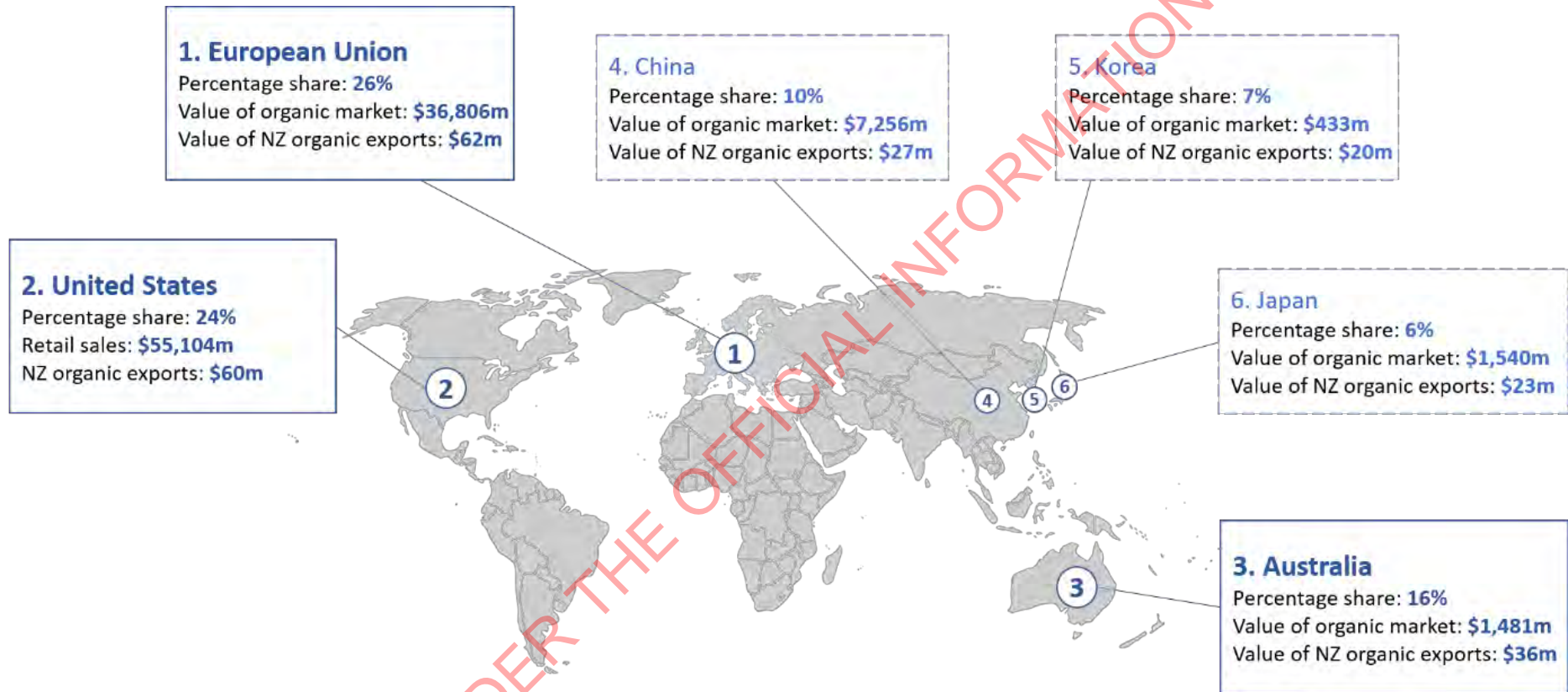
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Appendix One: Key New Zealand organic operators

| Sector | Horticulture | Dairy | Sheep and Beef | Wine | Processed Foods and Ingredients |
|---------------------------------------|---|--|--|--|---|
| Key organic producers | Bostock NZ (apples) Zespri | Fonterra Organic Dairy Hub Cooperative, supplying: <ul style="list-style-type: none">• Lewis Road Creamery• Zany Zeus• OOB Organic• Puhoi Valley and others. | ANZCO Alliance Harmony Meats | Villa Maria Pernod Ricard Giesen | Heinz Watties (frozen vegetables) Coca-Cola Oceania (juices) Chelsea (sugar) |
| Industry group | Certified Organic Kiwifruit Association | Organic Dairy and Pastoral Group | Organic Dairy and Pastoral Group | Organic Winegrowers | n/a |
| Number of operations (2015) | 610 | 84 | 139 | 150 | 285 |
| Comments | <ul style="list-style-type: none"> • Certified organic land for horticulture increased 128 per cent between 2012 and 2015. • This reflects significant growth in certified organic vineyards and Pipfruit production. | <ul style="list-style-type: none"> • There are approximately 25,000 dairy cows under organic management. • Fonterra has the largest share of organic farms. • 30 farmers supplied the Organic Dairy and Pastoral Group in the 2015/16 season. | <ul style="list-style-type: none"> • Organic sheep and beef farms vary in size from 200 hectares to over 10,000. • The loss of some large properties from organic certification has seen a 54 per cent decrease in land under organic livestock certification. | <ul style="list-style-type: none"> • Organic wine is a fast-growing sector with 7 per cent of New Zealand's wine production either certified organic or in the process of converting to organic production methods. | <ul style="list-style-type: none"> • Heinz Watties (then Watties Frozen Foods) were one of the first companies in New Zealand to experiment with organic production. Working with BioGro in the 1990s they were one of the first organic exporter. |
| Value of organic export (2015 in NZD) | \$108.1 million | Combined value \$68.3 million | | \$24.7 million | \$25.1 million |

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Appendix two: Top export markets for New Zealand organic products (2015)



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Ministry for Primary Industries
Manatū Ahu Matua



Aide-memoire:

From: Deborah Roche
Deputy Director-General, Policy and Trade
for the Director-General

Contact: s 9(2)(a) (Manager Food Policy)

To: Hon Damien O'Connor
Minister of Agriculture
Minister for Food Safety

Date: 13 December 2017

Update on Organics

Key Messages

- In November you agreed to proceed to public consultation on a national organic standard. MPI undertook to provide you with a draft Cabinet paper and discussion document to enable you to do this, by the end of January.
- This aide-memoire updates you on three outstanding policy matters we are focusing on in the lead up to public consultation on a national organic standard:
 - New Zealand's obligations under the World Trade Organization and the Trans-Tasman Mutual Recognition Agreement;
 - How to manage imports of organic product and biosecurity requirements; and
 - Implementation matters, including verification, cost-recovery and compliance.
- Following your recent bilateral meeting with Australia, the Department of Agricultural and Water Resources provided information on organic regulation in Australia (Appendix 2).

Timeline for consultation

1. In November we provided you with a proposed timeline identifying the matters to be considered leading up to public consultation (Appendix 1).

Security Level – In Confidence

2. To ensure consultation is meaningful and effective, the public needs to be provided with sufficient details on how a national organic standard would work in the discussion document. The three outstanding issues that need to be clarified prior to consultation are detailed in this aide-memoire.
3. To allow for the fastest possible consultation other matters can be worked out alongside consultation, rather than needing to be included in the discussion document. For example further work on a suitable legislative vehicle and the technical content of a national organic standard will be undertaken after the release of the discussion document.

Next steps

4. We will provide you with a draft Cabinet paper and discussion document at the end of January, to enable you to seek Cabinet agreement in February.

Interface with New Zealand's international obligations and trade policy settings

International obligations under the World Trade Organization

5. As noted in our November briefing (B17-0617 refers) a mandatory national organic standard is likely to be considered a technical regulation under the World Trade Organization (WTO) Agreement on Technical Barriers to Trade.
6. A new standard cannot be more trade restrictive than necessary to fulfil a legitimate objective to meet our WTO obligations. In order to do so, the rationale to introduce a national organic standard will need to equally balance the benefits to both the domestic and export markets.
7. Exemptions and subsidies can be trade distorting. We are exploring options that could be included in the discussion document, in order to mitigate impacts on small businesses while still complying with our WTO obligations. For example; allowing small producers to certify as a group rather than individually; in order to share compliance costs; or provide advice or technical training to help them develop the procedures and systems required for certification.

Next steps

8. We are consulting with the Ministry of Foreign Affairs and Trade to ensure proposed standard would be consistent with our WTO obligations. If Cabinet agrees to proceed with a national organic standard after public consultation, the WTO will need to be notified.

Trade of organic products with Australia

9. Following your recent bilateral meeting you requested information from your Australian counterpart. Detail on the regulation of organic products in Australia was provided by the Department of Agriculture and Water Resources and is attached in Appendix 2.
10. In Australia, organic produce for export must be certified to the National Organic Standard. Products sold domestically or imported are subject to consumer law, but certification and compliance with the Australian standard is not mandatory.
11. Under current arrangements, products sold domestically in Australia may be sold in New Zealand. This means uncertified Australian products (including those imported into Australia and re-exported to New Zealand) would be able to enter New Zealand without meeting the requirements of any national organic standard.

Next steps

12. We are considering the implications of the Trans-Tasman Mutual Recognition Agreement on a new national organic standard, and how best to approach consultation with Australia.

Managing imports of organic products and conflicting biosecurity requirements

13. Pre-export biosecurity treatments are mandatory for specific fresh produce (regardless of their organic status) when they are imported from a country where an unwanted pest is present. For example, strawberries coming from Australia must be fumigated with methyl bromide. A first assessment shows that a total of 24 commodities are subject to the above biosecurity requirements.
14. In addition, incoming consignments are inspected upon arrival and fumigation becomes mandatory if a pest is found. For example, pests are found in 98 percent of banana consignments, which are then fumigated before being sold in New Zealand.
15. Imported fresh produce could lose its organic status if it is fumigated for biosecurity reasons. This means it could become difficult to import some commodities as organic. There is no data available regarding the organic status of imported products because this information is not captured by customs codes. It is therefore difficult to confirm whether a national organic standard would have a significant impact on imported organic products.
16. It is likely the preferred way to address this would be to require fumigated organic products to be labelled accordingly. For example, some New Zealand retailers currently label fumigated goods as “grown organically and treated for biosecurity purposes”.

Next steps

17. We are developing proposals for alternative labelling of fumigated products. The interface between biosecurity and organic requirements will be tested during public consultation. This will help us better understand what impacts a standard could have on importers of organic products and whether mitigation measures could be introduced.

Implementation matters to consider in order to regulate organics

Verification

18. Under a national organic standard, we propose that MPI continues accrediting certification bodies and issuing official assurances for exported organic products while delegating some verification duties to certification agencies. This would be in line with MPI's responsibilities under the current export system for organic products.

Cost-recovery

19. It is likely that a national organic standard and associated government assurances would be cost recoverable. We are working on how the practical aspects of cost-recovery might be applied.

Compliance

20. There are different compliance models already in existence, which can inform the development of a system suitable to enforce a national organic standard. For example, the models used in food and consumer law have different cost implications for businesses. We are working on finding appropriate mechanisms for compliance while minimising costs to operators.

Next steps

21. We are working on verification, cost-recovery and compliance matters to ensure a national organic standard can be efficiently and effectively implemented, including for businesses selling on the domestic market. This will also provide the public with a clear picture of what a national organic standard would mean for them.

Minister / Minister's Office

Seen / Referred

/ /2017

Appendix 1: Public consultation on a national organic standard: proposed timeline and deliverables

- You asked us to come back to you on timing for consultation on a national organic standard.
- There are some outstanding issues that need to be resolved. To allow for the fastest possible consultation, some of these issues, such as the legislative vehicle, can be worked out alongside consultation, rather than needing to be included in the discussion document.
- The purpose of public consultation is to understand the impact of a national standard on the organic sector broadly, including uncertified operators, exporters and importers, retailers, consumers and certification agencies.
- To ensure consultation is meaningful and effective, we need to provide as much detail as possible about how a national organic standard would work in the discussion document.
- We are progressing work on implementation issues for which MPI will need to have answers prior to public consultation.

Discussion document content – matters to consider prior to consultation

| Content | Important because ... |
|--|--|
| Impacts on imports and existing trade agreements: <ul style="list-style-type: none"> - WTO obligations - Trans-Tasman Mutual Recognition Agreement | Public consultation could raise questions about this from our trading partners that we will need to front-foot. |
| Biosecurity <ul style="list-style-type: none"> - management of imported fresh organic products that must be fumigated for biosecurity reasons | Importers will need to know how a mandatory organic standard will impact them in terms of availability of product, and how fresh organic products can be labelled. |
| Implementation <ul style="list-style-type: none"> - cost recovery, verification, enforcement options | Organic operators need this detail to meaningfully comment on what impact the standard would have on their business. |

Key dates

- **end of January** : we will provide you with a draft Cabinet paper and discussion document
- you could take these papers to Cabinet in **February**
- the discussion document would be released after Cabinet agreement.

Appendix 2: Information on organic regulation in Australia

(Provided by the Australian Department of Health, on behalf of the Department of Agriculture and Water Resources)

Domestic situation

The role of the Australian Government on domestic organic matters is minimal as organic certification is a matter between certifying bodies and businesses. Beyond enforcement of Australian Consumer Law, which protects consumers by ensuring information provided by businesses on labels is not false, misleading or deceptive, the government is not involved in regulating organic products on the domestic market.

The Australian Government's Department of Agriculture and Water Resources' (department) main role in this space is to maintain an understanding of the domestic situation and monitor engagement with the Australian Competition and Consumer Commission on organic regulation.

Export situation

The department's primary role is to ensure that organic and bio-dynamic produce exported from Australia meets the requirements of importing countries, ensuring that international market access is maintained. Organic and bio-dynamic produce for export must be certified by the department's 'approved certifying organisation', verifying that the produce has been prepared in accordance with the National Standard for Organic and Bio-Dynamic Produce."

Further information on the department's role in exporting organic and bio-dynamic products is at www.agriculture.gov.au/export/controlled-goods/organic-bio-dynamic

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Ministry for Primary Industries
Manatū Ahu Matua



13 February 2018

Document Number: B18-0064

Consulting on a national organic standard

Purpose:

This briefing provides you with options for implementing a national organic standard and asks which you prefer, so we can incorporate these into the discussion document.

| Minister | Action Required: | Minister's Deadline |
|---|---|---|
| Minister of Agriculture Minister for Food Safety | Note and agree the recommendations contained in the briefing. | By 19 February, so that MPI can progress work on the discussion document. |

Contact for telephone discussion (if required)

| | Name | Position | Work | Mobile |
|---------------------|-----------|----------------------|-----------|--------|
| Responsible Manager | § 9(2)(a) | Manager, Food Policy | § 9(2)(a) | |
| Principal Author | § 9(2)(a) | Analyst, Food Policy | § 9(2)(a) | |

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Key Messages

1. The Ministry for Primary Industries (MPI) has been progressing work on the introduction of a mandatory national standard for the production of organic food, unprocessed plant products and wool. In November 2017, you agreed to proceed to public consultation on a national organic standard [B17-0617 refers]. Public consultation is an opportunity to better understand how a national standard would work in practice and seek stakeholders' views.
2. The discussion document will cover the following key areas:
 - rationale for changing the way organics are regulated;
 - who would be expected to meet the standard;
 - the content of the proposed national organic standard;
 - how compliance with the standard could be demonstrated; and
 - how the regime would be enforced.
3. This briefing seeks your agreement to consult on the options we would like to test in the discussion document, including preferred options.
4. In parallel with consultation, we are continuing to work with other agencies to ensure consistency with international obligations and identify the appropriate legislative framework. This will help us to progress the implementation work at pace following the consultation.
5. If you agree, we will also discuss organic arrangements with Australian officials. We intend to discuss what framework would best work to facilitate trade of organic products between the two countries.

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Recommendations

7. The Ministry for Primary Industries recommends that you:

- a) **Note** this briefing provides several approaches to implement a national organic standard. We are seeking your approval to include these options in the discussion document.
- Noted**
- b) **Agree** for the consultation document to propose the following options regarding who has to meet the standard:
- Option A: Any operators making organic claims (preferred option)
 - Option B: Only some operators, based on criteria such as size of the business or risk
 - Option C: Meeting the standard would be voluntary (status quo)
- Agreed / Not Agreed**
- c) **Agree** for the consultation document to propose the following approaches to setting out the standard:
- Option A: A detailed, technical standard based on that currently used for MPI's organic export programme (preferred option)
 - Option B: A descriptive, or outcome based standard
- Agreed / Not Agreed**
- d) **Agree** for the consultation document to propose the following options as a basis to demonstrate compliance:
- Option A: Keeping records
 - Option B: Keeping records and being listed as an organic operator with MPI (preferred option)
- Agreed / Not Agreed**
- e) **Agree** for the consultation document to propose the following options for the design of verification mechanisms:
- Option A: Certification by an independent third party
 - Option B: Random checks on a sample of operators
 - Option C: A combination of the above options
- Agreed / Not Agreed**
- f) **Agree** for the consultation document to propose the following options for the design of an enforcement regime:
- Option A: Proactive approach
 - Option B: Reactive approach
- Agreed / Not Agreed**

g) **Agree** for the consultation document to propose the following options to facilitate imports of organic products:

- Option A: Imports meet the national standard, or the term of an equivalence agreement
- Option B: Imports are certified to a standard recognised in the country of production

Agreed / Not Agreed

h) **Agree** to MPI talking to our Australian counterparts, to discuss what framework would best work to facilitate trade of organic products between the two countries.

Agreed / Not Agreed

i) **Note** you will be provided with a draft Cabinet paper and discussion document by 19 March.

Noted

Jarred Mair
Acting Deputy Director-General
Policy and Trade
for Director-General

Damien O'Connor
Minister of Agriculture
Minister for Food Safety
/ / 2018

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Background

8. In November 2017, we briefed you on the rationale for changing how organic food and other primary products are regulated. You agreed to proceed to public consultation on a national organic standard [B17-0617 refers].
9. New Zealand's organic sector is very diverse with respect to products, the size of businesses and the range of motivations businesses have for choosing an organic production method. This diversity means there are a number of groups representing the interests of organic producers, traders and consumers.
10. Introducing a mandatory national standard for organic production would change how organic food and other primary producers are regulated, and impose costs and requirements on these operators and importers.
11. MPI and other agencies do not hold comprehensive information about the organic sector. Releasing a discussion document for public consultation will enable us to collect feedback from a broad range of organic stakeholders including operators who currently choose not to be certified, exporters and importers of organic products, retailers, consumers and organic certification agencies. This feedback will enable us to make a more robust assessment of the impact a national organic standard may have on the sector.
12. In December 2017, we updated you on the complex implementation matters including verification, cost-recovery and compliance [AM17-0903]. This briefing sets out options for a national standard that would deliver the best outcomes.
13. This briefing sets out the information we propose to consult on, which includes how a national organic standard might be implemented, and options to minimise negative impacts.

Proposed content of discussion document

14. To encourage robust and constructive feedback, it is important that the discussion document contains enough detail for people to understand how the proposed new regime may impact them. The document will cover the following key areas:
 - rationale for changing the way organics are regulated;
 - who would be expected to meet the standard;
 - the content of the proposed national organic standard;
 - how compliance with the standard could be demonstrated; and
 - how the regime would be enforced.
15. Before we provide you with a draft discussion document, we would like your agreement on the options to be included in the document. These options are summarised in Appendix 1. Consulting on options does not preclude any future Cabinet decisions.

Rationale to change the way organics are regulated

16. MPI proposes to change the way organics are regulated in order to achieve the following objectives:
 - ensure all operators making an 'organic' claim meet a minimum standard, which in turn provides clarity and certainty to consumers, producers and importers of organic products;
 - contribute to the prevention of deceptive practices by clarifying what can, and cannot, be labelled as organic; and
 - put New Zealand in the best position to negotiate new, preferential or more secure market access for organic products.
17. In the discussion document, we will need to be clear about what we are trying to achieve, so the public can provide feedback on whether or not they agree our proposed approach of a national standard would meet these objectives.

The proposed national organic standard

Who would the standard be mandatory for?

18. It is important for the discussion document to set out who would be required to meet the technical requirements of a national standard. We recommend consulting on the following options:
19. **Option A:** All businesses who grow, process, pack, label, market or sell products as organic would be required to meet the technical requirements of a defined minimum organic standard. Restaurants and retailers (such as supermarkets) would also be expected to ensure organic food products they are supplied with comply with the national standard.
20. **Option B:** Requiring only some operators to meet the national standard, based on criteria such as the size of business, gross profit, risk of fraud or other identifier. It would be voluntary for small or low risk operators to meet the technical requirements of the standard.
21. **Option C (status quo):** Meeting the requirements of the national standard would be voluntary for all operators. This is similar to the status quo, but there would be a single public organic standard that producers could choose to meet. Although a voluntary standard would not meet our objectives, it is good regulatory practice to consult on a voluntary option. We propose to include this option in the discussion document so we can inform readers why it would not adequately meet our objectives.
22. Our preferred option is Option A. This approach would help create a level playing field where all operators have to meet the same technical requirements, and it would provide consumers and trading partners with increased confidence that all organic products meet a minimum standard. It would align with how organic food and primary products are regulated overseas.

23. There would be no requirement to meet the standard if no organic claims are made, businesses could continue to use terms such as 'natural' and 'spray-free' in accordance with the Fair Trading Act 1986 instead.

What would the standard look like?

24. We propose to consult on two options: a technical standard and an outcomes based standard.
25. **Option A:** A technical standard, similar to that currently used for MPI's organic export programme, would set out the rules organic operators need to meet in order to be able to make organic claims, and provide options for demonstrating compliance with these rules. This approach would provide certainty on what the rules are and what is required to meet them. For example, a technical approach would impose the type and maximum quantity of agricultural inputs that could be used on farm.
26. **Option B:** An outcomes based approach would set out the desired outcomes of regulation, without specifying how compliance could be achieved. This approach can better encourage innovation and efficiency, but lacks certainty. For example, an outcomes based regulation could set a maximum residue limit. However the standard would not specify the exact methods to achieve this outcome. It could be difficult for operators to assess how much input they could use in order to remain under the limit required by the standard. If an outcomes-based standard, as discussed above, is preferred, then a new standard would need to be developed.
27. MPI recommends a technical approach, with a standard based on that currently used for MPI's organic export programme (Option A) as the preferred option. This would be in line with international organic regimes, and it would provide greater certainty that New Zealand organic products meet a required minimum standard. This means the standard would clearly set out the technical rules organic operators must follow and provide appropriate compliance and enforcement regimes.

Mechanisms for operators to demonstrate compliance

28. The discussion document will give examples of the kinds of activities operators would need to undertake to demonstrate compliance with the standard. There are a range of options to make requirements proportional to the scale or the risks associated with organic businesses.

Proposed base requirements: being listed with MPI and keeping records

29. **Option A:** Keeping accurate records. All operators making organic claims would be required to keep accurate records in order to be able to substantiate their claims. This would enable verifiers and officials to confirm claims meet the standard. Most records are likely to already be kept by operators for other purposes (such as invoices or spray diaries), while others would be specific to

organics (for example, cleaning procedures taking place before an organic run).

30. **Option B:** Keeping accurate records and being listed with MPI. In addition to keeping records, all operators would have to notify MPI they are making organic claims. This would enable officials to perform random checks on operators making organic claims, and to enforce the requirements of the organic standard if required.
31. We propose that the discussion document consults on both options. Our preferred option is option B, which would form a strong basis for compliance activities. It also translates into relatively low cost to businesses, while enabling government to know which businesses are required to meet the standard.

Additional mechanisms to verify compliance with the national standard

32. In addition to the base requirements above, mechanisms could be introduced to verify that businesses are operating in compliance with the requirements of the national organic standard. We propose that the document consult on the following options:
33. **Option A:** Certification by an independent third party:
 - For operators, this would mean being subject to regular assessment and onsite audits by a government approved independent verifier. Under existing certification schemes in New Zealand, organic operators are assessed and audited at least once a year.
 - This is recognised internationally as being the best tool to provide certainty to consumers and trading partners that organic products meet the requirements of the national standard. It would deliver the best outcomes in terms of strengthening consumers and trading partners' confidence in New Zealand's organic regime.
 - However third party verification is one of the bigger costs that would be imposed on businesses. Based on the type of operation and its location, current fees range from a few hundred dollars to more than \$2,000+gst annually.
 - There could be ways to reduce certification costs for operators. For example group certification (where a group of businesses can share the responsibilities, and the costs of certification), or adjusting the audit frequency based on the risk associated to the operation, which would be consistent with compliance mechanisms under the Food Act 2014.
34. **Option B:** Random checks on a sample of operators:
 - For operators, this would mean being subject to random audits, in order to verify that products and practices comply with the organic standard. The fact that operators would have to be listed with MPI would allow government to sample operators every year, and audit them. The frequency of audit could be adjusted based on the risk associated with the operation. For example MPI could audit 5% of the operators making organic claims every year.

- Operators would still have to meet the requirements of the standard, be listed with MPI and keep accurate records. But there would be no requirement to be certified or have annual audits.
35. **Option C:** A combination of third party certification and random checks.
- Under this option, some operators would be certified with a third party, while others would be subject to random checks. For example, original producers who are only selling directly to their final consumers could not be required to be verified by a third party.
 - Similar measures are in place in other countries, in order to keep compliance costs down for local businesses. For example, operators may not be required to be certified by a third party based on the type of the total annual sale of organic products, the size of the business, or if they are only selling locally.
 - This approach would allow us to design verification mechanism that are fit for purpose and proportional to the scale of the businesses involved.
 - Despite several countries having measures in place to only require some businesses to be certified, this option could be seen as trade distorting by trading partners.
36. It also means less oversight over what is produced and labelled as organic, and sometimes may not be in line with some of New Zealand's international obligations.
37. We recommend consulting on all options. Public consultation will help us identify what would work best for New Zealand organic businesses, while we confirm their possible impacts on New Zealand's international obligations.

Enforcement

38. Regulating organic food and primary products would require the establishment of an enforcement regime that enables government to check operators are meeting the requirements of that standard, and take action if they are not. Our ability to enforce a national standard is important from the perspective of operators who are complying with requirements. This is because it reduces the likelihood that their products will compete on-shelf with others, who may be making fraudulent label claims. It is also important from the perspective of our trading partners.
39. There are different enforcement approaches that could be taken:
40. **Option A:** A predominantly proactive approach to enforcement.
- Complaints of non-compliance would be followed up.
 - Government would also actively look for fraudulent products or activities, for example by performing unannounced audits.
 - This would be similar to the enforcement mechanisms used under the Food Act 2014.

41. **Option B:** A reactive approach to enforcement.
 - Under this option checking activities would be initiated by complaints of non-compliance.
 - The Fair Trading Act 1986 is an example of a reactive enforcement regime.
42. The details of an enforcement regime will depend on the preferred approach to implementing a national standard and can be decided at a later date. We propose including examples of what enforcement could look like (e.g. ability to issue fines or prosecute) in the discussion document.

Administering imports of organic products

43. The discussion document could propose the following options to facilitate import of organic products:
44. **Option A:** Imports would be required to meet the requirements of the New Zealand standard, or the terms of an equivalence agreement. This approach is used by key trading partners, such as the United States, the EU or China. It provides strong confidence that any organic products imported into New Zealand meet a minimum standard.
45. **Option B:** Imports certified to a standard that is recognised by the government of the country of production could also be granted entry. For example, since the United States recognises the USDA National Organic Programme, New Zealand could automatically accept organic imports that meet this standard. This recognition mechanism is used in a few countries who recently regulated organics, such as South Africa and Chile.
46. Both measures would encourage imports of organic products into New Zealand. This is likely to result in more choice and better prices for consumers and businesses sourcing organic ingredients from overseas. The second option could lead to less certainty for consumers that imported products had been produced to the same standard as New Zealand products. MPI recommends consulting on both options.

Additional requirements for exporters

47. A mandatory national standard could put New Zealand in a better position to negotiate market access and achieve equivalence in some markets. But organic products intended for exports are likely to still be required to meet additional specific requirements in order to access specific markets.
48. Government to government equivalence agreements on organics, more often than not, include some 'carve outs', which set out how to manage irreconcilable differences between standards. For example, the United States has a zero tolerance for products from animals that have ever been treated with antibiotics,

whereas in New Zealand, subject to a number of conditions, products from an animal treated with antibiotics could still be labelled organic.

49. We propose that these additional requirements would not apply to domestic sales or exporters who ship products to countries who do not have additional requirements.

Next steps

50. Once we know your preferences with respect to content and you have had the opportunity to discuss this with officials, you will be provided with a discussion document for consultation and a draft Cabinet paper to seek Cabinet agreement to consult on 19 March.
51. The introduction of a mandatory national standard for organic production is likely to have implications for organic products imported from Australia. With your agreement, we will talk to Australia to discuss what framework would best work to facilitate trade of organic between the two countries.
52. Public consultation will help to determine how to best implement a mandatory national standard. In our 19 March briefing we will include an engagement plan setting out how we intend to approach consultation, including consultation with Māori. One of the groups we will consult specifically with are Te Waka Kai Ora (Māori Organics New Zealand).
53. In parallel to public consultation we will continue working on international implications (such as New Zealand's obligations under the World Trade Organisation and Trans-Tasman Mutual Recognition Agreement) and look at which legislative vehicle would be the most suitable to enable us to progress implementation at pace.

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Appendix 1 - Summary of options for consultation

| | Option A | Option B | Option C | Where do the costs lie? |
|---|--|---|---------------------------|--|
| Who should meet the standard? | Everyone (preferred) | Some | Voluntary (Status Quo) | Key costs differences are in who must meet it. |
| What standard must they meet? | Technical standard (Preferred) | Descriptive, outcomes based standard | No option C | Some cost differences in the type of standard. |
| How will they be able to show that they meet the standard? | Keeping records | Keeping records and being listed (preferred) | No option C | Very minor cost differences. |
| How will we check that they meet the standard? | Certification by independent third party | Random checks on a sample of operators | A combination | Significant cost differences in verification methods |
| How will we enforce it? | Proactive approach like food safety law | Reactive approach like consumer law | No option C | Some cost differences in enforcement approach |

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AM18-0018

Ministry for Primary Industries
Manatū Ahu Matua



Aide-memoire:

From: Jarred Mair
Acting Deputy Director-General, Policy and Trade
for Director-General

Contact: Ruth Shinoda, Director, Food and Regulatory Policy (s 9(2)(a))

To: Hon Damien O'Connor
Minister for Food Safety

Date: 16 February 2018

**Talking Points for Organics Aotearoa New Zealand Forum and
Dinner – 21 February**

Key Messages

- You have been invited to speak at the Organics Aotearoa New Zealand Forum and Dinner on 21 February 2018 at the ANZ Centre on Featherston St.
- You are scheduled to give the opening address in the morning and have also been invited to attend the dinner in the evening. Brendan Hoare, Doug Voss and Donald Nordeng, all from OANZ, will also be speaking throughout the day.
- This Aide Memoire provides you with background information on New Zealand's organic sector and attaches draft talking points (Appendix 1).

Background

1. You have been invited to give the opening address at the Organics New Zealand Forum and attend the subsequent dinner on the 21 February 2018. The invitation was extended by Brendan Hoare, who is the CEO of Organics Aotearoa New Zealand (OANZ), the Founding Director of Organic Systems¹ and the Managing Director of Buy Pure New Zealand². You last met with Brendan in November 2017.
2. We anticipate attendees at the event will include organic business owners, industry representative bodies such as OANZ and organic certifiers such as BioGro andASUREQuality. An agenda for the day is attached as Appendix 1.

Organics Aotearoa New Zealand (OANZ)

3. OANZ is one of several organic industry representative groups operating in New Zealand. Its role is to coordinate the development and promotion of the organic sector, primarily through advocating pro-organic policies at a central and local government level.
4. OANZ is generally recognised as the advocate for the domestic organic sector. The Organic Exporters Association of New Zealand advocates for export-related organic producers. You have met with OANZ previously, where they clearly voiced their support for a mandatory national standard.

Proposed talking points

5. Appendix 2 provides talking points that cover:
 - the organic sector in New Zealand, and internationally;
 - work MPI is doing to support the sector;
 - opportunities for growth.

Work on a mandatory national standard

6. In November 2017, you agreed to proceed public consultation on a national organic standard.
7. MPI is preparing a discussion document for your consideration, and to enable you to seek Cabinet approval to consult on a proposal for a national organic standard. You will receive a draft discussion document in March.

¹ Organic Systems provides growth strategies for companies in the organic and eco sector. They specialise in trade facilitation, business growth, organisational development and training.

² Buy Pure New Zealand connects New Zealand brands with markets in Asia and the Pacific.

Review of the Official Assurance Programme Requirements

8. The Official Organic Assurance Programme is administered by MPI and supports the organic sector by:
 - gaining and maintaining market access to negotiated markets;
 - providing official government to government assurances for consignments exported to those markets;
 - developing and overseeing the application of export requirements; and
 - contributing to the development of international organic standards.

9. The Organic Export Requirements that support the Programme are currently being reviewed to ensure they are up-to-date and fit for purpose. The review will ensure the Programme requirements are relevant to New Zealand practices, and harmonised with international organic requirements. Alongside public consultation, MPI is holding workshops with affected parties. The review is expected to be completed during 2018.

Minister / Minister's Office

Seen / Referred

/ / 2018

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Appendix 1: Organics forum agenda

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Appendix 2: Talking points

| | |
|--------------------------------------|---|
| Introductory Remarks | <ul style="list-style-type: none">• The last few years have been big for organics. I'd like to take this opportunity to congratulate all of you on playing your part in a thriving, diverse sector. |
| International Organics Sector | <ul style="list-style-type: none">• We've seen international growth in consumer demand for organic produce over the years.• I note that figures from the 2016 Organics Aotearoa New Zealand (OANZ) Market Report estimated a total of 2.4 million organic farmers working worldwide in 2015.• Globally, this indicated a 7.2 per cent increase in organic farmers from 2014 to 2015.• In terms of economic value, the international market for organic food is now worth over NZ\$116 billion annually.• Many consumers are willing to pay more for products with an organic status. This is evident in the fact that organic food can achieve a premium of up to 30 per cent over conventionally produced food.• In 2017, for example, the average price premium for exports to the US was 53 per cent over non-organic food, and 47 per cent for exports to the EU.• Late last year I met Gary Hirshberg, co-founder of Stonyfield Farm.• He grew a seven cow operation into the world's leading organic yoghurt company in the United States by recognising a market for products made without the use of pesticides, artificial hormones, antibiotics or GMOs.• This market and demand for organic produce is by no means decreasing. |

Security Level – In Confidence

**New Zealand
Organics
Sector**

- I'm pleased to note that there has also been growth in New Zealand's organic industry.
- The sales and exports of organics in New Zealand are increasing, indicating the strong performance of our organics sector.
- Organic fresh fruit and vegetables are performing particularly well.
- Last year I was given the opportunity to see some of the diversity and dedication of our organics sector first-hand, as part of a tour with OANZ in the Hawke's Bay.
- This tour gave Primary Production Select Committee members a chance to talk with operators of Bostock New Zealand, Bostock's Organic Free Range Chicken, Villa Maria's Te Awa vineyards and Lawson's Organic Farms.
- In addition to being diverse, the organic sector is also a dynamic one. I note that Bostock New Zealand has recently invested in an organic onion field crop trial in Hastings.
- There has also been an increase in the number of organic vineyards, such as those managed by Villa Maria.
- We're also seeing a shift in the way organics are being sold and purchased, with more producers selling through supermarkets.
- Referring again to the 2016 Market Report, organic grocery sales through New Zealand supermarkets increased by 127 per cent from 2012 to 2015.
- The supermarket revenue from organic groceries, excluding fresh produce, rose to \$167 million in 2015, a climb of 147 per cent from 2012.
- This demonstrates that organics are becoming a more mainstream product in New Zealand, being purchased by an increasing number of domestic consumers.

Security Level – In Confidence

| | |
|-------------------------------------|--|
| | <ul style="list-style-type: none">• There are numerous examples of organic ranges in mainstream markets. For instance, the Macro organic range at Countdown, and the prominence of organic dairy ranges from businesses like Lewis Road Creamery.• In total, our organic sector is worth approximately NZ\$460 million (\$0.5 billion) a year.• Of this figure, the total size of New Zealand’s domestic organic market is estimated as being worth \$217 million. This is 2.5 per cent of the domestic food and beverage market as a whole.• In terms of exports, we’re selling around \$240 to \$250 million in organics each year. |
| MPI and New Zealand Organics | <ul style="list-style-type: none">• As Minister, the success of our organics sector is very important to me. I am working with the Ministry for Primary Industries to ensure our organic products are both safe and highly reputable.• The Ministry for Primary Industries’ Official Organic Assurance Programme has helped to support the sector by achieving market access.• In November 2016, for instance, New Zealand became the first country to sign a mutual recognition agreement with China.• In addition to China, the Programme also currently covers the European Union, Japan, Switzerland, Taiwan and the United States.• There is no doubt that organics make a valuable contribution to our economy. Our organic products are currently exported to over 90 markets worldwide.• In 2016, the value of organic exports through MPI’s Programme amounted to \$151.4 million.• This was an increase of 19 per cent over the previous year. |

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Security Level – In Confidence

| | |
|--|--|
| Values | <ul style="list-style-type: none">• As you all know, the decision to farm, produce and consume organic products is typically linked to a set of underlying beliefs.• The popularity of organic products has increased alongside a growing trend amongst consumers to buy products that align with their values.• These wide-ranging values include animal welfare, health, fairness and environmental stewardship.• I think we can all agree that these values are positive ones. |
| Government and MPI Future Focus | <ul style="list-style-type: none">• The New Zealand government wants to aid the success of our organic producers.• Increasing the value of New Zealand organic exports can add value to our economy. MPI is looking into what arrangements might further support organic operators and improve market access.• Before MPI proposed any changes, we would seek the views of the organic sector and the public. |
| Conclusion/ Wrap up | <ul style="list-style-type: none">• I look forward to the 2018 Market Report, which I understand is currently being written, and to working with you all.• There is a lot of potential to keep growing our organics sector, and to build upon our country's reputation for safe and high quality food products. |

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23 March 2018

Document Number: B18-0244

Proposed consultation on a national organics regime

Purpose:

This briefing attaches a draft Cabinet paper and discussion document for your approval. It also proposes a timeframe for the consultation and policy work leading to legislative change.

| Minister | Action Required: | Minister's Deadline |
|---|---|---------------------|
| Minister of Agriculture Minister for Food Safety | Agree to provide any feedback on both the discussion document and Cabinet paper to officials by Thursday 29 March. | Thursday 29 March |

Contact for telephone discussion

| | Name | Position | Work | After Hours |
|---------------------|-----------|----------------------|-----------|-------------|
| Responsible Manager | § 9(2)(a) | Manager, Food Policy | § 9(2)(a) | |
| Principal Author | § 9(2)(a) | Principal Analyst | § 9(2)(a) | n/a |

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Key Messages

1. This briefing attaches:
 - a. a draft organics discussion document to consult on whether New Zealand should adopt a national standard and associated regulatory regime for organic production, and
 - b. a draft Cabinet paper seeking agreement to release the discussion document for consultation.
2. We seek your comment on both of these documents. Consulting publicly on the proposals before you seek Cabinet policy decisions for legislative change will enable you, officials and Cabinet to better understand the impacts of any proposed changes.
3. The only substantive agency feedback we received on the discussion document was from the branch of the Ministry of Business, Innovation and Employment that advises on standards. We have revised the document to address their concerns. However, it will be important to consult Minister Fa'afoi specifically on the proposals before these are submitted to Cabinet.
4. We are working to resolve how imports of organic products from, or through, Australia would be impacted by the preferred option, in light of the Trans-Tasman Mutual Recognition Agreement between our two countries. We will update you about this matter as soon as possible, and provide some text for the discussion document.
5. To move this work forward at pace, this briefing proposes an ambitious timeframe for the consultation and policy work leading to possible legislative change. This timeframe is achievable, but comes with some risks, and we welcome the opportunity to discuss your timing preferences with you.
6. Once we have received your feedback on the documents and your views on overall timing, we will provide you with a detailed engagement plan for the consultation.

Recommendations

7. The Ministry for Primary Industries recommends that you:

- a) **Note** that the proposed organics discussion document outlines the context for organics, objectives, and expected costs and benefits associated with the options for any regulatory change. **Noted**
- b) **Note** that the discussion document proposes a preferred option of a mandatory standard for all relevant organic businesses, with the requirement to be independently verified on an ongoing basis applying to most businesses, with limited exceptions. **Noted**
- c) **Agree** to provide any initial feedback on both the discussion document and Cabinet paper to officials by Thursday 29 March. **Agreed/ Not agreed**
- d) **Note** that further versions of both documents will be provided to you by Friday 6 April for you to finally review, and consult your Ministerial colleagues. **Noted**
- e) **Note** that we are aiming for the finalised documents to be submitted to the Cabinet Office by Thursday 26 April for consideration by the Cabinet Economic Development (DEV) Committee on Wednesday 2 May. **Noted**
- f) **Note** that, following consultation, the earliest time an Organics Bill could be introduced into Parliament would be November 2018. **Noted**
- g) **Note** that, following consultation, the earliest time an Organics Bill could be introduced into Parliament would be November 2018. **Noted**

Jarred Mair
Acting Deputy Director-General
Policy and Trade
for the Director-General

Hon Damien O'Connor
Minister for Food Safety

/ / 2018

Background

8. In February this year, you noted that the Ministry for Primary Industries would provide you with a draft Cabinet paper and discussion document relating to whether New Zealand should adopt a national standard and associated regulatory regime for organic production [B18-0064 refers]. In that briefing, we noted that primary legislation would be required to implement any mandatory standard.
9. We also noted that the discussion document would cover:
 - rationale for changing the way organics are regulated;
 - who would be expected to meet the standard;
 - the content of the proposed national organic standard;
 - how compliance with the standard could be demonstrated, and
 - how the regime would be enforced.

Content of discussion document

10. The attached discussion document outlines the current context for organics, objectives, the rationale for change, and expected costs and benefits associated with the options for any regulatory change.
11. The discussion document proposes options relating to:
 - whether a standard should be voluntary or mandatory; and
 - how should we check that relevant businesses are meeting the standard.
12. The discussion document also explains that:
 - a detailed process-based approach is the appropriate way for a standard to be structured, rather than an outcome-based approach, because organics is defined by the production process rather than the final product;
 - complete and accurate records would need to be kept in order for a producer to be able to be verified (i.e. checked for compliance) against the standard, and
 - imports would be required to either meet any national standard or the terms of a trade agreement.
13. The discussion document does not set out in detail how enforcement of a national standard would work. This is because, similar to other regulatory regimes, the enforcement approach would depend on the mandate and resources of the enforcement agency, and would be likely to be a combination of proactive and reactive approaches.
14. In the discussion document, we have also added a section on possible approaches to the empowering legislation, if a mandatory national standard for organics is chosen. It is useful to consult on these, to give a basis for legislative policy proposals should they be required.

Proposed process and timing

15. We are aware that you wish to progress this issue promptly. Public consultation on the proposals before you seek Cabinet policy decisions for legislative change will enable you, officials and Cabinet to better understand the impacts of any proposed changes, including on small businesses and Maori organic producers. It will also help address the limited data currently available on the organic sector, particularly in relation to small and uncertified operators.
16. It is standard for MPI to consult on such proposals for 6 weeks. To speed up the process, we could reduce the time ordinarily needed for consultation by consulting for 4 weeks rather than a standard 6 weeks. We could also look to save time at other points of the policy development process.
17. There are risks from an abbreviated process. For example, a short process would make it harder to ensure all relevant stakeholders had the opportunity to submit on the proposals, and allow less time for thorough testing of the proposals by officials, consumers, and industry.
18. MPI will work to manage these risks through proactively engaging with stakeholders. We will also work with the Parliamentary Counsel Office (PCO) to test whether the drafting of an organics bill is able to be prioritised against its other work.
19. Assuming that no complex issues are raised through consultation, and that PCO is able to prioritise any drafting needed, a possible 'best case' timeline could be:

| | Milestone | Date |
|----|--|---|
| 1 | MPI receives your comments | By Thursday 29 March |
| 2 | MPI provides updated versions of the documents to you for Ministerial consultation. | By Friday 6 April |
| 3 | Papers returned to your office from MPI for final review and submission to Cabinet | By Thursday 19 April (submission for DEV made by Thursday 26 April latest) |
| 4 | Cabinet Economic Development Committee | Wednesday 2 May |
| 5 | Cabinet | Monday 7 May |
| 6 | Public release of discussion document | Monday 14 May |
| 7 | Closing of consultation period (4 weeks) | Monday 11 June |
| 8 | Briefing to you attaching summary of submissions, and recommendations for next steps | Mid July |
| 9 | Briefing to you attaching regulatory impact assessment and Cabinet paper requesting policy decisions and authorising PCO drafting. | Mid August |
| 10 | Cabinet Committee, Cabinet | Mid September |
| 11 | Bill introduction | Mid November 2018 |

Consultation with other agencies

20. MPI has sought the views of interested agencies in relation to the attached Cabinet paper and discussion document. The only substantive feedback was from the branch of the Ministry of Business, Innovation and Employment (MBIE) which advises on standards. They were concerned whether there was sufficient evidence of a problem with the existing regime, including whether adjustments to the use of the existing voluntary organic production standard could address many of the problems identified.
21. We have addressed their concerns in the discussion document to clearly explain why the status quo is problematic, and emphasising that there is an opportunity to reconsider the organics regulatory framework. We have also outlined the option relating to improving uptake of the existing voluntary standard in more detail.
22. We recommend that your office particularly seek the views of Minister Fa'afoi (Minister of Commerce and Consumer Affairs) before the documents are submitted for Cabinet's consideration. His interests are likely to relate to the alignment of the proposals with his Standards and Conformance responsibilities, and also to the relationship between the organics proposals and the existing Fair Trading Act regime. The officials in the Fair Trading Act area of MBIE are comfortable with the proposals.

Possible impact of proposals on Australian organic imports

23. We are working to resolve the impact of our preferred options on organic products imported from or through Australia. New Zealand and Australia are parties to the Trans-Tasman Mutual Recognition Agreement, and also share a Food Standards Code. In principle, this agreement means that products that meet Australian requirements can be sold in New Zealand, and vice versa. It is possible that any mandatory New Zealand standard would not apply to organic products from Australia.
24. We are exploring whether there are any ways to capture Australian imports. We are aiming to resolve this as soon as possible, and we will work with your office to update text in the discussion document. This will ensure that New Zealand stakeholders have a clear understanding about how organic imports from Australia would be treated following the introduction of any new mandatory organic standard in New Zealand.

Next Steps

25. Once we have received your feedback on the discussion document and Cabinet paper, we will finalise these documents for submission to Cabinet. We suggest these be lodged by Thursday 26 April for the Cabinet Economic Development Committee's consideration on Wednesday 2 May. Assuming Cabinet agrees to the document's release, this would enable public consultation to begin around the middle of May.

26. Once we have discussed your preferred overall timing with you, we will provide you with a more detailed engagement plan, including our recommendations for public meetings.
27. Organics Aotearoa New Zealand (OANZ) and the Organic Exporters' Association of New Zealand (OEANZ) have expressed a strong interest in seeing the discussion document at an early stage. Officials intend to engage with these two groups after Cabinet's agreement to release the document, but before the full public consultation commences.

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Would New Zealand benefit from having a new regulatory regime for organic production?

A discussion document

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| | |
|---|-----------|
| [Insert Ministerial introduction] | 1 |
| Submissions | 2 |
| Executive Summary | 3 |
| Part 1: Introduction, purpose and context | 6 |
| 1 What do we mean by ‘organics’? | 6 |
| 2 Which organic products are we interested in? | 6 |
| 3 Demand for organic primary products is increasing | 7 |
| 4 The regulatory environment for organics | 8 |
| 5 Why change how organics are regulated? | 11 |
| Part 2: Options for how a new regime for organics could work | 14 |
| Issue 1: Should a new standard be voluntary or mandatory? | 15 |
| Issue 2: How should we check that relevant businesses meet the standard? | 17 |
| Part 3: If needed, Proposed Features of Empowering Legislation | 23 |
| Part 4: Next steps | 26 |

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[Insert Ministerial introduction]

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Submissions

We are seeking feedback on a proposal to regulate organic production and labelling.

HAVING YOUR SAY

All interested people and organisations are invited to respond to the questions in this document or provide other information relevant to the regulation of organic production.

The consultation runs from x to x 2018.

Please email your feedback by 5 pm on x 2018 to: Organics.Consultation@mpi.govt.nz

Include in your response:

- your name
- your position within your organisation (if applicable)
- your organisation's name (if this is who your submission is representing)
- your postal address.

You may instead wish to use the feedback form available at this address: www.mpi.govt.nz/xxx to capture your answers and send back to us.

While we prefer email, you can send your response by post to:

Food and Regulatory Policy
Ministry for Primary Industries
PO Box 2526
Wellington 6140
New Zealand

YOUR FEEDBACK IS PUBLIC INFORMATION

Any submission you make becomes public information. Anyone can ask for copies of all submissions under the Official Information Act 1982 (OIA). The OIA says we must make the information available unless we have a good reason for withholding it. You can find those grounds in sections 6 and 9 of the OIA.

Tell us if you think there are grounds to withhold specific information in your submission. Reasons might include that it is commercially sensitive or personal information. Any decision the Ministry for Primary Industries makes to withhold information can, however, be reviewed by the Ombudsman, who may require the information be released.

Executive Summary

Consumers in New Zealand and overseas are becoming increasingly interested in the food they eat and how it has been produced. While products marketed as organic are gaining popularity, there is no universally accepted definition of what 'organic' means. Producers can refer to a range of organic standards, and use a variety of methods to demonstrate that their products have been produced organically, and consumers have a mixed understanding about what these claims mean.

New Zealand's current regime aims to protect consumers and provide certainty to trading partners about the products we are sending them. Consumers are protected by the Fair Trading Act, which requires producers to be able to substantiate any claims that they are making on their products. To enable organic producers to send their products to particular overseas markets, the Ministry for Primary Industries (MPI) administers the Official Organics Assurance Programme, which involves independent certifiers checking that those producers have followed a set of rules.

There is no mandatory requirement to follow a defined set of rules in order to make organic claims in New Zealand. A variety of voluntary organic standards and practices are currently used. The absence of a single definition means businesses and consumers lack certainty about whether products meet their expectations of 'organic'.

In response to consumer demand and the increased volume and value of organic goods, several countries have introduced organic standards that are supported by legislation. This approach provides domestic consumers in those countries and their trading partners with certainty that organic primary products are made according to agreed standards. Of the world's top 25 organic markets (by value), all but New Zealand and Australia have developed mandatory domestic organic standards. Countries with such regimes increasingly expect their trading partners to have a regulatory system that produces similar outcomes to their own.

This is an opportunity for New Zealand to consider whether it too should take a stronger regulatory approach to organic production. Some representatives from the organic industry have also been asking Government to review the way organic products are currently regulated.

The most common regulatory approach used internationally is to introduce a mandatory national standard and associated regulatory regime for organic production. National standards incorporated into legislation can be good regulatory tools, as they can ensure that a product is processed in an acceptable way. But standards can also come with constraints and costs.

In order to think about whether regulating organics would have merit for New Zealand, it is important to think about how such an approach might work in practice and to understand its possible benefits, costs and impacts. This document proposes changes to the way organics are regulated, and sets out some options for what a new regime for organic primary products could look like. The first part of this document introduces the current framework, and why we are consulting on changes. The rest of the document focuses on options for what a national standard could look like. In particular:

- Should a national organic standard be voluntary or mandatory?
- How should we check that relevant businesses meet the standard?

We are now seeking your feedback to better understand what the impacts of these approaches would be. This will inform the decision on whether or not New Zealand would benefit from having a new regulatory regime for organic production, and if so, what a new regime could involve.

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Please tell us a bit about yourself

Throughout the document there are a series of questions designed to help us understand what impact the various options and approaches would have. We seek your views on what these proposals would mean for you as an individual or business having an interest in organics. Answering questions or making a submission is optional. However understanding who you are will help us best understand your feedback and address any concerns you may have.

QX. Please select all those that apply to you. Are you...

a business

- a. Do you...
 - handle uncertified organic products
 - handle certified organic products
 - intend to handle organic products in the future (certified or uncertified)
- b. How many employees do you have? 1-5, 6-10, 10-20, more than 20
- c. What type of products do you handle?
(e.g. horticulture, livestock, processed foods, forestry...)
- d. Please tick the activities applying to organic products handles by your business:
 - produce process trade store
 - provide contracted services other (please specify)
- e. Do you sell organic products...
 - directly to consumers (e.g. farmers markets, gate sales)
 - to a retailer or distributor (e.g. speciality shops, supermarkets)
 - to a foreign customer (e.g. exports)
- f. Do you import or export organic products? Please specify
- g. Are you and/or the products you handle organic certified?

and/or

a consumer...

- a. Do you purchase organic products?
- b. If yes, what kind of products do you purchase?
- c. Do you pay attention to the certification status of organic products?
Please explain.

and/or

other...

- a. Please tell us who you are or who you represent (e.g. industry group, supermarket, service provider)
- b. What is your interest in organics?

QX. Is there anything else you'd like to tell us that could help us understand your feedback? E.g., size of your business, key markets, experience related to the organic sector

Part 1: Introduction, purpose and context

1 What do we mean by ‘organics’?

Our supermarket shelves, farmers markets and export shipments are increasingly displaying the label ‘organic’. This term is likely to have a range of different meanings to the different people who see it. Throughout this document, we use ‘organic’ as a term to describe products made or grown using farming or production methods that follow some key principles:

- Organics are produced without the routine use of artificial chemicals – instead, preference is given to on-farm nutrient recycling (e.g. compost) and non-chemical methods for managing pests and diseases. Only when these methods prove inadequate may a farmer resort to a restricted list of fertilisers or pesticides.
- Organics are produced without the use of genetically-modified organisms. For example, genetically modified seeds, animals, or medications are not acceptable.
- An emphasis is put on animal welfare, for example animals must be able to express natural behaviour, and access to pasture is usually mandatory.

In practice, many organic methods are derived from traditional conservation-based farming techniques, such as use of crop diversity and rotations. Organic production also often involves the use of modern equipment, improved crop varieties, and novel practices with respect to water conservation or livestock management.¹

Organic production can also include adherence to certain ethical principles, for example those relating to health, ecology, fairness, and care.² In New Zealand, traditional kaupapa Māori growing practices can represent a distinct indigenous approach to organic production.

2 Which organic products are we interested in?

While there are a broad range of organic products produced and available in New Zealand, this proposal is concerned with primary products, including food and beverages, animal and plant products, live animals and wool.

This high level scope is proposed as a starting point as these products form a large part of New Zealand’s organic production, and are commonly regulated in other countries. These products are also currently covered under MPI’s voluntary export programme.

Key trading partners such as the European Union or Canada also regulate organic aquaculture products, such as organic fish or seaweed. These are not included in the scope of the current MPI export programme for organics, however we are interested in feedback about whether these products should be covered by a new proposed standard.

QX. Do you agree or disagree with the proposed scope? Do you think other products, for example aquaculture products, should also be considered? Please explain.

¹ Reganold JP, Wachter JM. 2016. “Organic agriculture in the twenty-first century (Article No. 15227).” Nature Plants.

² IFOAM. 2018. Principles of Organic Agriculture. Accessed March 07, 2018.
<https://www.ifoam.bio/en/organic-landmarks/principles-organic-agriculture>

3 Demand for organic primary products is increasing

GROWING PRODUCTION AND DEMAND WORLDWIDE

The use of organic production methods is becoming more common worldwide. Between 2001 and 2016, the agricultural area organically farmed has more than tripled to reach 57.8 million hectares in 2016.³ Over these fifteen years, the total value of organic food and beverages sold globally has also increased by about 330%, reaching NZ\$124 billion in 2016.

Around the world, the supply of organic products is responding to increased demand, and, while the conversion of land is slowing down in North America and Europe, the demand for organic food and beverages is expected to continue growing in the near future.

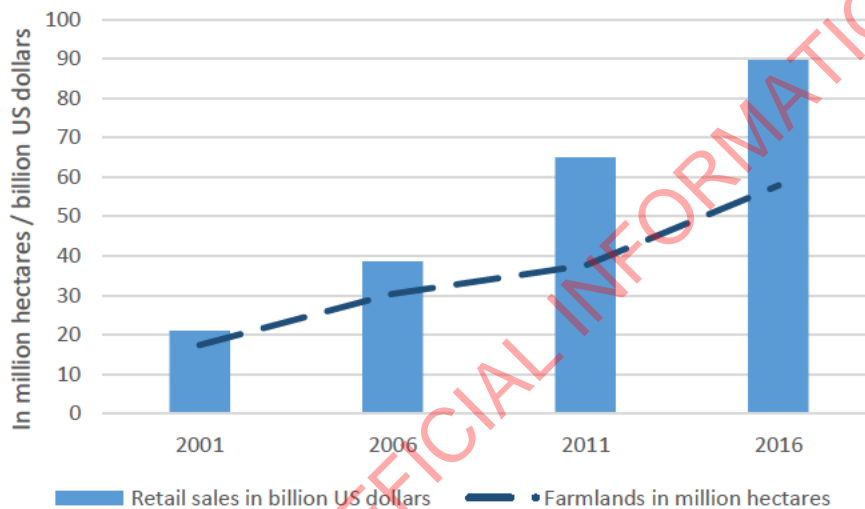


Figure 1: Global growth in organic food & drinks sales and farmlands, 2001-2016³

NEW ZEALAND'S ORGANIC PRIMARY SECTOR

New Zealand's organic primary sector started growing rapidly in the 1990s with the development of export markets for organic fruit and vegetables. By 2015, New Zealand's organic primary sector was worth approximately half a billion dollars, a 30% increase from 2012, comprising \$217 million of organic product sold domestically⁴ and almost \$280 million in exports.⁵ New Zealand organic exports have continued to grow steadily in recent years, particularly those of fresh fruit, vegetables, dairy products and beverages. Horticulture, wine and dairy are the major sectors exporting organic products overseas.⁵

In 2015, the area under organic certification in New Zealand was estimated as 74,134 hectares, with approximately 58% for livestock, 34% for horticulture, and the rest in mixed or other use.⁴ In the same year, about 1,000 farms and businesses were certified for organic production.⁴

³ Willer, Helga, and Julia Lernoud. 2018. *The World of Organic Agriculture. Statistics and Emerging Trends 2018*. Bonn: Research Institute of Organic Agriculture (FiBL), Frick, and IFOAM - Organics International.

⁴ OANZ. 2016. "2016 New Zealand Organic Market Report."

⁵ OEANZ. 2018. *Organics in New Zealand*. Accessed March 7, 2018. <http://www.organictradenz.com/organics-in-new-zealand.html>.

Organic products are also becoming increasingly popular in New Zealand. A 2017 survey showed that 72% of New Zealanders buy organic products some, most or all of the time.⁶ Supermarkets have also noted an increase in sales of organic products, with Foodstuffs reporting a 6% increase in organic sales last year.⁷

New Zealand's organic sector is very diverse in terms of products, the size of organic producers and manufacturers, and the range of motivations businesses have for choosing an organic production method. Due to the inherent diversity of the sector, it is difficult to gather exhaustive information about organic businesses. There is no official data regarding the number of organic businesses who are operating without certification. This includes the size of these businesses, the type of organic products and who their clients are. The origin, quantity and value of organic products imported into New Zealand is also difficult to assess because the organic status of a product is not captured by customs codes.

QX. Do you agree or disagree with the description of the current context for organics? Why, or why not?

4 The regulatory environment for organics

INTERNATIONALLY, ORGANICS ARE INCREASINGLY REGULATED

A significant number of countries regulate organic claims. Of the world's top 25 organic markets (by value), all but New Zealand and Australia have developed mandatory domestic organic standards. They do so for a range of reasons, including consumer protection, access to foreign markets or environmental benefits.⁸ Having a specific regulatory regime for organics is increasingly becoming the norm worldwide.

In regulated markets, the term 'organic' cannot be used unless the production methods and labelling comply with the national requirements. For example, claims such as '100% organic', 'organic', or 'made with organic ingredients' reflect strict composition and production requirements. In a similar manner, the use of national organic logos is also strongly regulated. In the United States, only products with more than 95% organic ingredients can use the organic seal.

In 2017, 87 countries had mandatory requirements for organic production and a further 18 countries were in the process of drafting mandatory requirements.⁹ This includes North America and Europe who generate 90% of international sales, and other key markets for organic products (such as Japan, South Korea and China). All of these regulated markets have strict requirements for organic products that are imported. Only products that are certified to a standard recognised or deemed as equivalent can be sold.

In drafting this document, we have considered how other countries have gone about regulating organics, and how the different models used internationally may or may not work in New Zealand. A high level comparison of how organics are regulated in key markets is attached as Appendix 1.

⁶ Colmar Brunton. 2017. "Better Futures Report 2017."

⁷ NZ Herald. 2017. "Kiwis' hunger for paleo, protein and dairy free products unstoppable." New Zealand Herald. Accessed March 2018. http://www.nzherald.co.nz/lifestyle/news/article.cfm?c_id=6&objectid=11957933.

⁸ Rousset, Sylvain, Koen Deconinck, Hyunchul Jeong, and Martin von Lampe. 2015. Voluntary environmental and organic standards in agriculture: Policy implications. Food, Agriculture and Fisheries, OECD, Paris: OECD Publishing.

⁹ Willer, Helga, and Julia Lernoud. 2018. The World of Organic Agriculture. Statistics and Emerging Trends 2018. Bonn: Research Institute of Organic Agriculture (FiBL), Frick, and IFOAM - Organics International.

NEW ZEALAND'S CURRENT ARRANGEMENTS FOR ORGANICS

Organic products must comply with New Zealand laws

Although there is no law specific to organic products in New Zealand, organics must comply with a range of overarching laws that equally apply to non-organic products. The key requirements are that:

- Food sold in New Zealand must be safe and suitable for sale, as required by the Food Act 2014;
- Claims and labels must be true, not misleading, and able to be substantiated, as required by the Fair Trading Act 1986;
- Imports must comply with inspections and treatments required under the Biosecurity Act 1993; and
- Exported products which fall within the Animal Products Act and the Wine Act must also comply with those Acts.

MPI's Official Organics Assurance Programme

As with many other products, our trading partners sometimes want added assurances that the organic primary products we are sending them are produced according to minimum, or agreed, requirements. To facilitate exports to certain markets, MPI administers the Official Organic Assurance Programme¹⁰.

As part of this programme, exporters need to be registered with MPI, ensure that their products have been certified by recognised agencies, and meet agreed requirements. In return, MPI provides assurances to the importing countries that these requirements have been met. Activities undertaken by MPI are typically cost recovered. Under this Programme activities relating to approvals, registrations or issuing official assurances are funded through either a flat fee, a per-hour fee or a combination of both, charged directly to the relevant business.

Approximately 60% of our organic exports are now managed through MPI's Official Organic Assurance Programme. The value of exports facilitated through this Programme was NZ\$151.4 million in the year ending June 2017, which was an increase of 19% over the previous year.¹¹ In 2017, most exports under the Programme went to either the United States (NZ\$86.4 million) or the European Union (NZ\$60 million).

¹⁰ The Official Organic Assurance Programme covers the United States, the European Union, Switzerland, Taiwan, Japan and China (when implemented).

¹¹ MPI. 2017. "Analysis of Free on Board (FOB) declarations collected as part of annual cost recovery exercise from organic exporters registered to participate in the Official Organic Assurance Programme." Food Production and Processing Team.

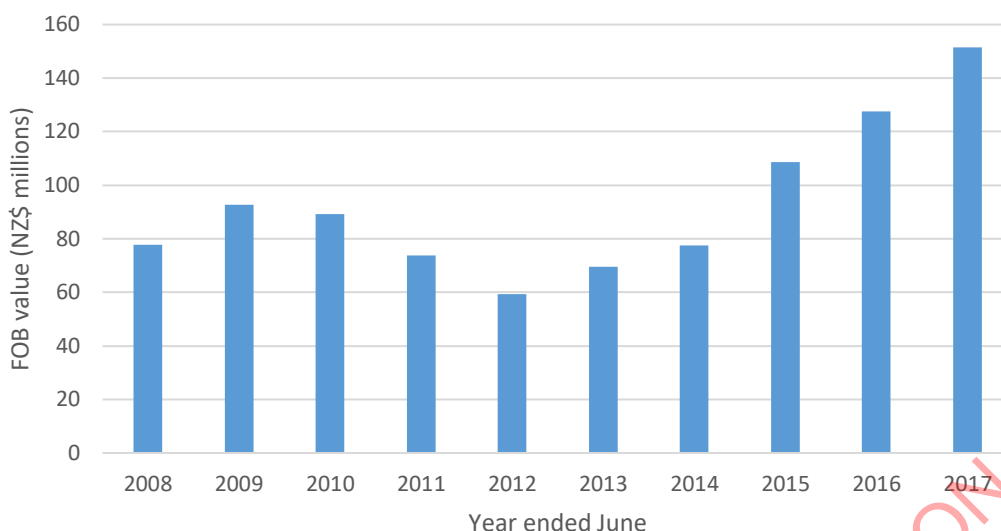


Figure 2: Organic exports through MPI's Official Organic Assurance Programme (MPI 2017)

Domestic organic standards are available, certification is voluntary

While no organic producer in New Zealand is legally required to meet any particular organic standard, there is one domestic public standard, and a range of private standards relating to organic production that growers, producers and others can choose to use to demonstrate that their product is organic. These standards set the technical requirements for organic production and describe practices and inputs that can or cannot be used. Some standards also include high level principles and recommendations that organic producers should embrace, such as principles of health, ecology, fairness and care.¹²

(1) New Zealand Standard 8410 - Organic Production

This domestic standard was developed by Standards New Zealand in consultation with industry representatives in 2003, with the objective of setting out minimum requirements for the production, handling, processing and labelling of organic products.¹³ Using this standard, or being certified to it, is voluntary.

This standard has not had significant uptake: MPI is not aware of businesses or certification bodies who are currently using this standard. Reasons for the lack of uptake may include:

- the standard is not accredited by the International Federation of Organic Agricultural Movements (IFOAM) unlike other organic standards available in New Zealand. Being accredited to IFOAM helps an organic standard to have international recognition;
- certification bodies are not currently accredited to assess organic products against the NZS standard. It costs the certification bodies to become accredited, and without market demand it is likely they did not consider this accreditation worthwhile;
- the standard is not recognised as providing equivalent outcomes by our trading partners, and
- obtaining a copy of the standard incurs a fee (currently \$80).

¹² IFOAM. 2018. Principles of Organic Agriculture. Accessed March 07, 2018. <https://www.ifoam.bio/en/organic-landmarks/principles-organic-agriculture>.

¹³ Standards New Zealand. 2003. "New Zealand Standard - Organic Production." Wellington: Standards Council.

(2) Private organic production standards

Examples of private standards referring to organic principles in New Zealand include:

| Standard | Description |
|-------------------------------|--|
| AsureQuality Organic Standard | • Private standards developed and owned by private certification bodies in New Zealand |
| BioGro Organic Standards | |
| IFOAM Norms | • International guideline developed by the International Federation of Organic Agriculture Movements (IFOAM) |
| Hua Parakore | • Combines matauranga Maori and key organic principles |
| Demeter | • Combines biodynamic methods and key organic principles |

If it chooses to meet one of these standards, a business can become 'certified' as compliant with whichever one it has chosen to meet. This involves an independent third party acting as an external auditor and assessing whether the methods used by a business are compliant with a standard. There are several private organisations who provide third party certification in New Zealand, who assess compliance with private organic standards. In some cases, businesses choose to 'self-certify', which means they assess their own compliance with a private standard.

To show that products are certified to a specific standard, a certification mark is often displayed. You may be familiar with some of the logos below, which are all being used in New Zealand.



Figure 3: Example of logos used in New Zealand

QX. In your opinion, have we described correctly the current regulatory environment for organics? Why, or why not?

5 Why change how organics are regulated?

AN OPPORTUNITY TO IMPROVE THE CURRENT REGIME

The current regime for organics in New Zealand is flexible and allows organic business to adopt production methods that suit them best and that reflect their personal beliefs on what being 'organic' means. Using the MPI Official Organic Assurance Programme as a basis for trade negotiations with key markets has also been successful in providing access to key markets.

The current regime is supported by voluntary use of private and public standards, and overarching New Zealand laws. The standards currently available are based on similar values and general principles but often have different requirements to be met for a business to obtain certification.

Organics industry groups have asked Government to explore taking a stronger regulatory approach to organic production, in the form of a mandatory organic national standard. Government has agreed that there is an opportunity to check whether our current arrangements could be improved on.

A new regime could provide businesses and consumers of organic products with increased certainty in making or relying on organic claims. Agreeing on a definition of what 'organic' means, or developing additional measures to ensure claims are transparent, could help consumers to know what production methods are used when a product is marketed as 'organic'.

Changing the way organics are regulated could also reduce the gap between the government's ability to provide oversight of the sector, and consumers' expectations that all organic claims are truthful. Organic claims relate to production methods, rather than to any particular characteristic that could be tested for or identified on the final product. Officials could be provided with additional tools to check organic claims are genuine, which could help address the difficulty for consumers in checking if a product is indeed organic.

Finally, there is an opportunity to put New Zealand in a better position to negotiate new and more secure market access into the future. We are aware that the environment in which our current regime operates is changing. Many overseas markets, including some of our key trading partners, have or are considering specific regulatory regimes to manage organic products. Those countries are increasingly requesting comparable organics regimes from trading partners to demonstrate similar outcomes to their own regimes are achieved.

QX. Do you think there is an opportunity to change the way organics are currently regulated in New Zealand? If yes, to what extent? If not, why not?

WHAT WE THINK AN ORGANICS REGIME SHOULD ACHIEVE

We consider New Zealand's regime for organic products should meet the following objectives:

- Consumers have confidence in the way organic products are produced, and a variety of products to choose from
- Businesses have regulatory certainty to invest and innovate in organic products
- New Zealand's regulatory regime is effective at enabling trade in organic products
- The regulatory regime has flexibility and is simple to administer
- The costs to businesses and consumers are proportionate to the overall benefits.

We do not consider that the status quo adequately meets all these objectives. It is not currently clear to consumers what the differences are between the current organics standards, and, more broadly, it is unclear which assurances are reliable. Organics businesses can be faced with difficult decisions about which standard to use. Further, our overseas trading partners are increasingly expecting New Zealand to have a comparable organic regulatory regime to theirs to demonstrate similar outcomes are achieved, which may put trade in our organic products at risk.

Because of these concerns, the rest of this document focuses on possible components of a revised regime for organic production, involving a national organics standard. Before we can decide whether we need to change the way organics are regulated, we need to identify how a new regime could work, and assess whether the benefits of such a regime would achieve the above objectives better than the status quo. It is also important to consider the costs and risks a new regime may create for the organics sector, including consumers, businesses, verification bodies and government.

In Part 2, we have identified different ways in which a new regime could work, including whether compliance with an organic standard should be voluntary or mandatory, and how compliance should be verified. In Part 3, we discuss possible key features of legislation that would be developed in order to implement any new mandatory regime.

We are now seeking your feedback to better understand what the impacts of these different approaches would be. This will inform the decision on whether or not New Zealand would benefit from having a new regulatory regime from organic production, and if so, what that regime could involve.

QX. Do you think we have identified the correct objectives for a new organic regime?
If not, what would you suggest a new regime should achieve?

Part 2: Options for how a new regime for organics could work

In order to consider whether a new framework for organics would benefit New Zealand it is important to first understand how such an approach might work in practice. We have considered two issues relating to a new organics framework.

Specifically:

- Issue 1: Should a national organic standard be voluntary or mandatory?
- Issue 2: If a mandatory standard is chosen, how should we check that relevant businesses meet the standard?

Several options were considered in response to these questions. Your feedback on these options will help us understand what the likely costs and benefits might be. We have indicated our preferred options. Please let us know if you prefer a different option, or if you think there are other approaches to consider. In thinking about whether these options meet the objectives set out above, we have considered:

- Is the option effective at providing certainty for organic operators and consumers?
- Is the option effective at enabling trade in organic products?
- Will the compliance burden be proportionate to risks being managed or avoided?
- Is the option practical for stakeholders to understand, implement and monitor?
- What are the costs, benefits and impacts of the option?

Organics standards are typically process-based

Enforceable standards either set out requirements relevant to the desired outcomes (outcome-based standards), or describe the production methods that must be followed to achieve an outcome (referred to here as process-based standards).

Outcome-based regulation can enable flexible approaches to compliance as it allows businesses to use different methods to reach a similar output. This approach rewards innovation and can reduce costs for businesses. For example, the Food Act 2014 is outcome-based, which means there could be a number of different ways for a business to show they comply with the Act, as long as they produce food that is safe for consumption.¹⁴

However, as noted in Part 1, organics is defined by particular production methods or by the production context rather than by the ultimate product. It is not possible to describe a set of outcomes that can reliably demonstrate whether a particular product has been produced organically or not. For this reason, organic standards used globally are process-based rather than outcome-based.

Accordingly, we recommend that any new standard for organics in New Zealand is process-based. Such a standard would set out rules for the production methods that organic operators need to meet in order to be able to make organic claims, including production methods, inputs and additives that are acceptable for use. The development of a new national standard would draw on existing standards and be subject to further public consultation. This would ensure requirements are relevant and suited to New Zealand's context.

¹⁴ MPI. 2017. "Custom Food Control Plan - A guide to help develop your custom Food Control Plan." Wellington.

Because it would clearly set out what organic businesses need to do to meet the standard, this approach would provide certainty for operators and consumers. Having clear rules also means it would be easier to check whether operators are meeting the rules. A process-based standard would also be in line with international approaches to regulating organics.

QX. Do you agree or disagree that a standard setting out requirements for production methods (technical approach) would be best suited to organic production? Please explain.

Issue 1: Should a new standard be voluntary or mandatory?

In this section we seek your opinion on whether the requirements of a national organic standard should remain voluntary or become mandatory, and for whom.

Generally, organic standards cover those people or businesses who commercially grow, process, pack, import, export or label organic products for sale. It would not cover businesses who only market or sell organic products, without growing, processing, packing, importing, exporting or labelling those products. In this consultation paper, we refer to these businesses as 'relevant businesses'.

In the options set out below, relevant organic products for sale in New Zealand, whether produced here or imported, would be subject to similar requirements. Imports would be required to either meet the requirements of the New Zealand standard, or the terms of a trade agreement. Relevant organic products produced in New Zealand and then exported would need to comply with any domestic rules, plus any requirements of the importing country if these are different.

OPTION 1A: ENCOURAGE THE UPTAKE OF THE CURRENT NATIONAL VOLUNTARY STANDARD

Under this option, the New Zealand Standard 8410 – Organic production could be reviewed and updated to align with current practices and its use would remain voluntary. The New Zealand government could also increase awareness of the standard by promoting it amongst consumers and businesses. If this option is preferred, efforts to overcome the other obstacles to businesses using this standard (such as its lack of international recognition) could be made.

Encouraging the uptake of this voluntary standard would mean that a relevant business could continue having several ways to substantiate their organic production methods, such as being certified to a private or public standard, or choosing to use different methods to substantiate their claims. However, it could provide increased clarity about what government considers to be acceptable organic practices. It also presents the advantage of not imposing new costs on relevant businesses as the use of the standard and certification would remain optional.

Under this option, it would remain uncertain whether a product sold as 'organic' met a defined minimum set of requirements. It would continue to be difficult for consumers to identify what practices were used to produce an 'organic' product. From a trade perspective, this approach would not put New Zealand in a better position to negotiate access with other countries and it may not meet other countries' requirements in the future.

OPTION 1B: A MANDATORY STANDARD FOR SOME ORGANIC OPERATORS

Under this option, some, but not all, relevant businesses would be required to meet a national organic standard. This option could mean that larger businesses, or businesses who are not selling direct to consumers, could be required to meet the standard, but it could be voluntary for small or low risk businesses. Care would need to be taken in determining who the standard should and should not be compulsory for.

A standard that is mandatory for only some relevant businesses would give government more oversight about what is produced and sold as organic, compared with the current regime. Consumers could be provided with increased confidence that more organic products meet a single standard.

However, organic claims from those businesses excluded from compliance could continue to reflect a variety of production methods. In practice, there may also be some uncertainty about which businesses would need to meet the standard. Businesses that would be required to meet the standard may also incur more costs than those who do not have to meet the standard. Setting a threshold may also create barriers for businesses to grow and expand, as production methods may need to change significantly where the threshold is exceeded.

This option is also unlikely to support trade. It may be difficult for New Zealand to explain to our trading partners why we have set a minimum accepted standard for some relevant businesses, but allow others to operate outside this minimum.

OPTION 1C: A MANDATORY STANDARD FOR ALL ORGANIC OPERATORS

Under this option, all relevant businesses would be required to meet the technical requirements of a defined minimum organic standard. This means that any organic products falling under the scope of the national standard would follow the same production methods and use similar inputs set by the standard. This approach would be in line with international approaches to regulating organics.

This option would provide the most transparent set of expectations to businesses and consumers about what government considers organic production to be. It would also provide the greatest certainty for consumers that organic products meet a clear set of standards. It is likely that this option could support trade, as it would provide certainty for New Zealand's trading partners that organic products are produced to a defined minimum standard.

But this option could also come with costs on operators, and potentially consumers, as operators may have to change production methods, or stop labelling their products as organic, to adhere to the new standard. These costs may be highest, proportionally, on small businesses and may lead to increased costs for consumers and/or reduced organic choices.

A standard would need to be empowered through primary legislation in order to become mandatory. There would also need to be a range of compliance and enforcement tools associated with the standard to ensure that the rules were effective. More details are presented in Part 3.

If a new standard was mandatory, organic claims such as 'organic' or 'made with organic ingredients' would become regulated. A national organic logo could be developed to allow products who meet the standard to easily be recognised. Rules around when any such logo

could be used (for example, in terms of the amount of ingredients of a processed product which are organic) could be considered when consultation on a specific standard was done.

Under this option, private organic standards could continue to operate if businesses still wanted to use them.

PREFERRED OPTION: 1C - A MANDATORY STANDARD FOR ALL OPERATORS

On balance, we consider that having an organic standard that all relevant businesses are required to meet would provide the greatest benefit, despite coming with costs. Overall it provides certainty to consumers and businesses about what government recognises as organic production methods, and confidence for consumers that organic products have met those methods. It also best facilitates trade as New Zealand's approach would be comparable to those around the world.

There would be costs from this option, both for businesses required to comply with the standard, and potentially for consumers. There may also be some costs to government associated with enforcing compliance and taking action for non-compliance. These costs could be partially mitigated by how the standard is implemented (see following sections).

Appendix 1 presents a comparison of the status quo, the preferred option and examples of how other countries approached compliance with a national standard for organic production.

Issue 1 - Should a new standard be voluntary or mandatory?

In this section, we have identified and analysed the following options:

- 1A – Encourage the uptake of the current national voluntary standard,
- 1B – A mandatory standard for some operators,
- 1C – A mandatory standard for all operators (preferred option).

QX. Do you think we have identified the correct options? If not, which alternative option(s) should we consider and why?

QX. Do you agree or disagree with our analysis of these options? Why or why not? Please explain.

QX. Are there positive or negative impacts that are not described in the above section? If so, what are they?

Issue 2: How should we check that relevant businesses meet the standard?

This section sets out three options for ways to check (verify) that relevant businesses are operating in compliance with a new standard for organic production. The following options would only apply if a new organic standard became mandatory for some or all relevant businesses (See Options 1B and 1C above).

The following set of options assumes that, irrespective of the approach taken to verification, businesses who are required to meet the requirements of a new standard would also have to

keep complete and accurate records. Records form the basis of compliance and are used to check whether or not the product complies with the standard or not.

Just like under the current Official Organic Assurance Programme, independent verifiers would be required to be accredited by the relevant agencies in order to provide verification services against a new national standard. This would ensure that verifiers are impartial and use the standard correctly.

OPTION 2A: ONGOING VERIFICATION FOR ALL ORGANIC BUSINESSES

Under this option, businesses involved in the organic production chain would be subject to regular assessment and onsite audits by an approved independent verifier.

Verification would be likely to result in an organic certificate being issued to confirm that the products and activities undertaken meet the requirements of an organic standard. Such a certificate would be evidence that the business had met the standard. Under existing private certification schemes in New Zealand, organic operators are assessed and audited at least once a year.

Independent and ongoing verification is recognised internationally as being the best tool to provide certainty that organic products meet the requirements of a standard. It would also deliver the best outcomes in terms of strengthening an overseas country's confidence in New Zealand's organic regime, and ensure organic businesses have equal opportunities to compete. However, it imposes costs on businesses. Currently, based on the type of organic production and its location, private certification fees range from a few hundred dollars to more than \$2,000 (excl GST) annually. Costs associated with verification activities undertaken by government would be likely to be cost recovered from organic businesses.

Measures to reduce compliance costs for relevant businesses could be introduced if ongoing verification was mandatory for all businesses. For example, a group of businesses could potentially share the responsibilities and the costs of certification. Also, it could be possible to adjust the audit frequency based on the risk associated with the operation: this would be consistent with compliance mechanisms under the Food Act 2014. Such approaches could help to reduce compliance costs for operators, but could also mean less oversight over what is produced or labelled as organic.

OPTION 2B: SPOT CHECK VERIFICATION FOR ALL ORGANIC BUSINESSES

Under this option, relevant businesses would be required to notify government they are making organic claims. A sample of businesses would then be selected and audited periodically to ensure the claims they are making are genuine and comply with the requirements of the new standard. The frequency of audit could be adjusted based on the risk associated with the operation.

Spot checking would provide some level of confidence to consumers as sampled businesses would be actively checked for compliance against the technical requirements of the standard. However, verifying compliance only through spot checking is unlikely to be sufficient to gain international recognition. Most countries that have a national organics standards have more stringent requirements to demonstrate compliance, and would be likely to continue to require New Zealand exporters to be verified on an ongoing basis.

If a spot check verification regime was chosen, another key question would be how to fund it. Spot checks would contribute to the robustness and credibility of the regime, which would benefit the organic industry. A cost recovery option could be to design a levy¹⁵ that would be administered by government and apply to the organic sector as a whole. It would be designed to recover the costs of verification activities undertaken by government. However additional public consultation would occur before such a levy could be introduced. For example, consultation would be necessary to confirm the mechanics of any such levy, including who would be required to pay and how a levy would be calculated.

We estimate that the internal costs on a business of being subject to a spot check verification regime are likely to be less than gaining ongoing verification (see Option 2A). Because only sampled businesses would be verified on any given year, it would also minimise disruption in terms of time and preparation required for the verification.

OPTION 2C: ONGOING VERIFICATION, WITH LIMITED EXCEPTIONS

Under this option, all relevant businesses would need to comply with the standard. However, not all businesses would be required to have their activities independently verified on an ongoing basis. For example, small businesses that produce or process organics that are sold directly to the final consumer would not be required to be verified or certified. The basis for the exclusion is that the associated compliance costs would be disproportionate to the risk that their products were not produced in an organic way. Such businesses could still be subject to enforcement action if it was shown that they were not meeting the standard.

Such an approach is common overseas. For example, the European Union allows member states to exempt organic businesses who sell directly to the final consumer from verification requirements.¹⁶ In the US, some producers are exempted from verification based on their annual turnover.

There could be a range of ways in which certain small or local businesses could be described in regulation in order to be able to take advantage of the verification exception. For example the exception could:

- Cover those producers or processors who sell directly to a consumer (though online sales would probably be excluded); or
- Cover those relevant businesses who have less than a certain threshold of annual turnover; or
- Cover those relevant businesses who produce less than a certain volume of produce annually; or
- A combination of these approaches.

The intention would be that the relevant business can self-determine whether they fall within the exception, rather than needing to apply for a specific exemption.

PREFERRED OPTION: 2C – ONGOING VERIFICATION, WITH LIMITED EXCEPTIONS

Our preferred option is for most relevant businesses to have their activities independently verified on an ongoing basis, while a small category of businesses would not be required to be verified – for example, small businesses that produce or process organics that are sold directly to the final consumer. These businesses would still need to meet the standard, but the exception would allow a reduction in disproportionate compliance costs for a small category

¹⁵ In this document, “levy” refers to a charge designed to recover costs incurred to government in delivering a service that benefit to all members of an industry or sector. Levies are generally calculated based on actual costs incurred to government.

¹⁶ Council Regulation (EC) No 834/2007 on organic production and labelling of organic products. Official Journal of the European Union, L 189/5.

of businesses. Enforcement action could still be taken in respect of these small businesses, if needed, when they claim that their products are organic.

All other relevant businesses would be required to meet the standard, and to be independently verified on an ongoing basis. Measures to reduce compliance costs could be introduced for such businesses if needed, for example through group certification or by adjusting the audit frequency.

Appendix 1 presents a comparison of the status quo, the preferred option, and examples of how other countries verify compliance against their national standard.

Issue 2: How should we check that relevant businesses meet the standard?

In this section, we have identified and analysed the following options:

- 2A – Ongoing verification for all organic businesses,
- 2B – Spot check verification for all organic businesses,
- 2C – Ongoing verification, with limited exceptions (preferred option).

- QX. Do you think we have identified the correct options? If not, which alternative option(s) should we consider and why?
- QX. Do you agree or disagree with our analysis of these options? Why or why not? Please explain.
- QX. Are there positive or negative impacts that are not described in the above section? If so, what are they?
- QX. How would the preferred option (ongoing verification, with limited exceptions) impact you or your business?
- QX. If some businesses were not required to be verified on an ongoing basis, what do you think the criteria for exemption should be?
For example, method of sale, annual turnover, volume sold, others...

Summary of proposals

In summary, the options considered, and the preferred options are:

| Component of proposed regime | Options considered | Preferred combination of options |
|---|---|--|
| 1. Whether the proposed standard should be voluntary or mandatory, and for whom | 1A: voluntary compliance for all 1B: mandatory compliance for some businesses only 1C: mandatory compliance for all relevant businesses | 1C: mandatory compliance for all relevant businesses |
| 2. How should we check that relevant businesses meet the standard? | 2A: ongoing verification for all 2B: spot checks verification for all 2C: ongoing verification, with limited exceptions | 2C: ongoing verification, with limited exceptions |

Overall, this consultation document proposes a preferred option of a mandatory technical standard for all relevant businesses. Those businesses would need to keep appropriate records. Ongoing verification would apply to most businesses, although a limited number would not be required to be verified, as is common in overseas regimes.

This approach would provide a robust and enforceable definition of what ‘organic’ means for everyone, and it is likely to enhance trade in New Zealand’s organic products. It will provide certainty for consumers that organic products meet a clear set of standards. However, the requirement for all relevant businesses to comply with the standard, and for most to be independently verified, would impose costs.

The diagram on the next page presents the combination of preferred options and what it would mean in practice for a business making organic claims.

We are interested to hear your thoughts on this preferred overall option.

Summary of Proposals

In this section, we have identified the preferred combination of options:

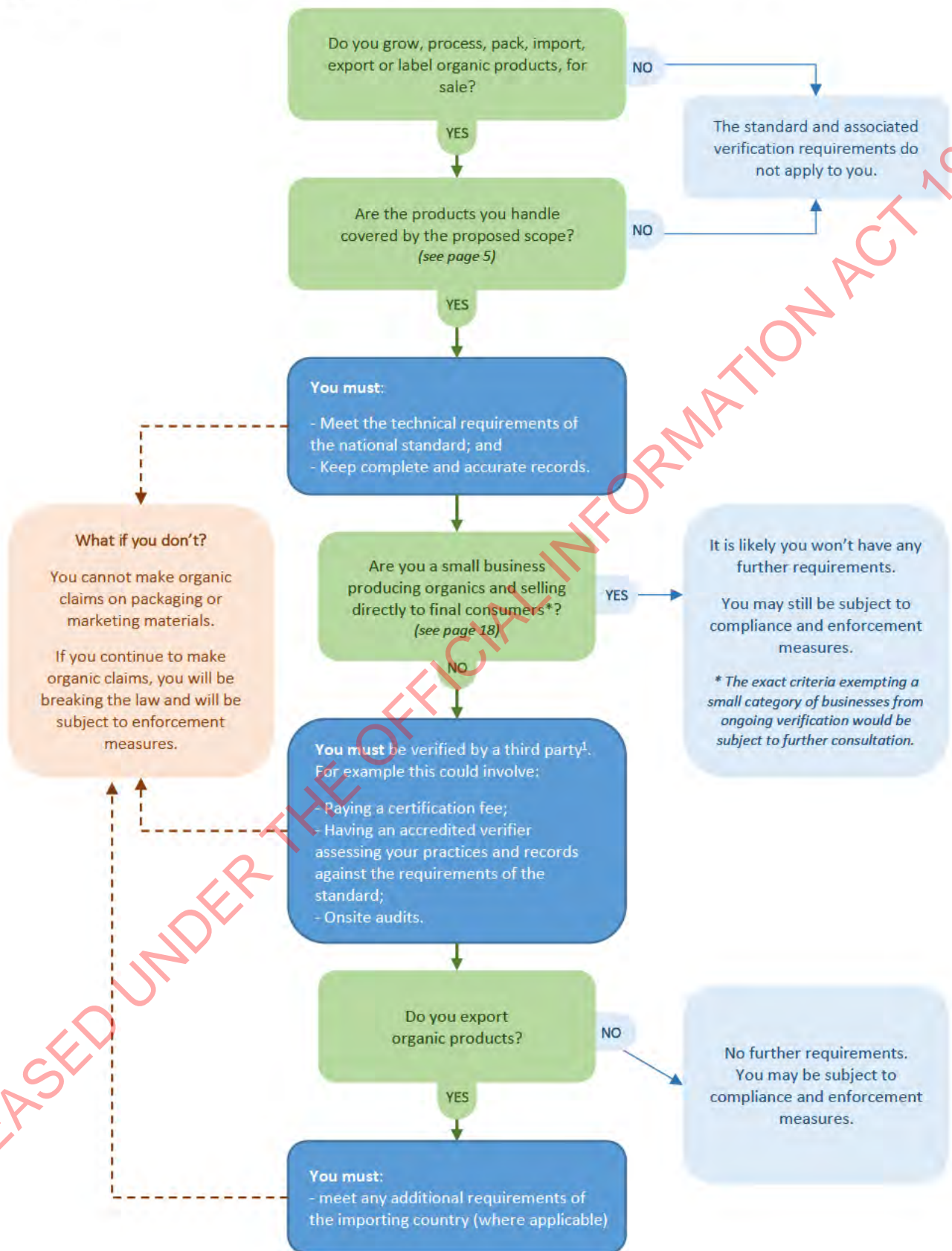
- a mandatory standard for all relevant organic businesses; and
- ongoing verification, with limited exceptions.

QX. Do you agree this combination of options is preferable? If not, why not?

QX. What changes or impacts would this combination of options involve for you and/or your organisation?

QX. Amongst all options listed and any other possible option not listed, what would be your preferred combination of options?

Diagram: Combination of preferred options - How would it work for a business in New Zealand?



¹ Measures to reduce compliance costs for relevant businesses could be introduced, such as group certification or adjusting the frequency of audits.

Part 3: If needed, Proposed Features of Empowering Legislation

Either maintaining the status quo, or encouraging the voluntary use of a national standard, would not require legislative change. However, legislative change would be required for a national standard for organic production to become mandatory and enforceable. A preliminary assessment indicates that developing a new Act would be most suitable, rather than amending an existing Act.

At a high level, we propose that the key features of any such bill that enables a mandatory standard for organic production could include:

| Proposed feature | Details |
|---|---|
| <p>1 Providing for the creation of one or more standards for organic production</p> | <ul style="list-style-type: none"> • Government could have power to set rules for the production of organic products • The proposal being consulted on here is to develop one standard for products listed on page 6, but the legislation could empower additional standards to be developed in the future, as required |
| <p>2 Setting out the scope of any standard</p> | <ul style="list-style-type: none"> • Standards could be set in relation to all organic primary products • However, the specific standard that is being consulted on in this document would cover a narrower scope: organic food and beverages, animal and plant products, live animals, wool (and possibly aquaculture) • A standard would also set rules concerning the production, processing and distribution of organic products, and the use of organic claims in labelling and advertising • We do not consider the legislation should enable standards to be set in relation to non-primary organic products |
| <p>3 Enabling the designation of recognised agencies and persons to verify compliance with the standard</p> | <ul style="list-style-type: none"> • This could include processes for government to recognise agencies and persons as official verifiers, and the ability to charge for the recognition process. • Requirements to become and remain recognised would be set, as well as the scope and duration of recognition. |
| <p>4 Providing means for government to cost recover for the activities it undertakes, including charging fees or imposing levies if applicable.</p> | <ul style="list-style-type: none"> • Legislation could set key principles and processes to introduce cost recovery mechanisms, such as equity, efficiency, justifiability and transparency. Possible models for this could include those currently found under the Animal Products Act 1999 or the Food Act 2014. |
| <p>5 Enabling any required regulatory powers in respect of exports of organic products</p> | <ul style="list-style-type: none"> • This could include the ability for government to set additional requirements where these are required for access to negotiated markets (such as exporter registration, additional technical requirements or |

| | | |
|---|---|---|
| | | restrictions) as well as the conditions, form and content for official assurances. |
| 6 | Providing for a range of compliance and enforcement tools, including offence provisions as needed | <p>Government could be granted with the following compliance and enforcement powers:</p> <ul style="list-style-type: none"> • Issue formal warnings, notices, powers of entry, powers to sample and test, and orders to rectify aspects of production, • Seize or recall non-compliant goods, • Issue fines for non-compliance, • Suspend a business from being able to make organic claims. <p>Note: Information tools such as providing education/ advice would not need to be empowered by legislation</p> |
| 7 | Providing transitional arrangements if needed | <ul style="list-style-type: none"> • Conversion to organics usually takes up to three years. • Legislation would provide for transitional arrangements in terms of what claims and methods can be used before the requirements of a new Act would come into force. |
| 8 | Allowing standards to incorporate other information by reference | <ul style="list-style-type: none"> • If needed, this would allow an organic standard to be briefer than it otherwise would be. It would also enable technical information to be updated more easily than if it was found in the delegated instrument itself. |
| 9 | Allowing exemption powers | <ul style="list-style-type: none"> • Where it is appropriate to grant temporary or permanent exemptions, government could have the ability to exempt selected businesses from specified requirements. |

Note that organic products would continue to be subject to any other relevant New Zealand laws. If the decision was made to develop a mandatory standard for organic production, a bill would be drafted, which could include details referred to in the table above, including specific enforcement tools.

There are several stages that the bill would go through before becoming an Act of Parliament. These stages ensure that it is subject to public debate and scrutiny. Public submissions would be invited by the Parliamentary Select Committee. Any stakeholders who wished to comment on the specific proposals contained in the bill could do so at that stage.

Powers needed to implement a new regime

In this section, we discuss the need to develop a new piece of legislation, if compliance and verification became mandatory. We discussed the key components of a new regime, including:

- Providing for the creation of one or more standard(s),
- Setting out the scope of any standard,
- Enabling the designation of recognised agencies and persons,
- Providing means for government to cost recover for the activities it undertakes,
- Enabling any required regulatory powers in respect of exports of organic products
- Providing for a range of compliance and enforcement tools,
- Providing transitional arrangements, if needed,
- Allowing standards to incorporate other information by reference,
- Allowing exemption powers.

QX. Do you think we have identified the correct powers required to implement a new regime? Are there any other components you think would be necessary?

QX. Do you have any comments on the range of proposed compliance and enforcement tools listed in the above Table (row 6)?

QX. Do you have any other comments about the proposed legislative settings?

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Part 4: Next steps

Once we have received submissions from interested parties, we will consider all of the new information and perspectives that have been provided. We will use this to further inform our analysis and test whether our preliminary analysis is still valid. We will make a summary of the information we have received through consultation available.

If this proposal is to be further progressed, there will be further opportunities for you to comment on more detailed proposals. For example, through public consultation on proposed legislation run by the Parliamentary select committee, and on any proposed standard being developed under such legislation.

Other comments

QX. What evidence should we examine to inform further analysis of this proposal?

QX. If you have any other comments or suggestions please let us know.

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Appendix 1: Comparison of organics regimes: New Zealand, Australia, Canada, EU and USA

| | Scope | Is the standard voluntary or mandatory? Voluntary (1A) Mandatory for some (1B) Mandatory for all (1C) | How are relevant businesses verified? Ongoing verification (2A) Spot checks (2B) Ongoing verification with exceptions (2C) | Current requirements to export to this market? |
|---------------------------------|---|---|---|--|
| New Zealand (current) | Primary products, including food and beverages, animal and plant products, live animals and wool. | Voluntary Operators must meet other overarching legal requirements, including food safety and consumer laws. | Not prescribed There is no prescribed way to demonstrate compliance, however claims must be substantiated. | N/A |
| New Zealand (preferred options) | As above, with possibility to include aquaculture. | Mandatory for all Would apply to domestic sales, imports and exports. | Ongoing verification with exceptions Businesses required to meet the standard would also have to be verified, except small or local sales. | N/A |
| Australia | Same as New Zealand, with aquaculture, cosmetics and biodynamics included. | Mandatory for some Applies to exports only. No mandatory requirements for imports or domestic sales. | Independent verification Exporters must be certified by an independent verifier | Overarching Australian Laws (including biosecurity, consumer and food safety) |
| Canada | Same as New Zealand, with aquaculture included. | Mandatory for most Applies to domestic sales, imports and exports. Products produced and sold within a same province are exempted. | Independent verification Businesses required to meet the standard must be certified by an independent verifier. | Independent verification and certification to the Canada Organic Regime. |
| United States, European Union | Same as New Zealand, with aquaculture also included in the EU. | Mandatory for all Applies to domestic sales, imports and exports. | Ongoing verification with exceptions All must be independently verified, except direct sales (EU) or businesses with small turnover (USA). | OOAP pathway, including any extra requirements imposed by importing countries. |

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Chair
Cabinet Economic Development Committee

PROPOSED NATIONAL STANDARD FOR ORGANICS: RELEASE OF DISCUSSION DOCUMENT

Proposal

1. This paper seeks agreement to release the attached discussion document: “Would New Zealand benefit from having a new regulatory regime for organic production?” for public consultation.

Executive Summary

2. I am seeking agreement to consult on whether New Zealand should adopt a new national standard and associated regulatory regime for organic production of food, beverages, live animals, unprocessed plant products and wool. The discussion document attached outlines the objectives, options, and expected costs and benefits associated with this proposal.
3. I anticipate a national organic standard and associated regulatory regime would provide consumers with increased certainty in making or relying on organic claims. It would also put New Zealand in a better position to trade its organic products.
4. Information available on the organic sector is limited. Although certified producers, exporters and certification agencies are easy to identify, there is no official data collected on uncertified producers, domestic sales or organic products imported into New Zealand.
5. The New Zealand organic industry bodies I met with support having a national standard in principle. Public consultation will help the Ministry for Primary Industries (MPI) understand the possible impacts of the proposal on all stakeholders, including businesses producing or trading organic products, and consumers.

Background

6. Demand for organic goods has grown exponentially in recent years and the global market is now worth over \$116 billion annually. Organic food is a high value product and can achieve a premium of up to 30 percent over conventionally produced food.

7. Based on 2016 data, New Zealand's exports and domestic sales of organic products have an estimated worth of \$280 million and \$217 million respectively. Organic exports accounted for 0.75% of total New Zealand exports in 2016. Despite its small size, the sector is growing rapidly (+30% in value since 2012).
8. Internationally, there is a trend towards more stringent regulation of the term 'organic'. Of the world's top 25 organic markets (by value), all but New Zealand and Australia have developed mandatory domestic organic standards. Countries with a national standard increasingly expect their trading partners to have a regulatory system that produces similar outcomes to their own.
9. Products labelled as organic must meet the requirements of the Fair Trading Act 1986 (for example, not be misleading or deceptive). New Zealand has a range of voluntary standards for organic production. The current voluntary arrangements have achieved access to foreign markets to date, but may not meet the demands of our trading partners in the future.
10. I met with representatives of the organic sector who stressed the need to strengthen the regulation of organic products in order to protect the reputation of New Zealand organics, both on the domestic market and overseas.
11. I am seeking agreement to release the attached discussion paper to seek feedback on the proposed introduction of a national organic standard and associated regulatory regime. Public consultation will provide a better understanding of the impacts of this proposal on a range of stakeholders, including small and uncertified operators, consumers and retailers.

Comment

Rationale for change

12. Under the current framework, organics are not specifically regulated and certification is voluntary. Food products can currently be sold as organic as long as they meet the general requirements applying to food sold in New Zealand. For example, they must be safe and suitable (Food Act 2014) and claims must be able to be substantiated and not be misleading (Fair Trading Act 1986).
13. Certification for imports, exports or domestic sales is voluntary. MPI runs an export programme that enables exporters to access key organic markets, by providing an official assurance that the products meet the requirements of the importing country.
14. However, under the current domestic regime, two products labelled as 'organic' (whether produced in New Zealand or imported) may have been produced differently. Products that have been certified against a standard also compete against those which have not been certified.

15. A new regime could provide businesses and consumers of organic products with increased certainty in making or relying on organic claims. Agreeing on a definition of what 'organic' means, or developing additional measures to ensure organic claims are transparent, could help consumers to know the production methods used when a product is marketed as 'organic'.
16. Organic claims relate to production methods, rather than to any particular characteristic that could be tested for or identified on the final product. Officials could be provided with additional tools to check organic claims are genuine, as it can be difficult for consumers to know what production methods are used when a product is marketed as 'organic'.
17. Finally, there is an opportunity to put New Zealand in a better position to negotiate new and more secure market access into the future. We are aware that the environment in which our current organic regime operates is changing. Many overseas markets, including some of our key trading partners, have or are considering specific enforceable regulatory regimes to manage organic production. Those countries are increasingly requesting comparable regimes from trading partners to demonstrate similar outcomes are achieved.
18. Depending on the way a national standard and associated regulatory regime was designed, it could:
- provide consumers and businesses with increased certainty in making or relying on organic claims;
 - reduce the gap between the Government's ability to provide oversight of the sector, and consumers' expectations that all organic claims are truthful; and
 - put New Zealand in a better position to negotiate new and more secure market access.

Content of the discussion document

19. The discussion document seeks the public's views on a range of ways a national standard for organic production and associated regulatory regime could be designed. It asks whether a standard should be voluntary or mandatory, and discusses verification, compliance and enforcement mechanisms.
20. The document proposes a preferred option of a mandatory standard for all relevant organic businesses, with the requirement to be independently verified on an ongoing basis applying to most businesses, with limited exceptions. Subject to stakeholder feedback, I anticipate a mandatory national standard and associated regime could deliver positive outcomes both for New Zealand organic businesses and New Zealand consumers of organic products.
21. As proposed, the standard would apply to organic products sold domestically, imported to or exported from New Zealand. It would cover organic food and beverages, live animals, unprocessed plant products, and wool. Public consultation will test if the proposed standard should also cover organic aquaculture products. Organic forestry products are not intended to be covered.

Reasons to consult publicly

22. I intend to consult on this proposal to:

- better understand the implications and impacts of a standard and associated regime for a wide range of stakeholders;
- ensure we test the different ways in which a standard and associated regime could be developed; and
- evaluate whether a standard and associated regime would provide better outcomes for New Zealand compared with the status quo.

23. Public consultation will give the opportunity to groups and individuals to express their views on the proposals. This could include Māori groups, uncertified producers, small businesses and consumers, who may not otherwise be represented by the industry groups I hear from.

Consultation

24. The Ministry of Foreign Affairs and Trade, the Ministry of Business, Innovation and Employment, the Ministry for the Environment, Te Puni Kokiri, the Department of Prime Minister and Cabinet, and the New Zealand Treasury have been consulted on this paper and the attached discussion document.

Financial Implications

25. There are no financial implications arising from the proposal to release a discussion document. The Ministry for Primary Industries expects to hold approximately 5 or 6 consultation meetings around New Zealand to discuss the proposal, and the costs associated with these will be met from baseline.

26. The discussion document will seek stakeholder feedback on costs and benefits of a range of ways to implement a national standard and associated regulatory regime for organic production. This information will help inform further regulatory impact analysis which will be provided with any request for Cabinet policy decisions.

27. The discussion document sets out options including mandatory compliance or verification requirements for some or all organic businesses. These options would impose new costs, especially for organic businesses that are not currently certified to any organic standard. There would also be some enforcement costs to government.

Human Rights

28. I consider the proposal to release the discussion document is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative Implications

29. If, following consultation, I consider that there is a demonstrated need for legislative change to introduce a national standard for organic production, I will submit policy proposals for Cabinet's consideration.
30. Subject to stakeholder feedback, I would intend to submit this proposal to Cabinet and seek agreement in the second half of 2018. A bid for a National Organic Standard for Organic Food and Primary Product Bill has been made for the 2018 Legislation Programme with a priority of 6 (instructions to be provided to the Parliamentary Counsel Office).

Regulatory Impact Analysis

31. A regulatory impact analysis will be prepared to accompany any policy proposal to Cabinet seeking agreement to legislative change to enable a national organic standard.
32. Treasury has agreed that a separate regulatory impact analysis is not required with this Cabinet paper, because the discussion document is intended to cover the range of feasible options and test understanding of the anticipated benefits, costs and risks associated with these options. Accordingly, any regulatory impact analysis provided with this Cabinet paper would substantively duplicate the discussion document.

Publicity

33. Stakeholders will be notified of the opportunity to submit on the issues raised in the discussion document through the MPI website, social media, press releases and advertisements in specialised publications.
34. Uncertified producers and small businesses are likely to be the most impacted by the proposal. MPI officials intend to conduct public meetings in key regions to ensure these stakeholders are aware of the proposal and have the opportunity to express their views. Additional meetings with key groups will also be organised to facilitate constructive feedback.

Recommendations

35. The Minister for Agriculture and Food Safety recommends that the Committee:

1. **note** there are currently no mandatory requirements specific to organic production in New Zealand.
2. **note** the attached discussion document “Would New Zealand benefit from having a new regulatory regime for organic production?” outlines options relating to a national standard and associated regulatory regime for organic production.
3. **note** the document proposes a preferred option of a mandatory standard for all relevant organic businesses, with the requirement to be independently verified on an ongoing basis applying to most businesses, with limited exceptions
4. **note** that introducing a mandatory standard and associated regulatory regime for organic production could provide consumers and businesses with increased certainty in making or relying on organic claims; it would reduce the gap between the Government’s ability to provide oversight of the sector and consumers’ expectations that all organic claims are truthful; and it would put New Zealand in a better position to negotiate new and more secure market access.
5. **note** the proposals need to be tested with industry and consumers to better understand the implications and impacts for stakeholders.
6. **agree** that the Minister for Agriculture and Food Safety has delegated authority to approve minor amendments and refinements to the discussion document before it is released.
7. **agree** the document “Would New Zealand benefit from having a new regulatory regime for organic production?” be released for public consultation.
8. **invite** the Minister for Agriculture and Food Safety to report back to Cabinet on the outcome of the consultation and, if required, present developed policy options and a legislative timeline for consideration.

Authorised for Lodgement

Hon Damien O’Connor
Minister for Agriculture and Food Safety

AM 18-0475

New Zealand Food Safety
Ministry for Primary Industries
Manatū Ahu Matua

Ministry for Primary Industries
Manatū Ahu Matua



Aide-memoire:

From: Jarred Mair
Acting Deputy Director-General, Policy and Trade
for the Director-General

Contact: § 9(2)(a) , Manager, Food Policy (§ 9(2)(a))

To: Hon Damien O'Connor
Minister of Agriculture
Minister for Food Safety

Date: 4 May 2018

Meeting with Organics Aotearoa New Zealand (OANZ), organics consultation details, and press release

Key Messages

- In response to a letter from Organics Aotearoa New Zealand (OANZ), you are meeting with the chair, Doug Voss, on Tuesday 8 May. We have included talking points for you with this aide-memoire.
- If Cabinet agrees on Monday 7 May, consultation on whether New Zealand would benefit from a new organic regulation will commence on Monday 14 May, and is currently scheduled for 4 weeks.
- MPI plans to conduct pre-consultation meetings with key industry groups, including OANZ, to seek their early input between 7 and 14 May.
- While relatively short, the public consultation will be thorough, with meetings in nine locations across the country, and a range of awareness raising activities planned. A draft press release is attached for your review.

Your meeting with the chair of Organics Aotearoa New Zealand on 8 May

1. You are meeting with Doug Voss, the chair of Organics Aotearoa New Zealand (OANZ). Mr Voss has grown kiwifruit for over 40 years and currently farms 29 hectares of organic kiwifruit near Tauranga. A biography is provided in Appendix 3.

Security Level – In Confidence

2. OANZ is a federation of New Zealand organics organisations. Its members include groups covering organic production, verification and retail. Its primary purpose is to develop and advocate for pro-organic policies to decision-makers at central and local government level.

Current concerns

3. Mr Voss, the chair of OANZ, has written to you noting that OANZ wants a robust and inclusive consultation and submission process that encourages wide participation. His letter is attached as **Appendix 2**.
4. He is concerned that the Ministry for Primary Industries (MPI) has appeared reluctant to communicate with OANZ about the organics work underway in recent months. He is keen to meet you to reset the relationship with officials so that OANZ and government can work constructively towards a shared goal.
5. MPI agrees that the relationship with organics stakeholders such as OANZ is very important. Over recent months, the proposals contained in the discussion document were being developed. As such, it has been difficult to discuss these in detail with stakeholders because any discussion may have pre-empted your and Cabinet's decisions.
6. Once we have Cabinet approval to consult, we will set up pre-consultation meetings with OANZ and other industry groups. We want to create positive early engagement and enable a good working relationship with key industry leaders. We will also meet OANZ representatives again during the consultation period if OANZ find it useful.
7. Mr Voss is keen to see progress on an organic national standard, but may be concerned that four weeks is too short for consultation. You could offer to extend consultation, for example to six (or more) weeks. While any extension to the consultation period will cause some delay to the rest of the process, this needs to be balanced against the benefit of providing a longer opportunity for stakeholders to engage.
8. Talking points for your meeting are attached as **Appendix 1**.

Background: Organics Consultation Details

9. Subject to Cabinet’s agreement on Monday 7 May, MPI intends to begin public consultation on whether New Zealand would benefit from new organic regulation on Monday 14 May. We are inviting submissions from all individuals and businesses with an interest in organic production, to ensure we properly understand the impacts, anticipated benefits and costs of our proposals on all parts of the sector. We also expect to gain a better picture of the organic sector, for example how many small and uncertified operators there are and how much organic product is imported into New Zealand.

Contact with key stakeholders before formal consultation period starts

10. Once Cabinet has made its decision, MPI will meet with OANZ and OEANZ in the week before consultation starts to outline the content of the discussion document, and test the proposed consultation period and location of public meetings.
11. We will also inform Te Waka Kai Ora (the Māori organic authority), Organic Farm New Zealand, and the Farmers’ Market Association before the formal consultation starts, and offer to meet to discuss proposals.

Once formal consultation has started

12. Consultation will be launched with a press release (a draft is attached at **Appendix 4**). MPI will email the discussion document to relevant industry and stakeholder groups and note the start of the consultation through social media channels.
13. During the 4 week consultation, MPI intends to hold nine stakeholder meetings, in:

| | |
|--------------|--------------|
| Whangarei | Wellington |
| Auckland | Nelson |
| Hamilton | Christchurch |
| New Plymouth | Dunedin |
| Napier | |

14. Once consultation has finished, MPI will summarise and analyse the submissions. We will advise you of key matters raised, and our recommendations for next steps.

Minister / Minister’s Office

Seen / Referred
/ / 2018

Appendix 1: Talking points for your meetings with OANZ

| Topic | Notes |
|--|---|
| Outline proposals at very high level | <ul style="list-style-type: none"> • The consultation document considers whether New Zealand would benefit from new organic regulation. As part of this consideration, it seeks stakeholder views on two key questions: <ul style="list-style-type: none"> ○ Should a national organic standard be voluntary or mandatory ○ How should we check that relevant organic businesses meet the standard? • The document seeks input on a range of options, but proposes a preferred option of a mandatory standard for all, with independent verification required for most relevant businesses. • I welcome your members' views on these matters, and the more detailed questions that are contained in the document itself. |
| Consultation process is intended to be very thorough and inclusive | <ul style="list-style-type: none"> • The consultation process is intended to be very thorough. MPI plans broad publicity using press releases, advertisements and social media channels, so that all those who are interested in organics have the opportunity to participate. • There are also intended to be 9 public stakeholder meetings around New Zealand • Both I and MPI encourage OANZ's participation in the consultation. • I have asked MPI to consult for 4 weeks. This will allow time for stakeholders to participate, but will also enable me to progress the work as a matter of priority. • I could extend consultation to 6 weeks. This will have implications for the timing of any legislation that might be proposed as a result of this consultation process. |
| Timing and process for post-consultation stage | <ul style="list-style-type: none"> • Once consultation has finished, MPI will consider the submissions and advise me of key matters raised, and recommendations for next steps. • A summary of submissions will be publicly released. • If work towards a standard is progressed, this will require new primary legislation. If legislation is progressed, stakeholders would be consulted at the select committee stage of the Bill, and have an opportunity to speak to submissions. |
| MPI is committed to a constructive relationship with OANZ | <ul style="list-style-type: none"> • MPI has set up a separate pre-consultation meeting with you to discuss the proposed approach to consultation • MPI is also happy to meet OANZ representatives during the consultation period if that would assist • Both I and MPI appreciate the information and insights OANZ has provided on this work so far. |

Appendix 2: OANZ letter dated 24 April 2018

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24 April 2018

RE: National Organic Standard and Regulation

Dear Minister,

Attached is a letter circulated to our members and stakeholders early last week.

You will note in the letter that OANZ has strong views about the need for a robust and inclusive consultation and submission process that encourages wide participation from all stakeholders to inform any policy and regulatory framework.

The last formal meeting between OANZ senior leaders and MPI officials was prior to the election last September and I presume that significant progress has been made between then and now on shaping a structure for national standard and supporting regulation as shown by the announcement you made at our OANZ Forum meeting on the 21 February.

I had an unsatisfactory phone discussion with MPI on the 9 April which raised some significant concerns but did not provide any real answers nor leave me confident that our genuine concerns and needs were being listened to.

I find it difficult to understand the apparent reluctance of MPI to communicate with us in the same manner as prior to last September. We are, after all, looking to build the integrity and competitive advantage of NZ Inc.'s reputation on the world stage and providing certainty to consumers and customers wherever they reside.

I would appreciate an opportunity to talk to you and reset the relationship with officials so that we may work constructively and cooperatively towards a shared goal.

Sincerely



Doug Voss
Chair
Organics Aotearoa New Zealand

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Appendix 3: Biography of Doug Voss

Doug Voss (Chair)



Mr Voss has grown kiwifruit for over 40 years and currently farms 29 hectares of organic kiwifruit near Tauranga.

Currently Mr Voss is Chair of Organics Aotearoa New Zealand (OANZ) and the Certified Organic Kiwifruit Growers Association.

Past roles have included Grower Director of the Kiwifruit Authority and Kiwifruit Marketing Board; Chair, Deputy Chair and Director of Kiwifruit New Zealand; and Director and Chair of Zespri International and Zespri Group. Mr Voss has also served a term as President of the International Kiwifruit Organisation.

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Appendix 4: Suggested press release for 14 May 2018

Draft press release

X May 2018

Feedback sought on new regulatory regime for organic production

The Minister for Agriculture and Food Safety, Damien O'Connor supports the Ministry for Primary Industries' (MPI's) release of the discussion document: *Would New Zealand benefit from new organic regulation?*

"New Zealand has a number of different voluntary standards and production practices for organic primary products. This can cause uncertainty for international and domestic consumers," says Mr O'Connor.

"The discussion document released by MPI today seeks the public's view on whether or not New Zealand should have mandatory requirements for products that are subject to organic claims.

"This consultation is an opportunity for New Zealand to consider whether it should take a stronger regulatory approach to organic production.

"A mandatory national standard and associated regulatory system could help to increase consumer confidence that our organic products meet a clear, consistent set of rules. It would also align our organics regulatory system with that of many of our trading partners, and put New Zealand in the best position to negotiate new, preferential or more secure market access for organic primary products.

"With any approach, we need to be mindful of costs and other impacts that could come with introducing more regulations for our organic primary products.

"The discussion document sets out options for what a new regime could look like. Public responses will help government understand the possible impacts of a new regulatory regime."

"MPI would like to hear from anybody with an interest in organics, including producers, consumers, processors, retailers, importers and exporters."

The discussion document, and an online feedback form, is available on the MPI website ([give link to page](#)). Submissions can be emailed to Organics.Consultation@mpi.govt.nz. Consultation closes 5pm on X 2018.

MPI will also hold a series of public meetings to hear stakeholder views and address any questions. Details will be posted on MPI's website.

AM18-0172

Ministry for Primary Industries
Manatū Ahu Matua



Aide-memoire:

From: Jarred Mair
Acting Deputy Director-General, Policy and Trade
for the Director-General

Contact: Ruth Shinoda, Director, Food and Regulatory Policy (s 9(2)(a))

To: Hon Damien O'Connor
Minister of Agriculture

Date: 15 June 2018

**Launch of the Organics Aotearoa New Zealand Organic Market
Report 2018 – Wednesday 20 June**

Key Messages

- The Organics Aotearoa New Zealand Market Report 2018 will be launched at Parliament on Wednesday 20 June. You are hosting the event, and are scheduled to make opening and closing remarks. Proposed talking points for the event are attached at Appendix One.
- The Market Report includes research on the size, growth, trends, challenges and opportunities for New Zealand's organic sector.
- Public consultation on whether a national organic standard would benefit New Zealand recently closed. The Ministry for Primary Industries (MPI) is analysing over 200 submissions that we have received and will report to you on the outcome of consultation in July.
- Our initial assessment is that there is support for a national organic standard and that people are most concerned about the 'level' at which a standard would be set and implemented.

Organics Aotearoa New Zealand

1. Organics Aotearoa New Zealand (OANZ) is one of several organic industry representative groups in New Zealand. Its members include OrganicFarmNZ (a not-for-profit organic certification agency), the New Zealand Bio Dynamic Farming and Gardening Association, Organic Winegrowers New Zealand, the Soil and Health Association and the Organic Traders Association of New Zealand.

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2. The Chair of OANZ is Doug Voss. The CEO and main contact for this event is Brendan Hoare.
3. You last met with Mr Voss and Mr Hoare on 8 May 2018, to discuss the upcoming consultation [AM18-0475 refers]. You also spoke to OANZ at their Organics Forum on 21 February 2018 [AM18-0018 refers].

Organics Aotearoa New Zealand Market Report 2018

4. OANZ Market Reports collate research on the organic sector in New Zealand and overseas. There have been five Market Reports since 2007. You attended the launch of the previous two reports in 2013 and 2016.
5. This year's Market Report includes survey work undertaken by Beef + Lamb New Zealand, DairyNZ, Horticulture New Zealand, New Zealand Wine and the Federation of Māori Authorities.
6. OANZ have issued a press release about the 2018 Market Report, attached as Appendix Two. This states the Market Report includes research on consumer and producer attitudes, case studies of key sectors and analysis on the benefits of organic production, including the financial benefits.

OANZ requests for funding

7. OANZ rely on sponsorship to produce their Market Reports. In September 2017 OANZ requested funding from MPI for the 2018 Market Report. Previous Market Reports have advocated for the adoption of a national organic standard. MPI declined the funding request on the basis linking MPI with the Market Report could be seen to pre-empt the outcome of planned public consultation on a national organic standard.

Event details

8. You are hosting the launch of the 2018 Market Report in the Great Hall at Parliament on 20 June. OANZ have invited you to make introductory remarks, invite the OANZ Chair Mr Voss to present the Report, and make closing remarks at this launch. Proposed talking points are attached at Appendix One.
9. We understand OANZ have invited 120 to 150 people to the launch including Members of Parliament and Ministers to the event, including the Minister of Foreign Affairs, the Rt Hon Winston Peters, and the Minister for the Environment, Hon David Parker. We also understand the Ambassadors of major trading nations and media have been invited.

Update on MPI consultation on a proposed national organic standard

10. On Monday 14 May MPI released a discussion document for public consultation on whether a national organic standard would benefit New Zealand. MPI met with key stakeholders (OANZ, the Organic Exporters, Te Waka Kai Ora and OrganicFarmNZ) prior to release. Consultation closed on 11 June and we received over 200 submissions. Some individuals and groups have been granted extensions. MPI expects to provide you with a full summary of these submissions and recommendations for next steps in July.
11. Ten public meetings were held during the consultation period, in: Wellington, Dunedin, Christchurch, New Plymouth, Whangarei, Napier, Auckland, Hamilton, Nelson and Tauranga. The total number of attendees was 216.
12. Officials also met with representatives of OrganicFarmNZ separately in Otaki.

Minister / Minister's Office

Seen / Referred

/ / 2018

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Appendix One: Talking Points for 2018 Organic Market Report launch – 20 June

| Remarks | |
|------------------------------------|---|
| | <p><i>Context</i> Audience includes organic and wider primary sector leaders, Members of Parliament, Ministers and ambassadors of major trading nations.</p> |
| Congratulations | <ul style="list-style-type: none"> • We are gathered for the launch of the 2018 Organic Market Report. • I'd like to congratulate OANZ on releasing this, their fifth Organic Market Report since 2007. • Congratulations also to the industry groups that contributed to the 2018 Market Report. I understand that this will be the first Report to include survey work from Beef + Lamb New Zealand, DairyNZ, Horticulture New Zealand, New Zealand Wine and the Federation of Māori Authorities. • The OANZ Market Reports have for many years been a valuable source of information on New Zealand's organics sector, and the perceptions of our consumers. • I have previously expressed my support for the Organic Market Reports in Parliament, and am pleased to do so again. • The diversity of New Zealand's organics sector increases the importance of this research. It can be difficult to gather comprehensive information about a sector that encompasses such a wide range of products and businesses. • The Market Reports hold further value in their ability to show how our organic sector has transformed over the years. • For example, the 2018 Market report [Ministers Office to insert updated figures from 2018 Report] |
| Ongoing demand for organics | <ul style="list-style-type: none"> • I've spoken previously about the strong performance of our organics sector. Demand for organic products both here and overseas continues to increase. • This demand is strongly linked to the values associated with the organics industry. The label 'organic' implies a focus on ethical principles, such as health, animal welfare, |

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| | |
|-------------------------------------|--|
| | <p>and environmental sustainability.</p> <ul style="list-style-type: none">• The growing popularity of organic products is evident in New Zealand. We're seeing more organic products on our supermarket shelves, and an increasing number of events relating to organics.• I believe one of the conclusions the 2018 Market Report makes is that consumers here and overseas want New Zealand organic products. |
| Future of NZ organic exports | <ul style="list-style-type: none">• Organic exports from New Zealand continue to rise.• At the moment, MPI's Official Organic Assurance Programme manages around 60% of our organic exports.• The Programme covers exports to the European Union, Japan, Switzerland, Taiwan and the United States.• In the year ending June 2017, the value of these exports was NZ\$151.4 million. This total value was a 19% increase over the previous year. It is expected that this growth and international demand will continue. |
| | <ul style="list-style-type: none">• Here in New Zealand, there has been a rising trend in relation to organic exports.• The Ministry for Primary Industries has successfully negotiated a number of market access arrangements. This includes a Mutual Recognition Arrangement with China, which will shortly be implemented.• However, as you know, I am currently working with my officials at the Ministry for Primary Industries to explore whether our organics sector would benefit from a change in regulation.• Mandatory domestic organic standards are increasingly being adopted worldwide. Of the world's top 25 organic markets by value, New Zealand and Australia are the only two that do not have such standards.• As more countries regulate, a New Zealand standard might help overseas markets to understand our system.• Although the Fair Trading Act (1986) covers misleading labels and claims, a definition for organics could also help us to better understand and monitor organic certification within New Zealand. |

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| | |
|----------------------------------|---|
| Consultation and Standard | <ul style="list-style-type: none">• On Monday 14 May we released the discussion document: “Would New Zealand benefit from new organic regulations?”• This document sought public feedback on two key questions.<ol style="list-style-type: none">1) Should a national organic standard be voluntary or mandatory? And;2) If a mandatory standard is adopted, how should we check that relevant organic businesses meet the standard?• We listed two preferred options:<ul style="list-style-type: none">- a mandatory standard for all organic operators; and- ongoing verification with limited exceptions.• These options were considered the most likely to achieve our objectives. We anticipate that a national standard could help to provide regulatory certainty to businesses and consumers, facilitate trade, and increase consumer confidence in organics.• But we need to take onboard your feedback to make sure we understand any costs or preferences. |
| Consultation update | <ul style="list-style-type: none">• The consultation period ran for four weeks, from Monday 14 May until Monday 11 June. This timeframe has enabled me to progress the work as a matter of priority, while also allowing a month for your feedback.• This feedback was sought from a wide range of individuals and businesses. Submissions were welcomed via email, post or an online survey.• We have received over 200 submissions. Late submissions will also be analysed.• On that note, I'd like to thank those who took the time to submit, and those who have met or spoken directly with the Ministry for Primary Industries on this issue.• I appreciate the active role that OANZ have played throughout this consultation process.• Thank you also to anybody who attended our public meetings. A total of eleven meetings were held, in Wellington, Dunedin, Christchurch, New Plymouth, Otaki, Whangarei, Napier, Auckland, Hamilton, Nelson and |

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| | |
|--------------------------------|---|
| | <p>Tauranga.</p> <ul style="list-style-type: none">• These meetings were an invaluable way to hear first-hand the knowledge and opinions of individuals around New Zealand. I understand these meetings were well attended and prompted constructive, thoughtful and useful discussion. |
| Consultation next steps | <ul style="list-style-type: none">• It is important that we take into account the opinions and expertise of as many individuals as possible.• For this reason, we added two meetings during the consultation period, and undertook an additional survey for consumers.• The submissions are currently being analysed by my officials at the Ministry for Primary Industries.• My colleagues and I are interested to see the results of consultation, and will be looking to make decisions on a way forward later this year.• If work towards a standard is progressed, this will require new primary legislation. If legislation is progressed, you will be given more opportunities to provide feedback. This will include the opportunity to speak to submissions at the select committee stage of the Bill.• I look forward to working with you all further on this issue. |

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Appendix Two: OANZ Market Report 2018 - Press Release

Consumers want more organic products and it's up to producers, manufacturers and retailers to respond to a burgeoning opportunity.

Category: General
Posted by: brendan
Media Release

June 5, 2018

As the OANZ 2018 Market Report is finalised prior to its June 20 launch, a recurrent signal is that consumers want more organic products and that it is up to producers, manufacturers and retailers to respond to a burgeoning opportunity.

World's fastest-growing sector

1. “The organic market, particularly the food segment, is the fastest growing sector in the world, driven by consumers who seek sustainable, ethical and authentic natural products that are good for them and easy on the planet,” says Chair of Organics Aotearoa New Zealand, Doug Voss. “New Zealand is well placed to ride this wave and has the reputation, production and export capabilities to meet demand domestically and internationally for organic food and other products.

2. “It is up to producers, marketers, retailers and policy makers to act on the market signals.”

Report coincides with organic regulation progress

3. The report is a major undertaking by OANZ, the authoritative voice of the organic sector, and coincides with progress on establishing a single, mandatory, national organic standard to enhance export opportunities, encourage investment in organic production, give consumers and customers peace of mind – and bring New Zealand’s regulatory framework on par internationally.

Latest research on sector opportunities, challenges and economics

4. The OANZ 2018 Market Report, due for release on June 20 at Parliament, takes a holistic view of the New Zealand organic sector, presenting

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the latest research on the size, growth, trends, challenges and opportunities, and looks at how we are tracking against the rest of the world

5. The report presents research and analysis of:
 - consumer behaviours, needs and expectations
 - producer inclinations and attitudes to organic in response to market signals
 - case studies on developments in dairy, beef and lamb, kiwifruit, wine, community gardens, and emerging segments like beauty care
 - the economics of organic and the multiplier benefits that go beyond dollar returns.

Report to launch at Parliament in a fortnight

6. The highlights of the report and way forward will be presented at the launch by OANZ and sector leaders and the researchers. Agriculture Minister Damien O'Connor, who is hosting the formal launch, will open proceedings and the audience will comprise politicians and officials, members of OANZ and the broader organic community including leading organic producers, processors, suppliers, wholesalers, retailers, exporters, certification agencies and media.

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19 July 2018

Document Number: B18-0587

Report back from consultation on a national organics regime

Purpose:

The purpose of this briefing is to report back on the results of public consultation on a regulatory regime for organics and outline the next steps.

| Minister | Action Required: | Minister's Deadline |
|---|---|---------------------|
| Minister of Agriculture Minister for Food Safety | Note and agree the recommendations contained in the briefing | When practicable |

Contact for telephone discussion (if required)

| | Name | Position | Work | Mobile |
|---------------------|-----------|------------------------------------|-----------|--------|
| Responsible Manager | s 9(2)(a) | Manager, Food Policy | s 9(2)(a) | |
| Principal Author | s 9(2)(a) | Senior Policy Analyst, Food policy | s 9(2)(a) | n/a |

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Key Messages

1. Between 14 May and 11 June 2018, we consulted with the public on whether there should be a regulatory regime for managing organics in New Zealand, and how that might look.
2. We received 208 submissions from a range of stakeholders. There was overall support for a nationally enforced standard for organics, with 85% of submitters showing support. 76% of submitters agreed that a standard should be mandatory and apply to all organic businesses, however there were conflicting views on how a new regime could work.
3. The most common concern raised by both businesses and consumers was a potential increase in costs resulting from a new regime. Many certified businesses and industry bodies emphasised they expected minimum changes if a new regime was implemented.
4. The *Summary of Submissions* is attached. You may wish to publish this now to show momentum, or after Cabinet decisions on next steps and make an announcement on progress.
5. Given that this is a new and complex area for government, submissions highlighted that there are some options for legislative design. Key aspects that need decisions include confirming products and activities to be regulated, managing organic imports and exports, and designing a cost-effective regime that works for both small and large businesses.
6. We will provide detailed policy advice and recommendations for your decision in August 2018.

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Recommendations

7. The Ministry for Primary Industries recommends that you:

- a) **Note** that 85% of submitters supported a nationally enforced standard for organics;

Noted

- b) **Note** that there were different views on key aspects of how a regulatory regime for organics would look;

Noted

- c) **Note** that we will provide detailed advice and policy recommendations for your decision in August 2018;

Noted

and either,

- d) **Agree** to publish the *Summary of Submissions* prior to Cabinet decision on the policy proposals;

Agreed / Not Agreed

or,

Agree to publish the *Summary of Submissions* following Cabinet decisions on the policy proposals.

Agreed / Not Agreed

Jarred Mair
Deputy Director-General
Policy and Trade
for Director-General

Hon Damien O'Connor
Minister of Agriculture
Minister for Food Safety

/ / 2018

Background

8. On 7 May 2018 Cabinet agreed to release the discussion paper *Would New Zealand benefit from new organic regulation?* for public consultation. This briefing reports back on the results of the public consultation and outlines the next steps in developing regulation for organic products in New Zealand.
9. The discussion paper covered, and sought feedback on:
 - rationale for changing the way organics are regulated
 - the objectives of a regime for organic products, outlined above
 - options for whether a standard should be voluntary or mandatory:
 - existing voluntary standard
 - new mandatory standard for some organic businesses, or
 - new mandatory standard for all organic operators (preferred)
 - options for monitoring compliance with the standard:
 - ongoing verification for all organic businesses
 - spot check verification for all organic businesses, or
 - ongoing verification with limited exceptions (preferred)
 - proposed features of legislation.
10. The discussion paper proposes a new national standard and associated regulatory regime which would increase confidence in New Zealand's organic products and enable trade. The regime would cover the organic production of food, beverages, live animals, unprocessed plant products and wool (organics).

Overview of consultation

11. Public consultation ran from 14 May to 11 June 2018. During that period, people could read about the proposals in the discussion paper and summary document published on the Ministry's website, and attend public meetings held throughout the country¹. In addition, to capture the views of consumers, we conducted an online consumer survey about motivations and willingness to pay. This paper provides an overview of the outcomes of consultation.
12. We received 208 written submissions from a variety of stakeholders including businesses of all sizes, consumers, industry representatives, interest groups and all of the current private certifiers in New Zealand. Meetings were well attended with a total number of around 150 attendants. The majority of submissions were very detailed and provided substantive feedback on the proposals.

¹ Public meetings were held in Wellington, Dunedin, Christchurch, New Plymouth, Whangarei, Auckland, Napier, Hamilton, Nelson, Tauranga. We also met with Te Waka Kai Ora and OrganicFarmNZ separately in Otaki.

13. 85% of submitters agreed that this was an opportunity to improve the current regime and supported introducing some form of nationally enforced standard. Submitters agreed that a standard would:
 - increase consumer confidence;
 - support trade negotiations, and
 - level the playing field.
14. Consumers also indicated that having a nationally enforced standard could increase the likelihood of them purchasing organic products. A quarter of people who don't buy organic food say it is because they can't rely on the sellers' claims that it is organic. Over a third of those who already buy organic food would consider buying more if they could rely on sellers' claims that it is organic.
15. However, 10 out of 208 submitters (mostly small or uncertified businesses and consumers) believe the current regime works adequately and changes and associated costs are not warranted.
16. Attached as Appendix One is a two page document of key outcomes from submissions and Appendix Two is a summary of the results from the consumer only survey, for your information.
17. Appendix Three is the *Summary of Submissions* document which contains a detailed breakdown of the submitters, comments and issues raised. We recommend publishing the *Summary of Submissions* on the MPI website. If you wish to announce publication of the *Summary of Submissions* you could do so:
 - prior to Cabinet policy decisions: this would allow you to show momentum on this work, but would mean that the announcement is made before Cabinet has made any actual decisions on the next steps; or
 - following Cabinet policy decisions: this would ensure that Cabinet decisions are made before any announcement is made on progress and next steps, however it would delay the announcement until later in the year reducing the momentum.

Analysis

18. On the whole, submitters supported MPI's preferred options in the consultation paper.
19. Cost was the most common concern raised by all groups of submitters; both the increase in costs to businesses and the possible resulting increase in price for consumers.
20. Responses for key features of the proposals were:
 - 76% of submitters expressed preference for a standard to be mandatory for all organic businesses. This option was preferred by all different types of stakeholders. 3% of submitters preferred a voluntary standard and 0.5% preferred a standard that would apply to some businesses only (20.5% of submitters did not comment on these options)

- 48% of submitters expressed a preference for a regime with ongoing verification with some exceptions for smaller businesses. Again, this option was preferred by all different types of stakeholders. 24% of submitters favoured ongoing verification to apply to all businesses, and 0.5% preferred a spot check regime (27.5% of submitters did not comment on these options)
 - while their preference of verification option may have differed, 64% of submitters recognised a need to account for small organic businesses and supported a regime that would provide options for them
 - 24% of submitters suggested additions to the proposed scope of food, beverages, live animals, unprocessed plant products and wool, and 22% of submitters agreed with the proposed scope. Suggestions for additions included aquaculture, and health and cosmetics products.
21. There were a number of suggestions from submitters that the government should be providing financial assistance to organic producers, or making it easier for them to do their business, given the overall benefits that producing organically has.

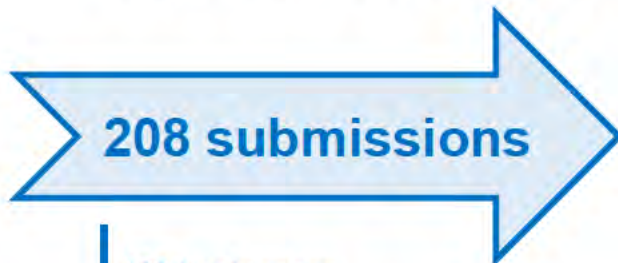
Next steps

22. Consultation has given us a clear signal that there is significant support to progress organics legislation. It has also highlighted that there are some complexities in the detail of the legislation, which we are now working to resolve. Key organic industry groups have stressed that achieving a well-designed legislative regime is more important than speed.
23. Key areas that we are working to resolve are:
- whether the scope should be limited to food, beverages, live animals, unprocessed plant products and wool, or expanded;
 - ensuring that administration requirements and associated costs are feasible for small businesses as well as larger businesses;
 - whether and how exceptions for small businesses should apply, and ensuring this aligns with other MPI initiatives to support and reduce costs to small businesses; and
 - how national standards would apply to imports and exports.
24. In August, we will provide you with advice on the design of the legislation, including recommendations on how to proceed with the issues identified.
25. Following your decisions on these key aspects, the next steps are:
- to seek Cabinet agreement to the policy, and to Parliamentary Counsel Office drafting a Bill;
 - working with Parliamentary Counsel Office to draft a Bill; and
 - progressing the Bill through LEG, and introducing it to the House.

26. The timing of these next steps, including Cabinet consideration of the proposals will depend on your decisions about the design of the legislation, the subsequent need for Ministerial consultation and the time required for Parliamentary Counsel Office to draft a Bill.

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Appendix One: Key outcomes of consultation



208 submissions

- 139 businesses
- 40 consumers
- + industry organisations
- + interest groups
- + major retailers
- + private certifiers

85% support a new regime for organics

158 (76%) support a **mandatory standard for all**
(including 88 businesses and 26 consumers)

149 (72%) prefer **ongoing verification to spot checks**
(including 73 businesses and 13 consumers)

134 (64%) support a **flexible regime** that caters for small businesses

* "small" businesses: 5 FTE or less, and/or local sales (gate sales, self-identified "small" businesses)
* "large" business: 6+ FTE and/or exporters.

Top perceived benefits of a new regime:

- 1- Increase consumer confidence (63%)**
- 2- Support trade negotiations (43%)**
- 3- Level the playing field (22%)**

Scope - General support ✓
(food, beverages, live animals, unprocessed plant products and wool)

could be extended:

- 47 (23%)** support **aquaculture**
- 27 (13%)** support **cosmetics**

→ Key concerns

- Businesses of all sizes are concerned about **increased costs** and **unnecessary layers of compliance**.
- Consumers think a new regime could result in **reduced choice**, and **increase prices** for organic products.

Scope

Primary and processed products should be included. Aquaculture or other products could also become regulated.

Excluding some products from being regulated could undermine consumer confidence.

Checking compliance

A new regime should allow for a smooth transition, while being in line with international practices.

Certified businesses support a change on the basis that existing systems will be recognised and no new costs will be introduced.

Costs to small businesses

A new regime should give government better oversight, while being flexible and affordable for all.

Small domestic businesses who currently benefit from group certification rely on small fees to remain certified.

Imports

A new regime should set provisions to allow imports of organic products, while having oversight of compliance.

Regulating imports could reduce choice and increase prices for consumers.

Exports

A new regime should support exports, while being practical for domestic businesses.

Regulating exports could support negotiations but also create unnecessary requirements for some key markets.

→ Views of key groups

- The **Māori Organics Authority (Te Waka Kai Ora)** oversee an indigenous verification and validation system for mahinga kai which places importance on philosophies of tradition, environmental and cultural sustainability, and has overlapping values with organics. The authority believe that their values cannot be regulated.
- The **Organic Exporters (OEA NZ)**, **Organic Aotearoa New Zealand (OANZ)** and **consumer representatives** support a new regime, and agree any costs and negative impacts on small businesses should be mitigated.
- **Private certifiers** support a new regime and expect minimum changes for their processes and their clients.
- **Major retailers** think a mandatory organic standard will boost consumer confidence and help prevent misleading claims.
- **Interest groups** (such as GE Free New Zealand) expect a national standard to take a firm approach that supports environmentally friendly and GMO-free production methods.

Appendix Two: Key results of consumer survey

500 respondents

8% buy organic food **all the time**

36% buy organic food **sometimes**

35% buy organic food **not often**

21% **never** buy organic food

Most **common places** people buy organic food:

1. Supermarket
2. Farmers markets
3. Specialty shops

Most people buy organic food for their own or their family's **health**

Over **80%** of people overall **understand** organic to mean 'without the routine use of **artificial chemicals**' but significantly **less people** understand the other **aspects of organic production**.

A **quarter** of people who don't buy organic food say it is because they **can't rely on the sellers' claims** that it is organic.

Over **a third** of those who already buy organic food would consider buying more if they could rely on sellers' claims that it is organic.

Most people who already buy organic food would be willing to pay **up to a 10% increase** in price. The **cost** of organic food is the **main** reason why people don't buy organic food.

For **60%** of people who don't currently buy organic foods, an **enforced standard** may encourage them to buy organic products.

Appendix Three: Summary of submissions

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| |
|---------------------|
| Distribution |
| Minister |
| Minister's Advisor |
| Minister's Office |



6 April 2018

Document Number: SUB18-0021

Final documents to support consultation on a national organic regime

Purpose:

This briefing attaches a Cabinet paper and discussion document to discuss with your Ministerial colleagues and lodge with Cabinet Office.

| Minister | Action Required: | Minister's Deadline |
|---|---|---------------------|
| Minister of Agriculture Minister for Food Safety | Agree to lodge with Cabinet Office by 10 am on Thursday 26 April for the Cabinet Economic Development Committee to consider the attached Cabinet paper on 2 May. | Tuesday 24 April |

Contact for telephone discussion

| | Name | Position | Work | After Hours |
|---------------------|-----------|-----------------------------|-----------|-------------|
| Responsible Manager | § 9(2)(a) | Manager, Food Policy | § 9(2)(a) | |
| Principal Author | § 9(2)(a) | Senior Analyst, Food Policy | § 9(2)(a) | |

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Key Messages

- Attached is an updated Cabinet paper and discussion document for you to discuss with your colleagues. The Cabinet paper seeks approval to consult on whether New Zealand should adopt a new national standard and associated regulatory regime for organic production. The discussion document outlines the objectives, options and expected costs and benefits associated with this proposal.
- The documents have been updated to reflect that the specific requirements of the New Zealand organic standard would not apply to imports from Australia. This is because, under the terms of the *Trans-Tasman Mutual Recognition Arrangement*, products that can be sold domestically in Australia can also be sold in New Zealand. In practice, many organic imports from Australia are certified or would meet an organic standard equivalent to any national standard we adopt here.
- The Cabinet paper will need to be lodged with Cabinet Office by **10 am Thursday 26 April** at the latest, if you would like it to be considered at the Economic Development Committee on 2 May and Cabinet on 7 May. This will enable consultation to begin on 14 May.
- Once Cabinet agrees, we propose to release the public discussion document; hold public meetings in eight locations around the country; engage with industry representative groups and stakeholder forums; and meet with specific groups. We are taking steps to engage directly with small businesses and Māori.

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Recommendations

1. The Ministry for Primary Industries recommends that you:

a) **Note** that the attached versions of the Cabinet paper and discussion document have been updated to reflect that the specific requirements of the New Zealand organic standard would not apply to imports from Australia.

Noted

b) **Agree** that the Cabinet paper will need to be lodged with Cabinet Office by 10 am on Thursday 26 April if you would like it to be considered at Cabinet Economic Development Committee on 2 May, and Cabinet on 7 May.

Agree / Noted

c) **Note** that once Cabinet agrees, we propose to release the public discussion document; hold public meetings in eight locations around the country; engage with industry representative groups and stakeholder forums; and meet with specific groups including small businesses and Māori.

Noted

Jarred Mair
Acting Deputy Director-General
Policy and Trade
for the Director-General

Hon Damien O'Connor
Minister for Food Safety

/ / 2018

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Updates to the Cabinet paper and discussion document – Australian imports

2. On 23 March, we provided you with a draft Cabinet paper and discussion document about whether New Zealand should adopt a national standard and associated regulatory regime for organic production [B18-0244 refers]. We have since updated the documents to reflect how the proposed organic standard is impacted by the *Trans-Tasman Mutual Recognition Arrangement*.
3. New Zealand and Australia are parties to the *Trans-Tasman Mutual Recognition Arrangement*. The terms of this arrangement mean that products meeting regulatory Australian requirements for sale can be sold in New Zealand, and vice versa. The arrangement applies to organic products, meaning that Australian organic products could continue to be imported and sold without needing to meet the specific requirements of any New Zealand organic standard.
4. In practice, many imports from Australia, are certified or would meet an organic standard equivalent to any national standard we adopt here. Retailers and organic businesses importing organic ingredients to use in multi-ingredient products are likely to import certified organic products. Australian organic products would continue to need to meet domestic Australian laws, including the *Competition and Consumer Act 2010* that regulates misleading, false or deceptive claims.
5. We have therefore included the following text in the Cabinet paper and discussion document (appendices one and two) to ensure New Zealand stakeholders have a clear understanding about how organic imports from Australia would be treated following the introduction of any new mandatory organic standard in New Zealand:

New Zealand and Australia are parties to the Trans-Tasman Mutual Recognition Arrangement. The terms of this arrangement mean that products meeting Australian regulatory requirements for sale can be sold in New Zealand, and vice versa. Under this arrangement, organic products can be imported from Australia and sold in New Zealand as long as they meet domestic Australian laws, such as food safety and consumer laws. This arrangement would continue if New Zealand adopts a new organic regime. The proposed standard and associated compliance requirements would apply to all organic products that are processed, packed or labelled in New Zealand – whether they are intended for domestic sales or export.

6. Imports from other countries would be required to either meet the requirements of the New Zealand standard, or the terms of a trade agreement. Relevant organic products produced in New Zealand and then exported would need to comply with any domestic rules, plus any requirements of the importing country if these are different.

Questions and answers to assist in Ministerial consultation

7. Appendix three provides you with questions and answers that could be used during consultation with your Ministerial colleagues on the attached Cabinet paper.

Engagement plan

8. Public consultation on a national organic standard will enable us to understand what the proposed changes would mean for all parts of the organic sector, especially with respect to anticipated benefits, costs and impacts. We are particularly keen to hear from small and uncertified organic producers and Māori. MPI proposes the following approach to consultation:
 - a. release of a public discussion document;
 - b. public meetings in locations where we understand there are strong organic communities, or where there is a large base of consumers and retailers;
 - c. engagement with industry representative groups and MPI stakeholder forums; and
 - d. meetings with specific groups on a case-by-case basis as requested.
9. We propose to hold meetings in:
 - Northland;
 - Auckland;
 - Hamilton;
 - Hastings or Napier;
 - Taranaki;
 - Nelson;
 - Christchurch; and
 - Dunedin.
10. We will test these proposed locations, and seek advice on other ways to reach organic stakeholders, with Organics Aotearoa New Zealand, the Organic Exporters Association of New Zealand, OrganicFarmNZ (an organic education and domestic certification organisation) and Te Waka Kai Ora (the National Māori Organics Authority of Aotearoa) once Cabinet has agreed to consult.

Channels

11. We propose stakeholders be informed about consultation via:
 - a. a Ministerial press release, accompanied by questions and answers
 - b. emails to industry and consumer representatives;
 - c. verbal information from MPI representatives at industry liaison forums;
 - d. emails to individuals who have contacted MPI about a national organic standard; and
 - e. MPI social media.

Next steps

12. In February, you agreed that MPI discuss arrangements for organics with Australia [B18-0064 refers]. We intend to speak to Australian officials while you are undertaking Ministerial consultation on the attached Cabinet paper and discussion document. This is standard practice for changes we propose to our food regulatory system.
13. If the Cabinet paper or discussion document require any changes we will provide you with revised versions in time for lodging.
14. The timeline for Cabinet approval and consultation is:

| Milestone | Date |
|--|---------------------------------|
| Cabinet paper to be lodged | Thursday 26 April at the latest |
| Cabinet Economic Development Committee | Wednesday 2 May |
| Cabinet | Monday 7 May |
| Public release of discussion document | Monday 14 May |
| Closing of consultation period | Monday 11 June |

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Appendix One: updated Cabinet paper

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Appendix Two: updated discussion document

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Appendix Three: Questions and answers to support Ministerial consultation

| Question | Answer |
|--|---|
| What is an 'organic' product? | <ul style="list-style-type: none"> To be organic, a product must be produced without the routine use of artificial chemicals or genetically-modified organisms (GMOs). An emphasis is also put on animal welfare, for example mandatory access to pasture. However there are a range of public and private organic standards in New Zealand and overseas, setting slightly different technical requirements. |
| How is it currently regulated? | <ul style="list-style-type: none"> There is no law specific to organic products in New Zealand. Organics must comply with a range of overarching laws that equally apply to non-organic products, for example: <ul style="list-style-type: none"> Food must be safe and suitable for sale (Food Act 2014); Claims and labels must be true, not misleading, and able to be substantiated (Fair Trading Act 1986); Imports must comply with inspections and treatments required under the Biosecurity Act 1993; and Exported products which fall within the Animal Products Act and the Wine Act must also comply with those Acts. MPI runs an export programme that enables exporters to access key organic markets. The Ministry for Business, Innovation and Employment (MBIE) administers a voluntary standard for organic production. There is also a range of private organic standards available in New Zealand that businesses can choose to use to demonstrate their product is organic. |
| What are the objectives and expected benefits? | <p><i>Providing consumers and businesses with increased certainty in making or relying on organic claims:</i></p> <ul style="list-style-type: none"> Agreeing on a definition of what 'organic' means will help consumers to know what production methods are used when a product is marketed as 'organic'. <p><i>Increasing the government's ability to provide oversight of the sector:</i></p> <ul style="list-style-type: none"> Fraud can be difficult for consumers to identify. Organic claims relate to production methods, rather than to any particular characteristic that could be tested for or identified on the final product. |

| Question | Answer |
|---|--|
| | <p><i>Putting New Zealand in a better position to negotiate new and more secure market access:</i></p> <ul style="list-style-type: none"> • Many markets have regulated organic claims and are increasingly requesting comparable regimes from trading partners. |
| <p>What is being proposed?</p> | <ul style="list-style-type: none"> • The discussion document seeks the public's views on a range of ways a national standard for organic production and associated regulatory regime could be designed. • It asks whether a standard should be voluntary or mandatory, and discusses verification, compliance and enforcement mechanisms. • MPI's preferred approach would be for a new national standard to be mandatory. Most businesses would be subject to mandatory ongoing verification. • This preferred approach is in line with how organics are regulated overseas. • Of the world's top 25 organic markets (by value) all but New Zealand and Australia have developed mandatory domestic organic standards. |
| <p>Which organic products would become regulated?</p> | <ul style="list-style-type: none"> • This proposal is concerned with primary and processed products, including food and beverages, animal and plant products, live animals and wool. • The document also seeks feedback on whether organic aquaculture products should be included. • Other products (such cosmetics) are not covered by the proposal. • Requirements would apply to those who commercially grow, process, pack, import, export or label organic products for sale. • This proposed scope is in line with how organics are regulated overseas. |
| <p>How would this impact the domestic market?</p> | <ul style="list-style-type: none"> • Consumers would have increased certainty in organic claims, but may have less choice or increased costs. • Organic producers who are not currently certified could be required to change the way they produce organically and be subject to additional compliance costs. • Organic producers that are already certified would experience low, or no, increased costs. |
| <p>How would this impact small businesses?</p> | <ul style="list-style-type: none"> • Consultation will help MPI better understand the impacts of the proposal so that requirements can be tailored to small businesses. |

| Question | Answer |
|--|---|
| | <ul style="list-style-type: none"> • The discussion document recommends that some businesses would not be subject to mandatory ongoing verification. • For example this could reduce compliance costs for small businesses that produce or process organics that are sold directly to the final consumer. |
| How would this impact exports? | <ul style="list-style-type: none"> • MPI would continue issuing official assurances for exports of organic products to markets who require them. • The proposal would put New Zealand in a better position to negotiate new and more secure market access. |
| How would this impact imports? | <ul style="list-style-type: none"> • Imported products would have to meet the requirements of the proposed standard, or a standard deemed as equivalent. • This would be similar to the requirements that New Zealand organic products have to meet in order to access regulated overseas markets. • Because of the <i>Trans-Tasman Mutual Recognition Arrangement</i>, Australian organic products for retail sales could continue to be imported and sold without certification or needing to meet the requirements of a New Zealand organic standard. • Australian organic products would continue to need to meet domestic Australian laws, including the <i>Competition and Consumer Act 2010</i> that regulates misleading, false or deceptive claims. • The proposed standard and associated compliance requirements would otherwise apply to all organic products that are processed, packed or labelled in New Zealand. |
| Are all government departments supportive? | <ul style="list-style-type: none"> • An option to encourage the uptake of the existing voluntary standard has been included following feedback from MBIE. • There were no further objections to the proposal to consult on the introduction of a new national standard and associated regulatory regime. • Other agencies consulted were the Ministry for Foreign Affairs and Trade, the Ministry for the Environment, Te Puni Kōkiri, the Department of the Prime Minister and Cabinet and the New Zealand Treasury. |
| How will consultation be undertaken? | <ul style="list-style-type: none"> • Consultation will include the release of a public discussion document; public meetings in eight locations around the country; engagement with industry representative groups and stakeholder forums; and meetings with specific groups on a case-by-case basis as requested. |

| Question | Answer |
|----------|--|
| | <ul style="list-style-type: none">• Officials are taking steps to engage directly with small businesses and Māori. |

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Would New Zealand benefit from new organic regulation?

A discussion document

MPI Discussion Paper No: 2018/xxx.

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| | |
|--|-----------|
| Submissions | 1 |
| Executive Summary | 3 |
| Part 1: Introduction, purpose and context | 4 |
| 1 What do we mean by 'organics'? | 4 |
| 2 Which organic products are we interested in? | 4 |
| 3 Demand for organic products is increasing | 5 |
| 4 The regulatory environment for organics | 6 |
| 5 Why change how organics are regulated? | 9 |
| Part 2: Options for how a new regime for organics could work | 11 |
| Issue 1: Should a new standard be voluntary or mandatory? | 12 |
| Issue 2: How should we check that relevant businesses meet the standard? | 15 |
| Part 3: If needed, proposed features of empowering legislation | 20 |
| Part 4: Next steps | 22 |
| Appendix 1: Comparison of organic regimes | 23 |
| Appendix 2: Summary of questions | 24 |

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Submissions

The Ministry for Primary Industries is seeking feedback on a proposal to regulate organic production.

Having your say

All interested people and organisations are invited to respond to the questions in this document or provide other information relevant to the regulation of organic production.

The consultation runs from **Monday 14 May to Monday 11 June 2018**.

Submissions are due by 5:00 pm on 11 June 2018

Throughout the document there are a series of questions designed to help us understand what impact the various options and approaches would have. We encourage you to answer the questions that apply to you and we seek your views on what these proposals would mean for you as an individual or business having an interest in organics.

Please include in your submission:

- your details, including:
 - name
 - your position within your organisation (if applicable)
 - your organisation's name (if you are submitting on behalf of an organisation)
 - your contact details (for example, phone number, address and email)
- your thoughts on the proposals, including reasons for your views
- the possible impacts of these proposals on you or your businesses
- any changes you would suggest, and why

Email

Please email your feedback to: organicsconsultation@mpi.govt.nz

Online

You may instead wish to use the feedback form available at this address:

www.mpi.govt.nz/xxx

Letters

While we prefer email or online submissions, you can send your response by post to:

Food and Regulatory Policy
Ministry for Primary Industries
PO Box 2526
Wellington 6140
New Zealand

Your feedback is public information

Any submission you make becomes public information. Anyone can ask for copies of all submissions under the Official Information Act 1982 (OIA). The OIA says we must make the information available unless there is a good reason for withholding it. You can find those grounds in sections 6 and 9 of the OIA.

Tell us if you think there are grounds to withhold specific information in your submission. Reasons might include that it is commercially sensitive or personal information. Any decision the Ministry for Primary Industries makes to withhold information can, however, be reviewed by the Ombudsman, who may require the information be released.

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Executive Summary

Consumers in New Zealand and overseas are becoming increasingly interested in the food they eat and how it has been produced. While products marketed as organic are gaining popularity, there is no universally accepted definition of what 'organic' means. Producers can refer to a range of organic standards, and use a variety of methods to demonstrate that their products have been produced organically, and consumers have a mixed understanding about what these claims mean.

New Zealand's current regime aims to protect consumers and provide certainty to trading partners about the products sent to them. Consumers are protected by the Fair Trading Act 1986, which requires producers to be able to substantiate any claims that they are making on their products. To enable organic producers to send their products to particular overseas markets, the Ministry for Primary Industries (MPI) administers the Official Organic Assurance Programme, which involves independent certifiers checking that those producers have followed a set of rules.

There is no mandatory requirement to follow a defined set of rules in order to make organic claims in New Zealand. A variety of voluntary organic standards and practices are currently used. The absence of a single definition means businesses and consumers lack certainty about whether products meet their expectations of 'organic'.

In response to consumer demand and the increased volume and value of organic goods, several countries have introduced organic standards that are supported by legislation. This approach provides domestic consumers in those countries and their trading partners with certainty that organic products are made according to agreed standards. Of the world's top 25 organic markets (by value), all but New Zealand and Australia have developed mandatory domestic organic standards. Countries with such regimes increasingly expect their trading partners to have a regulatory system that produces similar outcomes to their own.

This is an opportunity for New Zealand to consider whether it too should take a stronger regulatory approach to organic production. Some representatives from the organic industry have also been asking Government to review the way organic products are currently regulated.

The most common regulatory approach used internationally is to introduce a mandatory national standard and associated regulatory regime for organic production. National standards incorporated into legislation can be good regulatory tools, as they can ensure that a product is processed in an acceptable way. But standards can also come with constraints and costs.

In order to decide whether regulating organics would have merit for New Zealand, it is important to consider how such an approach might work in practice and to understand its possible benefits, costs and impacts. This document proposes changes to the way organics are regulated, and sets out some options for what a new regime for organic products could look like. The first part of this document introduces the current framework, and why we are consulting on changes. The rest of the document focuses on options for what a national standard could look like. In particular:

- Should a national organic standard be voluntary or mandatory?
- How should we check that relevant businesses meet the standard?

We are now seeking your feedback to better understand what the impacts of these approaches would be. This will inform the decision on whether or not New Zealand would benefit from having a new regulatory regime for organic production and, if so, what a new regime could involve.

Part 1: Introduction, purpose and context

1 What do we mean by ‘organics’?

Our supermarket shelves, farmers markets and export shipments are increasingly displaying the label ‘organic’. This term is likely to have a range of different meanings to the different people who see it. Throughout this document, ‘organic’ is used as a term to describe products made or grown using farming or production methods that follow some key principles:

- Organics are produced without the routine use of artificial chemicals – instead, preference is given to on-farm nutrient recycling (e.g. compost) and non-chemical methods for managing pests and diseases. Only when these methods prove inadequate may a farmer resort to a restricted list of fertilisers or pesticides.
- Organics are produced without the use of genetically-modified organisms. For example, genetically modified seeds, animals, or medications are not acceptable.
- An emphasis is put on animal welfare, for example animals must be able to express natural behaviour, and access to pasture is usually mandatory.

In practice, many organic methods are derived from traditional conservation-based farming techniques, such as use of crop diversity and rotations. Organic production also often involves the use of modern equipment, improved crop varieties, and novel practices with respect to water conservation or livestock management.¹

Organic production can also include adherence to certain ethical principles, for example those relating to health, ecology, fairness, and care.² In New Zealand, traditional kaupapa Māori growing practices can represent a distinct indigenous approach to organic production.

2 Which organic products are we interested in?

While there are a broad range of organic products produced and available in New Zealand, this consultation is concerned with primary and processed products, including food and beverages, animal and plant products, live animals, and wool.

This high level scope is proposed as a starting point as these products form a large part of New Zealand’s organic production, and are commonly regulated in other countries. These products are also currently covered under MPI’s voluntary export programme.

Key trading partners such as the European Union or Canada also regulate organic aquaculture products, such as organic fish or seaweed. These are not included in the scope of the current MPI export programme for organics, however we are interested in feedback about whether these products should be covered by a new proposed standard.

1. Do you agree or disagree with the proposed scope? Are there any other products, for example aquaculture products, that should be considered? Please specify.

¹ Reganold JP, Wachter JM. 2016. “Organic agriculture in the twenty-first century (Article No. 15227).” *Nature Plants*.

² IFOAM. 2018. *Principles of Organic Agriculture*. Accessed March 07, 2018.
<https://www.ifoam.bio/en/organic-landmarks/principles-organic-agriculture>

3 Demand for organic products is increasing

Growing production and demand worldwide

The use of organic production methods is becoming more common worldwide. Between 2001 and 2016, the agricultural area organically farmed has more than tripled to reach 57.8 million hectares in 2016.³ Over these fifteen years, the total value of organic food and beverages sold globally has also increased by about 330%, reaching NZ\$124 billion in 2016.

Around the world, the supply of organic products is responding to increased demand, and, while the conversion of land is slowing down in North America and Europe, the demand for organic food and beverages is expected to continue growing in the near future.

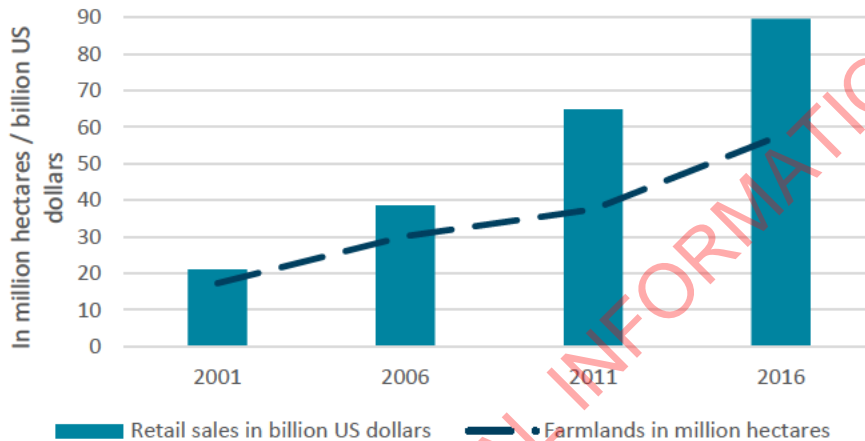


Figure 1: Global growth in organic food & drinks sales and farmlands, 2001-2016

New Zealand's organic sector

New Zealand's organic primary sector started growing rapidly in the 1990s with the development of export markets for organic fruit and vegetables. By 2015, New Zealand's organic sector was worth approximately half a billion dollars, a 30% increase from 2012, comprising \$217 million of organic products sold domestically⁴ and almost \$280 million in exports.⁵ New Zealand organic exports have continued to grow steadily in recent years, particularly those of fresh fruit, vegetables, dairy products and beverages. Horticulture, wine and dairy are the major sectors exporting organic products overseas.⁵

In 2015, the area under organic certification in New Zealand was estimated as 74,134 hectares, with approximately 58% for livestock, 34% for horticulture, and the rest in mixed or other use. In the same year, about 1,000 farms and businesses were certified for organic production.⁴

Organic products are also becoming increasingly popular in New Zealand. A 2017 survey showed that 72% of New Zealanders buy organic products some, most or all of the time.⁶ Supermarkets have also noted an increase in sales of organic products, with Foodstuffs reporting a 6% increase in organic sales last year.⁷

³ Willer, Helga, and Julia Lernoud. 2018. *The World of Organic Agriculture. Statistics and Emerging Trends 2018*. Bonn: Research Institute of Organic Agriculture (FiBL), Frick, and IFOAM - Organics International.

⁴ Organics Aotearoa New Zealand. 2016. "2016 New Zealand Organic Market Report."

⁵ Organic Exporters Association of New Zealand. 2018. *Organics in New Zealand*. Accessed March 7, 2018. <http://www.organictradenz.com/organics-in-new-zealand.html>.

⁶ Colmar Brunton. 2017. "Better Futures Report 2017."

⁷ NZ Herald. 2017. "Kiwis' hunger for paleo, protein and dairy free products unstoppable." *New Zealand Herald*. Accessed March 2018. http://www.nzherald.co.nz/lifestyle/news/article.cfm?c_id=6&objectid=11957933.

New Zealand's organic sector is very diverse in terms of products, the size of organic producers and manufacturers, and the range of motivations businesses have for choosing an organic production method. Due to the inherent diversity of the sector, it is difficult to gather exhaustive information about organic businesses. There is no official data regarding the number of organic businesses who are operating without certification. This includes the size of these businesses, the type of organic products and who their clients are. The origin, quantity and value of organic products imported into New Zealand is also difficult to assess because the organic status of a product is not captured by customs codes.

2. To what extent do you agree with the description of the current context for organics? Please explain why.

4 The regulatory environment for organics

Internationally, organics are increasingly regulated

Having a specific regulatory regime for organics is increasingly becoming the norm worldwide and a significant number of countries regulate organic claims. Of the world's top 25 organic markets (by value), all but New Zealand and Australia have developed mandatory domestic organic standards. They do so for a range of reasons, including consumer protection, access to foreign markets or environmental benefits.⁸

In regulated markets, the term 'organic' cannot be used unless the production methods and labelling comply with the national requirements. For example, claims such as '100% organic', 'organic', or 'made with organic ingredients' reflect strict composition and production requirements. In a similar manner, the use of national organic logos is also strongly regulated. In the United States, only products with more than 95% organic ingredients can use the organic seal.

In 2017, 87 countries had mandatory requirements for organic production and a further 18 countries were in the process of drafting mandatory requirements.⁹ This includes North America and Europe who generate 90% of international sales, and other key markets for organic products (such as Japan, South Korea and China). All of these regulated markets have strict requirements for organic products that are imported. Only products that are certified to a standard recognised or deemed as equivalent can be sold.

In drafting this document, we have considered how other countries have gone about regulating organics, and how the different models used internationally may or may not work in New Zealand. A high level comparison of how organics are regulated in key markets is attached as Appendix 1.

New Zealand's current arrangements for organics

Organic products must comply with New Zealand laws

Although there is no law specific to organic products in New Zealand, organics must comply with a range of overarching laws that equally apply to non-organic products. The key requirements are that:

⁸ Rousset, Sylvain, Koen Deconinck, Hyunchul Jeong, and Martin von Lampe. 2015. Voluntary environmental and organic standards in agriculture: Policy implications. Food, Agriculture and Fisheries, OECD, Paris: OECD Publishing.

⁹ Willer, Helga, and Julia Lernoud. 2018. The World of Organic Agriculture. Statistics and Emerging Trends 2018. Bonn: Research Institute of Organic Agriculture (FiBL), Frick, and IFOAM - Organics International.

- Food sold in New Zealand must be safe and suitable for sale, as required by the Food Act 2014;
- Claims and labels must be true, not misleading, and able to be substantiated, as required by the Fair Trading Act 1986;
- Imports must comply with inspections and treatments required under the Biosecurity Act 1993; and
- Products which fall within the Animal Products Act 1999 and the Wine Act 2003 must also comply with those Acts.

MPI's Official Organic Assurance Programme

As with many other products, our trading partners sometimes want added assurances that organic products sent to them are produced according to minimum, or agreed, requirements. To facilitate exports to certain markets, MPI administers the Official Organic Assurance Programme¹⁰.

As part of this programme, exporters need to be registered with MPI, ensure that their products have been certified by recognised agencies, and meet agreed requirements. In return, MPI provides assurances to the importing countries that these requirements have been met. Activities undertaken by MPI are typically cost recovered. Under this programme activities relating to approvals, registrations or issuing official assurances are funded through either a flat fee, a per-hour fee or a combination of both, charged directly to the relevant business.

Approximately 60% of our organic exports are now managed through MPI's Official Organic Assurance Programme. The value of exports facilitated through this programme was NZ\$151.4 million in the year ending June 2017, which was an increase of 19% over the previous year.¹¹ In 2017, most exports under the programme went to either the United States (NZ\$86.4 million) or the European Union (NZ\$60 million).

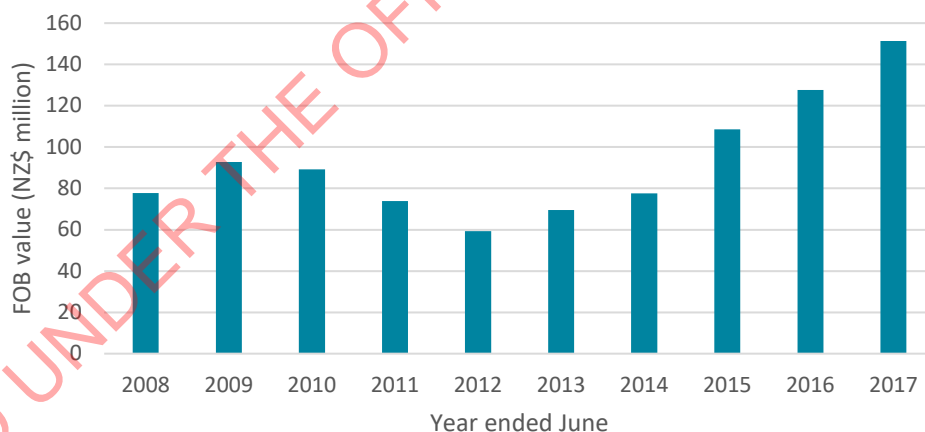


Figure 2: Organic exports through MPI's Official Organic Assurance Programme (MPI 2017)

Domestic organic standards are available, certification is voluntary

While no organic producer in New Zealand is legally required to meet any particular organic standard, there is one domestic public standard, and a range of private standards relating to organic production that growers, producers and others can choose to use to demonstrate that

¹⁰ The Official Organic Assurance Programme covers the United States, the European Union, Switzerland, Taiwan, Japan (and China when implemented).

¹¹ MPI. 2017. "Analysis of Free on Board (FOB) declarations collected as part of annual cost recovery exercise from organic exporters registered to participate in the Official Organic Assurance Programme." Food Production and Processing Team.

their product is organic. These standards set the technical requirements for organic production and describe practices and inputs that can or cannot be used. Some standards also include high level principles and recommendations that organic producers should embrace, such as principles of health, ecology, fairness and care.¹²

New Zealand Standard 8410 - Organic Production

This domestic standard was developed by Standards New Zealand in consultation with industry representatives in 2003, with the objective of setting minimum requirements for the production, handling, processing and labelling of organic products.¹³ Using this standard, or being certified to it, is voluntary.

This standard has not had significant uptake: MPI is not aware of businesses or certification bodies who are currently using this standard. Reasons for the lack of uptake may include:

- the standard is not accredited by the International Federation of Organic Agricultural Movements (IFOAM) unlike other organic standards available in New Zealand. Being accredited to IFOAM helps an organic standard to have international recognition;
- certification bodies are not currently accredited to assess organic products against the NZS standard. It costs the certification bodies to become accredited, and without market demand it is likely they did not consider this accreditation worthwhile;
- the standard is not recognised as providing equivalent outcomes by our trading partners; and
- obtaining a copy of the standard incurs a fee (currently \$80).

Private organic production standards

Examples of private standards referring to organic principles in New Zealand include:

| Standard | Description |
|---|--|
| AsureQuality Organic Standard BioGro Organic Standards | • Private standards developed and owned by private certification bodies in New Zealand |
| IFOAM Norms | • International guideline developed by the International Federation of Organic Agriculture Movements (IFOAM) |
| Hua Parakore | • Combines matauranga Māori and key organic principles |
| Demeter | • Combines biodynamic methods and key organic principles |

If a business chooses to meet one of these standards, it can become ‘certified’ as compliant with whichever one it has chosen to meet. This involves an independent third party assessing whether the methods used by a business are compliant with a standard. There are several private organisations in New Zealand who assess compliance with private organic standards and provide certification services. In some cases, businesses choose to ‘self-certify’, which means they assess their own compliance with a private standard.

¹² IFOAM. 2018. Principles of Organic Agriculture. Accessed March 07, 2018. <https://www.ifoam.bio/en/organic-landmarks/principles-organic-agriculture>.
¹³ Standards New Zealand. 2003. “New Zealand Standard - Organic Production.” Wellington: Standards Council.

To show that products are certified to a specific standard, a certification mark is often displayed. You may be familiar with some of the logos below, which are all being used in New Zealand.



Figure 3: Example of logos used in New Zealand

3. To what extent do you agree with the description of the current regulatory environment for organics? Please explain why.

5 Why change how organics are regulated?

An opportunity to improve the current regime

The current regime for organics in New Zealand is flexible and allows organic businesses to adopt production methods that suit them best and that reflect their personal beliefs on what being ‘organic’ means. Using the MPI Official Organic Assurance Programme as a basis for trade negotiations with key markets has also been successful in providing access to key markets.

The current regime is supported by voluntary use of private and public standards, and overarching New Zealand laws. The standards currently available are based on similar values and general principles but often have different requirements to be met for a business to obtain certification. Organic industry groups have asked Government to explore taking a stronger regulatory approach to organic production, in the form of a mandatory organic national standard. Government has agreed that there is an opportunity to check whether our current arrangements could be improved on.

A new regime could provide businesses and consumers of organic products with increased certainty in making or relying on organic claims. Agreeing on a definition of what ‘organic’ means, or developing additional measures to ensure claims are transparent, could help consumers to know what production methods are used when a product is marketed as organic.

Changing the way organics are regulated could also reduce the gap between the government’s ability to provide oversight of the sector, and consumers’ expectations that all organic claims are truthful. Organic claims relate to production methods, rather than to any particular characteristic that could be tested for or identified on the final product. Officials could be provided with additional tools to check organic claims are genuine, which could help address the difficulty for consumers in checking if a product is indeed organic.

Finally, there is an opportunity to put New Zealand in a better position to negotiate new and more secure market access in the future. The environment in which our current regime operates is changing. Many overseas markets, including some of our key trading partners, have or are considering specific regulatory regimes to manage organic products. Those countries are increasingly requesting comparable organic regimes from trading partners to demonstrate that similar outcomes to their own regimes are achieved.

4. Do you agree that this is a good opportunity to change the way organics are currently regulated in New Zealand? In your opinion, what needs to change? Please explain why.

What we think an organic regime should achieve

We consider New Zealand's regime for organic products should meet the following objectives:

- Consumers have confidence in the way organic products are produced, and a variety of products to choose from;
- Businesses have regulatory certainty to invest and innovate in organic products;
- New Zealand's regulatory regime is effective at enabling trade in organic products;
- The regulatory regime has flexibility and is simple to understand and administer; and
- The costs to businesses and consumers are proportionate to the overall benefits.

We do not consider that the status quo adequately meets all these objectives. It is not currently clear to consumers what the differences are between the current organic standards and, more broadly, it is unclear which assurances are reliable. Organic businesses can be faced with difficult decisions about which standard to use. Further, our overseas trading partners are increasingly expecting New Zealand to have a comparable organic regulatory regime to theirs to demonstrate similar outcomes are achieved, which may put trade in our organic products at risk.

Because of these concerns, the rest of this document focuses on possible components of a revised regime for organic production, involving a national organic standard. Before a decision can be made on whether the way organics are regulated needs to change, we need to identify how a new regime could work, and assess whether such a regime would achieve the above objectives better than the status quo. It is also important to consider the costs and risks a new regime may create for the organic sector, including consumers, businesses, verification bodies and government.

In Part 2, we have identified different ways in which a new regime could work, including whether compliance with an organic standard should be voluntary or mandatory, and how compliance should be verified. In Part 3, we discuss possible features of legislation that would be developed in order to implement any new mandatory regime.

We are now seeking your feedback to better understand what the impacts of these different approaches would be. This will inform the decision on whether or not New Zealand would benefit from having a new regulatory regime for organic production and, if so, what that regime could involve.

5. Do you think that the appropriate objectives for a new organic regime have been identified? What would you suggest a new regime should achieve? Please explain why.

Part 2: Options for how a new regime for organics could work

In order to consider whether a new framework for organics would benefit New Zealand it is important to first understand how such an approach might work in practice. We have considered two issues relating to a new framework for organics.

Specifically:

- Issue 1: Should a national organic standard be voluntary or mandatory?
- Issue 2: If a mandatory standard is chosen, how should we check that relevant businesses meet the standard?

Several options were considered in response to these questions. Your feedback on these options will help us understand what the likely costs and benefits might be. We have indicated our preferred options. Please let us know if you prefer a different option, or if you think there are other approaches to consider. In thinking about whether these options meet the objectives set out above, we have considered:

- Is the option effective at providing certainty for organic operators and consumers?
- Is the option effective at enabling trade in organic products?
- Will the compliance burden be proportionate to risks being managed or avoided?
- Is the option practical for stakeholders to understand, implement and monitor?
- What are the costs, benefits and impacts of the option?

Organic standards are typically process-based

Enforceable standards either set out requirements relevant to the desired outcomes (outcome-based standards), or describe the production methods that must be followed to achieve an outcome (referred to here as process-based standards).

Outcome-based regulation can enable flexible approaches to compliance as it allows businesses to use different methods to reach a similar output. This approach rewards innovation and can reduce costs for businesses. For example, the Food Act 2014 is outcome-based, which means there could be a number of different ways for a business to show they comply with the Act, as long as they produce food that is safe for consumption.

However, as noted in Part 1, organics is defined by particular production methods or by the production context rather than by the ultimate product. It is not possible to describe a set of outcomes that can reliably demonstrate whether a particular product has been produced organically or not. For this reason, organic standards used globally are process-based rather than outcome-based.

Accordingly, we recommend that any new standard for organics in New Zealand is process-based. Such a standard would set out rules for the production methods that organic operators need to meet in order to be able to make organic claims, including production methods, inputs and additives that are acceptable for use.

Because it would clearly set out what organic businesses need to do to meet the standard, this approach would provide certainty for operators and consumers. Having clear rules also means

it would be easier to check whether operators are meeting the rules. A process-based standard would also be in line with international approaches to regulating organics.

The development of a new national standard would draw on existing standards and be subject to further public consultation. This would ensure requirements are relevant and suited to New Zealand's context.

6. Do you think that a standard setting out requirements for production methods would be best suited to organic production? Please explain why.

Issue 1: Should a new standard be voluntary or mandatory?

In this section we seek your opinion on whether the requirements of a national organic standard should remain voluntary or become mandatory, and for whom.

Generally, organic standards cover those people or businesses who commercially grow, process, pack, import, export or label organic products for sale. In this consultation paper, we refer to these businesses as 'relevant businesses'. The standard would not cover businesses who only market or sell organic products, without growing, processing, packing, importing, exporting or labelling those products.

In the options set out below, relevant organic products for sale in New Zealand, whether produced here or imported, would be subject to similar requirements. Imports would be required to either meet the requirements of the New Zealand standard (for example through an equivalence agreement), or the terms of a trade agreement. Relevant organic products produced in New Zealand and then exported would need to comply with any domestic rules, plus any requirements of the importing country if these are different.

New Zealand and Australia are parties to the Trans-Tasman Mutual Recognition Arrangement. The terms of this arrangement mean that products meeting regulatory Australian requirements for sale can be sold in New Zealand, and vice versa. Under this arrangement, organic products can be imported from Australia and sold in New Zealand as long as they meet domestic Australian laws, such as food safety and consumer laws. This arrangement would continue if New Zealand adopts a new organic regime. The proposed standard and associated compliance requirements would apply to all organic products that are processed, packed or labelled in New Zealand – whether they are intended for domestic sales or export.

Option 1A: Encourage the uptake of the current national voluntary standard

Under this option, the New Zealand Standard 8410 – Organic production could be reviewed and updated to align with current practices and its use would remain voluntary. The New Zealand government could also increase awareness of the standard by promoting it amongst consumers and businesses. If this option is preferred, efforts to overcome the other obstacles to businesses using this standard (such as its lack of international recognition) could be made.

Encouraging the uptake of this voluntary standard would mean that a relevant business could continue having several ways to substantiate their organic production methods, such as being certified to a private or public standard, or choosing to use different methods to substantiate their claims. However, it could provide increased clarity about what government considers to

be acceptable organic practices. It also presents the advantage of not imposing new costs on relevant businesses as the use of the standard and certification would remain optional.

Under this option, it would remain uncertain whether a product sold as 'organic' met a defined minimum set of requirements. It would continue to be difficult for consumers to identify what practices were used to produce an 'organic' product. From a trade perspective, this approach would not put New Zealand in a better position to negotiate access with other countries and it may not meet other countries' requirements in the future.

Option 1B: A mandatory standard for some organic operators

Under this option, some, but not all, relevant businesses would be required to meet a national organic standard. This option could mean that larger businesses, or businesses who are not selling direct to consumers, could be required to meet the standard, but it could be voluntary for small or low risk businesses. Care would need to be taken in determining who the standard should and should not be compulsory for.

A standard that is mandatory for only some relevant businesses would give government more oversight about what is produced and sold as organic, compared with the current regime. Consumers could be provided with increased confidence that more organic products meet a single standard.

However, organic claims from those businesses excluded from compliance could continue to reflect a variety of production methods. In practice, there may also be some uncertainty about which businesses would need to meet the standard. Businesses required to meet the standard may incur more costs than those who do not have to meet the standard. Setting a threshold may also create barriers for businesses to grow and expand, as production methods may need to change significantly where the threshold is exceeded.

This option is also unlikely to support trade. It may be difficult for New Zealand to explain to our trading partners why we have set a minimum accepted standard for some relevant businesses, but allow others to operate outside this minimum.

Option 1C: A mandatory standard for all organic operators

Under this option, all relevant businesses would be required to meet the technical requirements of a defined minimum organic standard. This means that any organic products falling under the scope of the national standard would follow the same production methods and use similar inputs set by the standard. This approach would be in line with international approaches to regulating organics.

This option would provide the most transparent set of expectations to businesses and consumers about what government considers organic production to be. It would also provide the greatest certainty for consumers that organic products meet a clear set of standards. It is likely that this option could support trade, as it would provide certainty for New Zealand's trading partners that organic products are produced to a defined minimum standard.

But this option could also come with costs on operators, and potentially consumers, as operators may have to change production methods, or stop labelling their products as organic, to adhere to the new standard. These costs may be highest, proportionally, on small businesses and may lead to increased costs for consumers and/or reduced organic choices.

A standard would need to be empowered through primary legislation in order to become mandatory. There would also need to be a range of compliance and enforcement tools associated with the standard to ensure that the rules were effective. More details are presented in Part 3.

If a new standard was mandatory, organic claims such as 'organic' or 'made with organic ingredients' would become regulated. A national organic logo could be developed to allow products who meet the standard to easily be recognised. Rules around when any such logo could be used (for example, in terms of the amount of ingredients of a processed product which are organic) could be considered when consultation on a specific standard was done.

Under this option, private organic standards could continue to operate if businesses still wanted to use them.

Preferred option: 1C - A mandatory standard for all organic operators

On balance, we consider that having an organic standard that all relevant businesses are required to meet would provide the greatest benefit, despite coming with costs. Overall it provides certainty to consumers and businesses about what government recognises as organic production methods, and confidence for consumers that organic products have met those methods. It also best facilitates trade as New Zealand's approach would be comparable to those around the world.

There would be costs from this option, both for businesses required to comply with the standard, and potentially for consumers. There may also be some costs to government associated with enforcing compliance and taking action for non-compliance. These costs could be partially mitigated by how the standard is implemented (see following sections).

Appendix 1 presents a comparison of the status quo, the preferred option and examples of how other countries approached compliance with a national standard for organic production.

Issue 1: Should a new standard be voluntary or mandatory?

In this section, we have identified and analysed the following options:

- 1A – Encourage the uptake of the current national voluntary standard,
- 1B – A mandatory standard for some operators,
- 1C – A mandatory standard for all organic operators (preferred option).

7. Do you think that the correct options have been identified? Are there alternative option(s) that should be considered? Please describe.
8. Are there positive or negative impacts of any options that are not described? Please describe any impacts that we've missed.
9. If a standard became mandatory for all organic operators, what would be the positive and/or negative impacts on you or your business?
10. To what extent do you support or oppose the use of a logo to help distinguish organic products from non-organic products? Please explain why.

Issue 2: How should we check that relevant businesses meet the standard?

This section sets out three options for ways to check (verify) that relevant businesses are operating in compliance with a new standard for organic production. The following options would only apply if a new organic standard became mandatory for some or all relevant businesses (See Options 1B and 1C above).

The following set of options assumes that, irrespective of the approach taken to verification, businesses who are required to meet the requirements of a new standard would also have to keep complete and accurate records.

Just like under the current Official Organic Assurance Programme, independent verifiers would be required to be accredited by the relevant agencies in order to provide verification services against a new national standard. This would ensure that verifiers are impartial and use the standard correctly.

Option 2A: Ongoing verification for all organic businesses

Under this option, businesses involved in the organic production chain would be subject to regular assessment and onsite audits by an approved independent verifier.

Verification would be likely to result in an organic certificate being issued to confirm that the products and activities undertaken meet the requirements of an organic standard. Such a certificate would be evidence that the business had met the standard. Under existing private certification schemes in New Zealand, organic operators are assessed and audited at least once a year.

Independent and ongoing verification is recognised internationally as being the best tool to provide certainty that organic products meet the requirements of a standard. It would also deliver the best outcomes in terms of strengthening an overseas country's confidence in New Zealand's organic regime, and ensure organic businesses have equal opportunities to compete. However, it imposes costs on businesses. Currently, based on the type of organic production and its location, private certification fees range from a few hundred dollars to more than \$2,000 (excl GST) annually. Costs associated with verification activities undertaken by government would be likely to be cost recovered from organic businesses.

Measures to reduce compliance costs for relevant businesses could be introduced if ongoing verification was mandatory for all businesses. For example, a group of businesses could potentially share the responsibilities and the costs of verification. Also, it could be possible to adjust the audit frequency based on the risk associated with the operation: this would be consistent with compliance mechanisms under the Food Act 2014. Such approaches could help to reduce compliance costs for operators, but could also mean less oversight over what is produced or labelled as organic.

Option 2B: Spot check verification for all organic businesses

Under this option, relevant businesses would be required to notify government they are making organic claims. A sample of businesses would then be selected and audited periodically to ensure the claims they are making are genuine and comply with the

requirements of the new standard. The frequency of audit could be adjusted based on the risk associated with the operation.

Spot checking would provide some level of confidence to consumers as sampled businesses would be actively checked for compliance against the technical requirements of the standard. However, verifying compliance only through spot checking is unlikely to be sufficient to gain international recognition. Most countries that have a national organic standards have more stringent requirements to demonstrate compliance, and would be likely to continue to require New Zealand exporters to be verified on an ongoing basis.

If a spot check verification regime was chosen, another key question would be how to fund it. Spot checks would contribute to the robustness and credibility of the regime, which would benefit the organic industry. A cost recovery option could be to design a levy¹⁴ that would be administered by government and apply to the organic sector as a whole. It would be designed to recover the costs of verification activities undertaken by government. However, additional public consultation would occur before such a levy could be introduced. For example, consultation would be necessary to confirm the mechanics of any such levy, including who would be required to pay and how a levy would be calculated.

We estimate that the costs on a business of being subject to a spot check verification regime are likely to be less than gaining ongoing verification (see Option 2A). Because only sampled businesses would be verified on any given year, it would also minimise disruption in terms of time and preparation required for the verification.

Option 2C: Ongoing verification, with limited exceptions

Under this option, all relevant businesses would need to comply with the standard. However, not all businesses would be required to have their activities independently verified on an ongoing basis. For example, small businesses that produce or process organics that are sold directly to the final consumer may not be required to be verified or certified. The basis for the exclusion is that the associated compliance costs would be disproportionate to the risk that their products were not produced in an organic way. Such businesses could still be subject to enforcement action if it was shown that they were not meeting the standard.

Such an approach is common overseas. For example, the European Union allows member states to exempt organic businesses who sell directly to the final consumer from verification requirements.¹⁵ In the US, some producers are exempted from verification based on their annual turnover.

There could be a range of ways in which certain small or local businesses could be described in regulation in order to be able to take advantage of the verification exception. For example the exception could:

- Cover those producers or processors who sell directly to a consumer (though this exemption would probably not cover online sales); or
- Cover those relevant businesses who have less than a certain threshold of annual turnover; or
- Cover those relevant businesses who produce less than a certain volume of produce annually; or
- A combination of these approaches.

¹⁴ In this document, "levy" refers to a charge designed to recover costs incurred to government in delivering a service that benefit to all members of an industry or sector. Levies are generally calculated based on actual costs incurred to government.

¹⁵ Council Regulation (EC) No 834/2007 on organic production and labelling of organic products. Official Journal of the European Union, L 189/5.

The intention would be that the relevant business can self-determine whether they fall within the exception, rather than needing to apply for a specific exemption.

Preferred option: 2C – Ongoing verification, with limited exceptions

Our preferred option is for most relevant businesses to have their activities independently verified on an ongoing basis, while a small category of businesses would not be required to be verified – for example, small businesses that produce or process organics that are sold directly to the final consumer. These businesses would still need to meet the standard, but the exception would allow a reduction in disproportionate compliance costs for a small category of businesses. Enforcement action could still be taken in respect of these small businesses, if needed, when they claim that their products are organic.

All other relevant businesses would be required to meet the standard, and to be independently verified on an ongoing basis. Measures to reduce compliance costs could be introduced for such businesses if needed, for example through group certification or by adjusting the audit frequency.

Appendix 1 presents a comparison of the status quo, the preferred option, and examples of how other countries verify compliance against their national standard.

Issue 2: How should we check that relevant businesses meet the standard?

In this section, we have identified and analysed the following options:

- 2A – Ongoing verification for all organic businesses,
- 2B – Spot check verification for all organic businesses,
- 2C – Ongoing verification, with limited exceptions (preferred option).

11. Do you think that the correct options have been identified? Are there alternative option(s) that should be considered? Please describe.
12. Are there positive or negative impacts of any options that are not described in the above section? Please describe any impacts that we've missed.
13. If ongoing verification (with limited exemptions) was used to check compliance, what would be the positive and/or negative impacts on you or your business?
14. If some businesses were not required to be verified on an ongoing basis, what do you think the criteria for exemption could be? *For example, method of sale, annual turnover, volume sold, others...*

Summary of proposals

In summary, the options considered, and the preferred options are:

| Component of proposed regime | Options considered | Preferred combination of options |
|---|---|--|
| 1. Whether the proposed standard should be voluntary or mandatory, and for whom | 1A: voluntary compliance for all 1B: mandatory compliance for some businesses only 1C: mandatory compliance for all relevant businesses | 1C: mandatory compliance for all relevant businesses |
| 2. How should we check that relevant businesses meet the standard? | 2A: ongoing verification for all 2B: spot check verification for all 2C: ongoing verification, with limited exceptions | 2C: ongoing verification, with limited exceptions |

Overall, this consultation document proposes a preferred option of a mandatory standard for all relevant businesses. Those businesses would need to keep appropriate records. Ongoing verification would apply to most businesses, although a limited number would not be required to be verified, as is common in overseas regimes.

This approach would provide a robust and enforceable definition of what ‘organic’ means for everyone, and it is likely to enhance trade in New Zealand’s organic products. It will provide certainty for consumers that organic products meet a clear set of standards. However, the requirement for all relevant businesses to comply with the standard, and for most to be independently verified, would impose costs.

The diagram on the next page presents the combination of preferred options and what it would mean in practice for a business making organic claims.

We are interested to hear your thoughts on this preferred overall option.

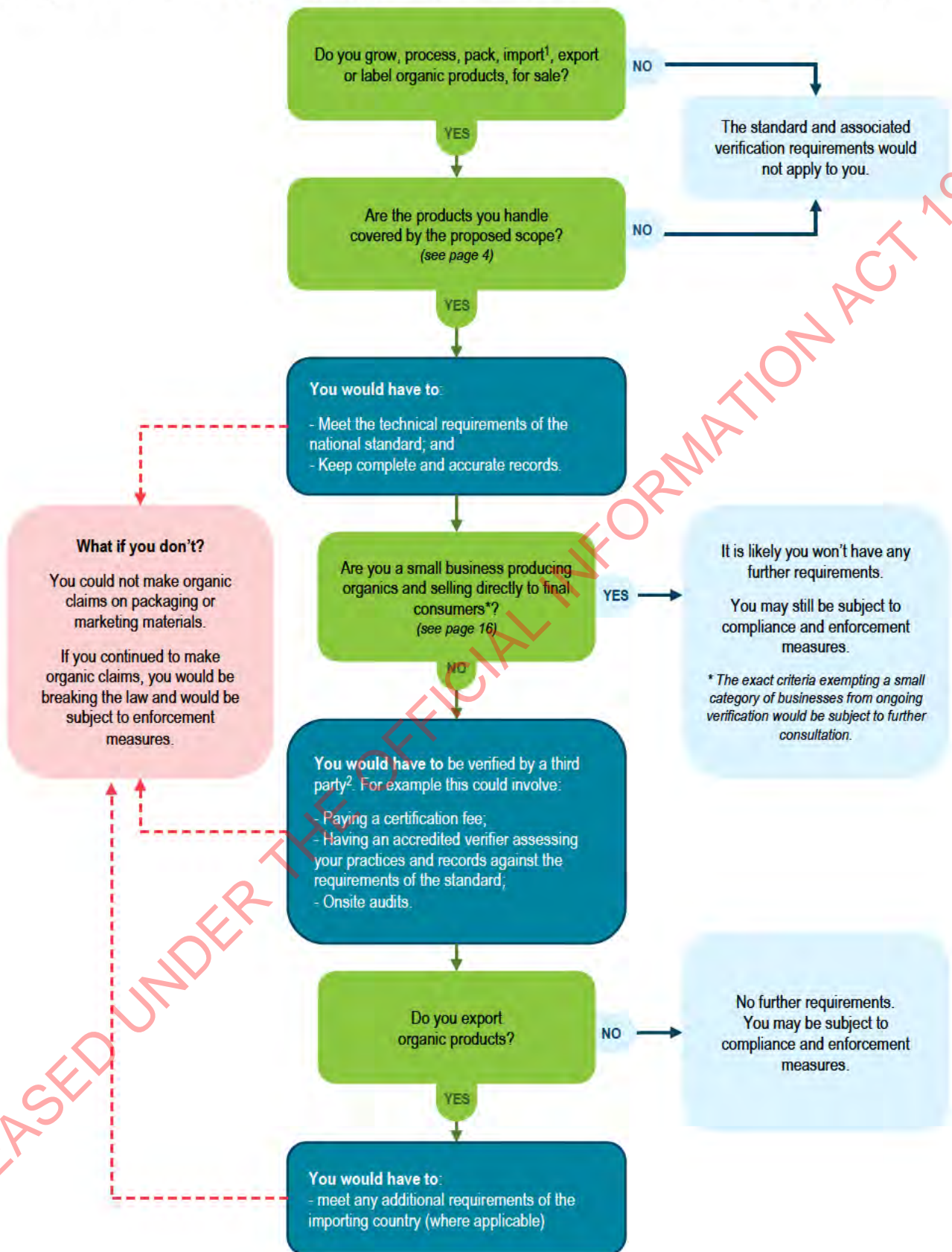
Summary of Proposals

In this section, we have identified the preferred combination of options:

- a mandatory standard for all relevant organic businesses; and
- ongoing verification, with limited exceptions.

15. To what extent do you support this combination? Please explain why.
16. What changes or impacts would this combination of options involve for you and/or your organisation?
17. What would be your preferred combination of options? *This can include any listed options and any other possible option not listed.*

Diagram: Combination of preferred options: How would it work for a business in New Zealand?



¹ The Trans-Tasman Mutual Recognition Arrangement would apply to organic products imported from Australia (see page 12).
² Measures to reduce compliance costs for relevant businesses could be introduced, such as group certification or adjusting the frequency of audits.

Part 3: If needed, Proposed Features of Empowering Legislation

Either maintaining the status quo, or encouraging the voluntary use of a national standard, would not require legislative change. However, legislative change would be required for a national standard for organic production to become mandatory and enforceable. A preliminary assessment indicates that developing a new Act would be most suitable, rather than amending an existing Act.

At a high level, we propose that the key features of any such bill that enables a mandatory standard for organic production could include:

| Proposed feature | Details |
|---|---|
| <p>1 Providing for the creation of one or more standards for organic production</p> | <ul style="list-style-type: none"> • Government could have power to set rules for the production of organic products • The proposal being consulted on here is to develop one standard for products listed on page 4, but the legislation could empower additional standards to be developed in the future, as required |
| <p>2 Setting out the scope of any standard</p> | <ul style="list-style-type: none"> • Standards could be set in relation to organic primary and processed products • However, the specific standard that is being consulted on in this document would cover a narrower scope: organic food and beverages, animal and plant products, live animals, wool (and possibly aquaculture) • A standard would also set rules concerning the production, processing and distribution of organic products, and the use of organic claims in labelling and advertising • We do not consider the legislation should enable standards to be set in relation to other organic products |
| <p>3 Enabling the designation of recognised agencies and persons to verify compliance with the standard</p> | <p>This could include processes for government to recognise agencies and persons as official verifiers, and the ability to charge for the recognition process. Requirements to become and remain recognised would be set, as well as the scope and duration of recognition.</p> |
| <p>4 Providing means for government to cost recover for the activities it undertakes, including charging fees or imposing levies if applicable.</p> | <ul style="list-style-type: none"> • Legislation could set key principles and processes to introduce cost recovery mechanisms, such as equity, efficiency, justifiability and transparency. Possible models for this could include those currently found under the Animal Products Act 1999 or the Food Act 2014. |
| <p>5 Enabling any required regulatory powers in respect of exports of organic products</p> | <ul style="list-style-type: none"> • This could include the ability for government to set additional requirements where these are required for access to negotiated markets (such as exporter registration, additional technical requirements or |

| | | |
|---|---|---|
| | | restrictions) as well as the conditions, form and content for official assurances. |
| 6 | Providing for a range of compliance and enforcement tools, including offence provisions as needed | <p>Government could be granted with the following compliance and enforcement powers:</p> <ul style="list-style-type: none"> • Issue formal warnings, notices, powers of entry, powers to sample and test, and orders to rectify aspects of production, • Seize or recall non-compliant goods, • Issue fines for non-compliance, • Suspend a business from being able to make organic claims. <p>Note: Information tools such as providing education/ advice would not need to be empowered by legislation</p> |
| 7 | Providing transitional arrangements if needed | <ul style="list-style-type: none"> • Conversion to organics usually takes up to three years. • Legislation would provide for transitional arrangements in terms of what claims and methods can be used before the requirements of a new Act would come into force. |
| 8 | Allowing standards to incorporate other information by reference | <ul style="list-style-type: none"> • If needed, this would allow an organic standard to be briefer than it otherwise would be. It would also enable technical information to be updated more easily than if it was found in the delegated instrument itself. |
| 9 | Allowing exemption powers | <ul style="list-style-type: none"> • Where it is appropriate to grant temporary or permanent exemptions, government could have the ability to exempt selected businesses from specified requirements. |

Note that organic products would continue to be subject to any other relevant New Zealand laws. If the decision was made to develop a mandatory standard for organic production, a bill would be drafted, which could include details referred to in the table above, including specific enforcement tools.

There are several stages that the bill would go through before becoming an Act of Parliament. These stages ensure that it is subject to public debate and scrutiny. Public submissions would be invited by the Parliamentary Select Committee. Any stakeholders who wished to comment on the specific proposals contained in the bill could do so at that stage.

Powers needed to implement a new regime

In this section, we discuss the need to develop a new piece of legislation, if compliance and verification became mandatory. We discussed the key components of a new regime, including:

- Providing for the creation of one or more standard(s),
- Setting out the scope of any standard,
- Enabling the designation of recognised agencies and persons,
- Providing means for government to cost recover for the activities it undertakes,
- Enabling any required regulatory powers in respect of exports of organic products
- Providing for a range of compliance and enforcement tools,
- Providing transitional arrangements, if needed,
- Allowing standards to incorporate other information by reference,
- Allowing exemption powers.

18. Have the powers required to implement a new regime been correctly identified? Are there any other components you think would be necessary?
19. Do you have any comments on the range of proposed compliance and enforcement tools?
20. Do you have any other comments about the proposed legislative settings?

Part 4: Next steps

Once we have received submissions from interested parties, we will consider all of the new information and perspectives that have been provided. We will use this to further inform our analysis and test whether our preliminary analysis is still valid. We will make a summary of the information we have received through consultation available.

If this proposal is to be further progressed, there will be further opportunities for you to comment on more detailed proposals. For example, through public consultation on proposed legislation run by the Parliamentary Select Committee, and on any proposed standard being developed under such legislation.

Other comments

21. What evidence should be examined to inform further analysis of this proposal?
22. If you have any other comments or suggestions please let us know.

Appendix 1: Comparison of organic regimes: New Zealand, Australia, Canada, EU and USA

| | Scope | Is the standard voluntary or mandatory? | How are relevant businesses verified? | Current requirements for New Zealand exporters to access this market? |
|--|--|---|---|--|
| New Zealand (current) | Products such as food and beverages, animal and plant products, live animals and wool. | <p>Voluntary</p> <p>Operators must meet other overarching legal requirements, including food safety and consumer laws.</p> | <p>Not prescribed</p> <p>There is no prescribed way to demonstrate compliance, however claims must be substantiated.</p> | N/A |
| New Zealand (preferred options) | As above, with possibility to include aquaculture. | <p>Mandatory for all</p> <p>Would apply to domestic sales, imports and exports.</p> | <p>Ongoing verification with exceptions</p> <p>Businesses required to meet the standard would also have to be verified, except small or local sales.</p> | N/A |
| Australia | Same as New Zealand, with aquaculture, cosmetics and biodynamics included. | <p>Mandatory for some</p> <p>Applies to exports only. No mandatory requirements for imports or domestic sales.</p> | <p>Independent verification</p> <p>Exporters must be certified by an independent verifier</p> | Overarching Australian Laws (including biosecurity, consumer and food safety) |
| Canada | Same as New Zealand, with aquaculture included. | <p>Mandatory for most</p> <p>Applies to domestic sales, imports and exports. Products produced and sold within a same province are exempted.</p> | <p>Independent verification</p> <p>Businesses required to meet the standard must be certified by an independent verifier.</p> | Independent verification and certification to the Canada Organic Regime. |
| United States, European Union | Same as New Zealand, with aquaculture also included in the EU. | <p>Mandatory for all</p> <p>Applies to domestic sales, imports and exports.</p> | <p>Ongoing verification with exceptions</p> <p>All must be independently verified, except direct sales (EU) or businesses with small turnover (USA).</p> | OOAP pathway, including any extra requirements imposed by importing countries. |

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Appendix 2: Summary of questions

We seek your views on what these proposals would mean for you as an individual or business having an interest in organics. Answering these questions is optional, however you may like to use this list to help you provide a submission.

Please tell us a bit about yourself

Understanding who you are will help us best understand your feedback and address any concerns you may have.

- Please select all those that apply to you. Are you...

a **business**...

- a. How many employees do you have? 0-5 6-10 10-20 20+
- b. What activities, if any, does your business carry out in relation to organic products?
- | | |
|--|---|
| <input type="checkbox"/> produce organics | <input type="checkbox"/> sell organics in New Zealand |
| <input type="checkbox"/> process organics | <input type="checkbox"/> export organics |
| <input type="checkbox"/> store organics | <input type="checkbox"/> import organics |
| <input type="checkbox"/> provide contracted services in relation to organics | |
| <input type="checkbox"/> other (please specify) | |
- c. What kind of products do you deal with? (please select all that apply)
- certified organic products
 - uncertified organic products
 - non-organic products
 - non-organic products, but I intend to deal with organic products in the future
- d. What type of products do you currently handle? (Select all that apply)
- Processed food and non-alcoholic beverages (organic),
 - Processed food and non-alcoholic beverages (non-organic),
 - Live animals and/or animal products (organic),
 - Live animals and/or animal products (non-organic),
 - Plant products (including fresh fruit and vegetables) (organic),
 - Plant products (including fresh fruit and vegetables) (non-organic),
 - Wine (organic),
 - Wine (non-organic),
 - Other (please specify product and organic status)
- e. Do you sell organic products...
- directly to consumers (e.g. farmers markets, gate sales)
 - to a retailer or distributor (e.g. speciality shops, supermarkets)
 - to a foreign customer (e.g. exports)
 - other (please specify)

and/or

a **consumer**...

- a. Do you purchase organic products?
 Yes, all the time Yes, sometimes No
- b. To what extent do you consider the certification status of organic products that you buy and use?

and/or

other...

- a. Please tell us who you are or who you represent (e.g. industry group, supermarket, service provider)
- b. What is your interest in organics?

- Is there anything else you'd like to tell us that could help us understand your feedback?
For example: size of your business, key markets, experience related to the organic sector

Part 1: Introduction, purpose and context

Page 4

1. Do you agree or disagree with the proposed scope? Are there any other products, for example aquaculture products, that should be considered? Please specify.
2. To what extent do you agree with the description of the current context for organics? Please explain why.
3. To what extent do you agree with the description of the current regulatory environment for organics? Please explain why.
4. Do you agree this is a good opportunity to change the way organics are currently regulated in New Zealand? In your opinion, what needs to change? Please explain why.
5. Do you think that the appropriate objectives for a new organic regime have been identified? What would you suggest a new regime should achieve? Please explain why.

Part 2: Options for how a new regime for organics could work

Page 11

6. Do you agree or disagree that a standard setting out requirements for production methods would be best suited to organic production? Please explain why.

Issue 1: Should a new standard be voluntary or mandatory?

Page 12

7. Do you think that the correct options have been identified? Are there alternative option(s) that should be considered? Please describe.
8. Are there any positive or negative impacts of any options that are not described? Please describe any impacts that we've missed.
9. If a standard became mandatory for all organic operators, what would be the positive and/or negative impacts on you or your business?
10. To what extent do you support or oppose the use of a logo to help distinguishing organic products from non-organic products? Please explain why:

Issue 2: How should we check that relevant businesses meet the standard?

Page 15

11. Do you think that the correct options have been identified? Are there alternative option(s) that should be considered? Please describe.

12. Are there any positive or negative impacts of any options that are not described? Please describe any impacts that we've missed.
13. If ongoing verification (with limited exemptions) was used to check compliance, what would be the positive and/or negative impacts on you or your business?
14. If some businesses were not required to be verified on an ongoing basis, what do you think the criteria for exemption could be? For example, method of sale, annual turnover, volume sold, others...

Summary of proposals

Page 18

15. To what extent do you support or oppose this combination? Please explain why.
16. What changes or impacts would this combination of options involve for you and/or your organisation?
17. What would be your preferred combination of options? This can include any listed options and any other possible option not listed.

Part 3: If needed, proposed features of empowering legislation

Page 20

18. Have the powers required to implement a new regime been correctly identified? Are there any other components you think would be necessary?
19. Do you have any comments on the range of proposed compliance and enforcement tools?
20. Do you have any other comments about the proposed legislative settings?

Part 4: General comments and next steps

Page 22

21. If you have any other comments or suggestions please let us know.
22. What evidence should we examine to inform further analysis of this proposal?
Feel free to attach documents or links to your submission.

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18 September 2018

Document Number: B18-0641

Proposed approach to legislation to enable a national organic standard

Purpose:

The purpose of this briefing is to provide you with our advice and recommendations on the design of new legislation to enable a national organic standard, and to seek your agreement to those recommendations.

| Minister | Action Required: | Minister's Deadline |
|---|---|---|
| Minister of Agriculture Minister for Food Safety | Note and agree the recommendations contained in the briefing | By 28 September 2018 so that MPI can provide you with a Cabinet paper and Regulatory Impact Statement for Cabinet consideration in November 2018. |

Contact for telephone discussion (if required)

| | Name | Position | Work | Mobile |
|---------------------|-----------|------------------------------------|-----------|--------|
| Responsible Manager | s 9(2)(a) | Manager, Food Policy | s 9(2)(a) | |
| Principal Author | s 9(2)(a) | Senior Policy Analyst, Food Policy | s 9(2)(a) | n/a |

Key Messages

1. This briefing provides you with our advice and recommendations on the design of new legislation to enable a national organic standard in order to increase consumer confidence in organic products, provide businesses with certainty, and facilitate trade.
2. The proposals take into account international practice, and are designed to work in line with other regimes administered by the Ministry for Primary Industries (MPI) particularly in regards to aspects such as enforcement and cost recovery.
3. In designing this legislation, we are seeking to ensure that the regime will be future proof and flexible, and will add value to the organic industry while minimising additional costs.
4. The legislation will enable the ability to set standards that all organic operators must meet, including importers and exporters as well as domestic only operators. The regime will also set out a process for verification against the standards, as well as compliance and enforcement of the standards.
5. The legislation will provide for flexibility and exemptions, particularly to ensure that requirements and costs to organic operators are proportional to the risk of consumers being misled.
6. A key decision that needs to be made is whether to set the scope of the legislation wide to include all organic products to ensure that it is future proof. We are recommending this.
7. We will meet with you to discuss these proposals on 20 September 2018.

Recommendations

8. The Ministry for Primary Industries recommends that you:
- a) **Note** that a new regime will improve consumer confidence in purchasing organic products, and facilitate trade.
Noted
 - b) **Agree** to proceed with a mandatory national organic standard and legislation to support it.
Agreed / Not Agreed
 - c) **Note** that Appendix 1 contains an overview of the proposed content of the primary legislation.
Noted
 - d) **Note** that the recommendations are in line with submitters' views and international practice, and will ensure the legislation is future-proofed.
Noted
 - e) **Agree** that the scope of the legislation should cover all types of products that could be organic, and that the primary legislation will set out prerequisites for when it would be appropriate to develop new technical standards
Agreed / Not Agreed
 - f) **Agree** that all organic operators must meet the technical requirements of the standard, be verified against the standard, and retain proof of compliance.
Agreed / Not Agreed
 - g) **Agree** that the legislation should allow for
 - a) classes of operators to be exempt from one or more requirements of the regime; and
 - b) individual operators to apply for exemptions on a case by case basis**Agreed / Not Agreed**
 - h) **Agree** that verification may be carried out by approved third party agencies.
Agreed / Not Agreed
 - i) **Agree** importers and exporters must meet the New Zealand national standard except where agreements have been developed with other countries
Agreed / Not Agreed
 - j) **Agree** that the enforcement regime will recognise the relative risk associated with non-compliance and will be aligned with other similar regimes such as the Fair Trading Act
Agreed / Not Agreed

- k) **Agree** that the primary legislation should provide the ability for the administering department to cost recover its services
Agreed / Not Agreed
- l) **Note** that the proposed regime will increase costs for the industry through paying for verification and for services that are cost recovered.
Noted
- m) **Agree** that the primary legislation will provide for regulations to be developed to implement the regime, and will set matters to be taken into account when proposing regulations.
Agreed / Not Agreed
- n) **Agree** that the primary legislation will provide for transition to allow for the regulations to be developed which will implement the regime
Agreed / Not Agreed
- o) **Note** that subject to your agreement to proceed with a mandatory standard, we will provide you with a Cabinet paper and Regulatory Impact statement seeking Cabinet agreement to the policy proposals in October 2018
Noted

Penny Nelson
Deputy Director-General
Policy and Trade
for Director-General

Hon Damien O'Connor
Minister of Agriculture
Minister for Food Safety
/ / 2018

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Context

9. In May 2018, Cabinet agreed to publicly release a discussion paper that proposed a new national standard and associated regulatory regime for organic products. MPI considered that a national standard for organics would increase consumer confidence in New Zealand's organic products by providing a nationally mandated standard that products must meet, and facilitate trade by bringing New Zealand in line with international approaches to regulating organic products.
10. At the end of July, MPI reported back to you on the outcomes of public consultation [B18-0587 refers]. The majority of submitters supported a change in the way organics are regulated in New Zealand, and supported MPI's preferred options, which were to develop a mandatory standard for all organic businesses, with ongoing verification against that standard. They also recognised the need to account for small organic operators and supported a regime that would provide options for them. The main concern raised by all groups of submitters was an increase in cost as a result of the standard.
11. The Summary of Submissions document was published on the MPI website on 13 August 2018.

Advice

12. Organic claims are credence claims and as such a consumer has no way of testing for themselves whether a product is 'organic' or not. Because of the difficulty consumers have in differentiating organic produce from non-organic produce, trustworthy certification systems that verify that organic claims are important tools for all participants in the system. New Zealand currently relies on a voluntary industry-led certification regime to certify its organic produce, and there are no national standards that organic products must meet.
13. We have previously provided you with advice [B18-0244 refers] that a national organic standard would:
 - a. provide consumers and operators with increased certainty in making or relying on organic claims;
 - b. reduce the gap between the Government's ability to provide oversight of the sector, and consumers' expectations that all organic claims are truthful; and
 - c. put New Zealand in a better position to negotiate new and more secure market access.
14. Consultation confirmed that a standard could achieve these outcomes.

15. MPI proposes that a mandatory national standard with compulsory, independent verification so that organic producers can demonstrate compliance, would best achieve these objectives. As all operators would be subject to the same standard, this would provide the greatest clarity to businesses around the processes they should invest in, and the greatest certainty to New Zealand consumers and overseas markets that products meet a minimum standard. This approach is also in line with international approaches to regulating organics as New Zealand is one of only two countries in the world's top 25 markets for organics in the world that does not have a mandatory domestic standard.
16. Having a mandatory standard, and requiring independent verification, would also come with costs. Some operators will already be paying for verification under private schemes but other operators are not. We have considered options for reducing the costs on operators when designing how the legislation could look.
17. We recommend that you agree to progress a mandatory national organic standard and the legislation to support it, consistent with the preferred options that were consulted on.
18. This paper provides you with advice on the design of the legislation, if you agree to proceed with development of a mandatory standard. In developing these recommendations we have ensured that the approach is flexible and future proof, and will add value while minimising additional costs. We have taken into consideration the outcomes of consultation, the experiences of international regimes, and the industry's suggestions on the most effective examples.
19. The primary legislation will set out the principal framework for the overall regime. Decisions on the more detailed aspects of the regime will be developed through regulations. A key part of this is how the technical standard will be set. We will provide you with further advice on the process for developing the standard to enable you to make key decisions required.
20. The primary legislation will provide for the following key components:
 - a. the purpose and scope of the legislation;
 - b. compliance and verification;
 - c. imports and exports;
 - d. enforcement;
 - e. cost recovery;
 - f. regulation making powers; and
 - g. transitional arrangements.
21. Appendix One contains an overview of the proposed content of the primary legislation.

The purpose and scope of the legislation

22. The consultation document proposed that the scope would cover food and beverages, animal and plant products, live animals and wool. These products are already covered by MPI's Official Organic Assurance Programme (OOAP) and are commonly regulated in other countries.
23. Public consultation confirmed the preference to cover these products initially, however 24% of submitters (49 submitters of 208 total) suggested that the scope should be widened to include other types of organic products.
24. We consider that developing new legislation is a key opportunity to ensure a new organic regime is future-proof. The organic industry is growing and standards are being developed internationally for all types of products. It is possible that in the future international organisations and governments will regulate organic products wider than food, plant and animal products. Therefore we recommend that the scope of the primary legislation be widened from that consulted on to cover all types of organic products. Other agencies have been consulted on this approach and have no objections to it.
25. While the legislation would be wide in scope, the first standards would only cover food, plant, animal products and animal feed as proposed in the consultation document. Whether there is a need for standards for different types of products could be consulted on in the future. The primary legislation will set out prerequisites for when it would be appropriate to develop new technical standards.
26. Alternatively, you may wish to continue with the scope that was consulted on. That scope would be limited to primary products that are already managed by MPI under the OOAP. However, in the future if there was a desire to introduce standards for a wider range of organic products, this would require new primary legislation or amendments to the Organic Act.
27. As the scope of the primary legislation will provide for regulations to set standards for organic products not within MPI's area of expertise, we recommend that the legislation allows different administering departments to have responsibility for different products.
28. The key roles of the relevant administering department for any regulations will be:
 - a. developing and administering regulations;
 - b. approving and monitoring third party agencies;
 - c. issuing official assurances;
 - d. granting exemptions on application; and
 - e. enforcement.

Compliance and verification

29. As set out in the consultation document, we recommend that the primary legislation should require that:
 - a. **all products that are labelled as organic must meet the requirements of the technical standard.** This will foster consumer confidence in labels on products and reduce inconsistent claims;
 - b. **all organic operators keep records and proof of compliance with the standard.** The format of these records and proof of compliance will be set in regulation; and
 - c. **organic operators must be verified against the technical standard.** Processes and flexibility around verification will be set in regulations to ensure the burden on small operators is not unreasonably disproportionate to the benefits.
30. While the primary legislation would require all organic operators to meet the applicable technical standard, we recommend providing the ability to exempt certain groups from some requirements of the regime, such as verification, in regulation. This would mean the legislation would still achieve its objectives without imposing unreasonable costs on low risk operators. The primary legislation would set out matters to be considered in deciding whether to exempt groups from requirements so as to ensure that the objectives are not undermined. We will provide you with advice these matters.
31. In addition, we also recommend providing the ability for the Director General to grant case by case exemptions upon application. This could be used for example where exceptional circumstances such as a drought prevent an operator from complying with some technical requirements for a certain period of time. The primary legislation would also set out criteria for when exemptions could be granted.
32. We recommend that approved third party agencies are able to provide verification against the standard and issue proof that the standard has been met. This is consistent with other similar regimes in New Zealand, and these agencies already have the knowledge and expertise to carry out this role.

Imports and exports

33. In order to ensure that all organic operators have the same requirements we recommend that imported and exported products, as well as domestic only products, should meet the New Zealand national organic standard. This will achieve two of the objectives of the regime; increasing consumer confidence in organic products and facilitating trade. If the standard was to apply only to domestic or only to imports/exports, it is unlikely these objectives would be met and it would be inconsistent with our international obligations.

34. There will be circumstances where imports will not be required to meet the New Zealand organic standard, where standards of different countries are negotiated as having equivalent outcomes. There may also be circumstances where an operator is only exporting to a country with different requirements. This import/export requirement for equivalence is international best practice for organic trade. The primary legislation will provide for agreements to be negotiated and exceptions to be provided where relevant. Exported products that do not meet the New Zealand standard will not be able to be sold in New Zealand.
35. Requiring imports to meet the New Zealand national standard may reduce the availability of imported organic products on the New Zealand market. This could be because the products do not meet an organic standard, or they meet one that has not been recognised in New Zealand. We recommend the legislation provide a transition period to allow for agreements to be developed without reducing the availability of organic products in the short term.
36. New Zealand and Australia are parties to the *Trans-Tasman Mutual Recognition Arrangement*. The terms of this arrangement mean that products meeting Australian regulatory requirements for sale can be sold in New Zealand, and vice versa. Under this arrangement, organic products can be imported from Australia and sold in New Zealand as long as they meet domestic Australian laws, including the *Competition and Consumer Act 2010* that regulates misleading, false or deceptive claims. Australia does not currently have a mandatory domestic standard for organic products. This arrangement would continue if New Zealand adopts a new organic regime.

Enforcement

37. The organic legislation will be a proactive regime that requires industry to justify their organic claims, and improve protection for domestic and overseas consumers. The regime will only apply to operators choosing to make organic claims. Therefore, principles to be applied in designing enforcement tools are:
 - a. disincentivise non-compliance with the standards and misleading behaviour from operators; and
 - b. encourage effective participation in the system.
38. Sanctions will recognise and reflect that the regime is primarily concerned with consumer information rather than health or safety. We consider that the enforcement regime should be modelled on the Wine Act and Fair Trading Act. This includes criminal liability for fraud and misleading behaviour with fines between \$10,000 (individual) to \$600,000 (corporate) but not imprisonment.

39. In addition to enforcement of the operators, we recommend that as approved third party agencies may manage verification, provision be included in the primary legislation for operators to challenge decisions made by approved third party agencies relating to this process. The relevant administering department will conduct a review of challenged decisions.
40. We will continue working with the Ministry of Justice on the detailed design of enforcement tools to ensure they are appropriate to achieve the policy objectives, are aligned with other similar regimes, and do not replicate existing criminal offences.

Cost recovery

41. Costs to government will mainly come from:
 - a. developing, maintaining and implementing national organic standards;
 - b. monitoring compliance of operators and approved third parties;
 - c. negotiating trade arrangements for organic products; and
 - d. enforcing the regime.
42. We recommend that the primary legislation should enable the ability for MPI to cost recover its services. This is common for regimes that MPI administers, and would be guided by the same principles that guide MPI's general cost recovery process; equity, efficiency, justifiability and transparency.
43. Following primary legislation, there will be decisions about how cost recovery will happen. For example, we expect government will fund the development of the standards and could fund the first few years of transition as with the Food Act. Decisions will take into account for example that the organic regime only applies to operators choosing to make the claim whereas the Food Act regime is mandatory for all food operators.
44. We estimate that the cost to industry would range from \$300-\$700 per operator per year depending on total costs and number of operators liable for the levy¹, but will depend on how these costs are spread across operators. The levy would apply to all verified operators, including importers and exporters. This figure assumes that the development of the standards will be funded by government.
45. In addition to the levy, there will be one off charges for activities such as reviewing third party decisions charged at an hourly rate to the relevant body.

¹ This estimate is based on an assumption that there will be a 20-50% increase in certified operators.

46. In order to cost recover, MPI will need to have oversight over the industry. We are working on the best way to get this information (either directly from operators, or through third party agencies). We will provide you with advice on funding the development and ongoing implementation of the legislation and on cost recovery when the regulations are being developed.

Costs to industry

47. In addition to paying for the elements of the regime that are cost recovered (outlined above), there will be costs for the organic industry in meeting the requirements of the legislation. Operators will be required to pay for verification should they choose to label as organic, and these costs currently range from approximately \$350 per year for group verification to \$2,500 per year for individual verification for exported products.
48. Approximate additional costs will differ for different operators:
- a. **currently certified organic operators who are *individually verified*** will not have any additional costs for verification as they already pay for this, however they may have costs to ensure they meet the new technical standard, and will have the additional annual cost from MPI's cost recovery.
 - b. **currently certified organic operators who are part of a *group verification*** system should be able to continue with group verification, with costs at the lower end of the scale, however they may have costs to ensure they meet the new technical standard, and will have the additional annual cost from MPI's cost recovery.
 - c. **currently not certified organic operators** who choose to continue to label as organic will be required to pay for verification as well as the annual cost from MPI's cost recovery.
49. Costs on operators will also depend on agreed ways to manage the costs of the new regime, particularly to very small operators. These include:
- a. exemptions for classes of operators from one or more requirements of the regime, such as verification;
 - b. flexible ways for operators to be verified and show compliance, such as allowing for group verification schemes for small operators; and
 - c. flexible ways to approve third party agencies to reduce their costs and consequently the costs of their services.
50. We recognise that many organic operators, particularly in the food area, will already have interactions with MPI through other regimes that are cost recovered. We will ensure implementation is aligned to reduce duplication of costs where possible.

51. While there will be costs to the industry, they will also receive the benefits of a mandatory standard. These benefits could include:
- a. increased sales as a result of consumer confidence;
 - b. certainty in what to invest in to ensure their products are organic; and
 - c. simplified export requirements and reduced export compliance costs.

Regulation making powers

52. The framework will be set in the primary legislation, and the details of the regime will be set in regulations. The primary legislation will include a range of regulation-making powers in order to develop a regime that is adaptive and future proofed. We recommend that the primary legislation empowers regulations for:
- a. the making of standards for processes to determine something as organic;
 - b. implementation requirements, such as:
 - i. processes for verification related activities;
 - ii. processes for approving third party agencies;
 - iii. requirements for keeping of records and proof of compliance;
 - iv. exemptions of certain groups from requirements;
 - c. export requirements;
 - d. infringements;
 - e. fees and charges; and
 - f. other matters relevant to provision of assurance.
53. To ensure regulations are developed in line with the objectives of the legislation and follow a robust process, we recommend that the primary legislation also sets matters to be taken into account when setting regulations. For example:
- a. matters the decision maker must consider before deciding whether to make regulations; and
 - b. ensuring the decision maker has consulted with people who will be substantially affected.
54. We will provide you with further advice on these matters to enable you to make decisions.
55. Given the technical nature of organic standards, we recommend providing the ability for minor and/or technical matters to be set through tertiary legislation that will be supplementary to the regulations. Tertiary legislation can be developed and amended more efficiently than regulations and it is appropriate to use this type of legislation for details such as organic management plan templates or lists of permitted inputs.

Transitional arrangements

56. In addition to the primary legislation, the organic standard and other relevant regulations that set out the detail will need to be developed. We will need to take a staged approach to implementing the legislation to allow for:
 - a. the relevant regulations to be developed;
 - b. third party agencies to be approved in order to be able to carry out their roles under the primary legislation;
 - c. operators to come up to speed with the new standard; and
 - d. the ability to set overseas market access requirements.

Next steps

57. Following your decisions on the design of the primary legislation outlined in this paper, we will provide you with a Cabinet paper and Regulatory Impact Statement in October. The Cabinet paper will seek Cabinet's agreement to proceed with the proposals and for the Parliamentary Counsel Office (PCO) to draft the Bill.
58. Should Cabinet agree to PCO drafting, a Bill may be introduced to the House early in 2019. The timing of introduction will depend on PCO availability.
59. Once the Bill has been introduced to the House we will begin working on the technical standard and other regulations, with the aim to have the policy for these completed by the time the Bill is introduced.

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Appendix One: Policy decisions for primary legislation

The tables below provide an overview of the proposed content of the legislation. Content that is *italicised* will require further Ministerial decisions.

Purpose and scope of the legislation

| | |
|----|--|
| 1. | The policy objectives are to: <ul style="list-style-type: none"> • increase consumer confidence in purchasing organic products • give operators confidence to invest • facilitate trade |
| 2. | The scope of the primary legislation will encompass all types of organic products, and the operators involved in producing, and handling them (if they are acting for reward). |
| 3. | The primary legislation provide a framework approach, setting out the principal obligations in statute and enabling regulations to provide greater detail. |
| 4. | MPI is the administering department for agricultural products (including but not limited to foods, aquaculture, and forestry) and will provide standards with regard to these produce. The legislation will allow other government agencies to become responsible for standards relating to their area (e.g. cosmetics or textiles) |
| 5. | <i>The primary legislation will set out prerequisites for when it would be appropriate to develop a new technical standard.</i> |

Compliance and verification

| | |
|-----|--|
| 6. | All operators making organic claims must meet the technical requirements of the national standard. |
| 7. | Only products meeting the technical requirements of the standard can be labelled as “organic”, however using the word ‘organic’ on your label is optional. |
| 8. | All operators making organic claims must be able to demonstrate that they are meeting the technical requirements of the standard before they can market their products as organic. |
| 9. | Verification is mandatory for all operators, but there may be some exceptions or different levels of initial and ongoing verification. |
| 10. | Verification frequency can be increased or lowered based on compliance. |
| 11. | Group verification will be enabled for some operators where the risk of consumers being misled is low |

| | |
|-----|---|
| 12. | <i>Legislation will set out a clear process and criteria for third party agencies when undertaking verification, issuing proof that the standard has been met, and withdrawal of proof of compliance (in the case of non-compliance with the standard) for operators. There will also be a right of appeal to MPI, if a decision is disputed.</i> |
| 13. | MPI may provide verification services and issue proof of compliance (to be used as a measure of last resort). |
| 14. | <i>Legislation will set clear expectations for third party agencies and means for the administering department to assess competency and performance of the agency, and a process for administering department to follow if the agency is considered unsuitable.</i> |
| 15. | Legislation provides for individual operators to apply to the Director General for individual exemptions, and criteria for when these could be granted. |

Imports and exports

| | |
|-----|--|
| 16. | Imports would need to meet the NZ national organic standard, or a standard recognised as being equivalent |
| 17. | All exported product has to comply with the national standard. The level of verification could differ but would meet domestic verification requirements as a baseline. |
| 18. | All exporters have to be registered. |
| 19. | Organic assurances for export must be issued by government; these may or may not involve the generation of a certificate. |
| 20. | Enable regulations for exporting, including producing export requirements where necessary. |
| 21. | Cost recovery for verifying compliance with extra export requirements is a verification agency matter where relevant. |
| 22. | Exporters must notify MPI in certain circumstances, such as where a consignment is 'rejected' by an importing country, and why. |

Enforcement

| | |
|-----|--|
| 23. | <p><i>The enforcement regime should be designed to:</i></p> <ul style="list-style-type: none"> • <i>disincentivise non-compliance with the standards and misleading behaviour from operators, particularly as the risks get higher</i> • <i>encourage effective participation in the system</i> • <i>recognise that the relative risk associated with non-compliance is not as high as a regime that is designed to avoid harm to others.</i> |
| 24. | <i>Sanctions under the regime would not include a custodial sentence i.e. there will be no imprisonment sanction.</i> |

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| 25. | <p><i>Enforcement tools that are being considered include;</i></p> <ul style="list-style-type: none"> • <i>directions</i> • <i>improvements notices</i> • <i>infringement notices</i> • <i>pecuniary penalties</i> • <i>criminal offences for intentional misconduct</i> |
| 26. | <p>An administering department will need powers to enforce the legislation.</p> |

Cost recovery

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| 27. | <p>Provide for cost recovery for most administering department services, with some exceptions.</p> |
| 28. | <p>Exceptions include:</p> <ul style="list-style-type: none"> • operators who are not verified through the regime • prosecution actions |
| 29. | <p>The four principles of equity, efficiency, justifiability and transparency will guide cost recovery in the organic regime.</p> |
| 30. | <p>The following standard matters will need to be provided for to enable cost recovery.</p> <ul style="list-style-type: none"> • Matters relating to collection of fees and levies e.g. <ul style="list-style-type: none"> ○ The period over which deficits can be recovered. Elsewhere in the food system the norm is four years. ○ Trust accounts required to be kept by persons collecting levies ○ Fees, levies and charges to constitute debt to Director General ○ Penalties for failure to pay fee, levy or charge ○ Obligation to pay fee, levy, or charge not suspended by dispute • Exemptions (could be used for cost-reduction initiatives), waivers and refunds |
| 31. | <p>The following methods for cost recovery should be available via regulations:</p> <ul style="list-style-type: none"> • levies • hourly rate charges for particular services • fees <p>Ability to recover costs even if not prescribed by regulations</p> |

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Regulation-making powers

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| 32. | The primary legislation will provide for regulations in relation to the following aspects: <ul style="list-style-type: none">• the making of standards for processes to determine something as organic;• implementation requirements, such as:<ul style="list-style-type: none">○ processes for verification related activities;○ processes for approving third party agencies;○ requirements for keeping of records and proof of compliance;○ exemptions of certain groups from requirements;• export requirements;• infringements;• fees and charges; and• other matters relevant to provision of assurance |
| 33. | <i>The primary legislation may set matters to be taken into account when proposing regulations:</i> <ul style="list-style-type: none">• <i>matters to be considered</i>• <i>consultation processes to be followed</i> |
| 34. | The primary legislation provides the ability for tertiary legislation to be developed where appropriate |

Transitional arrangements

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| 35. | The primary legislation will need to provide for transition to allow for the regulations to be developed which will implement the regime |
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Appendix Two: How the proposed new organic regime would work in practice

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How the proposed new organic regime would work in practice

New Zealand products

Imported products



Exemptions can be granted to ensure costs remain proportionate

Sale in New Zealand

Export

New Zealand Food Safety (NZFS) key roles and obligations:

- Develop and administer organic standards,
- Grant case by case exemptions as required,
- Issue official assurances,
- Approve third parties as verifiers,
- Negotiate trade arrangements,
- Take enforcement measures when necessary.

Verifiers key roles and obligations:

- Check operators meet the national standard,
- Document compliance,
- Manage non-compliance,
- Report to NZFS,
- Must be approved by NZFS.

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New Zealand Food Safety

Haumarū Kai Aotearoa

AM18-1120

Aide-memoire:

From: Penny Nelson
Deputy Director-General, Policy and Trade
for Director-General

Contact: s 9(2)(a) , Manager, Food Policy (s 9(2)(a))

To: Hon Damien O'Connor
Minister for Food Safety

Date: 16 October 2018

Meeting with Organics Aotearoa New Zealand (OANZ) 18 October 2018

Key Messages

- You are meeting with Doug Voss, the chair of Organics Aotearoa New Zealand (OANZ), and board member Richard Lees at 4.30pm on Thursday 18 October.
- OANZ have recently announced a change to how it operates, with the Chief Executive position not being replaced once Brendan Hoare leaves on 31 October.
- Suggested talking points and short biographies on attendees are attached in Appendices One and Two respectively.
- A policy process diagram is attached in Appendix Three. This diagram has been shared with OANZ, and indicates the key steps for work towards a new regulatory regime for organics.
- MPI has met with OANZ to discuss the next steps in the policy process, informing them that a Cabinet decision is likely before Christmas. MPI will provide you with a Cabinet paper at the end of October.

Recent changes to how OANZ operates

1. OANZ is one of several organic industry representative groups in New Zealand. Its members include groups with involvement in organic production, certification and retail. Its primary purpose is to develop and advocate for pro-organic policies to decision-makers at central and local government level.

Security Level – In Confidence

2. OANZ is currently restructuring its administration and operations. Brendan Hoare, CEO, will be moving on from OANZ on 31 October to concentrate on his own organic business. OANZ has informed members that this position will not be replaced in order to save costs and increase efficiencies. Instead, Horticulture New Zealand will provide administrative, accounting and secretariat support to OANZ under a service agreement.
3. A letter from Doug Voss to OANZ members and sponsors on this issue is attached in Appendix Four.
4. You last spoke to OANZ at the Organic Market Report Launch on 20 June 2018 [AM18-0172 refers]. You also met with Doug Voss and the outgoing CEO Brendan Hoare on 8 May 2018, to discuss the upcoming organics consultation [AM18-0475].

Update on proposed changes to the organics regulatory regime

5. Public consultation on proposed changes to the regulatory regime for organics ran from 14 May 2018 to 11 June 2018. This consultation included ten public meetings. OANZ had a representative at each meeting.
6. 208 submissions were made by a range of stakeholders. The majority of submitters, including OANZ, supported the introduction of a mandatory organic standard. A summary of these submissions was made public on 10 August 2018.
7. MPI will provide you with the Cabinet paper and RIA for the final policy proposals for an organics regime at the end of October. If Cabinet agree to progress with an organics Bill, then there will be public consultation through the Select Committee on the primary legislation required to support the development of an organics standard.

MPI's recent engagement with OANZ

8. MPI recently met with OANZ to discuss the next steps towards an organic standard. A policy process diagram provided to OANZ at this meeting is attached as Appendix Three. We informed OANZ that Cabinet would likely consider our policy proposals before Christmas.
9. The development of organic standards will involve working with industry. While MPI will not be providing funding specifically to OANZ, we will work with OANZ and the rest of the organic sector to develop an organic standard and to assist with the transition to a mandatory regime.
10. Similarly, MPI declined requests to fund the OANZ 2018 Market Report Launch on the basis that linking MPI with the Report could have been seen to pre-empt the outcome of the planned public consultation on a national organic standard.

Security Level – In Confidence

11. Some media releases have incorrectly reported that OANZ is working with MPI to develop a national standard. We have corrected these statements through the media to clarify that OANZ has participated, along with other stakeholders, in the process of developing policy proposals, but that we are not working with OANZ on developing details of the standard itself. MPI has met with OANZ to discuss this issue, and provided suggested alternative wording for OANZ to use. There have been no further issues.
12. We have been clear with stakeholders, including OANZ, that there will be full public consultation on the details of the standard itself.

Minister / Minister's Office

Seen / Referred

/ / 2018

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Appendix One: Suggested talking points for your meeting with OANZ

| | |
|---|--|
| <p>Update on proposed changes to regulatory regime for organics</p> | <ul style="list-style-type: none">• Thanks again for providing feedback during the consultation on a new regulatory regime for organics. You may be aware that the summary of submissions was publically released in August. This can be found on the Ministry for Primary Industries' website.• These submissions have been incredibly helpful in shaping our policy proposals.• My officials at the Ministry for Primary Industries are currently working towards finalising proposals for Cabinet.• I anticipate that these proposals will be considered by Cabinet before the end of the year. |
| <p>Next steps if Cabinet decides to proceed with new organic regulation</p> | <ul style="list-style-type: none">• As outlined in the consultation document, if Cabinet agrees to progress work towards a national standard, new primary legislation will be required.• If such legislation is progressed, stakeholders would be consulted at the select committee stage of the Bill. You would also have an opportunity to speak to your submissions.• We would also consult on the national standard itself, which would be developed through regulations later.• The development of a national standard will involve working with the organics sector, to ensure we get it right. |
| <p>OANZ restructure</p> | <ul style="list-style-type: none">• I note that OANZ are undergoing some changes, following the departure of your CEO Mr Hoare.• Mr Hoare was a strong advocate for the organics sector and I wish him well in his future endeavours.• I understand you have decided not to replace the position of CEO, but will instead enter a service agreement with Horticulture New Zealand. How do you anticipate these changes will effect OANZ? |

Security Level – In Confidence

| | |
|--|---|
| <p>MPI is committed to a constructive relationship with OANZ</p> | <ul style="list-style-type: none">• Both I and MPI appreciate the information and feedback that OANZ has given on this work so far.• I was pleased to be able to support you by speaking at the OANZ 2018 Market Report Launch in June. Congratulations again on releasing your fifth Organic Market Report. |
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Appendix Two: Biographies of Doug Voss and Richard Lees

Doug Voss (Chair, OANZ)

Mr Voss has grown kiwifruit for over 40 years and currently farms 29 hectares of organic kiwifruit near Tauranga.

Mr Voss is Chair of Organics Aotearoa New Zealand (OANZ) and the Certified Organic Kiwifruit Growers Association.

His past roles have included:

- Grower Director of the Kiwifruit Authority and Kiwifruit Marketing Board;
- Chair, Deputy Chair and Director of Kiwifruit New Zealand; and
- Director and Chair of Zespri International and Zespri Group.



Richard Lees (Chief Executive, Huckleberry)

Mr Lees has held the position of Chief Executive at Huckleberry since May 2015. Huckleberry stores provide organic and natural wholefoods nationwide.

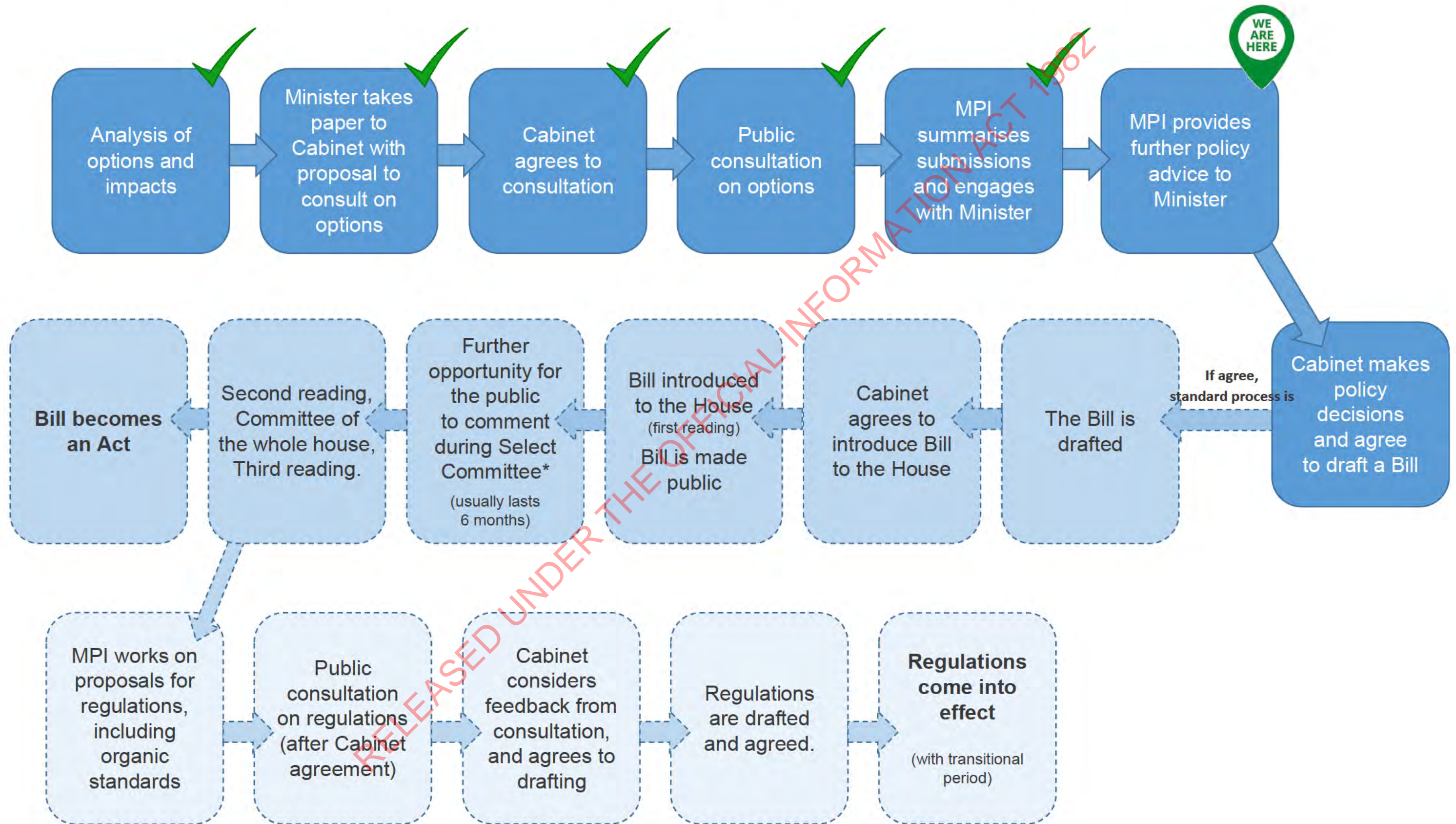
Mr Lees is also a board member of Organics Aotearoa New Zealand (OANZ).



Appendix Three: Policy process diagram

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POLICY PROCESS – Key steps



* More information on the process to give feedback on a bill [here](#).

Appendix Four: OANZ Chair’s letter to Members and Sponsors 3 October 2018

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3 October 2018

RE: New Structure for OANZ

I wanted to let you know that Organics Aotearoa New Zealand (OANZ) is restructuring and streamlining its administration and operations with CEO, Brendan Hoare moving on to concentrate on his own organic marketing, trade and organisational development business.

Your Board has decided not to replace the position when Brendan's contract ends on 31 October, instead administrative, accounting and secretariat support will be provided under a service agreement with Horticulture New Zealand. We believe this will generate cost savings and efficiencies as well as provide us with a base in Wellington where we will continue to lead the lobby for a national organic standard and underpinning legislation.

Brendan is a long-standing champion of the sector and we are very grateful for his contribution in helping build OANZ into the peak national representative organisation and leading advocate for organics in New Zealand. We wish him every success for the future.

When he became Executive Chair in 2012 before becoming our contracted CEO, the organisation was run down and losing members and influence. Today, the OANZ team can stand tall with a diverse 30-strong membership that includes producers, exporters, retailers, wholesalers, distributors and certifying agencies, a family of sponsors, an effective, representative Board and the strategy in place to promote ongoing growth and competitive advantage for New Zealand organics.

We've got a strong, energetic Board in place with complementary skills and a clear focus to work cooperatively and collaboratively with government and officials as they lead the next steps in developing a robust regulatory framework to give customers, consumers and communities here and in global markets the authentication they need that New Zealand organic produce and products are the real deal.

My fellow Board Members and I look forward to continuing to build OANZ and the sector for the benefit of members and indeed the national interest.

Sincerely



Doug Voss
Chair
Organics Aotearoa New Zealand

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31 October 2018

Document Number: Sub18-0110

Proposed legislation to enable organic standards

Purpose:

This briefing provides you with further advice on proposals for an organic legislation and attaches a Cabinet paper and Regulatory Impact Assessment that seeks Cabinet agreement to the proposals.

| Minister | Action Required: | Minister's Deadline |
|--------------------------|---|---------------------|
| Minister of Agriculture | Note and agree the recommendations contained in the briefing | 22 November 2018 |
| Minister for Food Safety | Agree to lodge the attached Cabinet Paper with Cabinet Office by 10 am on 22 November 2018 | |

Contact for telephone discussion (if required)

| | Name | Position | Work | Mobile |
|---------------------|-----------|---------------------|-----------|--------|
| Responsible Manager | s 9(2)(a) | Manager Food Policy | s 9(2)(a) | |
| Principal Author | s 9(2)(a) | Policy Analyst | s 9(2)(a) | n/a |

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Key Messages

1. In September, we provided you with advice on the design of legislation to enable new organic standards [B18-0641 refers]. You agreed to key components of the regime, including a mandatory standard for all organic products and associated compliance and enforcement mechanisms.
2. Attached is a Cabinet paper and Regulatory Impact Assessment (RIA). The Cabinet paper outlines the policy proposals for establishing an organic legislative regime and seeks approval to instruct the Parliamentary Counsel Office (PCO) to draft a Bill to give effect to these proposals. The RIA contains the analysis of the options considered.
3. This briefing outlines recommendations on additional features of legislation that have been refined since we provided you with advice in September. These are in relation to:
 - a. provisions to manage unforeseen events;
 - b. provisions to manage unreasonable costs to businesses;
 - c. setting requirements for exports;
 - d. enabling a commodity levy for organics; and
 - e. enabling a national mark.
4. Enabling these provisions does not mean they have to be used when developing or administering the new regime, but provides the ability to do so if Cabinet considers them appropriate or necessary in the future.
5. To ensure quick progress on organics legislation, we recommend lodging the Cabinet Paper by 10am on 22 November for consideration by the Economic Development Committee on 29 November and Cabinet on 3 December.
6. This timing would enable the PCO to start drafting before the end of 2018. The timing of introduction of the Bill to the House will depend on capacity of PCO and the complexity of the Bill.
7. While the legislation progresses through its next stages, we will work at pace to develop the organic standard for food, plant and animal products, and the regulations needed to implement the regime.
8. Questions and answers are attached in Appendix One to support discussions during Ministerial consultation. A press release announcing Cabinet agreement and next steps is attached in Appendix Two.

Recommendations

9. The Ministry for Primary Industries recommends that you:

- a) **Note** that in September [B18-0641 refers], you agreed to key components of the regime, including a mandatory standard for all organic products and associated compliance and enforcement mechanisms

Noted

- b) **Agree** that the Act should require that prior to making any organic standards the Minister consult with the relevant stakeholders and consider that making the standard would meet the purpose of the Act

Agreed / Not Agreed

- c) **Agree** that the Act enable the standards to specify situations when a business could seek approval from MPI to use set alternative practices, in order to manage unforeseen circumstances

Agreed / Not Agreed

- d) **Agree** that the Act will enable the lessening and removal of some administrative requirements for categories of businesses to be set in regulations

Agreed / Not Agreed

- e) **Agree** that the Act will enable the Chief Executive of the relevant administering department to lessen or remove some administrative requirements for individual businesses, and set these in notices

Agreed / Not Agreed

- f) **Agree** that the Act will enable the development of general export requirements and market specific export requirements to be set by the relevant Chief Executive through notices

Agreed / Not Agreed

- g) **Agree** that the Act should enable the provisions of the Commodity Levies Act 1990 to apply to organics as if it were a commodity

Agreed / Not Agreed

- h) **Agree** that the Act will enable the development of a national mark

Agreed / Not Agreed

- i) **Agree** to lodge the attached Cabinet paper and Regulatory Impact Assessment with Cabinet office on 22 November for consideration by Economic Development Committee on 29 November and Cabinet on 3 December

Agreed / Not Agreed

Penny Nelson
Deputy Director-General
Policy and Trade
for the Director-General

Damien O'Connor
Minister of Agriculture
Minister for Food Safety

/ / 2018

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Background

1. In September, we provided you with advice on the design of legislation to enable new organic standards [B18-0641 refers]. You agreed to the following key components:
 - **A wide scope**
The Act will cover all products that are sold, labelled or represented as organic.
 - **Compliance and verification mechanisms**
The Act will require all businesses to meet the relevant organic standard, be verified and retain proof of compliance. Verification can be carried out by approved third parties.
 - **Imports and Exports**
The Act will require imported and exported products to meet the organic standards, except where trade arrangements are in place.
 - **Enforcement measures**
The enforcement regime will recognise the relative risk associated with non-compliance, and will be aligned with other similar regimes such as the Fair Trading Act.
 - **Cost-recovery**
The Act will enable the administering department to cost recover its services.
2. In our previous briefing to you [B18-0641], we indicated that we would provide you with further advice on some aspects of the policy:
 - process for developing new organic standards;
 - provisions to manage unforeseen events;
 - provisions to manage unreasonable costs to businesses;
 - setting requirements for exports;
 - enabling a commodity levy for organics; and
 - enabling the development of a national mark.

Process for developing new organic standards

3. To ensure that the organic standards developed are appropriate, we recommend the Act requires that the relevant Minister, prior to the making of standards through regulation, must:
 - consult with stakeholders that they consider will be affected; and
 - consider that making the standard will meet the purpose of the Act (i.e. to increase consumer confidence in organic products, provide businesses with certainty, and facilitate trade).
4. We propose that the first organic standard to be developed will cover food, plant and animal products. This is consistent with MPI's current Official Organic Assurance Programme (OOAP), and matches the scope consulted on.

5. MPI will lead the development of this standard using the technical requirements of the OOAP as a starting point. We will also use existing standards in New Zealand, as well as international standards, to ensure the new organic standard aligns with best practice and is adequate to facilitate trade.
6. There will be opportunities for the organics industry and consumers to contribute to the development of the standard before it comes into force. For example, when the draft standard is released for public consultation after the Bill is enacted.

Unforeseen circumstances

7. Organic standards will set out the production, processing and handling requirements that all businesses must meet to be able to make organic claims. The regime needs to have a clear approach to managing events that impact the ability to maintain organic standards. Either:
 - an ability to allow a small level of flexibility so that in specific, well defined circumstances, non-organic inputs or methods are available; or
 - require a rigorous approach to maintaining consistent organic production with no exceptions.
8. On balance we recommend the first option, primarily to be consistent with key trading partner standards.

Setting limited dispensations

9. We recommend that the Act enables the standards to provide for limited dispensations. The standard would be developed – in consultation with industry and consumers – to specify circumstances, eligibility criteria and alternative acceptable practices. MPI (or another administering government department), as the implementer of the standard, would make decisions (dispensations) on a case-by-case basis as to whether these are used. For example, the current MPI Organic Official Assurance Programme allows MPI to approve up to 5 percent non-organic feed to be used, if the feed meets some predefined criteria (e.g. non-GMO), in the event of a flood that significantly reduces the availability of organic feed.
10. Current private New Zealand organic standards all allow some levels of flexibility of this sort. Key trading partner standards (US and EU) also allow a similar level of flexibility, which may make negotiations for equivalence more straightforward.
11. We propose that the process of developing the standard provide transparency and certainty to consumers and producers about this flexibility. The standard would be developed with producers and consumers and be fully consulted.

Alternatively, the standard could require production is consistent at all times

12. Alternatively, the regime could require that the standard require consistent organic production at all times. This approach would provide consumers with greater confidence that regulated organic products are consistently produced, regardless of any adverse events.
13. One consequence is that the standard would require organic producers to fully bear the costs and risks of unanticipated events or lose any organic price premium. For example, in a flood a farmer may have to use small amounts of non-organic supplement feed and so lose organic status for those animals. While the farmer could sell as non-organic, any price premium would be lost until the affected animals were replaced or enough time had passed for them to be considered compliant.
14. This approach would also differ from that of our key trading partners. While that would not preclude equivalence arrangements with trading partners it would make them more complex, and could disadvantage New Zealand organic producers, as they would be meeting more restrictive standards than other organic producers.

Requirements are fit for purpose and do not impose unreasonable costs

15. We recommend that the Act includes an enabling provision to lessen or remove administrative requirements in order to reduce unreasonable costs, such as from verification or cost recovery. This provision would not change the requirement to meet the organic standard, or to be subject to enforcement measures. This will ensure the regime meets the objectives presented during public consultation, including that the regime is flexible and that costs remain proportionate to the overall benefits.
16. This mechanism would help managing disproportionate costs on businesses, and would ensure that we do not overregulate when the risk of consumers being misled is low. For example, Cabinet could decide to remove some requirements for very small producers such as those selling home grown produce at their farm gate. Another example would be to reduce verification frequency for individual businesses that have good performance records. Businesses would still have to meet the relevant organic standard to be able to claim that the product is organic, however they may have less verification requirements.
17. We propose that lessening or removing any administrative requirements for a category of businesses require Cabinet agreement and be set in regulations. The Chief Executive would also have the ability to lessen or remove such requirements for individual businesses, where deemed appropriate.
18. Allowing for different verification requirements is consistent with other regimes administered by MPI, including the Food Act regime, which does not require small operations, such as fundraising events, to be verified. This is also consistent with regimes used by key trading partners.

Further enabling provisions

19. In order to provide flexible ways to implement the new regime and future-proof legislation, we recommend including provisions for:
 - setting requirements for exports;
 - enabling a commodity levy for organics; and
 - enabling a national mark.
20. Enabling these provisions does not mean they have to be used when developing or administering the new regime, but provides the ability to do so if Cabinet consider them appropriate or necessary in the future.

Setting requirements for exports

21. We recommend that the Act allows both market specific and general export requirements to be set. This is consistent with the Animal Products Act. Export requirements will be set by the Chief Executive through notices.
22. Market specific requirements would apply to exports to targeted markets. Sometimes countries that have agreements with New Zealand impose additional requirements for organic products entering their borders, and vice versa. For example, these requirements could be in relation to production or processing requirements for specific markets.
23. General export requirements would apply to all exported organic products. Sometimes it is more efficient to have general export requirements rather than duplicate a same requirement for several markets. For example, this may be necessary to set export requirements for electronic identification and traceability, which would be common rather than market specific. These general requirements would not be able to set requirements in relation to production methods, to ensure consistent practices between domestic and export businesses.

Enabling a commodity levy for organics

24. We recommend that the Act enables the provisions of the Commodity Levies Act 1990 to apply to organics as if it were a commodity. Organic is a product characteristic, and therefore does not fall within the definition of a commodity under the Commodity Levies Act.
25. A commodity levy would enable a body to impose a levy to carry out activities that would specifically benefit the organic sector, such as research and development, promotion or training. It would also be in line with how other sectors fund sector specific activities.

26. Like other commodity levies, this provision would only be used if a body sought and gained sufficient support to impose an organic levy. This would impose costs on the sector, however the onus would be on industry to decide whether they think such costs are warranted or not.

Enabling the development of a national mark

27. We recommend that the Act enables the development of a national mark (such as a logo). A mark would provide an additional marketing tool to organic businesses and could also enhance the visibility of the New Zealand organic industry. If it was developed, its use would remain optional, and could only be used by businesses that had been verified as compliant with the organic standards. If used, the actual mark and details around its use would be set in regulations.

Next Steps

28. These proposals, and those that you agreed to previously, are set out in the attached Cabinet paper.
29. We recommend lodging the Cabinet paper with Cabinet Office on 22 November, for consideration at Economic Development Committee on 29 November. This would enable Parliamentary Counsel Office (PCO) to start drafting before the end of 2018.
30. A press release announcing Cabinet agreement and next steps is attached in Appendix Two.
31. Subject to Cabinet approval, the next steps are:
 - Parliamentary Counsel Office draft a Bill;
 - Cabinet agree to the Bill; and
 - you introduce the Bill to the House.
32. While the Bill is progressing through these stages, we will continue to develop the organic standard for food, plant and animal products, and the regulations that will be needed to implement the regime.

Appendix One: Questions and answers to support Ministerial consultation

| Question | Answer |
|--|--|
| How are 'organic' claims currently regulated? | <ul style="list-style-type: none"> • There is no law specific to organic products in New Zealand. • Organics must comply with a range of overarching laws that equally apply to non-organic products, for example: <ul style="list-style-type: none"> ○ food must be safe and suitable for sale (Food Act 2014); ○ claims and labels must be true, not misleading, and able to be substantiated (Fair Trading Act 1986); ○ imports must comply with inspections and treatments required under the Biosecurity Act 1993; and ○ exported products which fall within the Animal Products Act and the Wine Act must also comply with those Acts. • MPI runs an export programme that enables exporters to access key organic markets. • There is a range of organic standards available in New Zealand that businesses can choose to use to demonstrate their product is organic. |
| What are the key objectives and expected benefits? | <ul style="list-style-type: none"> • Increase consumers' confidence in organics, by clarifying what 'organic' means, and by ensuring claims reflect consistent production methods. • Increase businesses' certainty to invest in organics, by clarifying what practices are acceptable, and by ensuring competing organic businesses are subject to the same requirements. • Put New Zealand in a better position to negotiate new and more secure market access, by providing better government oversight and increasing trading partners' confidence. |
| What were the results of public consultation? | <ul style="list-style-type: none"> • MPI consulted in May/June 2018 and received 208 submissions from a wide range of stakeholders including organic businesses, consumers, certifiers, retailers and sector representatives. • 85% supported a change to the way organics are regulated. • 76% supported a mandatory standard for all businesses. • 62% supported ongoing verification (with limited exemptions (48%) or with no exemptions (24%)). • The proposed legislation is in line with these preferred options and has taken into account feedback from consultation. |
| What are the key aspects of the proposal? | <ul style="list-style-type: none"> • The proposal applies to any product sold, labelled or represented as organic, and seeks to impose the following key requirements: <ul style="list-style-type: none"> ○ products produced domestically must meet the organic standard; |

| Question | Answer |
|--|---|
| | <ul style="list-style-type: none"> ○ products that are imported or exported must meet the organic standard, unless specific trading arrangements are in place; ○ organic businesses must keep records to demonstrate compliance; and ○ organic businesses must be checked against the relevant organic standard, unless exempted from verification. ● Processes and flexibility around verification will be set in regulations. The regulations will ensure that the costs of verification are not unreasonably disproportionate to the benefits. |
| <p>What would be the content of the Act?</p> | <ul style="list-style-type: none"> ● The Act would provide the framework for the regime, including the following components: <ul style="list-style-type: none"> ○ the purpose and scope of the legislation; ○ verification and compliance; ○ import and export provisions; ○ cost recovery; and ○ enforcement. ● The primary legislation will provide for organic standards and the detail of the regime to be set in regulations. ● The legislation will also provide for a transition period to ease the implementation of a new regime. |
| <p>Which organic products would be regulated?</p> | <ul style="list-style-type: none"> ● The scope of the proposed Act has been extended from that consulted on (food, plant and animal products) to any type of products that are sold, labelled or represented as organic. For example, this would include organic textiles or beauty products. ● This future proofs the legislation and reflects submitters' comments. ● However, only products for which there is a standard that relates to them must comply with the legislation before making organic claims. ● If there is no organic standard relating to a product type then the business may continue to make organic claims as long as they meet other regulatory requirements (e.g. Fair Trading Act). ● Requirements of the standards will be set in regulations. It is likely that the first standard to be developed will cover food, plant and animal products. |
| <p>Which businesses and activities would be covered?</p> | <ul style="list-style-type: none"> ● The proposal covers: <ul style="list-style-type: none"> ○ all businesses that produce, import and/or export products that are represented as organic; ○ production, preparation and processing plus all aspects of handling (including storage, packing and repacking, |

| Question | Answer |
|--|---|
| | <p>labelling, transport, distribution, marketing, retail and wholesale); and</p> <ul style="list-style-type: none"> ○ everyone who is responsible for production, preparation, processing, and handling, including domestic businesses, importers and exporters, and brand managers. |
| <p>What would be the impacts on the domestic market?</p> | <ul style="list-style-type: none"> ● Consumers would have increased confidence in organic claims, but may have less choice or increased costs, if these changes led to increased prices for organic products. ● Businesses that are not currently certified and that choose to continue to make organic claims would be required to ensure they meet the organic standards and be verified by a third party. ● Businesses that are already certified are likely experience low additional costs. ● Organic businesses along the supply chain would have increased certainty in which organic practices and inputs are acceptable. This would increase consistency in organic claims, and give businesses more certainty when sourcing ingredients or selling organic goods. |
| <p>How would the proposal impact small businesses?</p> | <ul style="list-style-type: none"> ● Small businesses would be required to meet the production requirements of the organic standard, in the same way all organic businesses would be required to do so. ● However, there would be flexible verification requirements. For example regulations could provide for 'group schemes' where growers could share the cost of independent verification. ● There would also be the ability to exempt classes of businesses, as long as it does not undermine the objectives of the proposal. Such exemptions would be subject to Cabinet agreement. ● For example class-exemptions could be granted for very small businesses such as those selling home grown produce at their farm gate. |
| <p>How would the proposal impact exports?</p> | <ul style="list-style-type: none"> ● Organic products that are exported would need to meet the relevant organic standard, or a standard deemed as equivalent through negotiations. ● There may be specific circumstances where exports need to meet particular market requirements that conflict with the New Zealand standard. These circumstances would be provided for. Note that any product not meeting the New Zealand standard would not be able to be sold as organic in New Zealand. ● MPI would continue issuing official assurances for exports of organic products to markets that require them. |

| Question | Answer |
|--|--|
| | <ul style="list-style-type: none"> The proposal would put New Zealand in a better position to negotiate new and more secure market access. |
| <p>How would the proposal impact imports?</p> | <ul style="list-style-type: none"> Imported products would have to meet the requirements of the New Zealand organic standard, or a standard deemed as equivalent through negotiations. This would be similar to the requirements that New Zealand organic products have to meet in order to access regulated overseas markets. <p><i>Imports from Australia</i></p> <ul style="list-style-type: none"> Under the Trans-Tasman Mutual Recognition Arrangement, Australian organic products for retail sales could continue to be imported and sold on the domestic market without needing to meet the requirements of a New Zealand organic standard. Australian organic products would continue to need to meet domestic Australian laws, including the <i>Competition and Consumer Act 2010</i> that regulates misleading, false or deceptive claims. The organic standard and associated compliance requirements would otherwise apply to all organic products that are processed, packed or labelled in New Zealand. |
| <p>How will the organic standards be developed?</p> | <ul style="list-style-type: none"> The first organic standard to be developed is likely to cover food, plant and animal products. This is because there is currently sufficient need and a well-developed understanding of what organic means for these products. It is also the scope of MPI's export programme for organics (the Official Organic Assurance Programme). The Ministry for Primary Industries (MPI) will work with industry to develop this standard, and the technical requirements of the Official Organic Assurance Programme may be used as a starting point for discussions. Existing standards in New Zealand and overseas will also be used to ensure our organic standard aligns with best practice and is adequate to facilitate trade. There will also be opportunities for the organics industry as well as consumers to contribute to the development of the standard before it comes into force, for example during public consultation. |
| <p>How will the proposed regime interact with other legislation?</p> | <ul style="list-style-type: none"> The proposed new regime for organics would work alongside other relevant legislation. As such, any products or businesses would still be required to comply with any other legislation such as the Fair Trading Act, Biosecurity Act, and Food Act. |

| Question | Answer |
|---|--|
| Are all government departments supportive? | <ul style="list-style-type: none">• MPI consulted with the Department of the Prime Minister and Cabinet, the New Zealand Treasury, the Ministry for Business, Innovation and Employment, the Ministry of Foreign Affairs and Trade, Te Puni Kōkiri and the Ministry of Health. There was no objections to the proposals and the papers attached reflect comments made by agencies. |
| What is the expected timing of implementation of the proposals? | <ul style="list-style-type: none">• Following development of both an Act and necessary regulations, the regime is expected to be in place for organic food, plant and animal products within 5 years.• Standards for other types of organic products may be developed when considered appropriate. |

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Appendix Two: Press release

National organic standard to be progressed

Agriculture and Food Safety Minister, Damien O'Connor today announced that the Government has agreed to establish national standards for organic production.

"The demand for organic products is increasing globally. In recent years, the New Zealand organic sector has been growing by around 15% per annum. In 2017, its worth was estimated at \$600m per annum - with a split of \$355m for export markets and \$245m domestically.

"One set of rules for our organic products will be a real boost for the sector. Consumers will be confident that they are getting what they pay for, and businesses will have the certainty to invest and innovate in organic products. It will also help to grow our organic export trade and bring us in line with international approaches to regulating organics. New Zealand is currently one of only two of the top 25 organic markets in the world that does not have mandatory domestic organic standards.

"Feedback from public consultation held earlier this year showed strong support for changes to the way organic production is regulated, with the majority supporting a mandatory standard.

"The next step is to draft an organics Bill that will support national standards for organics. The Bill is likely to be introduced next year and there will be opportunities for the public and the sector to provide feedback at the Select Committee stage.

"Then the Ministry for Primary Industries will work with the organic sector to develop organic standards and an associated assurance regime and to assist with transition to the new regime," says Mr O'Connor.

[More information about proposed changes to the way organic production is regulated](#)

ENDS

Appendix Three: Regulatory Impact Assessment

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Coversheet: Organic Production and Processes

| | |
|---------------------|--|
| Advising agencies | Ministry for Primary Industries |
| Decision sought | Approval for new legislation that enables government mandated standards for organic products |
| Proposing Ministers | Hon Damien O'Connor |

Summary: Problem and Proposed Approach

Problem Definition

What problem or opportunity does this proposal seek to address? Why is Government intervention required?

Organic claims are credence claims, which consumers cannot independently verify for themselves.

The organic certification system in New Zealand is voluntary. Businesses choose whether or not to be certified to one of a range of private standards with differing requirements. This creates uncertainty for consumers and businesses as to what is considered organic, and to overseas markets that New Zealand products are indeed produced organically.

New Zealand is one of only two of the top 25 organic markets in the world that does not have mandatory domestic organic standards, and the only one of those 25 without a mandatory export standard.

There are opportunities to improve our system to ensure that:

- New Zealand is effective at facilitating trade in organic products;
- consumers have confidence in their organic product purchase decisions; and
- businesses have certainty to invest and innovate in organic products.

Proposed Approach

How will Government intervention work to bring about the desired change? How is this the best option?

The Ministry for Primary Industries (MPI) proposes a mandatory national standard with compulsory, independent verification to demonstrate compliance. As all businesses would be subject to the same standard, this would provide the greatest clarity to businesses around the processes they should invest in, and the greatest certainty to New Zealand consumers and overseas markets that products meet a minimum standard.

A mandatory standard that applies to organic products that are both sold domestically and exported could not be developed under any of the existing legislative regimes in New Zealand. Therefore the proposal is to develop new primary legislation that would enable the development of technical standards and a supporting assurance and compliance regime. This approach is also in line with international approaches to regulating organic products.

Section B: Summary Impacts: Benefits and costs

Who are the main expected beneficiaries and what is the nature of the expected benefit?

The organic industry would receive the greatest benefits from a mandatory national standard. A single standard replacing a range of voluntary standards would provide them with certainty about what the Government considers to be organic processes. A mandatory standard would facilitate international trade as it would align better with our trading partners and also provide them with the certainty that New Zealand products meet a standard. This may reduce the number of extra requirements that need to be met for many export markets, and it would likely increase sales within New Zealand as consumers would feel more confident in purchasing organic products. While the organic industry would receive the greatest benefits, the benefit would not be evenly felt by all businesses. Some businesses will have a higher costs to benefits ratio than others.

Consumers would have the benefit of feeling more confident in knowing that the product they are paying a premium for is actually produced organically according to a government mandated minimum standard. A survey conducted by MPI in 2018 shows a large majority of consumers would be more likely to buy organic food if they had confidence organic products were checked for compliance with a standard.

Where do the costs fall?

A mandatory standard would also come with increased costs for the organic industry.

Verification:

Businesses would be required to be verified against the standard to ensure they are compliant. This verification would be done by an independent verifier. The cost of organic verification against private standards in New Zealand currently ranges from approximately \$350 per year for group verification (where verification systems and costs are shared amongst a group of businesses) to \$2,500 per year for individual verification for exports.

Given that many businesses already choose to undergo voluntary verification of compliance with private standards, these costs are incurred by most organic businesses, and will only be additional to those businesses that are not already voluntarily verified.

It is important to note that these costs will only apply to businesses that choose to make organic claims, and that consider it commercially beneficial to make those claims and be independently verified.

Cost recovery of Government services:

In addition, the Government would incur costs that may be cost recovered from industry. These costs include:

- developing, maintaining and implementing national organic standards;
- monitoring compliance of operators and approved third parties;
- negotiating trade arrangements for organic products; and
- enforcing the regime (except for prosecutions).

The proposed Act would enable these costs to be recovered through regulations. The most likely approach is a levy. In addition to the levy, there will likely be one-off

charges for activities such as reviewing third party decisions, charged at an hourly rate to the relevant body.

Cost to third parties (verifiers):

There will also be costs for third parties to become approved to verify under the legislation. The two main verifiers are already approved by MPI to be able to verify organic products for export, so these costs would only be additional to new verifiers. It is likely that these costs will be passed on to businesses as part of the cost of verification.

Cost to consumers:

Ultimately, it is possible that the costs to the industry will be passed on to the consumer, resulting in higher prices for organic products.

What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?

There is a risk that legitimate businesses that are currently making organic claims but are not certified to a standard will decide not to come under the proposed regime by either no longer making organic claims or using different terms than “organic”. This could ultimately reduce the choice in organic products for consumers. We do not consider this risk significant as products could still be sold, just no longer labelled as organic.

In addition, if costs to government are recovered, then the number of businesses verified under the proposed regime would have an impact on the cost to each business. For example, if the overall costs were recovered from a greater number of businesses, the costs to each businesses would be low. These risks will be mitigated partly by the additional benefits that will accrue from a government mandated standard, encouraging businesses to continue making claims, and partly through a proportional approach to allocation of costs and exemptions for some businesses where the cost is unreasonably disproportionate to the benefits.

There is a risk that by creating standards for some types of organic products (food products) but not all initially (such as cosmetic and beauty products), it will not increase clarity for consumers. This risk is mitigated by proposing a wide scope for the primary legislation so that further standards could be developed if considered appropriate.

New Zealand and Australia are parties to the Trans-Tasman Mutual Recognition Arrangement. The terms of this arrangement mean that products meeting Australian regulatory requirements for sale can be sold in New Zealand, and vice versa. Under this arrangement, organic products can be imported from Australia and sold in New Zealand as long as they meet domestic Australian laws, including the Competition and Consumer Act 2010 that regulates misleading, false or deceptive claims. Australia does not currently have a mandatory domestic standard for organic products. If New Zealand adopts a new organic regime, products that are legally able to be sold in Australia would still be able to be sold in New Zealand, even if they do not meet the organic standard. There is a risk that products that do not meet the New Zealand standard could be imported from Australia and sold as organic in New Zealand.

There is also a risk that developing mandatory standards will not facilitate market access any further than the current voluntary regime. This would mean that the industry has increased costs to continue marketing as organic, but there are few benefits gained. However, we consider this a low risk because markets have been requesting similar regimes to their own in order to demonstrate equivalent outcomes.

Section C: Evidence certainty and quality assurance

Agency rating of evidence certainty?

We are confident in the information we have received from within MPI. This includes information from consultation, information on consumers' views on organic food and beverage products, information on market access and trade issues and likely cost per business for certification and for the processes that would be cost recovered.

We are confident about the number of voluntarily certified organic businesses but we have no detailed information on those businesses, such as the size of the businesses and product type. There are no data on uncertified businesses except some estimated values of the total sales from this group in an industry annual report. Assumptions have therefore been made in order to estimate the impacts.

To be completed by quality assurers:

Quality Assurance Reviewing Agency:

Ministry for Primary Industries

Quality Assurance Assessment:

The MPI Regulatory Impact Analysis Panel has reviewed the Regulatory Impact Statement "Organic production and processes", produced by MPI. The review panel considers that the information and analysis summarised in the Regulatory Impact Statement meets the quality assurance criteria.

Reviewer Comments and Recommendations:

The Panel notes that during the development of any new legislation it will be good legislative practice to consider different options to achieve verification, compliance, enforcement, etc. The panel expects further detail on at least some of these aspects will be included in subsequent Regulatory Impact Statements that support the regulations developed under the proposed legislation.

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Impact Statement: Organic Production and Processes

Section 1: General information

| |
|--|
| Purpose |
| <p>MPI is solely responsible for the analysis and advice set out in this Regulatory Impact Assessment (RIA), except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions by Cabinet to proceed with a proposed new legislative regime for organic products.</p> <p>This RIA presents a summary of the analysis of a proposal to create a new Act and associated regulations in order to implement a national standard for organic products. The proposals include providing a power to set technical standards that organic products must meet, and setting a compliance regime to ensure that standard is met. The proposal addresses a number of opportunities that have been identified.</p> |
| Key Limitations or Constraints on Analysis |
| <p>New Zealand's organic industry is very diverse in terms of products, the size of organic producers and manufacturers, and the range of motivations businesses have for choosing an organic production method.</p> <p>Due to the inherent diversity of the sector and the lack of a regulatory definition for what constitutes 'organic', it is difficult to gather information about all organic businesses. While we have information on businesses that are currently voluntarily certified, there is no official data regarding the number of organic businesses that are operating without certification. This includes the size of these businesses, the type of organic products and who their customers are. The origin, quantity and value of organic products imported into New Zealand is also difficult to assess because the organic status of a product is not captured by Customs tariff codes.</p> <p>Due to the data being incomplete, assumptions have been made in order to estimate the impacts, particularly the monetary impacts, on stakeholders. These assumptions are based on data that we have from industry reports on the sector. The assumptions have been outlined in the RIS, and we have presented data as ranges to reflect the sensitivity of the assumptions.</p> <p>We carried out public consultation including 10 public meetings that provided options around whether a standard should be voluntary or mandatory, and around how businesses could be verified against the standard. The majority of submissions were from currently certified organic businesses so may not provide a comprehensive view of how the range of businesses within the organics sector could be affected.</p> |
| Responsible Manager (signature and date): |
| <p>Ruth Shinoda Director, Food and Regulatory Policy Policy and Trade Ministry for Primary Industries / /2018</p> |

Section 2: Problem definition and objectives

2.1 What is the context within which action is proposed?

The term 'organic' is used to describe products made or grown using farming or production methods that follow some key principles, such as production without the routine use of artificial chemicals or genetically-modified organisms. There is also an emphasis on animal welfare and sustainable practices.

The use of organic production methods is becoming more common worldwide. According to a recent market report¹, between 2001 and 2016, the total value of organic food and beverages sold globally has increased by about 330%, reaching NZ\$124 billion in 2016. By 2017, New Zealand's organic sector was worth approximately \$600 million, a 30% increase from 2015, comprising \$245 million of organic products sold domestically and \$355 million in exports. Horticulture, meat/dairy and wine are the major sectors exporting organic products overseas, accounting for 38%, 28% and 13% of total organic exports respectively. Organic cosmetic and beauty products were valued at \$28 million (8%).

Because organic products are defined by the process that is used to produce them, it is not easy to differentiate organically produced products from non-organic products. A key challenge for the organic sector is to demonstrate that the products it sells are authentic. To help with this, a number of private standards have been developed by different organisations, for example:

- AsureQuality Organic Standard - private standards developed and owned by AsureQuality;
- BioGro Organic Standards - private standards developed and owned by BioGro,
- IFOAM Norms - International guideline developed by the International Federation of Organic Agriculture Movements (IFOAM); and
- Demeter - combines biodynamic methods and key organic principles.

If a business chooses to meet one of these standards, it can become 'certified' as compliant. This involves an independent third party acting as an external auditor and assessing whether the methods used by a business are compliant with a standard. There are several private organisations that provide third party certification in New Zealand. In some cases, businesses choose to 'self-certify', which means they assess their own compliance with a private standard.

Te Waka Kai Ora (the National Māori Organic Authority) also runs an indigenous food verification system based on tikanga Māori. Although Hua Parakore is not a standard, the system has values that combine mātauranga Māori and key organic principles.

Of the world's top 25 organic markets (by value), all but New Zealand (ranked in 2015 at number 23) and Australia have developed mandatory domestic organic standards. This includes North America and Europe, which generate 90% of international sales, and other key markets for organic products (such as Japan, South Korea and China). New Zealand is the only market of the top 25 without mandatory export standards.

All of these regulated markets internationally have strict requirements for organic products that are imported. Only products that are certified to a standard recognised or deemed as equivalent can be sold as organic.

Internationally, standards cover a broad range of organic products, including:

- food, plant and animal products;
- aquaculture;

¹ Organics Aotearoa New Zealand, 2018

- products destined for animal consumption;
- fibres wood and paper;
- textile products; and
- body care products and cosmetics.

To enable exporters to provide assurances to these export markets, MPI administers the Official Organic Assurance Programme (OOAP). To participate, exporters must register with MPI and be verified by a recognised agency against the OOAP technical rules and/or any relevant market specific requirements. In return, MPI issues an official assurance to confirm that the consignments comply with the importing country's requirements. This process is an administrative programme and is not supported by legislation.

2.2 What regulatory system, or systems, are already in place?

Organic products must comply with a range of overarching laws that equally apply to non-organic products, such as the Fair Trading Act 1986, which aims to prevent false and misleading claims. There is no specific law that applies to organic products produced for domestic consumption or export in New Zealand.

Table 1: Overview of current regimes relating to organic products

| Legislation | Key elements for current organic framework |
|---------------------------------|--|
| Fair Trading Act 1986 | <p>One of the purposes of the Fair Trading Act is to contribute to a trading environment in which the interests of consumers are protected, businesses compete effectively, and consumers and businesses participate confidently. The Fair Trading Act requires that claims and labels must be true, not misleading, and able to be substantiated.</p> <p>The term 'organic' is regulated under the Fair Trading Act but is not specifically defined.</p> <p>Section 27 of the Fair Trading Act enables the development of consumer information standards. No consumer information standards have been promulgated relating to organic products to date.</p> |
| The Food Act 2014 | <p>The Food Act requires that food sold in New Zealand must be safe and suitable for sale. Organically produced food is covered under this legislation in the same way as all other food, in that it must be safe, and the end product must be suitable for its intended use.</p> <p>Given that organic claims relate to production methods rather than to any particular characteristic that could be tested for in the final product, 'suitability' in the Food Act does not extend to organic production.</p> |
| Animal Products Act 1999 | <p>The Animal Products Act (APA) regulates animal products and materials for domestic consumption and to facilitate international trade by providing assurance.</p> <p>The APA provides for the regulation of the production of organic animal products for domestic and export purposes under that Act. There are export requirements for organic animal products to the European Union under the APA, however this provision has not yet been used for organic animal products more broadly.</p> |
| Wine Act 2003 | <p>The Wine Act regulates all wine which is produced for reward or export.</p> <p>The Wine Act provides for the regulation of the production of organic wine for domestic and export purposes under that Act, however this provision</p> |

| | |
|---|--|
| | has not yet been used to ensure whether claimed organic wine aligns with organic production methods. |
| Standards and Accreditation Act 2015 | <p>Under the Standards and Accreditation Act, New Zealand standards can be developed, that can then be referenced in certain legislation as legally required, or acceptable means of compliance.</p> <p>The Standard 8410 – Organic Production was developed by Standards New Zealand in 2003. However, this standard has not been adopted under any legislation, or had any uptake from businesses or certification bodies.</p> <p>The standard is not accredited by the International Federation of Organic Agricultural Movements (IFOAM) and has not been recognised as providing equivalent outcomes by our trading partners.</p> |

2.3 What is the policy problem or opportunity?

Organic claims are credence claims, which consumers cannot independently verify for themselves. Because of the difficulty consumers have in differentiating organic products from non-organic products, certification systems that reflect organic production are important tools for all participants in the system, and are widely used internationally by all of our key trading partners.

As discussed in the section above, businesses currently rely on voluntary, private certification agencies to certify their organic products, boosted by the non-legislative MPI OOAP supporting some businesses that trade their products overseas.

While this system has worked until now, there are issues emerging with the current voluntary approach. As a result, there are opportunities to improve our system to ensure that:

- New Zealand is effective at facilitating trade in organic products;
- consumers have confidence in their organic product purchase decisions; and
- businesses have certainty to invest and innovate in organic products.

Opportunity: New Zealand is effective at facilitating trade in organic products

There is significant value for New Zealand in the export of organic produce. In the year ended June 2017, the average organic premium achieved by New Zealand organic exporters to the United States was 53% over conventionally produced food. Similarly, the premium achieved by New Zealand organic exporters in the European market is 47% over conventionally produced food.

Approximately 60% of our organic exports are managed through MPI's OOAP. The value of exports facilitated through this programme was NZ\$123 million in the year ending June 2018. In 2018, most exports under the programme went to either the United States (NZ\$47 million) or the European Union (NZ\$70 million).

The OOAP as a basis for trade negotiations with key markets has been successful in providing access to key export markets. However, future success of this administrative solution may not be guaranteed. New Zealand is now one of only two countries in the top 25 organic markets exporting organic produce that is not controlled through domestic legislation or a mandated standard and the only one of those 25 markets that does not have a mandatory standard for exports.

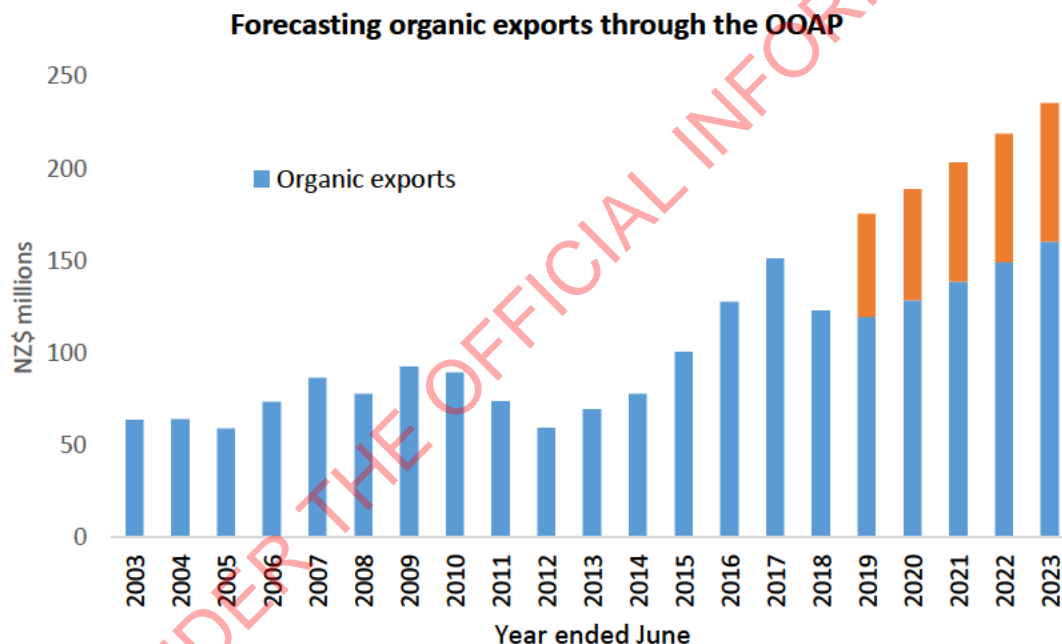
Our export markets are increasingly requesting comparable organics regimes from trading partners to demonstrate similar outcomes to their own regimes are achieved. For example, the new European Union rules require that from 2026, imports of organic products either

have to be certified to its rules or be imported from a third country recognised by the European Union as equivalent under a trade agreement.

It is difficult to demonstrate equivalent outcomes when our system is voluntary, while other trading partners' organic production is controlled through legislation, currently putting New Zealand in a weaker position when entering negotiations with our trading partners.

The risks to New Zealand's reputation in the event of failure of our organic export claims are high. The graph below shows the at-risk export revenue (the orange sections of the 2019-2023 estimates) is approximately \$16 million per annum if market access for New Zealand organic products were lost to the United States, and those products had to enter the market as conventional products. For the European Union, the total potential loss in value is \$22 million per annum. This loss is estimated based on the assumption that those exported products would not go to another market (i.e. loss of organic premium), however, as the organics sector is growing worldwide it is possible that some exports would be redirected to other markets.

Graph 1: Forecast of potential losses, should market access to the United States and European Union be lost for organic products exported through the OOAP



More widely, failure to provide effective assurance on our organic claims has the potential to also affect New Zealand's wider reputation as a competent authority that has oversight over its industries. Trading partners may lose confidence in claims on other products.

Opportunity: Consumers have confidence in their organic product purchase decisions

There is an opportunity to increase consumer confidence in organic products in New Zealand. It is not clear to consumers what the differences are between the current voluntary set of organics standards and, more broadly, which assurances are reliable. The Organics Aotearoa New Zealand (OANZ) 2018 Market Report indicated that the range of private industry standards is leading to consumer confusion and uncertainty about what constitutes organic products.

In addition, a consumer survey commissioned by MPI for this analysis showed that approximately one quarter of people who do not currently purchase organic food and beverage products feel they cannot rely on the sellers' claims that they are organic.

Likewise, approximately one third of people who do purchase organic food and beverage products would buy more if they felt they could rely on the sellers' claims. Consumers who currently buy organic food and beverages indicated that they would be willing to pay 5-10% more for improved clarity.

Protection of consumer rights to have confidence in the products they are purchasing is a core feature and principle underpinning New Zealand's trading system. Organic products usually attract a premium price so it is important that consumers are confident that they are getting what they pay for.

Opportunity: Businesses have certainty to invest and innovate in organic products

There is an opportunity to provide organic businesses with certainty to invest.

Certainty that production methods are indeed 'organic'

Under the current regime, claims must not be false or misleading. However, because there is no single definition of what 'organic' means, it can be difficult for businesses to assess whether their production methods and activities would be deemed as 'organic'.

The variety of private and public standards available sometimes have conflicting requirements. For example, some allow the use of antibiotics, while others do not. In addition, some people follow 'organic' practices that match their own views on what organic means as opposed to following the requirements of a standard.

Providing certainty to organic businesses (including importers) about what the New Zealand Government considers as organic would provide them with the certainty that if they meet the standard, their claims would be considered to be accurate by consumers, competitors and authorities, and therefore the confidence to invest in practices that meet the standard.

Certainty about what records are acceptable to substantiate organic claims

Under the current consumer protection regime, businesses making organic claims must also be able to substantiate their claims with facts and credible sources. However, there are no rules prescribing what type of processes or records would be acceptable to demonstrate compliance.

The Commerce Commission has investigated three cases of products being fraudulently sold as 'organic'. Previous prosecutions have not resulted in a case law definition of 'organic' as the defendants have either pleaded guilty, or the judgement was made in relation to whether a product was certified organic or not (i.e. certified to a private standard).

Although the Commerce Commission suggests that certification is a way of demonstrating compliance, it is unclear which certification scheme or what other practices could be deemed as acceptable. For example, a poultry farmer may only keep invoices for farming inputs, while another might also have exhaustive written procedures, record when veterinary treatments are administered, and be checked regularly by a third party.

This makes it difficult for a business to know what an acceptable process for organic is, and the kind of records and systems would stand up to scrutiny and be sufficient to demonstrate compliance.

2.4 Are there any constraints on the scope for decision making?

There are no significant constraints on the scope for decision making.

2.5 What do stakeholders think?

Stakeholders were consulted from 14 May – 11 June 2018. Consultation was widely publicised through the MPI website, press releases, social media, newspaper adverts, and emails, with the assistance of representative organisations and interested parties that forwarded the information on to their members. Meetings were held with:

- key representative groups (Food and Beverage Forum, Dairy Products Safety Advisory Council, OANZ, Organic Exporters Association New Zealand);
- Te Waka Kai Ora and OrganicFarmNZ; and
- public meetings in 10 locations across the country (Wellington, Dunedin, Christchurch, New Plymouth, Whangarei, Auckland, Napier, Hamilton, Nelson and Tauranga).

208 submissions were received from the following groups:

| Submitter type | Number |
|---------------------------------------|--------|
| Small organic businesses | 76 |
| Large organic businesses | 63 |
| Consumers | 40 |
| Industry and consumer representatives | 23 |
| Consultants | 11 |
| Retailers | 6 |
| Organic certification bodies | 5 |
| Other groups | 13 |

Note: business size estimation based on the following criteria:

- “small” businesses: 5 FTE or less, and/or local sales (gate sales, self-identified “small” businesses)
- “large” business: 6+ FTE and/or exporters

Note: The numbers above add up to more than the total of 208 submissions because some submitters identified as being in more than one category. More than half of the submissions came from businesses that are currently certified.

As part of that consultation, stakeholders were asked about their thoughts on the current regime for organics and anything that needed to change.

Of the submissions, 177 (85%) supported a change in the way organics are currently regulated, saying that the current regime lacks clarity, causes confusion amongst consumers and producers and is hindering the growth of the organic industry.

Submitters who supported a change thought that increasing consumer confidence (132) and supporting trade (90) were key outcomes of a new regime. Levelling the playing field (45) and growing the sector were also identified as being key objectives.

However, 64% of submitters also stated support for a flexible regime that caters for businesses of all sizes, particularly to reduce compliance costs for small businesses.

Very few submitters (3%) supported the status quo as they considered that the current regime is adequate and the costs would be unjustified. A number of submissions identified the introduction of new costs and administrative requirements as key negative impacts of implementing a new regime.

12% of submitters did not comment on whether they supported a change in the way organics are regulated or not.

The consultation document was emailed to the Federation of Māori Authorities and Te Waka Kai Ora. We received one written submission from a Māori representative group –

The Māori Organics Authority, Te Waka Kai Ora. This organisation oversees an indigenous verification and validation system (Hua Parakore) for mahinga kai, which places importance on philosophies of tradition, environmental and cultural sustainability, and has overlapping values with organics. The Authority believes that their values cannot be regulated.

Section 3: Options identification - approach

3.1 What options are available to address the problem?

The following options were considered for government intervention:

- a) A voluntary national standard
- b) A mandatory national standard for some organic businesses only
- c) A mandatory national standard for all organic businesses

Option a: A voluntary national standard

This option would be similar to the status quo in that it would remain voluntary for businesses that make organic claims to meet a standard or to become certified. Existing private and public standards would continue to exist and be used. Organic claims would continue to be regulated under the Fair Trading Act.

Government intervention would consist of encouraging businesses to follow an existing organic standard by ensuring standards are up to date, readily available to domestic producers, and internationally recognised. For example, the current voluntary public organic standard (New Zealand Standard 8410 – Organic Production) could be reviewed and updated to align with current practices and foreign market requirements. The fee businesses currently have to pay to access this standard could also be removed to encourage its uptake.

The Government would also promote the benefits of existing private and public standards, as well as independent certification. Education campaigns would be run to improve consumers and businesses understanding of organic claims and practices, as well as the meaning of private certification schemes and public standards.

This option would provide increased clarity about what the Government considers to be acceptable organic practices. As using the standard would remain optional, businesses would continue to be able to choose whether to be certified against an organic standard or not, and which organic standard they wanted to be certified against. This would continue to allow businesses to make organic product claims, without having to be certified.

Option b: A mandatory national standard for some organic businesses

Under this option, a mandatory national organic standard would be developed. Mandatory would mean that relevant businesses would be required to meet the standard if they wished to market products as organic. Under this option, while relevant organic businesses would be required to follow this standard, carve outs could be created for some businesses. For example, larger businesses or businesses not selling direct to consumers would be required to meet the standard, but it could be voluntary for small or low risk businesses. Care would need to be taken in determining who the standard should and should not be mandatory for.

The standard would be set in legislation to ensure it was mandatory for those who fell within the scope. This would also mean that a compliance regime would need to be set in legislation, which would require those businesses that would fall within the scope of the

national organic standard to prove that they comply with the standard in order to be able to make organic claims.

Under this option, the Government would have greater oversight over the sector, and there would be increased clarity about what the Government considers acceptable organic practices. There would also be increased certainty for consumers that organic products meet a standard.

Option c: A mandatory national standard for all organic businesses

This option is similar to option b in all respects, except that all organic businesses would be required to meet a national organic standard. This would mean that any organic products falling under the scope of the national standard would need to follow the same production methods and use similar inputs set by the standard.

This approach would be in line with international approaches to managing organic products. The standard would be set in legislation to ensure it was mandatory, and would also have an associated compliance regime to ensure that all businesses met the standard.

Under this option, the Government would have greater oversight over the sector, and there would be increased clarity about what the Government considers acceptable organic practices. There would also be increased certainty for consumers that organic products meet a standard. Businesses could only make organic claims if they were certified to this national standard.

3.2 What criteria, in addition to monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

- Is the option effective at providing certainty for consumers?
- Is the option effective at providing certainty and is easy for organic businesses to understand and implement?
- Is the option effective at facilitating trade in organic products?
- Is the option simple for government to administer?

3.3 What other options have been ruled out of scope, or not considered, and why?

Other options that were considered were:

1. non-regulatory options, such as improved education for consumers or a common code of practice established by industry; and
2. an export-only standard that would set mandatory requirement for all products being exported, but would not apply to products being sold within New Zealand.

These options were discarded early on as it was considered they would be unlikely to meet the objectives. Non-regulatory options would not provide the certainty and oversight needed to facilitate trade. An export-only standard would not increase domestic consumer confidence or provide business certainty within New Zealand, and would not facilitate trade, particularly as New Zealand would still be an outlier by not having a standard for its domestic market.

Section 4: Impact Analysis

Marginal impact: How does each of the options identified at section 3.1 compare with the counterfactual, under each of the criteria set out in section 3.2?

Options for approach

| Criterion | Option a: Encourage the uptake of the current national voluntary standard | Option b: A mandatory standard for some organic businesses | Option c: A mandatory standard for all organic businesses |
|--|---|--|--|
| Provides certainty for consumers | 0 Would not increase certainty for consumers compared to the status quo. Organic claims would continue to reflect inconsistent production methods, as following a standard would remain voluntary. | + | ++ Would provide increased certainty for consumers compared to the status quo as all products labelled as organic would meet the same standard. |
| Provides certainty and easy for organic businesses to understand and implement | 0 May increase certainty for businesses in understanding what the government considers as organic production methods. However, it would remain optional for businesses to meet a standard, and there would continue to be a variety of public and private standards to choose from. It would remain unclear what could be considered as 'organic' if the product was not meeting any standard. A single business may continue to have to comply with several private and export requirements. | + | ++ Would provide increased clarity and certainty for businesses, compared to the status quo. Would be clear and easy for businesses to understand what the Government considers as organic, as all businesses would be required to meet the same standard. |

| | | | |
|---------------------------------------|---|---|---|
| Facilitates trade in organic products | <p style="text-align: center;">0</p> <p>Existing regime is voluntary so this would be no change from the current status. However, key trading partners are increasingly requiring countries they trade with to have mandatory domestic regulations for organics. Using voluntary organic standards could hinder trade in the future, and possibly stop New Zealand from maintaining existing market access.</p> | <p style="text-align: center;">0</p> <p>Imposing requirements on some businesses would increase government oversight of the sector, and might be sufficient to retain existing trade arrangements, which is an improvement from the status quo. However, it is unlikely to put New Zealand in a better position to negotiate new market access as we would still not have oversight of all organic claims and products in New Zealand.</p> | <p style="text-align: center;">++</p> <p>Would put New Zealand in a better position to negotiate new and more secure market access, and improve New Zealand's reputation as an organic producer as a whole – creating a common platform for the development of the industry. Key trading partners have indicated having domestic regulation for organics could support negotiation for more secure market access.</p> |
| Simple for government to administer | <p style="text-align: center;">-</p> <p>Would require a small amount of resource from government to update the voluntary standard and to promote its use until uptake was adequate.</p> | <p style="text-align: center;">--</p> <p>Would require resource from government to develop and maintain a standard and compliance regime. However, many businesses that would be captured in scope likely already interact with government through other regimes and so additional ongoing resource would be low.</p> | <p style="text-align: center;">--</p> <p>Would require resource from government to develop and maintain a standard and compliance regime. However, many businesses that would be captured in scope likely already interact with government through other regimes and so additional ongoing resource would be low.</p> |
| Overall assessment | <p>Overall, while this standard already exists, it is not used, so this option would result in the addition of another voluntary standard to the already existing range of standards that are used. This would not improve on the status quo and may create more uncertainty not less. In addition, it would likely hinder negotiation with trading partners in the future.</p> <p>Only 3% of submitters supported encouraging the uptake of the current national voluntary standard.</p> | <p>This option would result in an improvement in the status quo, but there would still be issues to manage associated with who must comply and who does not have to, and ensuring the system aligned with international expectations.</p> <p>0.5% of submitters supported a mandatory standard for some organic businesses, suggesting that a mandatory standard could be useful for larger growers; but was not necessary for smaller growers.</p> | <p>This option is preferred, as for almost all criteria, it is a significant improvement on the existing system. This option will also only have a marginal further impact on costs to government and businesses in comparison to option 'b', but will result in significantly greater benefits.</p> <p>158 (76%) submitters supported the introduction of a mandatory standard for all on the basis that, despite risks to reduce innovation and introduce new costs, it would</p> |

| | | | |
|--|--|--|--|
| | | | best increase consumer confidence and level the playing field. |
|--|--|--|--|

Key:

- ++ much better than doing nothing/the status quo
- + better than doing nothing/the status quo
- 0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

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Section 5: Conclusions

5.1 What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

Overall, the preferred option is to develop a mandatory standard that applies to all organic businesses. This option is preferred because it will provide the greatest clarity about what is considered organic, and certainty to businesses and consumers about the standards organic products need to meet. It will be practical for stakeholders to implement as it will apply to all organic businesses, and it is also in line with international regimes for managing organics and so will facilitate trade.

76% of submitters supported the introduction of a mandatory standard for all. Most submitters supporting this option were certified businesses and industry representatives. It was felt that, despite risks to reduce innovation and introduce costs, this option would best increase consumer confidence and facilitate the trade of organic products.

As the current system in New Zealand has worked to date, the proposal for a new regime is based on the current system. However, in making compliance with the standard mandatory, it would incorporate the aspects of the current system (such as verification by a third party) into legislation.

Section 6: Legislative vehicle

6.1 What options are available to address the problem?

To introduce our preferred option, a mandatory standard, a legislative vehicle is required. An analysis of existing legislation concluded that a mandatory organic standard does not easily fit within any one existing law. While existing legislation could be used, with modifications for a domestic standard, the key gap remains the ability to use the standard to support the organic export industry by facilitating assurances to trading partners. It is therefore recommended that new legislation could be created.

Creating a new power to make organic standards in regulation

To ensure the new legislation is future-proofed and can cover all types of organic products, it is proposed that the primary legislation sets the framework for the regime, and the detail of any organic standard is set in regulations. As such, the primary legislation will create broad powers for regulation-making. The power will be exercised by the relevant Minister, who can recommend the making of standards (through regulations) to the Governor-General.

This means that the development of standards will be enabled for any product for which an organic claim can be made. This covers products that are produced in or imported into New Zealand and are intended for sale in New Zealand, or are New Zealand products to be exported overseas, and applies to any process involved in producing those products. Standards will also have to meet the purpose of the Act. While the power to develop organic standards will be broad, standards will need to be set for products within the scope of the Act and cannot be ultra vires.

There is a risk that decisions on developing organic standards could be influenced by international processes, market requests, or by parts of the organic industry within New Zealand, and in this case, may be abused for financial gain. However, these risks are mitigated by the process for developing standards. The Minister must have consulted with stakeholders they consider will be affected. Standards will also be subject to the Parliamentary checks and balances for regulations including Cabinet decision making, and the Regulations Review Committee.

We do not anticipate that the standards would change frequently. This is because consumers, businesses and overseas markets need the certainty that a mandatory organic

standard provides. However, suitable flexibility will be built into the legislative design, for example, the use of Notices for very technical details.

Other legislation that was considered is outlined below.

The Fair Trading Act 1986

- X No clear direction for developing a compliance and assurance regime,
- X Organic standard at odds with retrospective nature of the regime,
- X Cannot be used for export assurance purposes,
- X Would require significant amendments to the scope and nature of the Act.

The purpose of the Fair Trading Act is to contribute to a trading environment in which the interests of consumers are protected, businesses compete effectively, and consumers and businesses participate confidently. Organic claims are regulated under the Fair Trading Act, although 'organic' is not specifically defined.

Section 27 of the Fair Trading Act enables the development of consumer information standards that require the disclosure of information relating to goods, and specify how that information must be obtained or verified before it is disclosed. The onus is on the business to ensure products sold meet the standard.

There is a lack of requirement in the Fair Trading Act for traders to keep records of the basis for their claims. There is no further direction on what the extent of verification may be, who is empowered to deliver verification services and what the duties of verifying agencies are. There are also no enforcement provisions that would support any detailed verification requirements, and the regime is overseen by the Commerce Commission, which does not have expertise in verification regimes or organics. In addition, to date the regime has not been used to verify products prior to them using claims, rather issues have been investigated following complaints. Verification prior to marketing may be at odds with how the Fair Trading Act regime was intended to be used.

The standards produced under the Fair Trading Act so far have been for clothing labelling, information relating to used motor vehicles and water efficiency labelling. No consumer information standards have been promulgated relating to organic products to date. It is questionable whether these standards could be used to specify the technical process requirements for organic production.

The Fair Trading Act is limited to the supply of goods and services within New Zealand. Facilitation of access to our export markets is not enabled under the Act, and is not part of the purpose of the legislation. Any standard created under the Fair Trading Act may therefore not be able to be easily used for export assurance purposes.

In summary, while it is possible that the Fair Trading Act could be used to control labelling of domestic organic product, it is not designed to provide the kind of assurance regime that is envisaged to support the organic standards, either for domestic or exported products.

Modification of the Fair Trading Act to include additional assurance provisions is possible, but would likely require a significant rethink of the scope and nature of that Act, especially if it is to bring in export controls and assurance requirements.

Food Act 2014

- X Is not consistent with the purpose of the Act,
- X Can only be used for food products.

This Food Act 2014 provides that all food for sale must be safe and suitable for its intended use. Organically produced food is covered under this legislation in the same way as all other food, in that it must be safe, and the end product must be suitable for its intended use.

Organic claims relate to production methods, rather than to any particular characteristic that could be tested for or identified on the final product. However, 'suitability' relates to objective matters about the condition of a food product, including its composition, labelling and identification – not the processes or philosophy by which it was produced. As a result, food standards cannot be prepared that control the production of organic food under the Act.

In addition, the Food Act does not cover non-food products.

Animal Products Act 1999

- X** Can only be used for animal products.

The Animal Products Act provides for clear processes to regulate the production of organic animal products for domestic and export purposes. Under the Act, standards can be produced that ensure that animal products produced or processed for reward or trade, or for export from New Zealand are fit for their intended purpose, including standards for the production, processing, and preparation of animal material or products and the identification and labelling of animal material or products or associated things. In producing these standards, the Minister can have regard to facilitation of trade access, or maintaining consistency with other international standards, or to any other matter.

While this would allow the development of organic standards for animal products, other types of organic products cannot be regulated under this legislation.

Wine Act 2003

- X** Can only be used for wine.

The Wine Act provides for processes to regulate the production of organic wine for domestic and export purposes. Section 33 of the Wine Act empowers the creation of standards in relation to wine identity and label integrity, including the requirements that must be met for the information to be specified. As with the Animal Products Act, the Minister can consider matters such as facilitation of trade access, and consistency between other internationally accepted standards and international obligations.

This would allow for the development of organic standards for wine, but not other types of organic products.

Other legislation

- X** Cannot be used to specify production methods.

Other legislation may relate to a broad range of products that could be considered organic but the purpose and scope of the legislation does not relate to or allow for the development of standards for organic production methods.

Section 7: Conclusions

7.1 What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

The preferred option is to develop a new legislative regime for organics. This would allow all requirements for organic products to be managed under one regime, easing understanding and implementation for consumers, businesses, trading partners and Government. This option would also allow the regime to be future-proofed, which is important in a growing industry. This option best meets the objectives set for improved consumer confidence, facilitation of trade and certainty for organic businesses.

7.2 Summary table of costs and benefits of the preferred approach

| Affected parties (identify) | Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks | Impact \$m present value, for monetised impacts; high, medium or low for non-monetised impacts | Evidence certainty (High, medium or low) |
|--------------------------------|--|---|---|
|--------------------------------|--|---|---|

Additional costs of proposed approach, compared to taking no action

| Regulated parties | To ensure compliance with a mandatory standard, organic businesses would need to be checked against the standard. This will be a new ongoing cost to businesses that are not currently certified as organic. However for the majority of organic businesses, this will not be a change to current process/costs. | Current costs of organic verification in New Zealand range from \$350 for group certification to \$2,500 for export per year. This cost may increase or decrease but this cannot be estimated until the regulations setting out the verification process are developed. | Medium |
|-------------------|--|---|--------|
| | In addition to the costs of verification, all businesses that are currently meeting a private organic standard may have costs of changes to their practice to meet the new national standard. | These costs will be quantified when the standards are developed, and can take into account how different the technical requirements are from those currently being followed. | Low |
| | The standard will be consulted on, and further analysis on impacts will be undertaken during the regulation making process. | | |
| | MPI could cost recover services related to the development and implementation of the standard and compliance activities. | These costs are likely to be recovered by a levy, which will be fully consulted and set through regulation. The levy would apply to all businesses and may be designed to be proportional to the size of the operator to manage cost impact. | Medium |

| | | | |
|----------------------------|---|---|--------|
| | One-off services such as issuing export assurances and assessing case-by-case exemptions would be charged on an hourly basis by the relevant body. | One-off charges would be charged at an hourly rate, consistent with other regimes. These costs are unlikely to change for existing exporters but may place additional cost on domestic producers. | High |
| Regulators | Administering departments would need to develop and administer standards, approve third parties to become verifiers, review their decisions, manage information related to the legislation, and ensure overall compliance with the regime. Many of these services could be cost recovered and details around this will be decided when standards are developed. | Implementation could be cost recovered to reduce ongoing financial impact on government. Administering departments will bear the costs of prosecution actions. | Low |
| Other parties | Third parties that wish to become verifiers under the regime would need to meet the requirements to be approved by MPI. However they are likely to recover these costs through the fees charged to businesses. Importers and retailers of organic products may not be captured under the scope of the Act but may be impacted if there is a decrease in products that can be sold as organic in New Zealand. | | Medium |
| Non-monetised costs | No significant non-monetised costs. | | |

| Expected benefits of proposed approach, compared to taking no action | | |
|---|---|--------|
| Regulated parties | The proposals would result in many benefits for organic businesses, including: <ul style="list-style-type: none"> streamlined organic requirements; greater availability for inputs to organic processes; and reduced liability risks for businesses making organic claims. Results of the consumer survey commissioned by MPI also suggest that businesses may get: | Medium |

| | | |
|------------------------|--|--------|
| | <ul style="list-style-type: none"> increased sales; a quarter of people who currently don't buy organic produce willing to buy organic products if they can trust the claims made, and a third of people who currently do buy organic products willing to buy more if they can trust the claims made; and increased prices for organic products; consumers willing to pay up to 10% more if they can trust the products they are buying. <p>In addition to the above benefits, organic exporters are also likely to benefit from:</p> <ul style="list-style-type: none"> more secure market access; simplified export requirements and reduced compliance costs; and international increased confidence in New Zealand organic products. <p>Businesses can choose whether or not to make organic claims, and therefore will only do it if they will make money from it.</p> | |
| Regulators | <p>Government will have:</p> <ul style="list-style-type: none"> better oversight over the organics sector; and a better position to be able to negotiate trade arrangements. | Medium |
| Other parties | <p>The proposed regime would have multiple benefits for third parties, including:</p> <ul style="list-style-type: none"> increased demand for verification services; streamlined processes and technical requirements; reduced costs associated with foreign certification; and reduced costs associated with the maintenance of private standards. | Medium |
| Non-monetised benefits | No significant non-monetised benefits. | |

7.3 What other impacts is this approach likely to have?

The impacts of a new regime for organics are difficult to quantify for a number of reasons. Firstly, given that the current system is voluntary, we do not know how many uncertified organic businesses are operating, and this group will feel the greatest impact. In addition, as businesses will have the choice to label as organic and therefore comply with the standard or not label as organic, we cannot estimate the overall impact. This section therefore discusses the costs and benefits of the proposed approach on each of the major players in the system, giving monetised impacts where these are available.

Impacts on organic businesses

There are currently just over 1670 certified organic operations in New Zealand, according to the OANZ 2018 Market Report. Around 200 of those are certified through group certification, and the rest individual certification. We do not know how many uncertified organic businesses are operating in New Zealand, however the 2018 Market Report estimates that the value of uncertified organic products is at least \$104 million, one sixth of the total market. If total sales is proportional to operators, this means that there may be an additional 300 operators that are uncertified. These businesses will need to meet the organics standard and be verified against it in order to continue to market as organic.

There is a risk that businesses may choose not to become verified against the national standard and use terms other than 'organic' when marketing their products or services.

Given the small size of the organics industry, this will mean that if Government cost recovers its activities, the share of costs to those in the regime may be spread across a smaller number of operators and may be higher.

Organic businesses that are currently uncertified but that wish to continue making organic claims would also need to:

- plan for conversion;
- develop record keeping systems to support their claims;
- create systems in accordance with the new requirements; and
- create contingency plans for when recourse to conventional solutions is not a justifiable option (for example, organic farmers in Southland are expected to have organic feed available to cope with weather events like snow).

There are currently a range of private standards for organics that are managed by private organisations, including Te Waka Kai Ora. The intent is to allow these standards to continue to be used if businesses choose to meet standards over and above the national organic standards (provided they still meet the requirements of the national organic standards). This would allow private certifiers to continue to use their own standards, and businesses to continue to market points of difference.

Impacts on imports

Adopting a mandatory domestic standard would require all imported organic products to meet New Zealand's standard or a standard we recognise as being equivalent, giving importers certainty that the products they market are considered organic in New Zealand.

Importers will also know that they are competing in a market with other similar products that must meet the same or similar requirements.

As part of implementing any mandatory domestic standard, New Zealand would notify the World Trade Organization of our intention to adopt such a standard, and demonstrate that the standard is in line with international standards and is not more trade restrictive than necessary to fulfil a legitimate objective.

Potential benefits and costs to consumers

Requiring all organic products to meet a minimum standard will make it clearer to consumers that products labelled as organic must reliably meet or exceed that common standard. Consumers may have renewed confidence in purchasing organic products, and feel more empowered to make decisions based on the labelling of products.

The disadvantages for consumers are that organic products may become more expensive as producers look to pass on the cost of verification. However, the majority of consumers who currently buy organic products have said they would be willing to pay 5-10% more if they know they can justify the claim. Removing uncertified organic products from sale as organic also reduces the choices available to consumers, as some uncertified producers may exit the organic market and imports of uncertified organic goods may also decrease.

7.4 Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?

The preferred option is compatible with the Government's 'Expectations for the design of regulatory systems'. We consider the preferred option has clear objectives and is consistent with relevant international practices and aligned with the existing voluntary system that the industry is used to. While the regime may reduce innovation by setting

technical standards, it will have scope to evolve in response to changing circumstances or new information/technology for producing organics.

The preferred option has been consulted with the public and tested with stakeholders and is favoured by the majority.

Section 8: Implementation and operation

8.1 How will the new arrangements work in practice?

As outlined above, the preferred option is the development of a new legislative regime for organics that will set standards that all organic businesses must meet.

The proposed regime will set technical standards for organic production, and an associated regime for checking and verifying compliance with those standards.

Key components of the proposed new primary legislation will be:

- purpose and scope of the legislation;
- compliance and verification;
- imports and exports;
- enforcement;
- regulation-making powers;
- cost recovery; and
- transitional arrangements.

A discussion about the different aspects of these components is provided below.

Purpose and scope of the legislation

The purpose of the legislation will be to ensure:

- New Zealand is effective at facilitating trade in organic products;
- consumers have confidence in their organic product purchase decisions; and
- businesses have certainty to invest and innovate in organic products.

These reflect submitters' views. Those who supported a change thought that increasing consumer confidence (63%) and supporting trade (43%) were key outcomes of a new regime. Levelling the playing field (22%) and growing the sector were also identified as being key objectives.

Internationally, standards cover a broad range of organic products, including:

- food, plant and animal products;
- aquaculture;
- products destined for animal consumption;
- fibres wood and paper;
- textile products; and
- body care products and cosmetics.

Consultation generally suggested that the scope of a standard could be wide, with 24% of submissions suggesting additions to a suggested scope of only food, plant and animal products (the most common suggestions were aquaculture and seaweed, and health and body care products). A few submitters opposed the inclusion of aquaculture products and/or hydroponics on the basis that they are not soil-based products.

The preferred approach is to set the scope of the primary legislation widely to cover all organic products (including products outside MPI's current area of expertise, such as

cosmetics, textiles and body care products). The organic standards themselves will be set in regulation. This will future-proof the legislation, allowing standards to be developed which cover different organic products as those standards become feasible to develop.

All operations that affect the organic characteristic of the product from primary production to reaching the consumer would therefore need to meet the standards.

Establishments that handle only packaged organically produced products but do not process, change or repackage them (such as supermarkets, restaurants, organic beauty salons) will not be in scope.

As the scope of the primary legislation will provide for regulations to set standards for organic products not within MPI's area of expertise, the legislation will provide for different administering departments to have responsibility for different products.

Compliance and verification

The primary legislation will require that all businesses making organic claims must meet the requirements of the relevant organic standard.

Verification

A verification system is proposed in order to check that businesses are meeting the requirements of the standards. Three options were considered for verification:

- a) **ongoing verification for all organic businesses**, where all organic businesses would be subject to regular assessments against the standards;
- b) **spot check verification for all organic businesses**, where all organic businesses would notify the government they are making organic claims and a sample would be selected for assessment periodically;
- c) **ongoing verification, with limited exceptions**, where all organic businesses would need to comply with the standards but not all (for example small businesses) would not need to be assessed to show that they were complying.

The preferred option for verification is option 'c', ongoing verification with limited exceptions. While this option would impose costs on most businesses, it would allow the flexibility to ensure compliance costs would be more proportionate to the risk that products were not produced in an organic way. This option is in line with submitters' views around providing flexibility for smaller businesses, and in line with international approaches.

The proposal is that all organic businesses must meet the relevant organic standard and be regularly verified against the standard, however, regulations would be able to remove the requirement for verification from some businesses. The proposal is also to allow for flexibility in the verification regime to ensure compliance costs are not overly burdensome depending on the risk. For example, by allowing group certification or a lower verification frequency where businesses have a good track record. The detail of the verification processes will be set in regulations.

Flexibility in administration processes of the regime

To manage the costs of the proposed regime on businesses, the Act will provide the ability to remove some of the administrative requirements of the regime, such as verification, for some categories of businesses, or individual businesses. These businesses will still be required to meet the organic standards to claim that the product is organic, and be subject

to enforcement measures. The impact on imports would be considered when removing these process requirements.

The intention is that this provision may be used to provide flexibility, for example, for very small businesses such as those selling home grown produce at their farm gate.

If used, removing administrative requirements for categories of businesses would be set in regulations, and removing administrative requirements for individual businesses would be decided on by the Chief Executive of the relevant administering department.

The following criteria would guide when administrative requirements could be removed:

- removing the requirements would be consistent with the purpose the Act
- removing the requirements is unlikely to impact on New Zealand's reputation or result in consumers being misled;
- complying with some obligations is unreasonably burdensome and disproportionate to the benefit that the businesses might gain from it.

Record keeping and proof of compliance

Records are necessary to assess compliance against the requirements of the national organic standard. As such, primary legislation will require record keeping for the purpose of demonstrating compliance with the standard. What records and for how long they need to be kept for will need to be specified in regulations as this may change over time or differ between types of products.

Proof of compliance with the standard may be issued by verifiers when verification against the standard has taken place. Proof of compliance could be, for example, a certificate of compliance.

Third parties

The primary legislation will provide for the ability for third parties to undertake verification and issue proof of compliance. This would recognise the processes used by existing organic verifiers and how things currently work in the sector, and is consistent with other regimes administered by MPI. These parties have the skills and expertise to verify to a standard, although there would be an ongoing process to ensure this continues to be the case.

Legislation will set out processes and criteria to assess the third parties' competency and ability to verify. This ensures New Zealand's reputation is protected and businesses receive consistent advice. Processes and criteria will align with verification requirements under other regimes administered by MPI.

Legislation will set out robust processes that third parties must follow when businesses are non-compliant with the regime. This will include processes for any actions that may impact on the business - including setting conditions on businesses, changes in verification frequency, and natural justice principles to ensure that the treatment of the business is fair and reasonable when the business is no longer compliant. MPI will have the ability to review the third party's processes and decisions if requested by a business.

Imports and exports

In order to ensure that all organic operators have the same requirements, imported and exported products, as well as domestic only products, have to meet the New Zealand national organic standard. As well as ensuring equal treatment, this will achieve two of the objectives of the regime; increasing consumer confidence in organic products and facilitating trade. If the standard was to apply only to domestic or only to imports/exports, it

is unlikely these objectives would be met and New Zealand may be inconsistent with our international obligations.

There will be circumstances where standards of different countries are considered as having equivalent outcomes. This import/export requirement for equivalence is international best practice for organic trade. The primary legislation will provide for certain imports from particular countries to have equivalency with New Zealand's organic standards and exceptions to be provided where relevant. For example exporters may not be required to meet the requirements of the organic standards where conflict with a trading partner's requirements. However, products developed in New Zealand that do not meet the organic standards will not be able to be sold in New Zealand as organic.

Legislation will enable Government to issue official organic assurances, as there is a general trend that trading partners are requiring government to government assurances for exported products. This will be based on the design of the OOAP, a model that is currently working well for issuing organic export assurances.

All exporters will have to be registered with MPI or the relevant agency and must notify in certain circumstances, such as where a consignment is 'rejected' by an importing country, and why. The administering agency would want, from a reputational perspective, to know when a problem occurs.

Imports would be treated no less favourably than like domestically produced organic goods. For example, any cost reduction measures (such as less frequent verification) offered to domestic producers must be extended to imports.

Enforcement

The organic legislation will be a proactive regime that requires industry to justify their organic claims, and improve protection for domestic and overseas consumers. Participation is voluntary in the sense that only those choosing to make organic claims must comply. Therefore, principles to be applied in designing enforcement tools are:

- a) disincentivise non-compliance with the standards and misleading behaviour from operators; and
- b) encourage effective participation in the system.

Sanctions will recognise and reflect that the regime is primarily concerned with consumer information rather than health or safety. We consider that the enforcement regime should be modelled on the Wine Act and Fair Trading Act. This includes criminal liability for fraud and misleading behaviour but not imprisonment.

Review and appeal provisions relating to administering department's administrative and enforcement actions will be enabled as per standard principles.

Cost recovery

The Act would enable the administering departments to cost recover for most services, with the exception of prosecution. This is because most of the benefits of the standards will be felt by the organics industry. Cost recovery may be done through a levy or direct charges based on an hourly rate. Cost recovered services are likely to include the development and maintenance of the standard, implementation of the regime such as processing reports, and negotiating agreements with other countries, conducting reviews of third party decisions and issuing export assurances. Cost recovery would be guided by the same principles that guide MPI's other legislated cost recovery; equity, efficiency, justifiability and transparency.

Transitional arrangements

The proposed new regime would be implemented in stages. While the primary legislation will provide for standards to be developed for all types of organic products, standards will only be developed when they are feasible. The first standard proposed to be developed will be for food, plant and animal products as the industry is already experienced in these areas, existing voluntary systems are in place and MPI has expertise to administer it.

All organic standards will be developed in consultation with the relevant stakeholders.

Implementation will allow for the transition from a voluntary to a regulatory regime to ensure minimal disruption. We anticipate that the regime will come into effect within five years for food, plant and animal products.

Transitional arrangements will allow for:

- a. the regime to be developed in full (including regulations) before being implemented;
- b. third parties to be approved in order to be able to carry out their roles under the primary legislation;
- c. businesses to come up to speed with the new standard; and
- d. the ability to set overseas market access requirements.

Relationship with other legislation

Any new regime for organic products would work alongside other regimes that those products are subject to, such as the Food Act, the Animal Products Act, the Fair Trading Act and the Biosecurity Act. Products would still need to meet any relevant requirements of those regimes.

An understanding of existing trade agreements and trade facilitating arrangements is also important to ensure that any new legislation is cognisant of any implications for trade – in particular:

- the implementation of the new NZ/China agreement for trade of organic products,
- negotiations with trading partners, such as Free Trade Agreement negotiations with the European Union, or negotiation with the United States on a bilateral equivalency agreement,
- Trans-Tasman Mutual Recognition Arrangement (TTMRA) requirements, which allow goods that can legally be sold in Australia to also be legally sold in New Zealand. As Australia also does not have national standards for organics this could undermine a new regime in New Zealand where imports are concerned,
- World Trade Organization (WTO) commitments.

MPI is currently reviewing the requirements for organic production under the OOAP, which currently covers requirements for exports of organic products to the European Union, Japan, Switzerland, Taiwan and the United States. MPI is updating and replacing the current standards with a single document called Organic Export Requirement: Organic Production Rules. The review of these export requirements ensures requirements are fit for purpose, relevant and up to date. Ensuring the export requirements are up to date may also assist in the development of a national organic standard in any future organic regulatory framework.

8.2 What are the implementation risks?

There is a risk that businesses that are currently making organic claims but are not certified to a standard will decide not to come under the proposed regime by either no longer making organic claims or using different terms. This could ultimately reduce the choice in organic products to consumers. In addition, this could increase the costs to businesses verified under the regime as the levy amount will need to be divided between fewer businesses. These risks will be mitigated partly by the additional benefits that will accrue from a Government mandated standard, as these are expected to outweigh the costs and encourage businesses to continue making claims, and partly through a proportional approach to allocation of costs and exemptions for low risk operators.

There is a risk that by creating standards for some types of organic products but not all initially, it will not increase clarity for consumers. This risk is mitigated by proposing a wide scope for the primary legislation so that further standards could be developed if considered appropriate.

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Section 9: Monitoring, evaluation and review

9.1 How will the impact of the new arrangements be monitored?

MPI will have oversight over the organics regime and will provide ongoing maintenance to ensure the legislation remains fit for purpose. This will include keeping the organic standard and any regulations up to date and in line with best practice. Individual organic standards will be developed and maintained by the relevant administering agency.

MPI will review the regime as a whole around five years after commencement of the first organic standard in regulations. The timing and scope of such a review will be subject to decisions on prioritisation of the work programme of MPI.

The regime will be evaluated against the three key objectives presented in Section 2. Indicators used to assess whether the regime is successful for those products where an organic standard is developed may include:

- *Objective: New Zealand is effective at facilitating trade in organic products*
 - Total value, volume and variety of organic imports and exports
 - Existing market access is maintained and more secure
 - Access to new markets under negotiation or implemented
 - Number of registered exporters of organic products.
- *Objective: Consumers have confidence in their organic product purchase decisions*
 - Total value of the organic domestic market
 - Consumer surveys to determine changes in confidence in organic products.
- *Objective: Businesses have certainty to invest and innovate in organic products*
 - Land area farmed organically
 - Number or value of imported and exported consignments of organic products
 - Business surveys to understand businesses' views, opportunities and barriers.

Such a review would also take into account information gathered while the regime has been in place, for example:

- complaints and investigation about misleading organic claims;
- the number and nature of non-compliance with organic standards or other aspects of the regime;
- the frequency and nature of reviews of third party decisions;
- information from working closely with industry representative bodies; and
- surveys of key stakeholders such as consumers, businesses and approved third parties.

AM19-0210

Ministry for Primary Industries
Manatū Ahu Matua



Aide-memoire:

From: Penny Nelson
Deputy Director-General, Policy and Trade
for Director-General

Contact: § 9(2)(a), Manager Food Policy (§ 9(2)(a))

To: Hon Damien O'Connor
Minister of Agriculture
Minister for Food Safety

Date: 22 March 2019

Update on organics work across MPI

Key Messages

- We are working with the Parliamentary Counsel Office on the organics Bill, which we anticipate will be ready for introduction to the House in June/July 2019. The Bill will establish regulatory requirements for organics and give effect to decisions made by Cabinet in December 2018.
- We have also developed proposals for some of the associated regulations, which will set verification and compliance requirements for businesses and verification agencies.
- We will provide you with further advice in April 2019 on these proposals. Subject to your approval, we will consult the public on these proposals while the Bill is before the Select Committee.
- To prepare for the transition to the new regulatory regime for organics, and to inform the national standard, we have updated the production rules for the Official Organic Assurance Programme (OOAP). The OOAP is the non-regulatory programme that facilitates trade in organic products from New Zealand to five key international organic markets.
- We are actively managing any potential confusion about how this consultation relates to the wider Bill process with key stakeholders, including Organics Aotearoa New Zealand and the Organic Exporters Association of New Zealand.

Update on the organics Bill and associated regulations

Drafting of the Bill for introduction in 2019

1. In December 2018, Cabinet agreed to progress work on a Bill that will set a broad framework to regulate the use of 'organic' as a claim [DEV18-MIN-0273 refers].
2. In order to give effect to Cabinet decisions, the organics Bill will provide for the following key components:
 - a. Purpose and scope of legislation;
 - b. Role, duties and powers of the administering department;
 - c. Obligations for businesses making organic claims;
 - d. Obligations for independent agencies checking compliance;
 - e. Enforcement measures;
 - f. Cost-recovery principles and methods;
 - g. Regulation-making powers; and
 - h. Supporting provisions.
3. s 9(2)(f)(iv)
[REDACTED]
4. MPI provided drafting instructions to PCO in December 2018. We are finalising details of the enforcement regime and we are working with PCO to draft the Bill. We anticipate it will be introduced to the House in June/July 2019.
5. There will be an event held to announce to the organics sector that the Bill has been introduced to the House. This is likely to be held at an organic orchard in Te Puke.

Progress on associated regulations

6. The Bill will also need regulations to set out the detail of how the regime will operate.
7. While the Bill is being drafted, we have developed many of these regulatory proposals. We will provide you with further advice in April on consulting the public on proposals and options for:
 - a. How verification works;
 - b. Who can be a verifier, and what requirements they need to meet;
 - c. How MPI collects information about organic operators;
 - d. Requirements for exports and exporters; and
 - e. Requirements for imports and importers.
8. These proposals balance the need for a robust system that gives confidence to consumers and trading partners with the need for a flexible system that operators can comply with.

Security Level – In Confidence

9. Following this consultation, and once the Bill has been considered by Select Committee, we will provide further advice on proposals for:
 - a. The content of the standards; and
 - b. Cost recovery requirements.

The Official Organic Assurance Programme

Review of the current export programme

10. To prepare for the transition to the new regulatory regime, our existing system needs to be robust and up to date. To do this, we have updated and intend to consult on the production rules set in the Official Organic Assurance Programme (OOAP).
11. The OOAP is the current non-regulatory programme that facilitates trade in organic products from New Zealand to the United States of America, the European Union, Switzerland, Japan and Taiwan. The programme ensures that organic products being exported to these markets meet specified requirements, and that we can issue official assurances where these are required.
12. The OOAP sets rules for organic products, as well as other compliance requirements for organic businesses and verification agencies. These requirements do not apply to the domestic market, or to products exported to countries outside of those listed above.
13. Updating the OOAP rules will inform the development of the National Organic Standard that will accompany the Bill and regulations. It is also essential that the current rules continue to be up to date in order to retain current market access until the new regime comes into force.
14. Proposed changes align the OOAP requirements with amendments put in place by our trading partners, s 9(2)(f)(iv)
[REDACTED]

Upcoming consultation on new export requirements

15. We intend to consult on the updated requirements for the OOAP for six weeks from the end of March.
16. The timing of consultation on the OOAP production rules will not overlap with consultation on the Bill or regulations and will only be of interest to some groups, who export to the five key markets covered by the OOAP.

Security Level – In Confidence

17. We are ensuring that stakeholders, including Organics Aotearoa New Zealand (OANZ) and the Organic Exporters Association of New Zealand, are aware of the difference between the OOAP consultation and the proposed regulatory regime consultation through clear messaging.

Minister / Minister's Office

Seen / Referred

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13 May 2019

Document Number: B19-0117

Proposed consultation on proposals for a regime for checking compliance against a national organic standard

Purpose:

This briefing provides an overview of proposed options for the compliance regime for the national organic standard with a view to developing a discussion document for public consultation.

| Minister | Action Required: | Minister's Deadline |
|---|--|---------------------|
| Minister of Agriculture Minister for Food Safety | Agree to consult on the proposals for regulations as outlined in the recommendations. | When convenient |

Contact for telephone discussion (if required)

| | Name | Position | Work | Mobile |
|---------------------|-----------|------------------------------------|-----------|--------|
| Responsible Manager | s 9(2)(a) | Acting Manager, Food Policy | s 9(2)(a) | |
| Principal Author | s 9(2)(a) | Senior Policy Analyst, Food Policy | s 9(2)(a) | |

Key Messages

1. On 3 December 2018, Cabinet agreed to progress work on a Bill that will enable the development of national organic standards and an associated compliance regime. We are working with the Parliamentary Counsel Office to draft the Bill.
2. We recommend consulting on proposals for the regulations alongside Select Committee's consultation on the draft Bill. Consulting on both the Bill and proposals for regulations will provide the public and the industry with the relevant context in order to be able to make informed submissions on both. We will ensure the differences between the two types of consultation are clear to stakeholders.
3. In order to develop a discussion document for the regulations, we are seeking your agreement to high level proposals and options for the regulations. The regulations will need to balance meeting the objectives of the Bill (consumer confidence, business certainty and trade facilitation), and ensure that:
 - a. the regulatory regime has flexibility and is simple to understand and administer; and
 - b. the costs to businesses and consumers are proportionate to the overall benefits.
4. The current proposals set out a baseline process for checking compliance that all operators will have to follow. This will provide certainty to consumers and trading partners. The proposals also provide flexibility within this process to manage costs for operators, particularly smaller operators, and to facilitate international trade of organic products.
5. Following your consideration of the proposals in this briefing, we will provide you with a draft discussion document.

Recommendations

6. The Ministry for Primary Industries recommends that you:

a) **Note** that on 3 December 2018 Cabinet agreed to progress work on a Bill that will enable the development of national organic standards.

Noted

b) **Agree** to consult on the proposed baseline process for checking compliance, including the key steps of plan development, compliance checking and compliance outcomes.

Agreed / Not Agreed

c) **Agree** to consult on options for flexibility for checking compliance:

- a. flexibility in the frequency or nature of checking individual businesses
- b. flexibility to allow small, domestic operators to be checked as a group

Agreed / Not Agreed

d) **Agree** to consult on removing the requirement for the compliance of very small operators to be checked by an independent approved agency.

Agreed / Not Agreed

e) **Note** that these very small operators would still be required to meet the organic standard and be subject to monitoring and enforcement.

Noted

f) **Agree** to consult on the proposal that importers and exporters should be subject to the same checking process as domestic operators, but that exporters should be checked at least annually.

Agreed / Not Agreed

g) **Agree** to consult on options for the competencies that agencies and persons must meet to become approved.

Agreed / Not Agreed

h) **Agree** to consult on whether a national mark should be developed, and if so who could use it.

Agreed / Not Agreed

i) **Note** that subject to your agreement to the proposals in this briefing, we will provide you with a Cabinet paper and draft public discussion document, seeking Cabinet agreement to consult on these proposals.

Noted

Emma Spooner
Acting Director, Food and Regulatory Policy

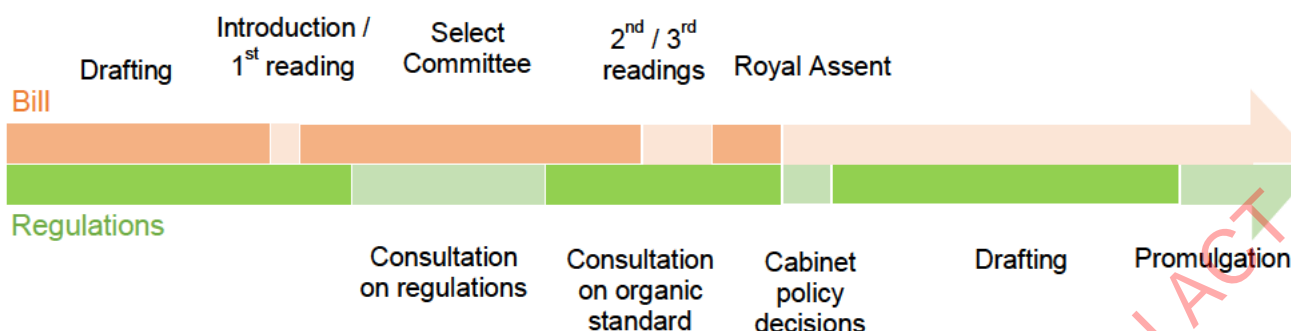
Hon Damien O'Connor
Minister of Agriculture
Minister for Food Safety
/ / 2019

Background

Issue

1. On 3 December 2018, Cabinet agreed to progress work on a Bill that will enable the development of national organic standards and an associated compliance regime. Of the world's top 25 organic markets (by value), all but New Zealand and Australia have developed mandatory domestic organic standards through legislation.
2. In New Zealand, currently organic products must comply with a range of general consumer laws that equally apply to non-organic products, such as the Fair Trading Act 1986. There is also a range of private organic standards with differing requirements. The current regime does not provide consumers with certainty about whether the products they purchase are organic, and for businesses about what constitutes organic.
3. Stakeholders were consulted from 14 May 2018 to 11 June 2018. Eighty-five percent of submitters supported a change in the way organics are regulated. Cabinet considered that a national organic standard would:
 - a. increase consumer confidence in purchasing organic products;
 - b. increase certainty for businesses making organic claims; and
 - c. facilitate international trade in organic products.
4. We have provided drafting instructions to the Parliamentary Counsel Office (PCO) and are working with them to draft the Bill. The Bill will set the high level framework for the proposed new organics regime, and enable the details of the regime to be set in regulations. This will ensure the regime is flexible and can be kept up to date and fit for purpose.
5. We are also developing proposals for the associated regulations that will set out: the process all operators will have to follow to demonstrate compliance; flexibility within this process; and any other requirements on organic operators. This briefing sets out the proposals that we propose to consult on.
6. We recommend consulting on the proposals for the regulations alongside Select Committee's consultation on the draft organics Bill. This will provide the public, consumers and the industry with the relevant context in order to be able to make informed submissions on both the Bill and the regulations. We will develop a communications plan to help ensure the differences between the two types of consultation are clear to stakeholders, and to ensure that by consulting on both the Bill and regulations it does not appear that the outcomes are predetermined.

7. The diagram below shows the Bill development process alongside our recommended regulation development process.



8. The Bill sets out the broad framework for the regime, and most of the detail will be set in regulations. The diagram below outlines what each of the components – the Bill, regulations and the organic standard – will do.

| Bill | Regulations | Standards |
|--|--|---|
| <ul style="list-style-type: none"> •Provides a framework •Allows for the development of regulations and standards | <ul style="list-style-type: none"> •Describes the processes that will need to be followed by businesses, verification agencies and MPI | <ul style="list-style-type: none"> •Will set rules for products labelled or marketed as organic, such as production methods, farm inputs and any requirements that are specific to the sector of production covered by the standard |

9. The Bill applies to all organic products and operators, however the proposals outlined in this briefing will only apply to operators covered by the first organic standard to be developed. That standard will cover food, beverages, plant and animal products and will be administered by MPI.
10. The standard is being developed in conjunction with the regulations. We will provide you with further advice on the content of the standard following Select Committee consideration of the Bill.

Proposals for regulations

11. We propose that the public discussion document for the regulations covers the following key areas:
- the proposed process for checking compliance;
 - flexibility within the compliance process for some operators;
 - requirements for importers and exporters;
 - how third party agencies can be approved by MPI;
 - how MPI will obtain information on organic operators; and

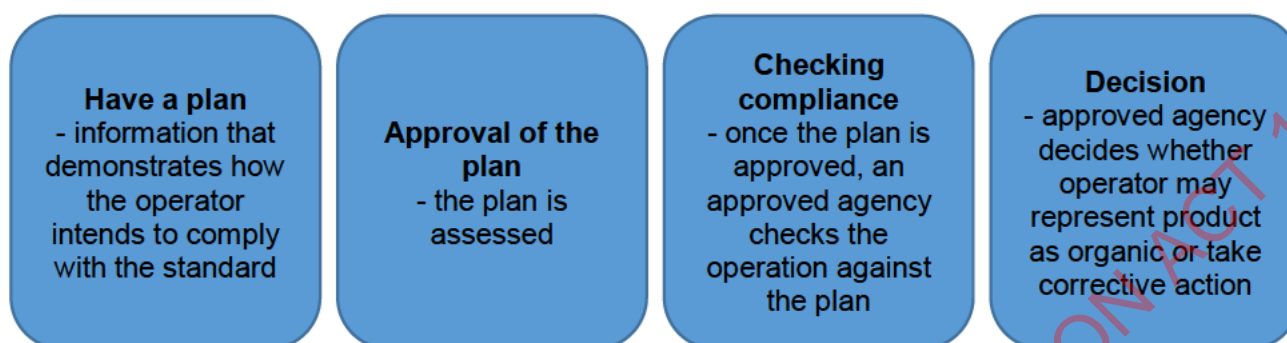
- f. whether there is benefit in developing a national mark for organic products.
12. Before we draft a discussion document, we would like test with you our proposals to be included in the document. These proposals are summarised in the appendices. Consulting on options does not preclude any future Cabinet decisions.
13. The proposals have been developed taking into account:
- a. the objectives of the regime;
 - b. feedback from public consultation in May 2018;
 - c. international regimes for organics; and
 - d. other relevant regimes administered by MPI.

How operators are checked against the organic standard

14. Cabinet agreed that the Bill require all organic operators to be checked against the relevant organic standards, and enable regulations to set out the process that operators must go through to show that they comply with the standards. The regulations will need to balance meeting the objectives of the Bill, and ensuring that:
- a. the regulatory regime has flexibility and is simple to understand and administer, and
 - b. the costs to businesses and consumers are proportionate to the overall benefits.
15. We are proposing a baseline process for checking compliance that will provide certainty to consumers and trading partners. This will mean that all operators will follow the same base process, which has been informed by other regimes for organics around the world, the current voluntary systems in New Zealand, and other relevant regimes administered by MPI, including the Animal Products Act 1999, Wine Act 2003 and Food Act 2014.
16. We are also proposing to allow flexibility within this process to manage costs for operators, particularly smaller operators, and to ensure that our exports meet appropriate standards to facilitate trade and protect New Zealand's reputation.

The proposed baseline process for checking individual compliance

17. The diagram below outlines the proposed process. A more detailed version of this diagram is included as Appendix One.



18. We propose that all operators have an organic management plan, which will contain the relevant information to show they understand the organic standard and how they meet its requirements. It will also be used by independent approved agencies and MPI to check compliance. MPI will have the ability to obtain copies of plans where necessary.
19. The complexity of the plan will vary depending on the complexity of the operation. To minimise the administrative burden on operators, the organic management plan will be compatible with other regulated plans. For example, a business registered under other Acts should be able to use relevant parts of their food plan in their organic plan (e.g. cleaning procedures).
20. The plan can be approved by, and the actual operation assessed by an approved independent agency, or MPI. The approved agency (or MPI) will make the decision as to whether the plan is adequate, and whether the operator is compliant with their plan and the requirements of the organic standard. If the plan is adequate and the operator is compliant, the agency will issue approval to sell as organic. Having compliance checked by independent agencies will provide the assurance needed for consumer certainty and market access.
21. If the operator is found to be non-compliant with the organic standard, the approved agency will require corrective action and the operator will not be permitted to sell non-conforming product as organic. In some more serious cases, such as where products that do not meet the organic standard are in the market, it will be a requirement that MPI is notified.

Flexibility within the process for checking individual compliance

22. The Bill provides for flexibility in the process for checking compliance to ensure that the costs to operators and consumers are proportionate to the overall benefits of the regime. We propose that the discussion document seeks feedback on three options to provide flexibility. These proposals allow for future developments in how compliance checking is carried out, for example checking operations remotely rather than needing to be on-site:

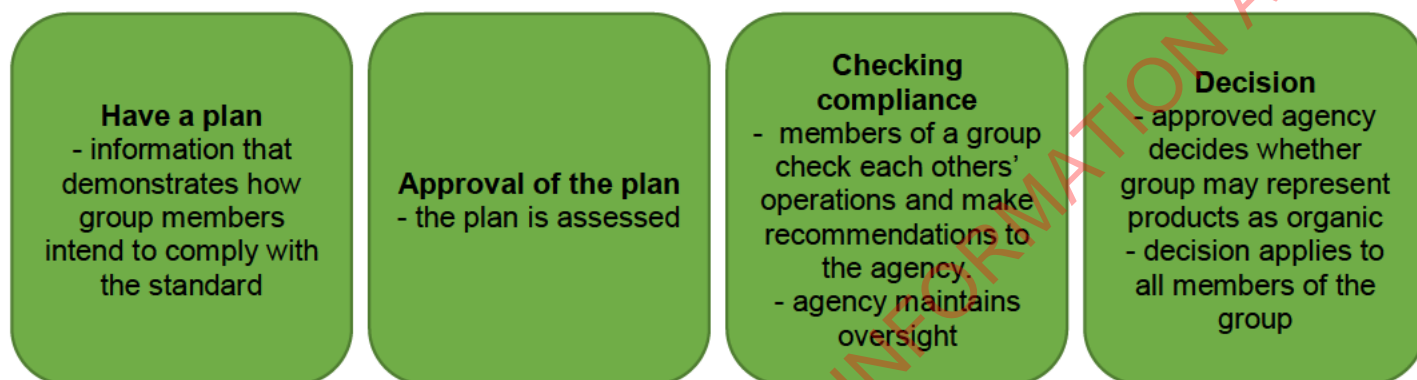
- a. Option A: no flexibility. This option would require all organic operators to be checked through an onsite visit on an annual basis, with no ability for this requirement to be lessened (however it could be increased if there were issues). This option would likely provide the greatest level of assurance, but impose the highest costs on operators.
 - b. Option B: flexibility in frequency of checking. This option would allow approved agencies to make a decision against risk-based criteria about how frequently checking is required, to a minimum of once every three years, however an onsite visit would be required every time. This option would reduce costs for operators but we anticipate that it would provide a high level of assurance.
 - c. Option C: flexibility in frequency of onsite visits (preferred). This option would set the frequency of checking compliance at annual, but approved agencies could make a decision against risk-based criteria about how often an onsite visit is required as part of the checking process. We recommend consulting on this as the preferred option because it would reduce costs for operators (an onsite visit is often the greatest expense associated with checking), while still providing a high level of assurance. This option would also encourage businesses to be compliant so that they get the benefits of reduced costs of onsite audits.
23. We propose that approved agencies should consider the following criteria to assess the risk associated with an operator and their activities. These are based on similar criteria for assessing the frequency of checking under the Food Regulations, made under the Food Act 2014:
- a. the value of the products being produced (and therefore the potential to profit from misrepresentation);
 - b. the competence of the operator in managing the activities of the operation;
 - c. the complexity of the processes required to ensure compliance with the standard, including whether non-organic products are also handled;
 - d. the compliance history of the operation and operator;
 - e. the activities and conduct of the operator that may affect the organic status of their products; and
 - f. the operator's actions in managing previous incidents of non-compliance.
24. The discussion document will seek feedback on the proposed options for flexibility, and also on whether these criteria are appropriate.

How we allow for smaller operators

Proposals for allowing groups of operators to be checked together

25. Currently, some private organic certifiers support group certification schemes which allow organic operators to be checked as a group. Businesses within a group review each other's practices, while an approved agency maintains oversight of the group. This allows for a group of businesses to share compliance costs, and can be a useful step into organics for small businesses.

26. While we anticipate that most organic operators would opt for individual checking, we propose to allow for this group option to continue under the regulated regime to provide for those operators who would find the cost of individual checking too great. Only operators producing and selling domestically could be considered for this option.
27. The proposed process for checking compliance as a group is based on the baseline process outlined above. The diagram below shows the proposed process for groups, and a more detailed version of this diagram is included as Appendix Two.



28. An approved agency would retain oversight over the group, hold the decision making ability on whether or not the group is compliant, and be required to regularly visit group members' operations. The approved agency would have criteria to use in making a decision as to whether the proposed members of a group are suitable. As with individual checking, group members would be required to have (or be party to) an organic management plan to ensure they understand and demonstrate how they will comply with the organic standard. However members within a group would visit and assess each other's operations and provide a report to the approved agency, rather than having the agency carry out the site visit.
29. We propose the discussion document seeks feedback on whether group checking should be provided as an option for domestic operators, with two options regarding the composition of group members:
 - a. Option A: group members could each have different types of operations (preferred), such as horticultural, dairy and meat and wool. All members would need to have individual organic management plans for their own operation. Decisions on suitability of group members would be made by approved agencies, against criteria. This is our preferred option because it would mean that the group option would be available to a greater number of small operators, it would allow operators to learn from each other, and would better help grow the sector. However it would require more training as group members would need to develop an understanding of different types of operations.
 - b. Option B: group members must all have similar operations, and could have one organic management plan for all members of the group to follow. Under this option all group members must be carrying out similar activities,

for example horticulture. This option would reduce the risk that group members are not able to adequately understand and assess each other's operations, but due to New Zealand's diversity it would restrict the availability of this group option for many operators.

Lowest risk operators

30. To ensure that the regime is not overly burdensome on very small organic operators, such as those selling at their farm gate, we are proposing that these operators do not need to be checked that they meet the standard. However these operators would still be required to meet the organic standard, have an organic management plan to show how they meet the standard, and be subject to MPI oversight and monitoring.
31. We consider the following criteria would be appropriate for defining which operators will not be required to be checked:
 - a. only sell the products that they produce or process themselves; and
 - b. only sell such products directly to the final consumer from a physical location (i.e. not online sales); and
 - c. only sell such products for domestic supply; and
 - d. only use inputs from a verified organic business; and
 - e. have annual turnover relating to organic production that does not exceed \$10,000.
32. These criteria are similar to those used internationally and in New Zealand food legislation, where operators are considered small and the risk to consumers or New Zealand's reputation is low. We propose that the discussion document seeks feedback on whether these criteria are appropriate.

Requirements for importers and exporters

33. The Bill applies to all organic operators, including importers and exporters. To ensure a consistent regime, we propose that importers and exporters will be subject to the same basic process as other organic businesses. However, because of international market expectations and the importance of maintaining New Zealand's reputation, less flexibility will be provided.
34. In some circumstances, importers and exporters may only facilitate the transfer of product to or from the overseas market rather than changing the product in any way, and there is very low risk of the products' organic status being affected. For these operators, checking compliance may only require a paperwork check. An onsite visit may not be needed.
35. We propose that importers would be checked using the same flexibility options and criteria for domestic operators, as described in paragraphs 22 and 23.
36. However we propose that producing, processing and handling products for export should be checked at least once per year (whether or not an onsite visit is required). Exporters under MPI's Official Organic Assurance Programme are

currently required to be checked at least once per year. We propose that this requirement continues and applies to all exporters to ensure market access is maintained and New Zealand's reputation is upheld. The discussion document will seek feedback on this proposal.

37. The Bill will require exporters to be registered with MPI, and enables MPI to provide official assurances where these are required by overseas markets. The regulations will set out the processes for these activities, and the discussion document will seek feedback on processes already used by MPI under other regimes.

Who can do the checking?

38. Cabinet agreed that the Bill provide that checking compliance of operators be done by independent agencies that have been approved by MPI to carry out this role. Regulations will set out the process for approval, including the competencies that approved agencies and individual verifiers must meet, and ensure any conflicts of interest are managed.
39. We propose to consult on two different options for accreditation of agencies:
 - a. Option A: this option proposes different accreditation requirements for agencies who are checking compliance of operators producing products only for domestic sale, and those who are checking compliance of exporters or products that are inputs to exported products. This will ensure that our regime for exports meets international requirements, while allowing a greater number of agencies to meet the requirements and enter the role domestically. However this option may cause confusion for operators who do not know the final destination of their product, or who wish to transition to exporting.
 - b. Option B: this option proposes the same accreditation requirements for all agencies who are to be approved under the organics regime (preferred). This will ensure a consistent regime for all agencies and will be easier for operators to understand. Having consistent oversight of all verifiers is also likely to put us in a better position to facilitate market access. However it may result in fewer agencies meeting the requirements to enter the role as the requirements may be costly.
40. In order to be approved, agencies who wish to check organic operators would need to apply to MPI, and provide the information specified in the regulations for either an agency or an individual verifier. Approval would also need to be renewed on a regular basis to ensure agencies and verifiers are performing well.
41. The regulations will also provide for the management of approved agencies and individual verifiers who are not performing well, to ensure that the regime continues to operate smoothly and impacts on operators are minimised.

A national mark

42. Cabinet agreed that the Bill provide for the development of a national mark for organic products. Feedback from consultation in 2018 on whether a national mark should be developed was mixed. We propose that the discussion document seek more targeted feedback from operators and consumers on:
 - a. whether a national mark should be developed; and
 - b. if developed, who would be permitted to use the national mark.
43. A national mark could provide an easy way for consumers to identify products that have been checked against the standard, however as the mark would be voluntary (as agreed by Cabinet) then it may create further labelling confusion.

Next steps

44. We will provide you with a discussion document for consultation reflecting your decision, and a draft Cabinet paper seeking Cabinet agreement to consult. We will also provide you with details on how we propose to carry out public consultation.
45. We anticipate that the draft Bill will be introduced to the House in the second half of 2019. We are aiming to consult on the regulations proposals when Select Committee is receiving submissions on the draft Bill. In order to do so, we recommend seeking Cabinet agreement to consult shortly before the Bill is introduced to the House.

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Appendix One: Diagram of high level individual checking process



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Appendix Two: Diagram of high level group checking process



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AM19-0622

Ministry for Primary Industries
Manatū Ahu Matua



Aide-memoire:

From: Fiona Duncan,
Acting Director, Food, Skills and Science Policy
Policy and Trade

Contact: Bryce Wigodsky, Manager, Organics Policy, s 9(2)(a)

To: Hon Damien O'Connor
Minister for Food Safety

Date: 21 August 2019

Meeting with Brendan Hoare from Buy Pure New Zealand

Key Messages

- You are meeting with Brendan Hoare, the Founding Director of Buy Pure New Zealand, on 27 August.
- The purpose of the meeting is for Brendan Hoare to share some key strategies with you that he believes would support the proposed organic regulation and national standard.
- While we will continue to work closely with industry to develop the organics regime, MPI will continue to lead the development.
- Suggested talking points for your meeting are provided in Appendix One.
- We are working with the Parliamentary Counsel Office (PCO) to draft the Organic Products Bill (the Bill). We anticipate it will be introduced to the House this year. We have also begun work on the regulations and standard for food, beverage, plant and animals products that will sit under the Bill.
- We expect key outcomes of the Bill will include increasing consumer confidence, increasing certainty for businesses to invest in organic products, as well as ensuring that New Zealand is effective at facilitating trade in organic products.

Background

Your meeting with Brendan Hoare and Buy Pure New Zealand

Security Level – In Confidence]

1. You are meeting with Brendan Hoare on 27 August. The purpose of the meeting is for Mr. Hoare to share with you key strategies that he believes would support the organic regulatory regime. Officials have not been provided with details of Mr. Hoare's strategies.
2. Mr. Hoare is the Founding Director of Buy Pure New Zealand. Buy Pure New Zealand connects New Zealand organic companies with overseas markets by using their "Path to Market" process.
3. The "Path to Market" process is two-fold. Firstly, Buy Pure New Zealand facilitates trade by helping organic companies connect with key players in overseas markets. Secondly, Buy Pure New Zealand offers their knowledge of overseas markets to assist those companies in the market.
4. Mr. Hoare is a keen advocate for organics, and strongly supports industry-led development of a national organic standard. We consider that a national organic standard needs to be led by Government to ensure greater consistency and certainty for businesses and meet international expectations. However, we will work with the industry and the rest of the organic sector on the Bill, regulations and standard.

Mr. Hoare, OANZ and engagement on standards development

5. You have met with Mr. Hoare before on several occasions in his previous capacity as the chief executive of Organics Aotearoa New Zealand (OANZ).
6. OANZ contracted Mr. Hoare as the chief executive until October 2018. During his tenure, OANZ made a submission to our public consultation on an organic standard. In their submission, OANZ supported having a mandatory national organic standard.
7. During his time at OANZ, there were press releases that incorrectly stated that OANZ was working with us to develop a national standard. We subsequently discussed this misconception with OANZ to clarify roles. There have been no further issues recently.
8. As we continue to develop the Bill and regulations, we will work closely with the organic industry. The public will have the opportunity to comment on the Bill when it is introduced to Parliament, and officials intend to publicly consult on the draft regulations around the same time.

Update on the Bill and regulations

9. On 3 December 2018, Cabinet agreed to progress a regulatory regime for organic products. We are currently working with PCO to draft a Bill, which will enable the development of national organic standards and an assurance and compliance regime.

Security Level – In Confidence]

10. We anticipate that the Bill will be introduced to the House this year. We are also beginning work on the regulations and the organic standard for food, beverage, plant and animal products that will sit under the Bill.
11. We will provide you with the discussion document for the regulations when we provide you with the draft Bill. We intend to consult on the regulations when Select Committee consults on the Bill. This will provide industry, public and consumers with relevant information and context to make more informed decisions on the Bill and regulations together.
12. We expect that the outcomes of the Bill and regulations will be to:
 - Increase consumer confidence in organic products by having requirements for organic products;
 - Ensure businesses have certainty to innovate and invest in organic products;
 - Ensure New Zealand is effective at facilitating trade in organic products.

Minister / Minister's Office

Seen / Referred

/ / 2019

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Appendix One: Suggested talking points

| Topic | Talking points |
|---|---|
| Thanking Mr Hoare for the key strategies | <ul style="list-style-type: none">• Thank you for the key strategies that you have provided in this meeting.• Thank you for your views on how an industry-led process for developing an organic standard could work.• It's important that we ensure businesses have consistency and clarity in the process, and that our international trading partners can recognize our standard. I consider this means government should lead the process, but working closely with the organics industry. |
| Update on developing a regulatory regime for organics | <ul style="list-style-type: none">• On 3 December, I announced that a national standard for organic production will be progressed as a Bill.• We expect that the Bill will be introduced to the House this year.• Officials at the Ministry for Primary Industries are currently working to draft a Bill which will enable the development of national organic standards.• We will work closely with the organics sector as we develop the organics regime, to make sure we get it right.• There will be the opportunity to give feedback on the draft Bill when it is consulted on by the select committee. You will also have an opportunity to speak to your submission.• We will also consult on the regulations and standard as the Bill progresses.• This will enable you and other interested parties to have all the relevant context and information to make informed decisions. |
| Key outcomes of the organics regime | <ul style="list-style-type: none">• Key outcomes of the Bill will be to:<ul style="list-style-type: none">○ increase consumer confidence○ increase businesses certainty to invest in organic products○ facilitate international trade of organic products |

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AM19-0669

Ministry for Primary Industries
Manatū Ahu Matua



Aide-memoire:

From: Bryce Wigodsky, Manager
Food, Science and Skills Policy

Contact: Bryce Wigodsky, Manager Organics Policy, (s 9(2)(a))

To: Hon Damien O'Connor
Minister for Food Safety

Date: 21 August 2019

Organics Aotearoa New Zealand AGM

Key Messages

- Organics Aotearoa New Zealand (OANZ) is one of several organic industry representative groups in New Zealand. You have been invited to speak at their annual general meeting (AGM) on 30 August. The AGM is not open to the public.
- You are not able to attend this meeting, so Kiritapu Allen will be attending in your place. We recommend you pass this Aide-memoire on to her for her information.
- Talking points are attached as Appendix One.
- Officials from MPI have not been invited to attend the AGM. However they are available to attend to provide support.
- A Bill is currently being drafted which will enable the development of national organic standards. We anticipate that the Bill will be introduced to the House this year.
- MPI will work with the organic sector to develop regulations and an organic standard while the Bill progresses through the Parliamentary process.
- Consumer demand internationally is driving towards sustainability. New Zealand companies have been shifting to quality over quantity to secure more value out of this transition. Organics is one example of that.

Background

Organics Aotearoa New Zealand AGM

Security Clearance – In Confidence

1. Organics Aotearoa New Zealand (OANZ) is one of several organic industry representative groups in New Zealand. Its members include groups with involvement in organic production, certification and retail. Its primary purpose is to develop and advocate for pro-organic policies to decision-makers at central and local government level. Information on OANZ board members is attached as Appendix Two.
2. You spoke at the OANZ annual general meeting (AGM) in 2018. You also spoke to OANZ on 18 October 2018 to give an update on how work was progressing with the development of a regulatory regime for organics [AM18-01120 refers].
3. There were issues in the past with some media releases incorrectly reporting that OANZ was working with MPI to develop a national standard. Those statements were corrected, and MPI met with OANZ to discuss the issue, and provide suggested alternative wording for OANZ to use. There have been no further issues.

Update on developing a regulatory regime for organics

4. In December 2018, Cabinet agreed to progress a regulatory regime for organic products. MPI is currently working with the Parliamentary Counsel Office to draft a Bill, which will enable the development of national organic standards and an assurance and compliance regime.
5. We anticipate that the Bill will be introduced to the House this year. MPI is also beginning work on the regulations and the organic standard for food, beverage, plant and animal products that will sit under the Bill.
6. OANZ supports the introduction of a mandatory organic standard.
7. MPI recently spoke at the OANZ council meeting on 12 July 2019. We gave them an update on work to date on the organics regulatory regime and encouraged them to be involved during the select committee and public consultation processes.
8. MPI will work with OANZ and the rest of the organic sector to develop an organic standard and to assist with the transition to a mandatory regime.

Opportunities for New Zealand agriculture in the international market place

9. Strong global economic growth coupled with population growth and rising incomes have driven consumer demand for value added products along with an increasing focus on the sustainability of food production. Global drivers of trends in the primary products market include the:
 - a. Risks, uncertainties and opportunities of climate change;

Security Clearance – In Confidence

- b. Changing definitions of food and redefining sustainable consumption and production;
 - c. Growing interest in bio-based economies, the circular economy, and planetary boundaries;
 - d. Speed of innovation, including through e-commerce;
 - e. Role, for good and bad, of social media; and
 - f. 3.8 billion people in the world who suffer from some form of malnutrition.
10. It is within this context that New Zealand must advance its primary industries. New Zealand exports remain highly regarded, with an international reputation for the export of high quality products with underlying integrity. Over many years we have developed a diversified export portfolio – New Zealand’s primary industries sector currently export goods to over 200 markets.
11. New Zealand seeks to develop its position as a leader in innovative and sustainable agricultural practices. We need to reduce agricultural emissions, while maintaining a strong economy and productive and resilient sectors capable of meeting the nutrition demands of an exponentially growing world population. Organics plays a part in this, as a growing sector with a focus on sustainable production.
12. Sustainability under a changing climate underpins everything the New Zealand Government stands for in agricultural production. New Zealand agriculture is unique, being market-led and, for the most part, is an exemplary example of a bioeconomy; this has enabled our producers to focus on innovating to increase efficiency of production rather than relying on production subsidies that would prop up poor production practices.
13. New Zealand companies have been shifting to quality over quantity goods production in order to secure more value out of the growing middle class in a variety of markets, and organics is one example of that. This Government is working hard to enable the primary industries to make this value over volume transition, in order to extract economic, social and environmental benefits for all New Zealanders.

Minister / Minister’s Office

Seen / Referred

/ / 2019

Appendix One: Suggested talking points

| | |
|--|--|
| <p>Update on developing a regulatory regime for organics</p> | <ul style="list-style-type: none">• On 3 December, Minister O'Connor announced that a national standard for organic production will be progressed as a Bill.• Officials at the Ministry for Primary Industries are currently working to draft a Bill which will enable the development of national organic standards.• Objectives of the Bill are to:<ul style="list-style-type: none">○ increase consumer confidence○ increase businesses certainty to invest in organic products○ facilitate international trade of organic products• We anticipate that the Bill will be introduced to the House this year.• Interested people will have the opportunity to give feedback on the draft Bill when it is consulted on by the select committee. You will also have an opportunity to speak to your submissions.• MPI will also consult on regulations, which will set out the requirements for businesses, and on the content of the national organic standard itself. The development of a national standard will involve working with the organics sector, to ensure we get it right.• The regulations and the national standard will be developed as the Bill progresses through the Parliamentary process. |
| <p>Opportunities for New Zealand agriculture in the international market place</p> | <ul style="list-style-type: none">• Strong global economic growth coupled with population growth and rising incomes have driven consumer demand for value added products along with an increasing focus on the sustainability of food production.• It is within this context that New Zealand must advance its primary industries. We need to reduce agricultural emissions, while maintaining a strong economy and productive and resilient sectors.• Organics plays a part in this, as a growing sector with a focus on sustainable production.• New Zealand companies have been shifting to quality over quantity goods production.• The Government is working hard to enable the primary industries to make this value over volume transition, in order to extract economic, social and environmental benefits for all New Zealanders. |

Security Clearance – In Confidence

| | |
|--|---|
| | <ul style="list-style-type: none">• New Zealand's organic industry is worth approximately \$600 million annually, \$355 million of which is exports. The majority of organic exports go to the European Union and the United States.• Horticulture, wine and meat/dairy are the major industries exporting organic products. |
|--|---|

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Appendix Two: Information on OANZ members

Doug Voss (Chair, OANZ)

Mr Voss has grown kiwifruit for over 40 years and currently farms 29 hectares of organic kiwifruit near Tauranga.

Mr Voss is Chair of Organics Aotearoa New Zealand (OANZ) and the Certified Organic Kiwifruit Growers Association.

His past roles have included:

- Grower Director of the Kiwifruit Authority and Kiwifruit Marketing Board;
- Chair, Deputy Chair and Director of Kiwifruit New Zealand; and
- Director and Chair of Zespri International and Zespri Group.



Richard Lees (Deputy Chair, Interim CEO, OANZ)

Mr Lees has held the position of Chief Executive at Huckleberry since May 2015. Huckleberry stores provide organic and natural wholefoods nationwide.

Mr Lees is the Deputy Chair and Interim CEO of Organics Aotearoa New Zealand (OANZ).



Other board members are:

- Ana Aloma (General Manager, PureFresh Organic)
- Clive Dougall (Organic Winegrowers NZ)
- Barbara Harford (Director, OrganicFarmNZ)
- Mark White (Certified Organic Kiwifruit Growers Association)
- Sam Weaver (Bio Dynamic Farming and Gardening Association)



26 August 2019

Document Number: B19-0432

Update on the Organic Products Bill

Purpose:

This briefing provides an update on the draft Organic Products Bill, and seeks your agreement on proposed enforcement provisions and three changes that will require Cabinet approval.

| Minister | Action Required: | Minister's Deadline |
|--|---|---------------------|
| Minister of Agriculture Minister of Food Safety | Note and agree the recommendations contained in the briefing. | When convenient |

Contact for telephone discussion (if required)

| | Name | Position | Work | Mobile |
|---------------------|----------------|------------------------------------|-----------|-----------|
| Responsible Manager | Bryce Wigodsky | Manager, Organics Policy | | s 9(2)(a) |
| Principal Author | s 9(2)(a) | Principal Adviser, Organics Policy | s 9(2)(a) | |

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Key Messages

1. We are working with the Parliamentary Counsel Office to progress drafting of the proposed Organic Products Bill (the Bill) at pace, in order to introduce it to the House before the end of 2019.
2. As agreed by Cabinet in December 2018, enforcement measures have been developed with the Ministry of Justice. This briefing seeks your agreement to include these provisions in the draft Bill.
3. Drafting of the Bill and initial work on regulatory proposals have also helped refine how the regime would work in practice. Some adjustments to policy are needed to ensure the regime will achieve its objectives while facilitating implementation for organic businesses.
4. Three adjustments involve variations from previous Cabinet decisions [DEV-18-MIN-0273 refers] and would require Cabinet agreement. The proposed adjustments would:
 - make the administering government department responsible for the decision on whether a business is permitted to make organic claims;
 - mean that businesses which handle, but do not process, change or repack organic products, will be within the scope of the Act; and
 - allow costs to be recovered from all organic businesses, and not just those who have been approved.
5. We are currently developing high-level proposals for the content of regulations that will sit under the proposed Bill, and will provide you with a copy of these proposals at the same time as we provide you with a copy of the draft Bill.
6. We have scheduled a meeting with you on 29 August 2019 to discuss.

Recommendations

7. The Ministry for Primary Industries recommends that you:

- a. **Note** that drafting of the Organic Products Bill is progressing at pace, and we are aiming to have a draft Bill ready for introduction to the House before the end of this calendar year.

Noted

- b. **Agree** with our proposals to develop an enforcement regime that will empower the chief executive of the administering government department to:

- appoint organic officers to monitor and enforce requirements;
- publish privileged statements relating to any organic product or operator, for the purpose of informing the public;
- issue (and withdraw) statements of compliance; and
- give directions to recognised agencies and persons, businesses, and other persons.

Agreed / Not Agreed

- c. **Agree** with our proposals that the Bill will empower organic officers to:

- enter organic premises;
- conduct an examination; and
- issue improvement notices.

Agreed / Not Agreed

- d. **Agree** with our proposal to provide for the use of 'enforceable undertakings' as an alternative to prosecution.

Agreed / Not Agreed

- e. **Agree** with the offences and penalties proposed in Appendix One.

Agreed / Not Agreed

- f. **Agree** to proposed changes to the policy approach that would:

- make the administering government department responsible for the decision on whether a business is permitted to make organic claims;
- mean that businesses which handle, but do not process, change or repack organic products, will be within the scope of the Act; and
- allow costs to be recovered from all organic businesses, and not just those who are verified.

Agreed / Not Agreed

- g. **Note** that if you agree to the changes outlined in f) above, we will include these for Cabinet approval through a Cabinet Legislation Committee (LEG) paper that will be provided to you at the same time as a draft Bill.

Noted

- h. **Note** that officials are currently developing high-level proposals for the content of regulations that will sit under the proposed Organic Products Bill.

Noted

- i. **Agree** that MPI engage with key stakeholders in a targeted way in advance of introducing the Bill in order to gather information to inform high-level proposals for regulations.

Agreed / Not Agreed

Fiona Duncan
Acting Director Food Skills and Science
Policy and Trade

Hon Damien O'Connor
Minister of Agriculture
Minister for Food Safety

/ / 2019

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Introduction

8. The purpose of this briefing is to provide you with an update on the draft Organic Products Bill and to seek your agreement on certain aspects of that Bill, in particular:
- enforcement provisions that we propose to include in the Bill;
 - three modifications to policy that will require Cabinet approval, these modifications will:
 - make the administering government department responsible for the decision on whether a business is permitted to make organic claims;
 - mean that businesses which handle, but do not process, change or repack organic products, will be within the scope of the Act; and
 - allow costs to be recovered from all organic businesses, and not just those who have been approved.

Background

9. In response to sector growth and Cabinet's direction [Sub-18-0021 refers], MPI consulted publicly in May last year on whether New Zealand would benefit from new organic regulation. The majority of respondents supported a change in the way organics are regulated (85%), and stated that organic businesses should meet a mandatory national organic standard (76%).
10. In December 2018, Cabinet approved policy proposals for establishing an organic legislative regime [CAB-18-MIN-0592 refers]. This regime is intended to:
- increase consumer confidence in purchasing organic products;
 - increase certainty for businesses making organic claims; and
 - facilitate international trade in organic products.

The draft Bill

11. MPI is currently working with the Parliamentary Counsel Office (PCO) on drafting a Bill in accordance with Cabinet's directions.
12. The draft Bill will set out the principal framework for the overall regime, including:
- the purpose and scope of the legislation;
 - key requirements for businesses making organic claims;
 - key obligations for agencies and persons checking compliance;
 - requirements on imports and exports;
 - enforcement measures and sanctions;
 - cost recovery; and
 - regulation making powers.

13. We are currently aiming to have a Bill ready for introduction to the House by the end of 2019.

Enforcement

14. In accordance with Cabinet's December 2018 instruction, we have worked with the Ministry of Justice to develop proposed enforcement measures [DEV-18-MIN-0273 refers]. These measures are generally 'light touch' because the regime is primarily concerned with consumer information rather than health or safety. For example, while the Bill will empower agencies to require non-compliant product to be relabelled or taken off the shelves, it would not provide a power to order disposal or stop production. Such product could still be sold or consumed so long as claims that it is 'organic' are not made.
15. Where possible enforcement measures have been aligned with those clauses of the Fair Trading Act 1986 that relate to misleading claims and unsubstantiated representations. There are some additional measures that are aligned with provisions of the Wine Act 2003 and how that legislation deals with truthfulness in labelling and protecting New Zealand's reputation. Adjustments were made to take into account that the Bill would:
- enable verification systems to check compliance. Administering agencies should therefore have oversight of an operator's practices before a breach is suspected or occurs, or before a complaint is made;
 - be administered by Departments, rather than an Independent Crown Entity (e.g. the Commerce Commission for the Fair Trading Act). For example, this resulted in some powers being given to the Chief Executive of the Department, rather than providing an ability for the Chief Executive to apply to the Court; and
 - focus not only on the domestic market, but also apply to international trade of organic products, whether these are imported or exported.
16. We propose that the Chief Executive will be empowered to:
- appoint organic officers to monitor and enforce requirements;
 - issue (and withdraw) statements of compliance;
 - publish privileged statements relating to any organic product or operator, for the purpose of informing the public; and
 - give directions to recognised agencies and persons, businesses, and other persons requiring:
 - provision of information needed to investigate a breach;
 - actions necessary to identify and manage non-compliant product;
 - sales to stop and products to be taken off shelves or relabelled;
 - preventative or corrective actions; and
 - disclosure or publication of information.

17. We also propose that organic officers¹ will be empowered to:
- enter organic premises;
 - conduct an examination; and
 - issue improvement notices.
18. Because organics is about the authenticity of a production and processing system rather than safety, we have scaled back a number of enforcement measures that are common across other regulatory systems. For example, we propose to include:
- powers to disrupt sales or direct a business to relabel non-compliant products, rather than powers to recall or destroy non-compliant products;
 - compliance tools to manage poor performance (by means of increased verification frequency or unannounced audits), rather than the ability to ban individuals from owning or managing an organic business; and
 - powers to allow the chief executive to direct that improvements be made, rather than enable an officer to interrupt operations, or seize, condemn or require disposal of products.

Enforceable undertakings

19. We propose to enable 'enforceable undertakings' as an alternative to prosecution, which will set the regime apart from other MPI-administered legislation. A business or recognised agency may apply for an enforceable undertaking in order to do certain things to address a breach. The conditions of an undertaking can be negotiated between the business and the regulator but, once agreed, become legally binding. The Fair Trading Act 1986 allows the Commerce Commission to accept enforceable undertakings to manage breaches of credence claims. The Commission advised this tool provides an effective way to change behaviour while minimising costs for all parties.

Offences and penalties

20. The Bill would also set out financial penalties for important breaches. For example this includes offences for:
- persons undertaking fraudulent activities, such as deception or impersonation;
 - persons selling non-compliant products as organic; and
 - recognised agencies or persons in breach of their obligations.
21. Appendix One provides a table that outlines our proposals in detail, and compares the offences and sanctions proposed to those provided for in other regimes.

¹ 'Organic officers' will be appointed by the chief executive to carry out certain inspection and enforcement functions.

22. The provisions we have proposed incorporate feedback provided by the Ministry of Justice and are consistent with their views. The provisions have also been discussed with the Legislation Design Advisory Committee and reflect their advice.
23. Subject to your approval, these provisions will be incorporated into the draft Bill.

Amendments that will require Cabinet approval

24. Three other amendments to the policy are proposed that will require Cabinet approval as they vary from previous Cabinet decisions [DEV-18-MIN-0273 refers]. Should you agree with these proposals, Cabinet approval will be sought through a Cabinet Legislation Committee (LEG) paper that will be provided to you at the same time as a draft Bill.

Responsibility for the decision on whether a business can make organic claims

25. In December, Cabinet agreed that either the administering government department or a recognised agency will be able to issue a business with proof of compliance (such as a certificate) with the standards. We propose that the default should be that the relevant Ministry makes the decision on whether a business is permitted to make organic claims. Recognised agencies would still check compliance and make recommendations, but not make the approval decision.
26. This change is proposed because:
 - it provides a higher-level of government oversight and ensures consistency in decision-making;
 - it would provide consistency with existing MPI regimes, which is likely to make the transition to a new regime easier for some businesses that are already registered with MPI; and
 - it provides greater government-to-government assurance, which may better facilitate trade.
27. However it is also important to note that this approach:
 - will be imposed not just on MPI, but also on any other Ministry that regulates organic products (such as cosmetics or textiles);
 - may be more resource intensive for the relevant Ministry to administer;
 - may be perceived as higher-touch than required for organic claims, as the level of oversight is similar to food safety;
 - is out of step with organic regimes used by international trading partners (including Australia, the US and EU); and
 - may impact on ease of business, as it will require businesses who are currently certified under a voluntary organic scheme to start interacting directly with the relevant Ministry for approval.

28. On balance, officials consider that having the relevant Ministry approving organic businesses will provide consumers and trading partners with more confidence in organic claims made in New Zealand. We will also work on regulatory and implementation options to mitigate any potential negative impacts on businesses.

Application of the Bill to businesses that handle, but do not process, change or repack organic products

29. Cabinet agreed that businesses that handle, but do not process, change or repack organic products should be outside of the scope of the Act. We propose that these businesses should be within the scope of the Act. This decision would apply to businesses such as transport companies, storage facilities and supermarkets.
30. This change is proposed because it is important to have the ability to set requirements to ensure that organic products remain identified and protected from contamination throughout the entire supply chain.
31. However, because the risk is low imposing some requirements and costs on such businesses may be unnecessary. We will be able to use regulations to set out which requirements would apply, commensurate with the risks presented.

Cost recovery

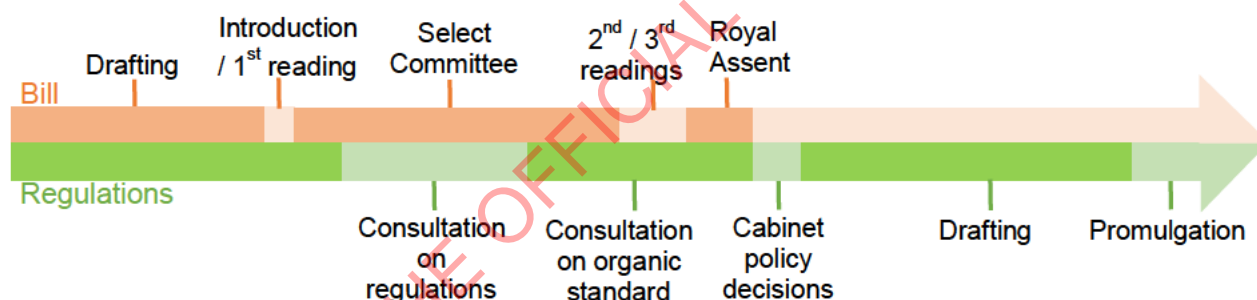
32. Cabinet agreed to enable the direct and indirect costs of administering the Act to be recovered from approved businesses. We propose that costs be recovered from all organic businesses, and not just those that are approved.
33. This change is necessary to ensure that the Bill provides the ability for the relevant Ministry to cost recover the direct and indirect costs resulting from the administration of the regime. It also ensures that fees can be charged to the business or person who is benefiting from the service, whether they are approved or not. For example, this could include the cost to administer organic standards, or develop templates to facilitate implementation.
34. The Bill continues to provide the ability to exempt some businesses from cost recovery or to waive fees, for example if such costs are disproportionate to the benefits.

Next steps

35. We will provide you with a LEG paper seeking approval to introduce the Bill at the same time as we provide you with the draft Bill. Should you agree to the above proposals, they will be included in the LEG paper for Cabinet approval on the proposed changes to the scope, cost recovery and level of oversight for the organics regime.
36. Should you agree to the proposals on enforcement these modifications will be incorporated into the draft Bill.

Proposed consultation on organic regulations

37. We are currently developing high-level proposals for the content of regulations that will sit under the proposed organics Bill.
38. While the Bill provides a framework, most of the detail around processes to be followed by businesses, recognised agencies and persons will be set in these regulations.
39. We propose that MPI engage with key stakeholders in a targeted way in advance of introducing the Bill in order to gather information to inform these high-level proposals. This will make the regulations proposals more robust and formal consultation more effective. It will be particularly useful for developing the content of the organic standard for food, plant and animal products, and workable options for the verification regime.
40. As set out in the following diagram, we intend to provide you with a copy of our regulation proposals discussion document at the same time as we provide you with a copy of the draft Bill, and aim to undertake formal consultation at the same time as Select Committee consults on the Bill. This will provide the public, consumers and industry with the relevant context in order to make informed decisions on both the Bill and the regulations.



41. Assuming that Select Committee begins consultation on the Bill soon after introduction, this will likely mean that consultation will take place over the 2019/2020 holiday period. We will therefore recommend providing an extended period of consultation to provide stakeholders with a reasonable opportunity to engage with us on the regulations. This means that consultation on the regulations is likely to extend for longer than the Select Committee's consultation on the Bill. Should Select Committee delay consultation until after the holiday period, we would reassess and propose to align the two consultations as far as possible.

Appendix One – Offences and sanctions

| Offence | Sanction for a business | Comparison to other regimes |
|--|-------------------------|--|
| Person undertaking fraudulent activities with intent to deceive | up to \$600,000 | Wine Act and Animal Products Act up to \$500,000 Fair Trading Act up to \$600,000 |
| Selling non-compliant product as organic | up to \$250,000 | Wine Act up to \$250,000 Animal Products Act up to \$500,000 Fair Trading Act up to \$30,000 |
| Selling organic products without approval (and without being exempt from needing approval) | up to \$100,000 | Wine Act and Animal Products Act up to \$100,000 Fair Trading Act n/a |
| Failing to meet export requirements | up to \$100,000 | Wine Act and Animal Products Act up to \$100,000 Fair Trading Act n/a |
| Breach of duties (for recognised agencies and persons only) | up to \$100,000 | Wine Act and Animal Products Act up to \$100,000 |
| Obstruction or impersonation of officers or officials | up to \$100,000 | Wine Act and Animal Products Act up to \$250,000 Fair Trading Act up to \$30,000 |
| Impersonation of recognised agency or persons | up to \$100,000 | n/a |
| Infringement offences | up to \$1,000 | Wine Act and Animal Products Act up to \$1000 Fair Trading Act up to \$2000 |

AM19-1013

Ministry for Primary Industries
Manatū Ahu Matua



Aide-memoire:

From: Fiona Duncan
Acting Director Food, Skills and Science

Contact: Fiona Duncan,
Acting Director Food, Skills and Science s 9(2)(a)

To: Hon Damien O'Connor
Minister of Agriculture

Date: 18 November 2019

**Background for Attendance at 3rd Annual Hirshberg
Entrepreneurship Institute Workshop**

Key Messages

- You are attending the 3rd Annual Hirshberg Entrepreneurship Institute Workshop in Auckland on Tuesday, 19 November. The title of the workshop is “Building your Business for Domestic and Export Markets”.
- You have been asked to give a 5-10 minute speech, followed by an open floor Q&A session.
- Attached to this aide-memoire are the event programme (see Appendix One) and proposed speaking notes (see Appendix Two).

Background

1. This event will be held at the Orakei Bay Waterfront Venue, 231 Orakei Road, Remuera, Auckland. Attendees will be part of a two-day “boot camp” for natural and organic products entrepreneurs looking to expand domestically and internationally. We understand there will be around 60 guests.

2. The run-sheet for 19 November is as follows:

- 8.30am – Event opens
- 3.45pm – You are introduced
- 3.50pm – Your address, followed by panel discussion and questions from the floor
- 4.15pm – You leave.
- 5.30pm – Day one of the event ends.

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3. You have been asked to talk about opportunities for small agricultural businesses, the importance of exports, and areas of innovation. Organics has been highlighted as a particular area of interest. Other sessions focus on practical issues, such as: projecting and managing cash flow; marketing; and tips for entering the US market.
4. Your session will be chaired by the event moderator, Gary Hirshberg. Mr Hirshberg is chairman and former CEO of Stonyfield Farm, a large organic dairy company based in New Hampshire, USA.
5. Notable presenters at the event include Walter Robb, Corinne Shindelar, Lisa King and Peter Gordon:
 - Walter Robb joined US firm Whole Foods Market in 1991, and served as co-CEO and on the Board of Directors from 2010 to 2016.
 - Corrine Shindelar is president of the US Independent Natural Food Retailers Association.
 - Lisa King is the founder of 'Eat My Lunch', and one of three finalists for 2019 New Zealander of the Year. In March 2019, she was named MYOB Woman Entrepreneur of the Year.
 - Peter Gordon is a New Zealand-born, London-based chef. His restaurants have included The Sugar Club (Wellington), The Sugar Club (London), The Sugar Club (Auckland), Providores (London) and Crosstown Doughnuts (London).

Opportunities for small agricultural businesses, the importance of exports, and areas of innovation

6. Strong global economic growth coupled with population growth and rising incomes have driven consumer demand for value added products along with an increasing focus on the sustainability of food production. Other global drivers of trends in the primary products market include the:
 - a. Risks, uncertainties and opportunities of climate change;
 - b. Changing definitions of food and redefining sustainable consumption and production;
 - c. Growing interest in bio-based economies, the circular economy, and planetary boundaries;
 - d. Speed of innovation, including through e-commerce;
 - e. Changing consumer tastes and preferences; and
 - f. 3.8 billion people in the world who suffer from some form of malnutrition.
7. New Zealand exports remain highly regarded, with an international reputation for the export of high quality, nutritious and sustainable products with underlying integrity. Over many years we have developed a diversified export portfolio – New Zealand's primary industries sector currently export a wide range of goods to over 200 markets.

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8. New Zealand seeks to develop its position as a leader in innovative and sustainable agricultural practices. We need to reduce agricultural emissions, while maintaining a strong economy and productive and resilient sectors capable of meeting the nutrition demands of an exponentially growing world population. |
9. New Zealand agriculture is unique, being market-led and, for the most part, is an exemplary example of a bioeconomy. This has enabled our producers to focus on innovating to increase efficiency of production rather than relying on production subsidies that would prop up poor production practices.
10. New Zealand companies have been shifting to quality over quantity goods production in order to secure more value out of the growing middle class in a variety of markets, and organics is one example of that. New Zealand continues to be well-placed to provide discerning consumers with premium products, whether that be through our sustainability credentials or competitive advantage in natural and organic production. This Government is working hard to enable the primary industries to make this value over volume transition, in order to extract economic, social and environmental benefits for all New Zealanders.

Update on developing a regulatory regime for organics

11. In December 2018, Cabinet agreed to progress a regulatory regime for organic products. MPI has been working with the Parliamentary Counsel Office to draft an Organic Products Bill, which will enable the development of national organic standards and an assurance and compliance regime. You were provided with this draft Bill, and other associated material for Cabinet's consideration, on 14 November 2019 (Sub19-0112 refers).
12. We anticipate that the Bill will be introduced to the House this year. MPI is also beginning work on the regulations and the organic standard for food, beverage, plant and animal products that will sit under the Bill.
13. We encourage businesses and people interested in organics to be involved during the select committee and public consultation processes.

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Possible questions from the floor

14. We anticipate that attendees may ask questions related to: the status quo and why a new regulatory regime for organics is necessary; sector engagement; and how transition to the new regime will be managed. In addition to containing notes to inform your presentation, appendix 2 includes information intended to inform your response to such questions.

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Appendix One: Programme

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Appendix Two: Draft speaking notes

| | |
|---|---|
| <p>Intro</p> | <ul style="list-style-type: none"> • Good afternoon. • I appreciate coming to speak to so many people wanting to grow their natural or organic products business. |
| <p>Opportunities for small agricultural businesses; the importance of exports; and areas of innovation</p> | <ul style="list-style-type: none"> • Strong global economic growth coupled with population growth and rising incomes have driven consumer demand for value added products along with an increasing focus on the sustainability of food production. • New Zealand is part of a global organic community. The United Nations Food and Agriculture Organisation notes the importance of organics to small and medium enterprises and Codex has developed guidelines to standardise labelling and production requirements. • Our global consumers have a high degree of confidence in the integrity of New Zealand’s systems. It is in our interests to work with the international standard setting bodies to maintain and build consumer confidence for organic production. New Zealand is well-placed to respond to this growing demand as a producer of high quality, nutritious and sustainable food. • Organics plays a part in this, as a growing sector with a focus on high value products. • Overall, New Zealand companies have been shifting to quality over quantity goods production. • The Government is working hard to enable the primary industries to make this value over volume transition, in order to extract economic, social and environmental benefits for all New Zealanders. • New Zealand’s organic industry is worth approximately \$600 million annually, \$355 million of which is exports. The majority of organic exports go to the European Union and the United States. • The value of exports under the Official Organic Assurance Programme (OOAP) has increased on average 12% per annum over the last five years. • Horticulture, wine and meat/dairy are the major industries exporting organic products. |
| <p>Update on developing a regulatory regime for organics</p> | <ul style="list-style-type: none"> • On 3 December 2018, I announced that a national standard for organic production will be progressed as a Bill. • I anticipate that the Bill will be introduced to the House very soon. • Objectives of the Bill are to: <ul style="list-style-type: none"> ○ increase consumer confidence ○ increase businesses certainty to invest in organic products, and ○ facilitate international trade of organic products. • You will have the opportunity to give feedback on the draft Bill when it is consulted on by the select committee. You will also have an opportunity to speak to your submissions. • Simultaneously, MPI will also consult on regulations, which will set out the requirements for businesses, and on the content of the national |

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| | <p>organic standard itself. The development of a national standard will involve working with the organics sector to ensure we get it right.</p> <ul style="list-style-type: none"> • The regulations and the national standard will be developed as the Bill progresses through the parliamentary process. |
| <p>Information that may assist in responding to questions about the status quo and the need for change</p> | <ul style="list-style-type: none"> • MPI runs the Official Organic Assurance Programme (OOAP) that allows organic products to be exported to specific markets that require government assurance. • Specific markets covered by the OOAP include the United States and European Union, which account for 95% of OOAP organic export value. • Exports under the OOAP increased 5% in the year ending June 2019, to \$129 million. • The value of exports under the OOAP has increased on average 12% per annum over the last five years. • Not all organic exports are covered under the OOAP. • Of the world's top 25 organic markets (by value), all but Australia and New Zealand have developed mandatory domestic organic standards. • Countries with mandatory domestic standards increasingly expect their trading partners to have comparable systems. In the future, this could make maintaining and growing market access with the United States and European Union challenging, and securing access to new markets difficult. • Market access, particularly to the United States and European Union, is crucial to the success of our organic sector. In the year ended June 2017, the average organic premium achieved by New Zealand organic exporters to the United States was 53 percent over conventionally produced food. • There is an opportunity to improve the current regime. • New Zealand does not have one set of rules for what organic means. This can cause uncertainty for domestic and international consumers, and confusion for organic businesses. • Overseas countries may be reluctant to import our organic products until our regulations are strengthened. Changes to the current regime could put New Zealand in a better position to negotiate new and more secure market access in the future. • Strengthened regulations will provide organic businesses along the supply chain with increased certainty of which organic practices and inputs are acceptable. This will increase consistency in organic claims, create a level playing field and increase business' certainty to invest in organics. |
| <p>Information that may assist in responding to questions about the</p> | <ul style="list-style-type: none"> • In 2018, MPI publicly consulted on whether New Zealand would benefit from new organic regulation: • The preferred option consulted on was a mandatory National Organic Standard, because it is most likely to increase certainty for consumers and deliver trade benefits. • Public consultation indicated a strong support for change. |

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| views of the sector | <ul style="list-style-type: none">• 208 submissions were received on MPI's consultation on a National Organic Standard.• 85% wanted a change in how organics are regulated.• 76% supported a mandatory standard.• 72% wanted compliance to be checked. |
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| <p>Information that may assist in responding to questions about transition</p> | <ul style="list-style-type: none">• Many of you may already be certified under a private organic standard.• I anticipate that for this group, the transition to a new regime should be relatively straightforward.• There are likely to be some additional costs. Most of these additional costs will depend on processes that will be outlined in regulations, and MPI will consult on these as part of developing those regulations.• Suitable transition times will be provided for businesses and other affected parties to get up to speed with the new regime. |
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AM20-0086

Ministry for Primary Industries
Manatū Ahu Matua



Aide-memoire:

From: Bryce Wigodsky, Manager, Organics Policy
Food, Skills and Science Policy

Contact: Bryce Wigodsky, Manager Organics Policy (s 9(2)(a))

To: Hon Damien O'Connor
Minister of Agriculture

Date: 19 February 2020

Event to announce the Organic Products Bill and the new regulatory regime for organics

Key Messages

- 27 February 2020, you are announcing that the Organic Products Bill has been introduced into Parliament and will be referred to Parliament's Primary Production Select Committee for consideration.
- You are also announcing that MPI will be consulting on proposed regulations for organic food, beverages, and plant and animal products (enabled by the Bill), and that early engagement with the sector on a new national organic standard will soon be starting.
- The announcement will be made during your visit to Coastal Kiwis Orchards, Opotoki.
- It will be a 5 minute speech, followed by a short speech from Minister James Shaw, then an open question and answer session.
- Attached to this aide-memoire are the event run sheet (Appendix One), biographies of key invitees (Appendix Two), proposed speaking notes to support you at the event (Appendix Three) and the list of attendees (Appendix Four).

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Event details

1. The event will be held between 11.00am and 12.30 pm on Thursday 27 February, at Coastal Kiwis Orchard, Opotiki. The vehicle entrance for Coastal Kiwis Orchard is located at 25 Walker Road, Tablelands, Opotiki.
2. On your arrival, you will be met by Catriona and Mark White, the owners of Coastal Kiwis Orchard. Their biographies, and those of other key attendees, are attached as Appendix Two.
3. You will then be welcomed onto the Orchard by Opotoki College's Kura Ki Uta Kapa Haka group.
4. After a health and safety briefing, Catriona and Mark White will invite you to speak on the Bill and the new regulatory regime for organics. Minister James Shaw will then speak briefly, followed by a 10 minute, open-floor question and answer session and light refreshments in the Whites' gazebo.
5. You and the other guests will then tour the Orchard with your hosts. Your visit ends at 12.30pm.
6. Fiona Duncan, Acting Director, Food, Skills and Science Policy, and Bryce Wigodsky, Manager, Organics Policy, will be available to support you during your visit to Coastal Kiwis Orchard.

The following topics are likely to be raised during this event

Update on developing a regulatory regime for organics

7. On 17 February 2020, Cabinet agreed to introduce the Organic Products Bill [CAB-MIN-0025.01 refers]. The Bill will enable the development of a national organic standard and an assurance and compliance scheme. The Bill will be referred to Parliament's Primary Production Select Committee for consideration.
8. Cabinet also agreed to MPI publically consulting on proposed regulations for food, beverages, plant and animal products, as enabled by the Bill [DEV-20-MIN-0011 refers]. At the same time, MPI will begin early consultation on a national organic standard. Consultation on the proposed regulations and the organic standard will begin when the Bill is referred to Select Committee. Submissions on the discussion document for the proposed regulations will close no earlier than 12 weeks after the consultation period starts. Further consultation on an exposure draft of the regulations and the new standard will occur later this year.

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9. MPI's consultation on the proposed regulations overlaps with Parliament's public consultation on the Organic Products Bill, so that people can see the regime as a whole and make informed submissions on both. We encourage businesses and people interested in organics to get involved during the Select Committee and public consultation processes.

Cabinet agreed to propose that the relevant ministry approves businesses to make organic claims

10. On 17 February 2020, Cabinet agreed to propose that administering government department (i.e. the relevant Ministry) is responsible for the decision on whether a business is permitted to make organic claims [LEG-MIN-0006]. This arrangement differs from current practice. At the moment, it is third party certification agencies who certify and accredit organic products and businesses in New Zealand. This approach is also taken by organic regimes in other countries.
11. Certification agencies will still have a crucial role in the new organic regime by checking compliance to standards, evaluating organic management plans, verifying organic businesses, and making recommendations to the relevant Ministry. This information will be a key input into the relevant Ministry's decision to approve a business as organic.
12. The Bill and proposed regulations restrict the decision making power to approve organic businesses to the relevant Ministry to better secure consumer confidence and protect New Zealand's trading reputation. This approach is also more suited to our small domestic market, and is necessary to ensure impartial and consistent decision making.
13. BioGro andASUREQuality are the two primary organic certification agencies in New Zealand, and have been invited to the event.

Exporters may be uncertain about how the new regime will work in practice

14. Organic exporters at this event may express uncertainty about how the new organics regime will work, particularly when New Zealand and overseas requirements differ.
15. We recognise that new legislation can cause uncertainty. For this reason, the Bill provides that where there is a conflict between the New Zealand organic standard and another country's organic import requirements, exporters would be able to meet the importing country's organic requirements rather than the New Zealand standard. Note that producers will still need to meet the New Zealand standard to market and sell their products as organic here.

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16. In addition, the proposed regulations plan to use a similar process to the Official Organic Assurance Program (OOAP) that organic exporters currently use. Exporters will be familiar with these processes.
17. Finally, organic producers will still be able to export to Australia under the Trans-Tasman Mutual Agreement using their current practices.

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Appendix One: Event run sheet


Where: Coastal Kiwis Orchard, 25 Walker Road, Tablelands, Opotiki

When: 27 February 2020, 11:00am – 12:30pm

Key contacts

| Name | Title | Contact number |
|-------------------------|---|----------------|
| Fiona Duncan | Acting Director Food, Skills and Science Policy | 029 894 5000 |
| Bryce Wigodsky | Manager, Organics Policy | 022 017 7441 |
| Nikki Prendergast | Acting Ministerial Advisor | 021 811 248 |
| Luke Chivers | Acting Press Secretary | 027 281 6539 |
| Kelly Devoy | Private Secretary | 027 203 7367 |
| May Tien | Senior Advisor, Communications, MPI | 022 011 4621 |
| Catriona and Mark White | Owners, Coastal Kiwis Orchard | 021 073 0176 |

Run sheet

| Time | Required | Activity |
|-------------------|---|---|
| 10:00am | MPI web services team (Wellington) | Publish updated organics page. |
| 10:30am – 10:45am | Invited guests, media and key contacts  Orchard plan for Hon Damien O'Conr | Guests arrive, park car on load out (sign will be posted). Toilets are available here. Visitors follow cones walking into the orchard, and assemble at northern end of Scallop Block (next to the Gazebo). |
| 10:45am – 11:00am | Invited guests, media and key contacts | Walk into the middle of the SunGold kiwifruit blocks – assemble on shady side of shelterbelt ready for speeches. |
| 11:00am – 11:05am | All | Bryce/Fiona to announce embargo on media until Sunday 1 March at 9:00am |

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| | | Visitors welcomed by Opotiki College Kura Ki Uta Kapa Haka. |
| 11:05am – 11:07am | Catriona and Mark White | Welcome and health and safety briefing. |
| 11:07am – 11:13am | Hon Damien O'Connor | Organic Products Bill announcement and speech. |
| 11:13am – 11:15am | Hon James Shaw | Supporting comments. |
| 11:15am – 11:18am | Catriona and Mark White | Supporting comments. |
| 11:18am – 11:50pm | Media, Hon Damien O'Connor, Hon James Shaw, Catriona and Mark White, Jim Bennett, Chris Morrison, Rick Carmont. | Media standup and organic refreshments served in the Gazebo. |
| 11:50am – 12:20pm | All | Orchard visit – history, organic certification, soil management, water management, organic kiwifruit production. |
| 12:20pm – 12:30pm | All | Photo opportunity with orchard signage and kiwifruit. Event concludes. |

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Appendix Two: Biographies of key attendees



**Mark and Catriona White (Hosts)
Owners, Coastal Kiwis Orchard**

Mark and Catriona were winners of the Ballance farm environment award in 2018, and were named national ambassadors for sustainable farming and growing. The Whites have been growing on the land for 10 years, but their land has been in Catriona's family for four generations.



**Chris Morrison
Chair, Organic Aotearoa New Zealand (OANZ)**

Chris is the co-founder of Karma Cola and also runs All Good Organics with his business partners. Prior to this, Chris co-founded and grew another successful organic soft drink company, Phoenix Organics.



**Alice Moore
Chair, Organic Exporters Association New Zealand (OEA NZ)**

Alice is the current Chair of OEA NZ, which includes representatives from MPI and New Zealand Trade and Enterprise on its Executive Committee.

Alice has been Global Marketing Manager – Organics at Zespri since 2016. Prior to Zespri, Alice worked in marketing for Lion and Ballance Agri-Nutrients.



**Bruce Cameron
Chair, Zespri**

Bruce Cameron is a long time kiwifruit grower. He also has a background in pastoral and arable farming.

Bruce is Chairman of Realty Service Holdings Ltd and the Waipuna Hospice.

He is also on the Boards of the New Zealand International Business Forum and the New Zealand China Business Council.



Doug Voss
Chair, Certified Organic Kiwifruit Growers Association

Doug has grown kiwifruit for the last 40 years, and currently farms 29 hectares of organic kiwifruit near Tauranga.

Past roles include serving on the New Zealand Kiwifruit Authority Board from 1988 to 1999, before becoming the first chairman of Zespri in 2000-2003.



Brendan Hoare
Managing Director, Buy Pure NZ

Brendan has grown a career in developing consultancies to help organic businesses grow, including Buy Pure NZ and Organic Systems. He also took on the role of Chief Executive Officer of OANZ for three years until 2018.

Brendan runs a certified organic four hectare property in Auckland's Waitakere Ranges.



Jon Merrick
Member of the Board of Directors, BioGro

Jon is a member of the Board of Directors for BioGro, one of New Zealand's leading organic certifiers.

Jon is the Organic Category Manager for Apata Limited, a pack house for organic kiwifruit. Prior to this, he was an organic kiwifruit orchard manager before owning and running a corporate team building company.

Jon is also on the executive of the Certified Organic Kiwifruit Association and chairs the BioGro Impartiality Committee.



Dr Barry O'Neil
President and Chairman of Directors, Horticulture New Zealand

Barry is a kiwifruit grower from Tauranga. He has significant biosecurity and leadership experience through roles in government, working in New Zealand and overseas.

He is the President of Horticulture New Zealand, Director of Tomatoes NZ, and is on the governance group of Our Biological Heritage National Science Challenge. He has been a Director of New Zealand Forest Research Institute Limited (Scion) since December 2012.

Appendix Three: Speaking notes

- People to acknowledge:
 - Hosts Mark and Catriona White
 - Chris Morrison, Chair of Organics Aotearoa New Zealand (OANZ)
 - Alice Moore, Chair of Organic Exporters Association New Zealand (OEANZ)
 - Representatives of organic certification agencies (Jon Merrick, BioGro)
 - Industry representatives (Doug Voss, Jim Bennett, Barry O'Neil).

- In 2018 over 200 people and organisations fed into the consultation on whether we should have national organic standards. You spoke, and we listened.

- The global demand for organic products is increasing, and our organic sector in New Zealand has responded with growth of 30 per cent between 2015 and 2017.

- Zespri has even forecast a doubling in sales of organic kiwifruit between 2018-19 and 2025.

- Now is the time to put a framework in place to help sustain and enhance this growth, to give consumers and businesses confidence in products that claim to be organic.

- I want to announce that the Government has introduced the Organic Products Bill into Parliament.

- The Bill has the following objectives:
 - increase consumer confidence in organic claims
 - give businesses certainty to invest in organic products and organic production methods
 - facilitate international trade.

- Organics attract a premium. Consumers pay more for organic products. This Bill will give them confidence that the products they buy are organic.

- When the regulations are in place, organic farmers like Catriona and Mark will have confidence in the investment they've made and that their competitors are also subject to the same requirements. My hope, and my intention, with this Bill is for it to usher in greater growth and prosperity for organic business in New Zealand, because consumers and businesses can have certainty about products claiming to be organic.

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- Countries overseas are increasingly demanding that imports comply with their domestic standards, or come from equivalent regimes. This Bill will satisfy the requirements of our current trading partners and open doors in new markets for New Zealand's premium organic products.
- The introduction of the Bill does not mean that the work is finished. It has just begun. The Bill is the foundation for the entire organics regime. It is critical that we get the Bill right so the rest of the regime meets our objectives.
- Parliament's Primary Production Select Committee needs your help to make sure this Bill is fit for purpose. I encourage all people involved in organics from producers, to processors to certifiers, and consumers – make your voice heard and make a written or oral submission to the Select Committee.
- The Bill sets out a new system for making organic product claims in New Zealand. Where possible, the new system will look similar to how organics is managed now, with a few key differences.
- The first difference is that anyone who wants to make organic claims will have to meet the mandatory national standard.
- Certification agencies will continue to play a pivotal role in checking that organic businesses meet the standard, but the final approval decision will be made by the relevant government Ministry. For food, beverages, and plant and animal products, that will be the Ministry for Primary Industries.
- How the regime will look in practice is up to you.
- We need to strike a balance between providing certainty that businesses are meeting the new organic standards and keeping costs reasonable. We also need to ensure New Zealand's regime is similar enough to our trading partners to keep, and grow, our international market access.
- Over the next few months the Ministry for Primary Industries will be consulting with people and organisations like yours on the framework and on the standard you will need to meet to call your products organic. A number of hui will also be held around the country, to hear the views of Māori organic producers and consumers. This will begin at the same time as the Bill is before the Select Committee so you can see the entire package of proposals at once.
- I hope this gives you a better view to inform your submissions. We want to be able to adjust the proposals to reflect any change that comes up during the Select Committee process, and to consult you on these adjustments.
- I urge you all to participate in not just Select Committee, but also the regulations and standard consultation.

Appendix Four: List of Attendees

List of Attendees

| First | Last | Title | Contact number | Notes |
|---------|--------------|---------------------------------|----------------|---|
| Barry | O'Neil | Chair, Hort NZ | | |
| Mike | Chapman | CE, Hort NZ | 04 494 9979 | Andrew Bristol Comms Mgr 021 021 62 021 |
| Bruce | Cameron | Chair, Zespri | | tracy.sherlock@zespri.com (EA) |
| Brendan | Hoare | Managing Director, Buy Pure | | |
| Chris | Morrison | Chair, OANZ | 027 5481293 | |
| Viv | Williams | CEO, OANZ | | |
| Alice | Moore | Chair OENZ | | |
| Rick | Carmont | CE, OEANZ | | |
| Jim | Bennett | Chair, Te Aranga Organics | | Nathaniel Bennett (son) attending |
| Jon | Merrick | Board, BioGro | 0275 586241 | |
| Doug | Voss | Chair, Organic Kiwifruit Org | | |
| Angie | Warren-Clark | MP | | |
| James | Shaw | MP | | |

Apologies

| First | Last | Organisation | Contact number | Notes |
|----------|--------------|----------------------|----------------|-------|
| Jim | van der Poel | Dairy NZ | | |
| Donald | Nordeng | BioGro | | |
| Alison | Watters | AsureQuality | 029 4414 022 | |
| Andrew | Morrison | Beef+Lamb | | |
| Lyn | Riesterer | Mayor of Opotiki | | |
| Kiritapu | Allan | MP | | |
| Mark | Patterson | MP | | |
| Tim | Mackle | Dairy NZ | | |
| Katie | Milne | Federated Farmers | | |
| Marion | Wood | Commonsense Organics | | |
| Moko | Morris | Te Waka Kaiora | | |

AM20-0204

Ministry for Primary Industries
Manatū Ahu Matua



Aide-memoire:

From: Bryce Wigodsky
Manager Organics Policy

Contact: Bryce Wigodsky, Manager Organics Policy, (s 9(2)(a))

To: Hon Damien O'Connor
Minister of Agriculture

Date: 2 April 2020

Meeting with Organics Aotearoa New Zealand

Key Messages

- You are scheduled to meet with board members of Organics Aotearoa New Zealand (OANZ) by teleconference at 4.30pm on Monday, 6 April.
- Likely topics of discussion are how OANZ can support the government's considerations of the Organic Products Bill and regulations and national standard, OANZ's preference is to see the regulatory proposals sooner rather than later, and OANZ seeking government support for its 2020 Organic Sector Market Report.
- The current members of the OANZ board are Chris Morrison (chair), Tiffany Tompkins (deputy chair), Clinton Chambers, Susan Miller-Thevenard, Scott Lawson, Noel Josephson and Sam Weaver. Viv Williams is the OANZ Chief Executive.
- Suggested talking points are attached as Appendix One, and short biographies on the board members are in Appendix Two.

Background

Organics Aotearoa New Zealand is one of the largest organic sector organisations in the country

1. You are meeting with the OANZ Board on 6 April. The chair is Chris Morrison, the co-founder of All Good Organics and Karma Cola. Mr Morrison, along with OANZ Chief Executive Viv Williams, was at the launch event in Opotiki for the Organic Products Bill on 27 February.

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2. OANZ is one of several organic industry representative groups in New Zealand. Its members include businesses involved in organic production, certification and retail. Its primary purpose is to develop and advocate for pro-organic policies to decision-makers at central and local government.
3. You last met with OANZ in July 2019, and spoke at its Annual General Meeting (AGM) in August 2019. Chris Morrison and most board members began their roles after this OANZ AGM.

OANZ wishes to discuss how it can support the development of an organics regulatory regime

4. OANZ supports a mandatory regulatory regime for organic products, and is interested in the regime's progress. It wishes to discuss with you ways to work with the government during the ongoing establishment of an organics regulatory regime; the processes for public consultation on the Organic Products Bill, regulations and national organic standard; and available government support to produce the 2020 Organic Sector Market Report.
5. The Bill had its first reading on 19 March 2020, and was referred to the Primary Production Select Committee. The Committee began consultation on the Bill on 23 March. The Committee agreed to extend the public submission period for the Organic Products Bill from 29 April to 28 May 2020.

Information on the main topics OANZ may wish to discuss

Update on the regulatory regime for organic products, and moving forward

6. In February 2020, Cabinet agreed to the release of the discussion document on a proposed regulatory framework for organic food, beverages, plant and animal products to coincide with the Select Committee's consultation on the Bill. The aim of this approach was to allow stakeholders to see the regime as a whole and make informed submissions on both the Bill and the regulatory framework. Cabinet agreed consultation on the regulations would be for a minimum of 12 weeks.
7. In light of the constraints posed by COVID-19, and at the direction of the Prime Minister's Office, we postponed the consultation on regulations to allow stakeholders to respond and adjust to COVID-19. The Select Committee's consultation on the Bill is continuing.
8. OANZ and other sector participants remain interested in seeing the regulatory proposals in order to better understand how the Bill may work in practice, and to better inform their responses to each consultation. OANZ is likely to encourage you to proceed with regulations consultation as soon as possible.

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9. Providing stakeholders with visibility of the organics regulatory proposals may go some way to proactively addressing known concerns about the proposed regime, namely the role of the Minister and the approval process (see paragraphs 17-20 for more information). Early exposure to the regulatory proposals may help clarify this and other matters, and help to both improve submitters' feedback and facilitate the Select Committee's consideration of the Bill.
10. In advance of any potential decision to proceed with consultation, and within the constraints posed by COVID-19, we are developing plans for an online-based approach to public engagement on the regulations and national organic standard. This would replace the usual face-to-face workshops and hui. This will include additional and interactive online resources. We would continue with the usual discussion document and written submissions process.
11. We intend to work with OANZ and similar organisations to ensure consultation with the sector is effective, including with stakeholders who may have limited internet access. OANZ could also support this work by encouraging the organic community, especially smaller and uncertified organic businesses, to participate in the Bill, regulations and standard consultations.
12. Subject to your discussion with OANZ, you may wish to further discuss with the Prime Minister's Office the best approach and timing for the organics regulations consultation. To assist in that discussion, we consider there are three possible approaches:
 - a. continue postponing consultation until there is greater comfort within Government to resume business as usual
 - b. the Ministry for Primary Industries (MPI) could release the discussion document and associated information material to expose stakeholders to the regulatory proposals,¹ but not seek feedback at this time. Stakeholders could thus continue focusing on a single submission (on the Bill) while being more informed about the proposals. This option would necessitate minor amendments to the discussion document to clarify that submissions are not currently being sought, or
 - c. MPI begins consultation on the regulatory proposals and national organic standard, using online tools effectively engage with stakeholders. Under this option, we could begin consultation very soon after agreement to do so, with online engagement occurring at a later date within the consultation period.

Government support for the 2020 Organic Sector Market Report

13. OANZ is likely to also seek your support for its 2020 Organic Sector Market Report. This report is a biennial publication profiling New Zealand's organic sector.

¹ Note that the Cabinet Economic Development Committee paper seeking approval to publish the regulations discussion document has been proactively released [SUB19-0113 refers]. This paper contains some detail about the proposals that stakeholders already have access to.

Security Level – In Confidence

14. OANZ made a similar request to MPI when it was developing its 2018 Organic Sector Market Report. While a request for funding was declined at that time, MPI shared data and information with OANZ to inform its report.
15. We recommend that a similar approach is taken this year. MPI is undertaking research and analysis to support development of an organics regulatory regime and market access. We can share the results and insights of this work with OANZ.
16. Should OANZ wish to seek funding, a request can be made to MPI through the appropriate channels to ensure fairness to other funding applicants.

Approval for organic businesses

17. Under the Bill, the relevant Ministry is responsible for the decision on whether a business can be approved to make organic claims [SUB19-0112 refers]. The intent is to provide greater consumer confidence in organic claims, ensure consistency in application of the standard, and give greater assurance to governments of our overseas trading partners. However, this arrangement differs from the current New Zealand and international practice of third party agencies conducting certification.
18. OANZ, as well as other key industry bodies and certification organisations, were notified of this proposal prior to the Bill's introduction, as agreed between you and Minister Eugenie Sage in December 2019. We have not received any feedback from OANZ indicating their view on the matter.
19. Under the Bill, recognised entities (i.e. verification agencies) would still have a crucial role in the new organics regime by checking and ensuring compliance with standards, evaluating organic management plans, verifying organic businesses and making recommendations to the relevant Ministry. This information would be a key input into the relevant Ministry's decision to approve a business as organic.
20. In speeches during the Bill's first reading in Parliament, and in subsequent correspondence with stakeholders, it appears there is a misunderstanding about the details of this particular proposal. This is understandable because the Bill is high level and enabling, focusing on any organic product; while the regulations more clearly detail how this part of the process would work for organic food, beverages, plant and animal products. We expect that exposing stakeholders to the detail of this proposal, as set out in the regulations discussion document, would help address this misunderstanding.

Minister / Minister's Office

Seen / Referred

/ / 2020

Appendix One: Talking points for your meeting with the OANZ board

New ways of working with OANZ

- My officials and I are interested to work with OANZ on the regulations and standard, and we are interested to hear your views.
- I would appreciate you encouraging your members and wider networks to engage in the consultation on the Bill and, once we have more certainty on the timing, the consultation on the regulations and standard.
- My officials remain open to informal discussions with you and others in the organics sector about the regulatory proposals. You can contact them at organicsconsultation@mpi.govt.nz.
- Again, once we have certainty about when we can conduct consultation, officials will also be interested in working with you on how to best engage with the sector during and after responses to COVID-19.

Update on the Organic Products Bill

- The Bill had its first reading on 19 March, and has been referred to the Primary Production Select Committee.
- The Committee is now consulting on the Bill. Submissions are due by 28 May.
- I welcome your members' views on the Bill, and you are encouraged to make a submission on it. You may also wish to provide an oral submission to the Select Committee.

Update on the consultation on regulations and standards

- When appropriate, MPI will also begin consultation on the proposed regulations for organic food, beverages, plant and animal products; as well as initial discussions on the national organic standard.
- MPI and I encourage OANZ to be involved in this consultation, and to spread the word to all organic businesses about the consultation, especially smaller operations and those organic businesses that are not currently certified.
- The development of these regulations and standard will also involve working with you, and other relevant stakeholders, to ensure we get it right.
- We need to strike a balance between providing certainty that businesses are meeting the new organic standard and keeping costs reasonable.

Security Level – In Confidence

- MPI will continue to keep you and other stakeholders updated through direct communications, the MPI website and social media.

Approval

- MPI will make the decision on whether or not a business is approved to claim its food, beverages, plant and animal products are organic.
- This is important to ensure that we give consumers the confidence to purchase organic products, that there is consistency in decision making on who is approved to make organic claims, and to give greater assurance to the governments of our international trading partners.
- Verification agencies, or “recognised entities” as they are called in the Bill, will still have an important role in the regime. They would carry out evaluations and verifications, check ongoing compliance and make recommendations to the relevant Ministry.

Official Organic Assurance Programme (OOAP)

- There are new organic export requirements for businesses exporting organic products under the OOAP to the EU, USA, Taiwan, Japan and Switzerland.
- Businesses will need to implement these requirements by September 2021.
- The intent and function of the OOAP is proposed to remain under the Bill, though there may be some changes depending on submitters’ views and the Select Committee’s deliberations.

Opportunities for the organic sector

- I am also interested in learning about how organic products may be able to support our economic recovery from COVID-19. Prior to the spread of the virus, strong global economic growth, coupled with population growth and rising incomes, were driving consumer demand for value added products, along with an increasing focus on the sustainability of food production.
- I want to see us return to that period of strong growth. Organics could play a part in this, as a growing sector with a focus on high value products.
- The Government is working hard to enable the primary industries to transition from volume to value in order to extract economic, social and environmental benefits for all New Zealanders.

Appendix Two: OANZ Board biographies



Chris Morrison
Chair, Organics Aotearoa New Zealand (OANZ)

Chris is the co-founder of Karma Cola and All Good Organics. He also runs All Good Organics with his business partners.

Prior to this, Chris co-founded and grew another successful organic soft drink company, Phoenix Organics.



Tiffany Tompkins
Deputy Chair, Organics Aotearoa New Zealand (OANZ)

Tiffany is a marketing and business development consultant and the treasurer of Organic Winegrowers New Zealand.

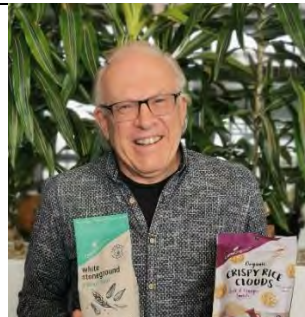
Before coming to New Zealand, Tiffany worked as the Chief Operating Officer to Best Organics Inc. in Colorado.



Clinton Chambers
Board member, Organics Aotearoa New Zealand (OANZ)

Clinton has been the co-owner of Taste Nature, an organic food store, eatery and kitchen since 2018.

Clinton has 25 years' experience in tourism and hospitality, and has managed various conference venues and cafes.



Noel Josephson
Board member, Organics Aotearoa New Zealand (OANZ)

Noel is the CEO and co-founder of Ceres Organics, a leading organics company in New Zealand.



Sam Weaver
Board member, Organics Aotearoa New Zealand (OANZ)

Sam is the chair of the Bio Dynamic Farming and Gardening Association. He also set up Churton Wines with his wife, Mary. Mary manages the business while Sam is the winemaker.

Sam's main interest is biodynamic farming, and he has a degree in microbiology.

(Photo unavailable)

Susan Miller-Thevenard
Board member, Organics Aotearoa New Zealand (OANZ)

Susan is a director of Organics Origin New Zealand. She joined the OANZ board in February 2020.



Scott Lawson
Board member, Organics Aotearoa New Zealand (OANZ)

Scott and partner Vicki are owner operators of Lawson's TrueEarth™ Organics since 1999. They grow blueberries, potatoes, carrots, pumpkins and onions.

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