



SEEKING YOUR VIEWS ON PROPOSALS FOR REGULATING ORGANIC BUSINESSES IN THE PRIMARY SECTOR

Approving businesses and checking
compliance with organic standards

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Foreword

The organics sector will play a big part in achieving the Government's goal of New Zealand becoming the most trusted source of high value natural products in the world. The global demand for organic products is increasing and our organic sector has responded with growth of 30 per cent between 2015 and 2017—worth about \$600 million in 2017. Now is the time to put a framework in place to help sustain and enhance this growth.

It is important consumers can trust what they are buying is organic. National standards and requirements will give consumers confidence in organic claims. Businesses will be able to invest and innovate in this growing sector with certainty that their claim to be organic can be trusted by consumers and our international trading partners. This will also provide better access to overseas markets and help grow our organic export trade.

I've introduced the Organic Products Bill into Parliament to provide for national standards for organic products to be set in regulation, and require businesses to be approved by the government to be able to market products as organic.

This new legislation can apply to any type of organic product once a standard is in place. Specific requirements and an organic standard will be developed later to apply the new organics framework to different types of organic products.

The largest sector of organic products in New Zealand is currently food. For this reason, the first products we are developing requirements and a standard for are food, beverages, and plant and animal products.

As the Organic Products Bill is currently progressing through Parliament, we now need to consider the processes that businesses

will need to follow to be approved to market organic products. We will also need to start thinking about what we want our organic standard to look like, the details of which will come a bit further down the track.

This discussion document outlines proposals for the requirements and processes businesses in the primary sector should have in order to be approved to market products as organic, both in New Zealand and overseas.

The messages received from stakeholders like you in 2018 is reflected in these proposals. One of the biggest concerns the Ministry for Primary Industries heard was that the regime would need to work for all of the different types of businesses in the organic sector – whether large, small, import, export or domestically-focused. This discussion document identifies a range of options to ensure that the processes are flexible for different types of businesses.

I want the proposals in this document to be tested to ensure the new organics regime will deliver the right outcomes, is workable, and any unintended consequences are minimised. I encourage you to share your views on the issues and options outlined in this document, as we work to ensure the organics regime is fit-for-purpose, and is effective at promoting the best outcomes for New Zealanders.



A handwritten signature in black ink, appearing to read 'Damien O'Connor'.

Hon Damien O'Connor
Minister of Agriculture

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1 Having your say

The Ministry for Primary Industries (MPI) is seeking feedback on the regulations for the proposed organics regime. Advice on how to provide feedback is outlined below.

1.1 How to make a submission

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.

This document asks a range of questions, your responses to which will help us to understand the impacts of the proposals and options discussed. We appreciate any feedback you can give us.

Feedback on the proposals outlined here are due to MPI by 5pm on Tuesday 8 June 2021.

Feedback can be submitted in any of the following ways:

ONLINE

<https://www.surveymonkey.com/r/HSX8VVJ>

EMAIL

OrganicsConsultation@mpi.govt.nz

LETTERS

Organics Consultation
Ministry for Primary Industries
PO Box 2526
Wellington 6140

MEETING WITH MPI

Email us on the address above if you think a meeting would be useful, or you are unable to attend a public meeting

Please include in your submission:

- » your details, including:
 - o name;
 - o your organisation's name (if you are submitting on behalf of an organisation);
 - o your position within your organisation (if applicable);
 - o 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; and
- » any changes you would suggest, and why.

In addition to this discussion document, MPI will be holding a series of public meetings and hui around the country, including online. If you attend one of these meetings or hui, consider also responding to this document so all of your views can be taken into account. More information about these events will be available on our webpage at www.mpi.govt.nz/consultations/proposals-for-regulating-organic-businesses-in-the-primary-sector, and notified to subscribers of our email notifications. If you are not already subscribed to email notifications, please contact us at organicsconsultation@mpi.govt.nz. If you would like to meet with us directly, please submit your proposal to the same address.

1.2 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 (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 MPI makes to withhold information can, however, be reviewed by the Ombudsman, who may require the information be released.

2 Key terms used in this document

The below is a list of key terms used in this document and their general description. These terms are described here to briefly explain what is referred to by their use in this discussion document for the purpose of consultation. They remain subject to change and are not legal or official definitions.

Organic management plan

Documentation to demonstrate how a business will operate to meet the relevant requirements, including the organic standard. This covers all aspects of the production, processing or handling of organic food, beverage, plant and animal products and describes all measures taken to ensure compliance to the relevant requirements.

Initial assessment

Initial assessment includes two steps: evaluation of the organic management plan and pre-approval verification (audit).

Evaluation

The process where a recognised entity assesses whether an organic management plan contains all the necessary elements to ensure a business will comply with the relevant requirements, including the organic standard.

Pre-approval verification

The process where a recognised entity confirms a business is following its organic management plan.

Approval

Where the relevant ministry (MPI) approves an organic management plan, based in part on the recommendation of the recognised entity, and authorises a business to make organic claims. In the current system, 'certification' includes a peer review of the verifier's work by a separate person. Under the Organic Products Bill, this peer review is called 'approval' and will be performed by MPI.

On-going verification

Following approval, businesses are required to have a recognised entity periodically verify that they are still following their organic management plan. The proposed frequency and nature are discussed in section 6.

Recognised entity (verifier)

A recognised entity refers to either a recognised person or a recognised agency:

- » Recognised person: a person or class of persons who has been recognised by MPI to perform specified functions and activities, including evaluation, pre-approval verification and on-going verification.
- » Recognised agency: an agency that has been recognised by MPI to oversee the recognised persons they employ or contract to perform specified functions.

3 Executive summary

We are seeking your views on a range of proposals designed to establish how organic products made by the primary sector are regulated in New Zealand.

In May 2018, we heard that people supported changing the way organic products are regulated, and that businesses that label or advertise products as organic should meet a mandatory national organic standard. Consequently, the Government has agreed to progress legislation that would allow the development of national organic standards and an associated verification and compliance regime.

The objectives of the organics regime are to:

- » increase consumer confidence in purchasing organic products;
- » increase certainty for businesses making organic claims; and
- » facilitate international trade in organic products.

The proposed legislation provides a framework for the development of standards for all organic products, and sets requirements for all businesses involved in their production through to sale (with the exception of retailers of pre-packaged products). This is currently being consulted on by Parliament's Primary Production Select Committee.

If passed, this legislation (currently the Organic Products Bill) will enable regulations that set processes that businesses need to follow to be approved to label or advertise products as organic, and standards detailing production rules.

A key feature of the Bill is that it can apply to any type of organic product once a standard is in place. The first products we are proposing to develop regulations and an organic standard for are food, beverages, and plant and animal products.

MPI will consult on the content of an organic standard, along with other details of the proposed regime that cannot be determined yet, such as how much processes and services will cost.

Proposals

For being approved to make organic claims

This discussion document sets out a proposed process that all organic businesses, including importers and exporters, must follow in order to be approved by MPI to make organic claims.

Our proposals include requiring businesses to:

- » have an organic management plan that demonstrates how they will comply with the requirements (section 6.2.1);
- » have that plan evaluated and their actual operations verified (section 6.2.2);
- » apply to MPI for approval (section 6.2.3); and
- » have their operations verified on an ongoing basis to ensure they remain compliant (section 6.2.4).

To mitigate costs to businesses

To help mitigate the costs of these requirements where possible, we propose:

- » that either the frequency or the nature of verification could vary depending on the risk and the performance of the business (section 6.3);
- » criteria for assessing the risk and performance of businesses (section 6.3.2);
- » that small organic businesses (with less than \$200,000 annual turnover) who produce organic products could be approved and verified as a group, in order to share the costs and to learn from and support each other (section 6.5); and
- » that very small organic businesses with less than \$10,000 annual turnover would not have to be approved by MPI. However, they would still need to meet the organic standard and let MPI know that they are an organic business (section 8.1).

For being able to evaluate plans and verify businesses

While MPI will approve businesses, evaluation of plans and verification of businesses will be done by agencies and persons recognised to carry out those roles for organics. This document outlines:

- » proposals for competency requirements that agencies and persons must have in order to apply for these roles (section 9);
- » that agencies should be accredited to either ISO 17065 or ISO 17020 (section 9.1);
- » that recognised persons should have knowledge of organic production and the organic legislative requirements, as well as skills relevant to the role they will be performing, i.e. evaluation or verification (section 9.2).

In addition, we are also seeking feedback on whether a national logo for organic products should be developed, and who could use that logo.

Next steps

We understand that transitioning to a new regime can be difficult, in terms of both new processes and costs. Once we receive feedback on the proposals in this document we will be able to work through what the regime might look like, the details around how we transition to the new regime, and how much things will cost. This document asks for any concerns we should be aware of about transitioning. However, we will also seek further feedback on transition, costs and the details of the organic standard later this year.

4 Background, context and purpose

4.1 Background

Consumers in New Zealand and overseas are becoming increasingly interested in the products they purchase and how these have been produced. New Zealand's organic sector has been growing rapidly since the 1990s. By 2018, the amount of land under organic management worldwide had increased 555 percent over 1999 levels.¹

New Zealand currently protects consumers of organic products through the Fair Trading Act, which requires that producers are able to substantiate claims they are making about their products. Some overseas markets require specific organic assurances before organic producers can send their products overseas. MPI runs the Official Organic Assurance Programme (OOAP), which involves certifiers checking that those producers have followed a set of rules. However, there is no mandatory requirement to follow a defined set of rules in order to make organic claims domestically in New Zealand.

¹ "2018 New Zealand Organic Sector Market Report." Commissioned by Organics Aotearoa New Zealand, 2018, www.oanz.org.

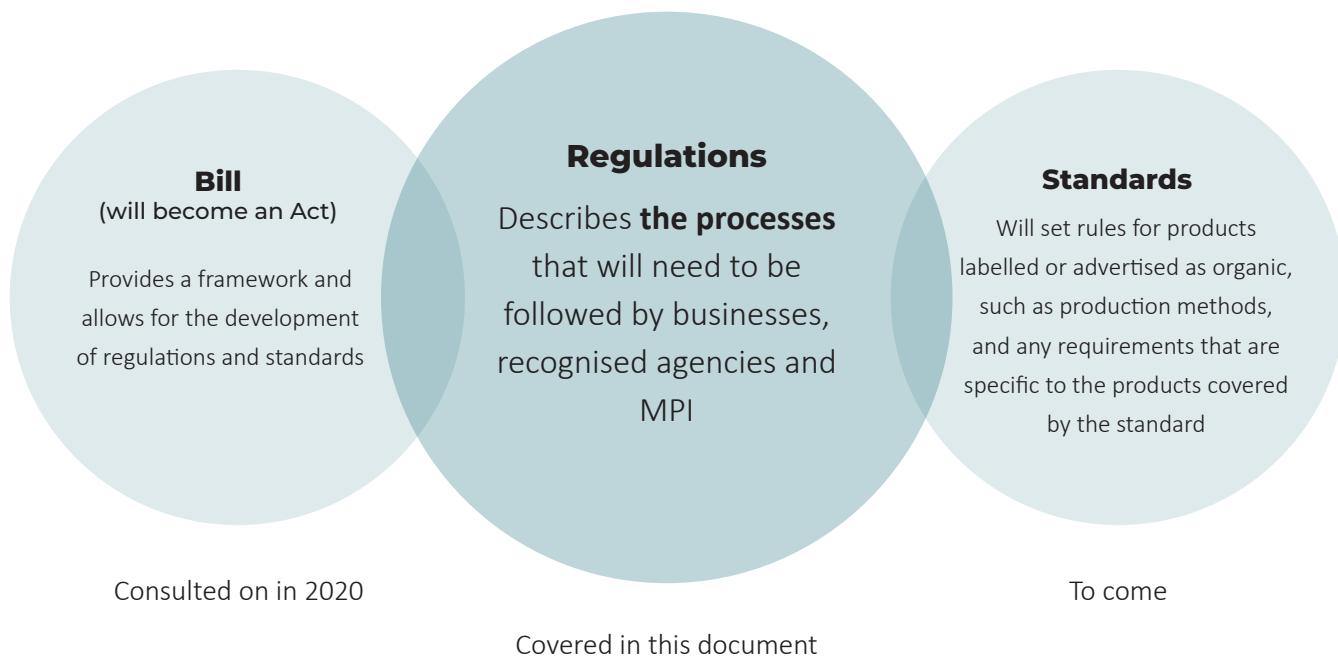
In May 2018, we asked New Zealanders whether they thought New Zealand would benefit from new organic regulation. The majority of people who responded to our consultation document supported a change in the way organics are regulated (85%), and stated that organic businesses should meet a mandatory national organic standard (76%).

In December 2018, Cabinet agreed to progress an Organic Products Bill, which would allow the development of national organic standards and an associated verification and compliance regime, to:

- » increase consumer confidence in purchasing organic products;
- » increase certainty for businesses making organic claims; and
- » facilitate international trade in organic products.

4.2 Where are we at in the process?

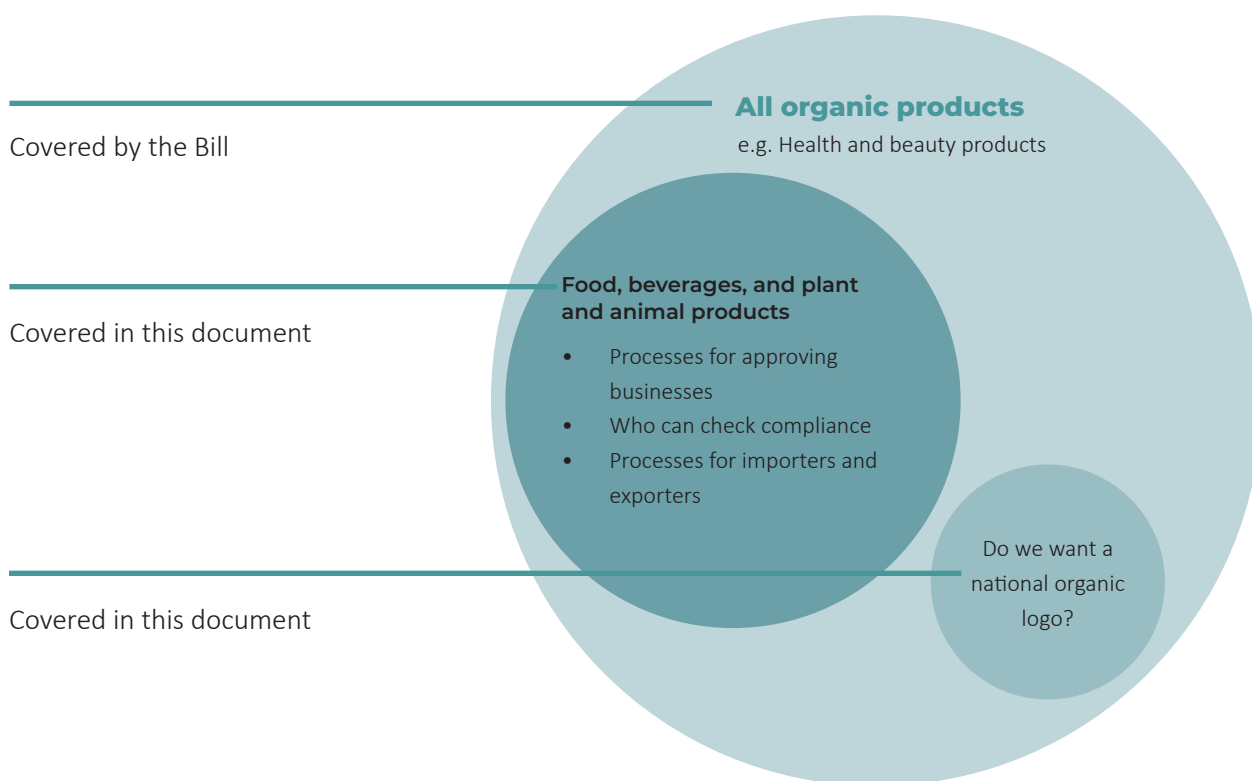
Introducing a mandatory standard for organics will involve three different legislative instruments: a Bill, regulations and organic standards. This document focuses only on the regulations. The diagram below outlines the difference between them.



4.2.1 The Bill and the standards

The Organic Products Bill² is a draft legal framework that will allow for the development of regulations and national organic standards once it has been passed by Parliament and enacted as law (an Act of Parliament). The Bill covers the development of organic standards and requirements for all organic products, and all of the businesses involved in their production through to sale (with the exception of retailers of pre-packaged products).

The Bill can apply to any type of organic product, but only once specific regulations and standards for that product are in place. The regulations will set out in detail how the regime will work, including the processes that businesses, recognised agencies and persons³, and MPI will need to follow.



² www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_94967/organic-products-bill

³ In the Bill, recognised agencies and persons and classes of persons are sometimes referred to collectively as ‘recognised entities’.

We are yet to develop the national organic standard. Throughout this document, 'organic' is used to describe products made or grown using production methods that will be specified in the national standard. We expect that it will focus, for example, on matters including the use of organic production methods such as the use of on-farm nutrient recycling (e.g. compost), non-chemical methods for managing pests and diseases, and not using genetically modified organisms.

At a later stage, there will be an opportunity for you to comment on the content of a proposed national organic standard for food, beverage, and plant and animal products, including aquaculture. Final decisions on the scope and content of the first standard will be made after the Bill is enacted and becomes law.

4.3 What does this document cover?

While the Bill applies to all types of organic products, the proposals outlined here set out the requirements and detailed processes that will apply to organic food, beverages, and plant and animal products.

We are seeking your views on proposals for the content of the regulations only. As outlined above, the regulations will provide the detail of how the regime works, and what businesses will need to do to be able to make organic claims. These processes will apply to all businesses that produce, process, handle, transport, import and export organic products. However, they do not apply to businesses who use the organic product for the final consumer, such as restaurants, or to retailers of pre-packaged products.

The proposals set out in this discussion document reflect how the Bill is currently drafted. It is therefore important to note that the Bill may change following Parliament's processes, and as a result, the proposals in this paper may need to be revised to reflect the new direction of the Bill. If so, these changes would be consulted on again as part of the second round of regulations consultation.

Additional standards, such as for health and beauty products, may be developed over time and once those standards are in place businesses producing these products will fall within the scope of the new regime. While the regulations that sit with those standards will be developed at the time, we anticipate they will largely follow the same process as being consulted on in this document.

3.4 What we think the regulations should achieve

Through this document we have evaluated the proposals against what we think the regulations should achieve.

The regulations should support the objectives of the Bill to:

- » increase consumer confidence in purchasing organic products;
- » increase certainty for businesses making organic claims; and
- » facilitate international trade in organic products.

We consider that the regulations should balance meeting the objectives of the Bill with ensuring that:

- » the regulatory regime is simple to understand and administer;
- » the regime has flexibility; and
- » costs to businesses and consumers are proportionate to the overall benefits.

We are interested in your feedback on whether you think the proposals in this paper will achieve these objectives.

5 Introduction

The Bill requires that any business labelling or advertising a product as organic must first be approved by the relevant ministry. This document seeks your feedback on the process that businesses must go through to get that approval.

In this document, we use the term 'organic businesses' to mean all of the businesses that the Bill requires to be approved by MPI. This means all businesses who are labelling or advertising a product as organic, but does not include retailers only selling the final pre-packaged product who are exempt from the Bill. Organic businesses are responsible for ensuring the regulations and the organic standard are complied with. This does not include businesses who are providing a service, such as transport or storage of organic products, on behalf of another business.

However, while those businesses will not be required to be approved, they will still need to meet the organic standard if they are handling organic products on behalf of another business.

Businesses providing a service could also opt to be approved if they wish to, for example to market their own business as suitable for organic products. Businesses who opt in would need to follow the same approval process.

The majority of respondents to our 2018 consultation stated that they would prefer ongoing compliance checks, with limited exemptions for some businesses. The proposals in this document are based on that response, and include a baseline process for checking compliance that we anticipate most businesses, including importers and exporters, will follow. We are also proposing a number of ways flexibility could be provided for different types of businesses within the organics sector.

5.1 Which bits are most relevant to me?

This document seeks feedback on many different aspects of the proposed organics regime. The table below attempts to highlight which parts we believe are most relevant to you.

| | Assessment of individual businesses (page 12) | Assessment of groups of businesses (page 25) | Exemptions (page 30) | Importing and exporting (page 26) | Recognising agencies and persons (page 33) | Do we want a logo for organics? (page 36) |
|-------------------------------|---|--|----------------------|-----------------------------------|--|---|
| Consumers | ✓ | ✓ | ✓ | | | ✓ |
| Very small organic businesses | | ✓ | ✓ | | | |
| Small organic businesses | ✓ | ✓ | ✓ | | | ✓ |
| Large organic businesses | ✓ | | | ✓ | | ✓ |
| Export businesses | ✓ | ✓ | | ✓ | | ✓ |
| Import businesses | ✓ | | | ✓ | | ✓ |
| Verifiers and agencies | ✓ | ✓ | | ✓ | ✓ | ✓ |

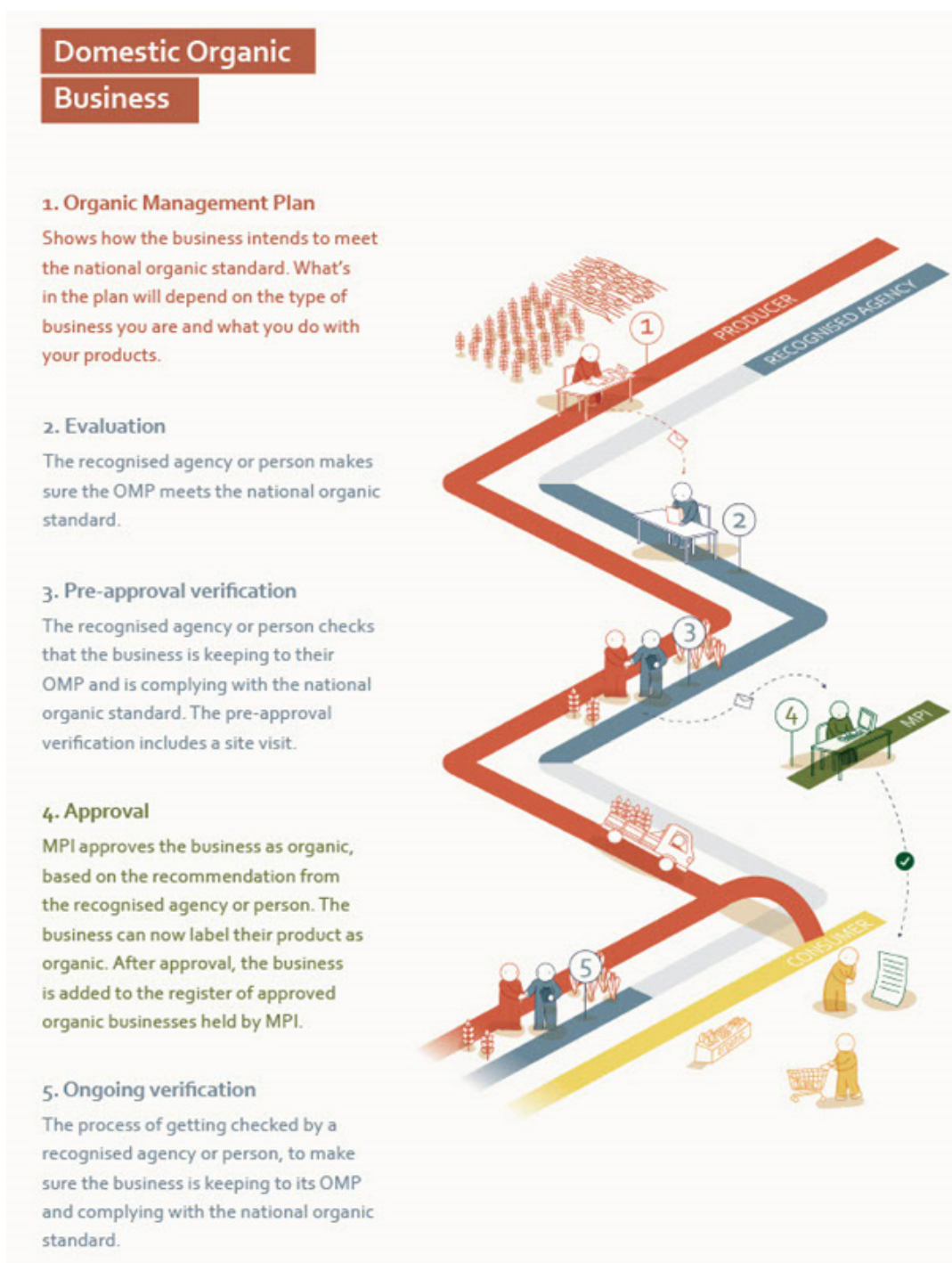
There are also two short sections at the end of the document that may be of interest to everyone, covering cost recovery and how we move to a new regime.

We understand that an important question is how much this will cost. The Bill enables costs to be recovered – which means that MPI will be able to charge businesses for services we provide. However, without knowing what the regime looks like it is currently hard to estimate what the overall costs will be. We intend to consult on costs in more detail, and on proposed cost recovery settings, when we have a better idea of what the regime will look like. Your feedback on how the proposals in this document are likely to impact costs to your businesses will be useful and taken into account. Cost recovery is discussed further in section 11.

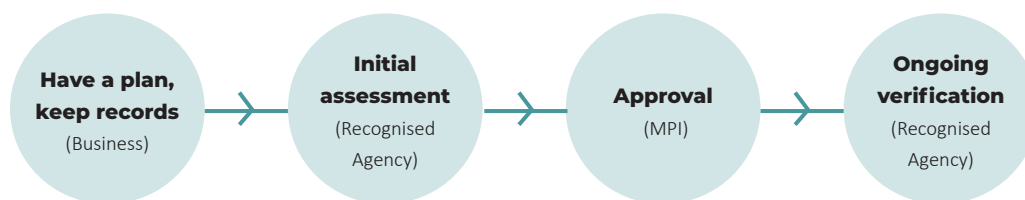
6 Processes for approving businesses to describe products as organic

6.1 Proposed baseline process

The diagram below shows the basic process we are proposing for how organic businesses are approved to label or advertise products as organic, and who does each step. This process is similar to other regimes administered by MPI, such as under the Animal Products Act and the Food Act.



The following sections take you through the detail under these steps.



BASELINE PROCESS FOR CHECKING COMPLIANCE

| | |
|----------|---|
| 1 | <p>How strongly do you agree or disagree with the proposed baseline processes for assessing business' compliance with the organic standard?</p> <p>Please explain your view, including what, if any, alternative processes could be considered and why.</p> |
|----------|---|

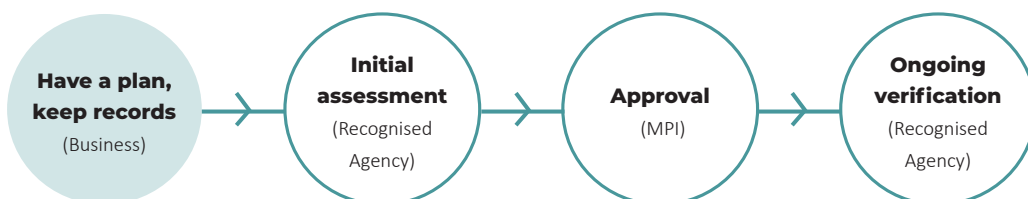
6.2 Approving individual businesses

This section outlines our proposal for how organic businesses would be approved to label or advertise products as organic.

6.2.1 Have a plan

PROPOSAL

Organic businesses should have a documented plan for how they will meet the organic standard, and records to show compliance



The Organic Products Bill states that businesses must not describe a product as organic unless it complies with the relevant organic standard.

We consider that one of the easiest ways to demonstrate compliance with an organic standard is to have a clear, accurate and up-to-date documented management plan and accompanying records. We therefore propose that all organic businesses should have a management plan to show how they intend to meet the organic standard, and keep records to show how they have complied with the standard.

We propose that the regulations won't set down what an organic management plan should look like, only what it must contain. This means that businesses can use whatever format works best for them and their business. For example, those businesses who have management plans for other purposes, such as a risk management programme under the Animal Products Act, can combine the organics and animal products information, rather than doing two separate plans. We may also provide some guidance and template plans that businesses could use.

The complexity of an organic management plan will vary depending on the complexity of the business. However, we think all plans should contain the following types of information:

- a. details of the business, including the person with overall responsibility for the plan;
- b. the type of products to which the plan applies;
- c. a description of the physical boundaries and layout of the production or processing site;
- d. a description of the activities of the business, such as production, processing, storage, trading and transport, including any non-organic activities;
- e. all measures to be undertaken by the business to ensure compliance with the relevant standard, and contingency plans for when something goes wrong;
- f. any details relating to conversion to being organic (where relevant);
- g. a description of the activities that are carried out in any neighbouring premises that pose a risk to the organic status of the operation; and
- h. the training provided to staff, contractors and visitors on their roles and responsibilities with respect to the organic management plan.

Plans will also need to cover the activities of any other businesses that may affect the organic status of the product: for example, this could include transport, storage, import and export, where these services are sub-contracted out.

HAVING A PLAN

Organic businesses should have a documented plan for how they will meet the organic standard, and records to show compliance

2

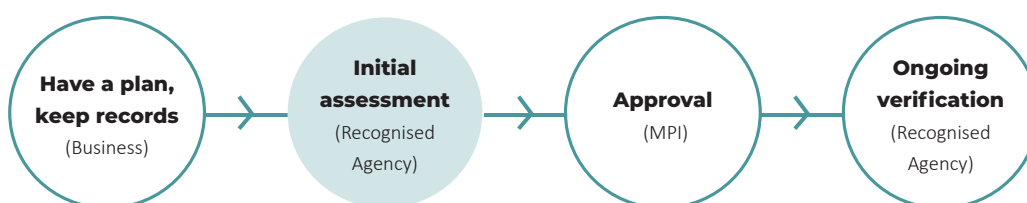
How strongly do you agree or disagree with the proposed organic management plan requirements? Is there anything you would add or remove?

| | |
|----------|---|
| 3 | What would be the advantages and disadvantages for your business of keeping an organic management plan? |
|----------|---|

6.2.2 Initial Assessment

PROPOSAL

A business' organic management plan and operation should be assessed before approval



We propose that once a business has developed an organic management plan, they go through an initial assessment. This would consist of an evaluation of the plan, and verification of the business (and any other businesses covered by the plan). This step would apply for new organic businesses applying for approval for the first time, and when a significant change to the business is made. After approval, on-going verification against the plan would continue at an interval specified at the time of approval, but evaluation of the plan would not be required unless significant changes are made (see section 6.2.5). Evaluation of a plan and the business is common across other regimes administered by MPI (such as the Animal Products Act, Food Act, Wine Act and Plant Export Standards) and will also be familiar to the organics sector.

We propose that evaluation of plans and verification of businesses will be carried out by agencies and persons that are recognised by MPI to carry out these roles. More detail on the competencies and process for recognition is in section 9. It is important to note that as recognised agencies and persons will be performing a role under the Bill, they will not be able to provide advice to businesses that they are also assessing, to preserve their independence and impartiality.

Pre-approval verification of the plan will require an on-site visit, to ensure the plan reflects activities of the business. We propose that if the recognised person who evaluates the plan is also able to verify that the business is operating in accordance with its plan and the requirements in one visit, then that initial visit would be enough for a decision to be made on whether the business was compliant. However, if the initial visit was not able to confirm this, then a second visit would be required (for example, if the business was not operating yet, or the recognised person was not able to carry out both of these roles).

Alternatively, we could require that every business must have a second verification visit after the plan has been evaluated to confirm that they were compliant with their plan. However, we have not proposed this option because it may increase costs for the business where an additional step is not necessary.

If a business is operating under two different regulatory systems (e.g. both the Animal Products Act and Organic Products Act) then it may be possible for a single recognised person to conduct evaluation or verification under both systems at the same time. This could streamline the process for businesses and reduce costs.

INITIAL ASSESSMENT

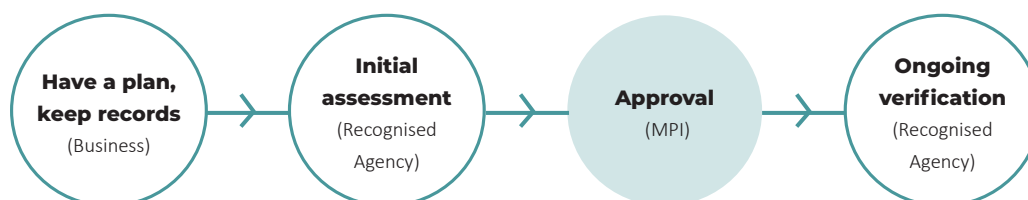
A business’ organic management plan and operation should be assessed

| | |
|----------|---|
| 4 | <p>How strongly do you agree or disagree with each of these statements:</p> <ul style="list-style-type: none"> » An initial assessment should involve an evaluation of an organic management plan and verification of the business. » If the recognised person who evaluates the plan, is also able to verify that the business is operating in accordance with its plan in one visit, then a second visit should not be required as part of the initial assessment. <p>Do you have any further comments on initial assessment?</p> |
|----------|---|

6.2.3 MPI approval and the public register

PROPOSAL

MPI will approve organic management plans and approve businesses to describe products as organic



The Bill gives MPI the responsibility for making a decision on whether or not to approve a business to describe a product as organic. Businesses must be approved before they can make organic claims.

After having an initial assessment (evaluation and verification) from a recognised agency, the business will need to apply to MPI for approval. We propose that MPI will approve:

- a. the business' organic management plan; and
- b. the business to make organic claims.

MPI's decision will be based on the recommendation of the recognised agency and their evaluation of the plan, and verification. MPI will also set the ongoing verification interval for a business and the duration of the approval.

The Bill also requires MPI to publish a register of approved organic businesses. This will allow producers, retailers and consumers to check organic claims and help them find suppliers of products that they want to purchase, and recognised entities that can provide services.

We propose that this register should include the following details:

- a. the name and location of the organic business;
- b. the products they are approved to describe as organic;
- c. the processes they are approved to carry out for organic products;
- d. the status of the approval, for example approved, suspended etc.
- e. approval date; and
- f. the expiry date of the approval (if any); and
- g. the recognised agency or person who assessed the business.

Similar details would apply to the register of recognised entities.

Businesses who are in conversion will not need to apply to MPI until they have successfully reached the end of their conversion period and are ready to label or advertise their products as organic. However, they must still have regular engagement with a recognised agency during the conversion period to ensure they are on track.

It is important to note that where a business is not approved to describe a product as organic (i.e. they are not found to meet the requirements), they will still be able to sell their products – they just won't be able to label or advertise them as 'organic'.

MPI APPROVAL

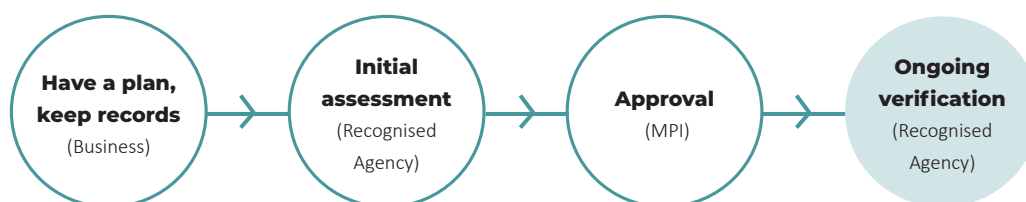
MPI will approve organic management plans and approve businesses to describe products as organic

| | |
|-----------------|---|
| <p>5</p> | <p>How strongly do you agree or disagree that MPI should assess and approve business’ organic management plans (as well as assessing and approving the business)? Please explain your view.</p> |
| <p>6</p> | <p>We propose that there be a public register of organic businesses: how strongly do you agree or disagree that the following details should be made public:</p> <ul style="list-style-type: none"> » the name and location of the organic business; » the products they are approved to describe as organic; » the processes they are approved to carry out for organic products; » the status of the approval e.g.: approved; suspended; » approval date; and » the expiry date of the approval (if any); and » the recognised agency or person who assessed the business. <p>Is there any other information that should be published?</p> |
| <p>7</p> | <p>What factors do you think MPI should take into account when setting, or deciding to set a duration on the approval, and what should the minimum or maximum duration be?</p> |

6.2.4 Ongoing verification

PROPOSAL

Businesses will be verified on an ongoing basis



Following approval by MPI, we propose that businesses will need to be verified by a recognised agency on an ongoing basis to check that they remain compliant with the organic standards. Submitters to the consultation in 2018 generally supported the proposal for ongoing verification. The frequency of verification will likely be based on the business’ performance and level of risk. This is discussed in more detail in section 6.4.

Ongoing verification would include a review of the operation against the plan and any other requirements of the regime, and checks to ensure the business continues to deliver outputs that can be sold as organic. Verification would also include any follow up from previous verifications: for example, if the businesses had to make any improvements.

We do not propose that the plan itself will need to be evaluated each time the business is verified. However, the business will need to update the plan if there are changes to the business, or the regulatory requirements. Significant amendments to the plan (for example, those that may affect the organic status of a product or the scope of approval) will need to be evaluated by a recognised agency and approved by MPI.

The results of verification would be provided to MPI. The table below shows the proposed possible outcomes of verification, and what would happen next. We are interested in your thoughts on whether these outcomes are fair and cover the different possibilities for organic businesses.

| | If | Then |
|---------------------------|---|--|
| Meets requirements | <p>The business:</p> <ul style="list-style-type: none"> » has been operating in accordance with their approved organic management plan; and » is compliant with the standards and relevant regulatory requirements. <p>This may include instances where there have been minor issues that have been appropriately dealt with by the business (including notifying the recognised agency/MPI at the time they occurred).</p> | <p>The business is able to continue to describe their products as organic.</p> |
| Non-compliant | <p>It is not possible to confirm that the business:</p> <ul style="list-style-type: none"> » has been operating in accordance with their approved organic management plan; or » is compliant with the standards and relevant regulatory requirements <p>then the recognised agency may consider the organic status of the products is compromised.</p> <p>In more serious cases, this may affect the credibility of the system or confidence in organic production and trade.</p> | <p>The business will need to address issues.</p> <p>If the issue is serious, approval may be suspended while issues are being addressed, or withdrawn if suspension is likely to be ineffective.</p> <p>If issues have been addressed, the business may continue to describe their products as organic.</p> <p>If issues are considered serious enough, the Bill empowers MPI to carry out an investigation and to direct the business to carry out certain actions (such as to re-label).</p> |

ONGOING VERIFICATION

Businesses will be verified on an ongoing basis

| | |
|----------|--|
| 8 | <p>How strongly do you agree or disagree that businesses should be verified on an ongoing basis? Please explain your view.</p> |
|----------|--|

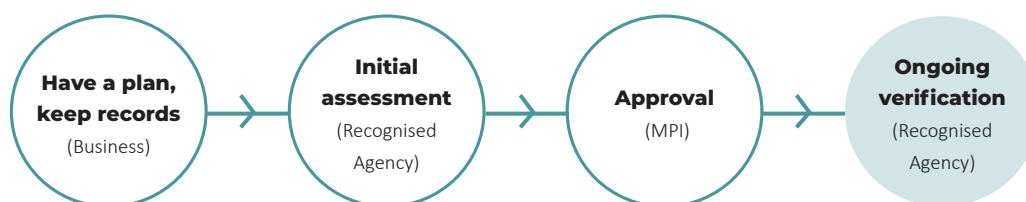
6.2.5 Verification outside of the regular schedule

PROPOSAL

Organic businesses should inform MPI of any significant changes

PROPOSAL

Organic businesses should inform recognised entity of any significant incidents



Generally, verification of businesses will happen at a frequency based on the performance of the business (as outlined in section 6.4). The timeframe of the next verification will be set by the recognised agency after the previous verification process. However, there may be other circumstances where a plan needs to be evaluated and/or the business verified outside of this schedule.

If there are any significant changes to a plan or the business, we propose that the changes must be approved by MPI before they can be implemented. Significant changes may be those that might affect the organic status of a product, such as adding new land, changing processing facilities or introducing new types of products.

However, we propose that minor changes will not need to be approved by MPI before being implemented. An example of a minor change could be where the business needs to use a different input than that named in their plan. Provided the replacement input was approved for use under the organic standard, this change could be implemented without needing approval first.

Alternatively, we could require all changes to plans to be approved by MPI before they are implemented. However, we are not proposing this as an option because we consider this would result in unnecessary costs and delays for businesses.

Incidents that might affect the organic status of products can happen even in a high-performing business. We propose that businesses be required to report to the recognised agency any significant incidents, such as:

- » accidents or external events that might affect the organic status of products: for example, spray drift from a neighbouring farm that might compromise a field; and
- » situations where a technical error or administrative oversight means that a business deviates from its plan: for example, a failure to follow cleaning procedures between organic and non-organic production cycles.

When incidents are reported, the recognised agency will inform MPI. MPI will consider the situation, and decide whether additional verification is required at the time, or whether it is being handled adequately and follow up can instead take place at the next scheduled verification.

In most cases the business will retain their MPI approval if they manage the situation well: for example, by isolating affected products and not describing them as ‘organic’ and ensuring that all staff are well trained.

VERIFICATION OUTSIDE OF THE REGULAR SCHEDULE

Organic businesses should inform MPI of any significant changes

Organic businesses should inform recognised agencies of any significant incidents

| | |
|----------|---|
| 9 | <p>How strongly do you agree or disagree with the following statements?</p> <ul style="list-style-type: none"> » Significant changes to organic management plans should be approved by MPI. » Significant incidents should be notified to the recognised agency. <p>Do you have any other comments on verification?</p> |
|----------|---|

6.2.6 Costs

Introducing a mandatory approval by MPI and an ongoing verification process will create new costs to businesses, and which could potentially be passed on to consumers. MPI is likely to charge fees for its services as it does with other regimes. We intend to consult on costs in more detail, and on proposed cost recovery settings, when we have a better idea of what the regime will look like.

Cost recovery is discussed further in section 11.

Recognised agencies and persons will charge their own fees for the services they provide.

The next two sections look at options to manage these costs for businesses:

- » options for flexibility around verification; and
- » options to allow small businesses to be approved as a group.

6.3 Renewal of approval

PROPOSAL

If a business's approval has an expiry date, they will need to renew their approval before then, or be re-approved altogether

The Bill allows the relevant chief executive to set a time limit on approval. Where this is done, the Bill requires businesses to apply for renewal within a prescribed time before the duration ends. Businesses that fail to apply for renewal within this time would be treated as making a new application for approval with its associated extra costs, and would not be able to make organic claims until approval was granted again.

Currently differences exist between different MPI regimes regarding registration or approval. For example, under the Food Act Food Control Plans must be renewed annually or biannually. Risk Management Programmes under the Animal Products Act are registered once only, but exporters must renew their registration yearly. Organic businesses may be operating under the food, wine or animal products regimes as well as organics so aligning organics requirements with these other schemes could reduce duplication of costs and administration.

Renewal provides a tool for MPI to keep the register of organic businesses up to date, but also provides an opportunity to review or change other things such as your organic management plan.

RENEWAL

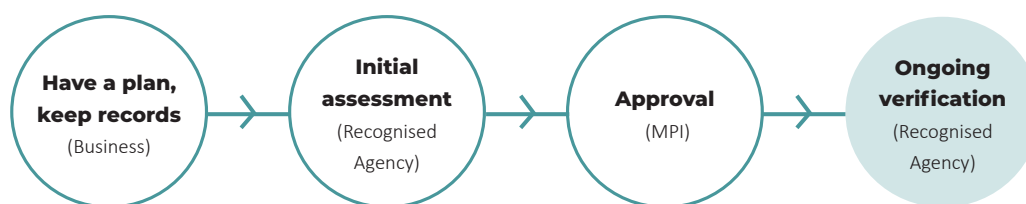
Before approval expires businesses will need to renew their approval, if a duration applies to them

| | |
|-----------|--|
| 10 | What factors should be considered for whether an approval would expire? |
| 11 | What factors should be considered when determining the renewal frequency (if any)? |

6.4 Options within individual business verification

PROPOSAL

The frequency or scope of verification should be flexible to suit the nature and risks of the organic business



We propose to provide flexibility within verification for different types of organic businesses. This flexible approach was supported by the majority of submitters in our 2018 consultation. For many businesses, the cost of an on-site visit for verification will be the most expensive part of organic approval. This section proposes options that will provide flexibility in how often businesses will need to be verified, and what that verification might need to include.

It is important to bear in mind that these options may not be able to apply to exporters where the market they are exporting to has specific requirements. Requirements for exporters are discussed in section 7.2. In addition, while these options are aimed at reducing verification where there is a lower risk, in all options poor performance or issues are likely to result in more frequent verification.

**Option 1A:
Flexibility in the nature of verification (preferred)**

Under this option, for the majority of organic businesses the minimum frequency of verification would be fixed at annual. However, what verification consists of would be decided using the risk-based criteria outlined in section 6.4.2.

This option would mean that businesses would be required to be verified every year – but in some years verification may only involve verifying paper-work (such as the plan and records relating to purchases of inputs, sales and staff training), and involve phone calls or the use of video equipment, rather than an on-site visit. The first verification before the business is approved would require an on-site visit.

This option would reduce the costs of verification for lower risk businesses, while providing some form of check and assurance on an annual basis and increasing oversight of the system. However, this option would increase the burden on recognised agencies who will need to carry out verification annually for each business.

**Option 1B:
Flexibility in frequency of verification**

Under this option, the frequency of verification would be based on the risk-based criteria outlined in section 6.4.2. This would mean that a business could go up to a maximum of three years between verifications, and each verification would require an on-site visit. This would mean that businesses who are identified as high risk or have poor performance would be verified more frequently (annually or more frequently than annually), and lower risk businesses with a good record of compliance could be verified less frequently (up to once every three years).

This option would reduce the costs of verification for lower risk businesses, and may incentivise businesses to perform well in order to be verified less frequently. However, it creates a risk that non-compliance may go undetected for up to three years.

**Option 1C:
No flexibility in verification requirements**

Under this option, for the majority of organic businesses the frequency of verification would be fixed at annual, and each verification would require an on-site visit.

This option would create a more consistent regime between all businesses (including exporters) and be easy to understand and implement. This option is also consistent with international regimes for organics. However, this option would result in higher costs for businesses, and place higher demand on resources in recognised agencies.

6.4.1 Assessment against objectives

The table below shows our assessment of these options against the objectives we consider the regulations should achieve (as set out in section 4.4).

| Criteria | Option 1A: Flexibility in the nature of verification (preferred) | Option 1B: Flexibility in the frequency of verification | Option 1C: No flexibility in verification requirements |
|---|--|---|--|
| Provides certainty for consumers | ✓ | ✓ | ✓ ✓ |
| Provides certainty and consistency for businesses | ✓ | ✓ | ✓ ✓ |
| Easy for businesses to understand and implement | ✓ | ✓ | ✓ ✓ |
| Facilitates international trade in organic products | ✓ ✓ | ✓ | ✓ ✓ |
| Costs to businesses and consumers are proportionate to the overall benefits | ✓ | ✓ | ✗ |

Preferred option: Option 1A

Our preferred option is Option 1A. We consider this option provides the best balance between providing assurance that organic businesses are compliant with the standards and minimising the costs on businesses. This option will allow for some form of verification on an annual basis, but allows the nature of that verification to be adjusted proportionate to the risk. This would reduce some of the burden, including costs to businesses. This option would also encourage businesses to ensure that they meet the standard, because they may get the benefits of reduced costs of verification.

6.4.2 Risk-based criteria

PROPOSAL

Risk-based criteria would be used to determine the frequency or nature of verification

Options 1A and 1B above refer to risk-based criteria that would be used to determine either the frequency of verification visits (on-site) or the nature of verification (allowing for alternative verification methods to the traditional on-site visit).

We propose the following criteria are used to determine verification frequency or verification nature:

- a. the intended market of the products (i.e. domestic or export);
- b. the value and volume of the products being produced;
- c. the competence and performance history of the business, including how long it has been organic; and
- d. the complexity of the business and its plan, including whether non-organic products are also produced on the same premises and how many sub-contractors are covered.

At the moment, these criteria are broad to give you an idea of the types of things that could be taken into account when thinking about the risks associated with a business. However, we could add further detail to the criteria at a later date, if they are considered appropriate. For example, there could be further guidance around the thresholds on value of products, or how long a business must have been performing well to be considered a lower risk. We will seek feedback on that detail when it is developed.

VERIFICATION OUTSIDE OF THE REGULAR SCHEDULE

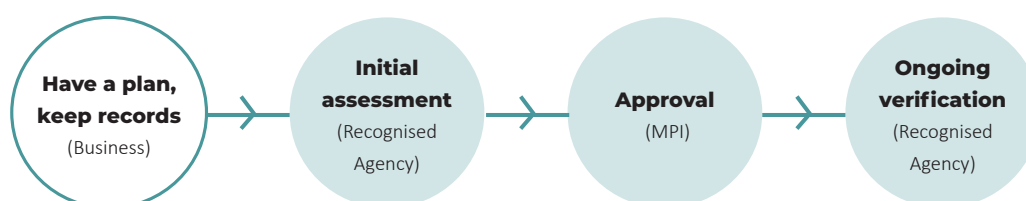
Options within individual business verification

| | |
|-----------|--|
| 12 | How strongly do you agree or disagree that there should be flexibility within verification? Please explain your view. |
| 13 | We have identified three options for verification, which is your preferred option? |
| 14 | If we progress with our preferred option (1A), what would be the advantages and disadvantages for your business? |
| 15 | We propose that risk-based criteria are used to determine verification frequency or nature. How strongly do you agree or disagree with the proposed criteria, and why? |
| 16 | What other criteria (if any) should be used to determine verification frequency or nature? |

6.5 Alternative methods of approval, including approval of groups of businesses

PROPOSAL

Small organic businesses would be able to be approved as a group



In our 2018 consultation, we heard from submitters that group schemes are an important part of being certified organic. Group approval schemes allow members of a group to assess each other's businesses against their organic management plan, with oversight and verification by a recognised agency. Within the range of voluntary organic certification schemes currently available in New Zealand, both BioGro NZ⁴ and Organic Farm New Zealand⁵ allow for a group of businesses to be verified collectively. Such schemes are also recognised within international regulatory systems such as in the European Union, India and Tunisia. Approval and verification of groups may also be compatible with the tikanga Maori model of organic production like that used in Hua Parakore.

Approval of groups of businesses reduces the cost of verification, which can be onerous for new and small organic businesses. It also encourages businesses to work co-operatively and to share knowledge and expertise, and helps grow the organic sector. Internationally, it is considered that group verification represents an important opportunity for small-scale producers to participate in national and international organic markets.

We propose that the regulations allow verification as a group to continue. However, it is important to ensure that the process is robust and provides a high level of assurance to consumers that organic standards are met. The proposed process for group schemes outlined below includes requirements that aim to provide this assurance, such as training and regular verification by the recognised agency.

The model we have proposed places more controls around the group scheme than the internationally recognised alternative provided for within the International Federation of Organic Agriculture Movements (IFOAM) – Organics International Participatory Guarantee Systems (PGS) model. The PGS model allows groups to develop their own systems for ensuring compliance and therefore provides an even higher degree of flexibility. However, we consider that such a system would also result in a high level of variation in practice and would not provide a sufficient level of assurance that businesses are meeting the standard.

⁴ Information about this scheme can be found within the BioGro Organic Standard, Module 3, Certification System (2009).

⁵ The OFNZ scheme builds on the Participatory Guarantee System (PGS) developed by IFOAM – Organics International. Further information is provided in the OFNZ Operational Guidelines and the IFOAM PGS Guidelines 2005.

6.5.1 Approval of groups

The Bill requires all businesses, including those that form a part of a group of businesses must be approved unless exempt. As with individual businesses, groups will have organic management plans to show how they will meet the standard. They will also have a plan for how the group will work, including how they will assess each other's businesses, and how they will ensure they are competent to do this. The plan will outline how they will deal with non-compliance, make responsibilities around reporting and corrective action clear, and require timely notification to the recognised agency and MPI. MPI will approve both the individual plans and the group scheme as a whole.

We propose that groups will be approved collectively. This means that all members of the group will be approved or not. This is because the recognised agency is assessing that the group scheme is successful in ensuring members are compliant, as well as ensuring individual compliance. This also ensures that all group members are responsible for being compliant and helping each other. Alternatively, group members could be approved individually. However, we consider this could result in businesses taking advantage of the lower cost of verification, but not taking on collective responsibility for ensuring the group scheme is compliant.

Approval as a group does not mean that groups will have to market their products collectively. This is required by some group schemes such as the European Union and the IFOAM PGS schemes. However, this approach is more suited to groups who produce the same exact products and may be restrictive for some groups whose members produce different products.

Group members will be individually listed on MPI's public register of approved businesses.

6.5.2 Verification of groups

All group members would be assessed annually, with an on-site visit, by other members of the group assigned by the recognised agency. Group members will be required to be trained to carry out this role. Recognised agencies would also assess the functioning of the group scheme each year to ensure that the group is delivering objectives, managing risk, working well together, and the members have good systems in place. As part of their annual assessment, recognised agencies would also carry out on-site verification of at least 20% of the members within a group each year (with at least one group member per year), and ensure that each member is verified by the recognised agency at least once every five years.

6.5.3 Membership of groups

Membership of a group would be approved by MPI in part based on the recommendation from a recognised agency. The decision would take into account the following:

- » similarity of members' production systems, and organic management plans;
- » complexity of members' production systems, and organic management plans;

- » complexity of supply chains;
- » geographic proximity to one another;
- » the performance history and competence of individual members; and
- » whether they collectively have the resources to support a viable internal control system that assures compliance of individual members with the relevant standard.

If members’ businesses are reasonably similar, groups may develop one organic management plan for the group. However if businesses differ, group members may be required to develop their own organic management plans.

6.5.4 Assessment against objectives

The following table shows our assessment of the option of allowing approval of groups of smaller businesses against the objectives we consider the regulations should achieve. We have compared this to the alternative of not allowing approval of groups of businesses, but requiring all businesses to be individually approved.

| Criteria | Group approval | No group approval |
|---|----------------|-------------------|
| Provides certainty for consumers | ✓ | ✓ ✓ |
| Provides certainty and consistency for businesses | ✓ | ✓ ✓ |
| Easy for businesses to understand and implement | ✓ | ✓ ✓ |
| Facilitates international trade in organic products | ✓ ✓ | ✓ ✓ |
| Costs to businesses and consumers are proportionate to the overall benefits | ✓ ✓ | ✗ |

ALTERNATIVE METHODS OF APPROVAL, INCLUDING APPROVAL OF GROUPS OF BUSINESSES

Small organic businesses would be able to be approved as a group

| | |
|-----------|--|
| 17 | How strongly do you agree or disagree that small organic businesses should be allowed to be approved as a group? |
|-----------|--|

| | |
|-----------|---|
| 18 | How strongly do you agree or disagree with the proposed criteria for group scheme membership? Please explain your view. |
| 19 | What other criteria (if any) should there be for qualifying to be a member of an organics group scheme? |
| 20 | Is there another model for reducing the cost of verification that we should investigate? |
| 21 | Compared to organic businesses approved individually, how much confidence would you have in organic products that were produced by business approved using the group process? Please explain your view. |

7 Importing and exporting organic products

The Bill applies to all types of organic businesses, including importers and exporters. We anticipate that importers and exporters would need to be approved in the same way that other organic businesses are, but with some differences taking into account the nature of the business.

7.1 Importing organic products

The Bill requires that imported organic products must meet New Zealand requirements or the requirements of an overseas regime recognised by the New Zealand government (such as through an agreement between the New Zealand government and other governments, or by recognition by the New Zealand government).

7.1.1 Organic claims on imported products will need to be confirmed

In the same way that domestically produced organic products will need to be approved, organic claims on imported products will also need to be confirmed. Importers will have to obtain the relevant information from the manufacturer or supplier to be able to substantiate the organic claims on imported products. For example, this could be an official assurance from the competent authority of the country, or a certificate from an overseas certification body to a regime approved by MPI.

Organic products could be imported for one of two purposes:

- a. they could be sold, or used in product to be sold, on the domestic New Zealand market to the final consumer; or

- b. they could be re-exported or used in the production of another organic product that is then exported to an international market.

In the case of (b), it will also be necessary to demonstrate that any imported products meet any requirements of the market they might be exported to.

7.1.2 Approval process for importers needing to be approved

PROPOSAL

Importers that need to be approved will follow the same verification process as other businesses

There are different types of importers for organic products. Some importers may simply be providing logistical support to facilitate the imports of organic products for businesses within New Zealand, and some importers may be importing products themselves to then process, or on-sell them.

Where importers are providing logistical support to another business, they will be captured by the plan and approval of the business who is responsible for the product. However, those who import products themselves, or those who opt to be approved as an organic business, will need to follow the same approval process as other organic businesses. This means that they will need to develop an organic management plan, have it evaluated and have their business verified. Requirements are likely to include checking that the importer has traceability requirements for the products and that they have a robust recall procedure in case products that do not meet the standard need to be relabelled.

To ensure that the costs and requirements for verification are proportionate to the activities of the importer, we propose that the same flexibility applied to individual businesses could be applied to importers. This means that the options around the frequency and nature of verification described in section 6.4 could also apply to importers, and verification would be determined by risk.

6.1.3 Australian organic products would continue to be subject to Australian law

Under the Trans-Tasman Mutual Recognition Arrangement, Australian organic products for retail sale could continue to be imported and sold on the New Zealand 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 Competition and Consumer Act that regulates misleading, false or deceptive claims. However, if Australian products were imported to be used in a product that was then exported from New Zealand, we may still require proof that the products met the requirements of the intended overseas market (such as an assurance from the Australian government).

IMPORTING ORGANIC PRODUCTS

Importers that need to be approved will follow the same verification process as other businesses

| | |
|-----------|---|
| 22 | How strongly do you agree or disagree that importers should be verified with the same flexibility as businesses producing and processing organic products domestically? Please explain your view. |
| 23 | Do you have any other comments about importing organic products? |

7.2 Exporting organic products

7.2.1 Approval process for exporters needing to be approved

PROPOSAL

Exporters that need to be approved will follow the same verification process as other businesses

As with importers, there are different types of exporters for organic products. Some exporters may simply be providing logistical support to facilitate the export of organic products for businesses within New Zealand, and some exporters may be producing, or purchasing products themselves before exporting them.

As with importers, where exporters are providing logistical support to another business, they will be captured by the plan and approval of the business who is responsible for the product. However, those who produce or purchase products themselves to export, or those who opt to be approved as an organic business will need to follow the same approval process as other organic businesses. This means that they will need to develop an organic management plan, have it evaluated and have their business verified.

Requirements for exporters are likely to include checking that the exporter has traceability requirements for the products and has a robust trade recall procedure in case products that do not meet the relevant organic standard need to be relabelled as such. Verification of all exporters will be wider than for other organic businesses, as the verifier will need to ensure that products meet any requirements of the relevant overseas market (as described below) as well as New Zealand requirements.

We propose that verification of all types of exporters should be determined by risk, as with other businesses. The options for flexibility around the frequency and nature of verification described in section 6.4 would apply to exporters. It is important to note that flexibility for exporters could only be applied where it is accepted by the overseas market, as outlined below. Under MPI’s OOAP, exporters are currently required to be verified at least once per year. This requirement will remain for exporters to those markets unless any agreements with those markets are re-negotiated.

We also propose that products that are produced as parts of a group approval scheme can be exported where the overseas market allows this.

7.2.2 Market access requirements for exports

PROPOSAL

Regulations should allow exporters to meet an overseas standard for a country they are exporting to where it conflicts with the New Zealand standard

There are currently some specific requirements for different international markets that products exported to those markets must meet. These market access requirements may impose additional requirements over and above those imposed under our own regime, such as additional production requirements or specific verification requirements for exporters. For example, organic animal products currently exported to Taiwan must not have come from animals that have been treated with any antibiotics.

Market access requirements will continue to apply as they do now, and will be transferred into the new organics regulatory regime to ensure they are part of the same system. These requirements will remain for exporters to those markets unless any agreements with those markets are re-negotiated.

In some cases, international markets require products to meet their own organic standards that may differ from the New Zealand organic standard. In these situations, we propose to allow businesses who are producing products for export to these countries to meet the overseas standard instead of the New Zealand standard. This will need to be included in the business' organic management plan.

It is important to note that products that do not meet the New Zealand standard will not be able to be sold in New Zealand as organic.

7.2.3 Official assurances for exported products

MPI currently runs the OOAP to provide New Zealand government assurances that organic consignments meet the negotiated requirements of the market they are being exported to. Providing government-to-government assurances is common across other regimes that MPI administers.

The Bill, as it is currently drafted, allows MPI to continue to offer official assurances where they are required by an overseas government. We propose that the process to obtain official assurances be similar to the current OOAP process, but will be amended to align with the requirements of the new regime. The "Technical Rules for Organic Production" will be replaced

by the national organic standard and specific market requirements. Until such time, the current approach under the OOAP will remain in place.

EXPORTING ORGANIC PRODUCTS

Regulations should allow exporters to meet an overseas standard for a country they are exporting to where it conflicts with the New Zealand standard

| | |
|------------------|--|
| <p>24</p> | <p>How strongly do you agree or disagree that businesses exporting from New Zealand should be verified with the same flexibility as businesses producing and processing organic products domestically, where the export market allows it? Please explain your view.</p> |
| <p>25</p> | <p>How strongly do you agree or disagree that regulations should allow businesses exporting from New Zealand to meet overseas market access requirements rather than the New Zealand standard (as long as those products aren't sold as organic in New Zealand)? Please explain your view.</p> |

8 Exemptions

The Organic Products Bill provides for exemptions from some of the legislative requirements. In its current form, the Bill provides for two types of exemption:

- » an exemption for a class, or group, of similar businesses; and
- » an exemption for an individual business.

The Bill states that any exemptions must meet the following criteria:

- » granting the exemption is consistent with the purposes of the Act (currently the Organics Products Bill);
- » granting the exemption will not—
 - » have an adverse impact on New Zealand’s reputation; or
 - » result in consumers being misled; and
- » complying with the obligations is unreasonably burdensome and disproportionate to the benefit of compliance for the business.

Exemptions could reduce some of the processes or costs for certain businesses. However, those businesses would still have to comply with the organic standard and would be subject to monitoring and enforcement action, if necessary.

This section outlines our proposals for regulations that would allow for class exemptions.

For individual exemptions, businesses would need to apply to MPI outlining how the exemption would meet the criteria above.

It is important to note that the exemptions discussed in this paper relate to the verification and approval processes only. The Bill does not allow exemptions from any part of the organic standard (except in some export circumstances).

8.1 Exemptions for very small organic businesses selling direct to consumers

PROPOSAL

Very small organic businesses selling direct to consumers should not need to be approved by MPI

We are proposing that class exemptions be used to manage compliance costs for very small businesses, such as those selling homegrown produce at their farm gate, or *maara kai*, and who want to describe their product as organic. To manage costs, we propose that these very small businesses should be exempt from needing approval by MPI, which means they would not need to have a plan evaluated or be verified. However, these businesses would still need to:

- » meet the relevant organic standard;
- » have an organic management plan or keep records which demonstrate how their production and processing methods comply with the organic standard;
- » provide MPI with their contact details, and information about the nature of their business; and
- » hold information that would demonstrate why the class exemption applies to their business.

We are proposing that businesses that meet all of the following criteria may be exempt from approval by MPI:

- » businesses that only sell the products that they produce or process;
- » businesses that only sell such products directly to the final consumer from a physical location (i.e. not through internet sales or other electronic methods);
- » businesses that only use ingredients from businesses that are approved (if applicable)⁶; and
- » businesses that have an annual turnover (averaged over the previous three years of production) relating to organic production or processing that does not exceed \$10,000.

These criteria are in line with the suggestions we received from submitters in our 2018 consultation. We consider that businesses who meet these criteria present a low risk of misleading consumers, as consumers will be able to talk directly to the grower or producer about their organic systems when they are buying any products. These businesses also present a low risk of impacting New Zealand's trade reputation as they are not able to wholesale or export their products.

⁶ This would mean that a business could not use inputs from another business covered by a class exemption.

If a business covered by a class exemption changes and no longer meets all the criteria above (for example, because the business has grown), the exemption would no longer apply and the business would need to obtain approval from MPI.

Being covered by the class exemption would not mean that businesses cannot be approved if they wish. For example, some of these businesses may wish to be approved as a marketing point for their products, as exempted businesses are unlikely to be able to use any national organic logo, or wholesale or export their products.

8.2 Exemptions for retailers

PROPOSAL

Retailers selling organic products should not need to be approved by MPI

Retailers who only sell pre-packaged final products are excluded from the Bill, and therefore do not have any requirements such as needing to be approved. However, retailers who sell products that are not pre-packed, such as bulk products, or who repackage products themselves before selling them are included in the Bill and are required to be approved.

We consider that retailers who sell bulk organic products or who repackage organic products should need to meet the requirements of the organic standard (such as ensuring organic products are not compromised), but should not be required to be approved by MPI. The risk of misleading consumers is low, and the cost of approval would be disproportionate. These businesses would remain subject to offences under the Act, such as for making false organic claims.

This would mean these retailers would not need to have a plan evaluated, or be verified against the requirements. They will still need to:

- » meet the relevant organic standard; and
- » have an organic management plan and keep records that demonstrate how their retailing methods comply with the organic standard.

However, if retailers process organic products in some way, such as producing their own organic baked products, they would not be exempt from the requirement to be approved.

CLASS EXEMPTIONS

Retailers selling organic products should not need to be approved by MPI

| | |
|----|--|
| 26 | How strongly do you agree or disagree with the proposed criteria for exempting very small businesses from approval? Please explain your view. |
| 27 | How strongly do you agree or disagree that very small domestic businesses should be exempt from MPI approval (subject to proposed criteria)? Please explain your view. |
| 28 | How strongly do you agree or disagree that retailers who sell bulk organic products or who repackage organic products should be exempt from having a plan, being verified, and being approved? Please explain your view. |
| 29 | What, if any, other groups/classes of businesses do you think should be exempt from any parts of the approval and verification process? |

9 Recognising entities

The Organic Products Bill allows MPI to recognise agencies and persons (individually or as a class of persons) to carry out functions and duties relating to organic businesses. We propose that agencies and persons would be recognised for evaluating plans and verifying businesses, as described in the previous sections. We intend that the regulations would enable the involvement of existing and new agencies in the provision of evaluation and verification services.

The Bill also provides for MPI itself to be able to provide evaluation and verification services to organic businesses (for example, where a recognised agency is unavailable, or otherwise as required).

The roles of recognised agencies in the approval process are described in the previous sections of this discussion document (sections 6.2, 6.3, and 6.5). This section focuses on the process agencies and persons will need to follow to be recognised by MPI.

It is important to note that there will be charges associated with applying for recognition and processing an application for recognition or renewal. Further detail on cost recovery is provided in section 11.

9.1 Competency requirements for recognised agencies

PROPOSAL

Recognised agencies must be accredited to either ISO:17020 or ISO:17065

The Bill requires agencies to apply to MPI to be recognised for carrying out a role under the Organic Products Bill. Agencies could be recognised to manage the systems for either or both evaluation of plans and verification of businesses under the organics regime. As part of this, agencies will be responsible for ensuring that the recognised persons that they employ remain competent and that processes for assessing businesses are in place. Agencies will also manage confidentiality and conflict of interest issues.

An agency's application for recognition would need to demonstrate that they are capable, and meet the required competencies. Different standards are used overseas and domestically to set requirements that agencies should meet in order to carry out these types of roles, and agencies are assessed in order to be accredited to these standards.

There are two different standards that could be relevant to agencies under the organics regime, and we propose that agencies could be accredited to either of these standards⁷ to apply to be recognised:

- » ISO:17020 (Conformity assessment – Requirements for the operation of various types of bodies performing inspection); or
- » ISO:17065 (Conformity assessment – Requirements for bodies certifying products, processes and services).

If an application for recognition is approved, the approval would identify which services the agency is recognised to provide, the types of products the entity can verify, and when the agency would need to reapply for recognition. The approval would also outline additional duties of the agency such as reporting requirements to MPI.

If a recognised agency is not compliant with their recognition conditions, MPI may suspend or withdraw all or part of their recognition.

9.1.1 Key technical persons approach

We propose that agencies would also be able to use the Key Technical Persons (KTP) approach that is used in other regimes administered by MPI. Under the KTP approach, agencies would not be required to have each of their recognised persons individually assessed.

Using a KTP approach would reduce costs for agencies, as it would mean that they would not have to get each recognised person individually assessed. However, there are also increased risks for agencies using the KTP model as their recognition could be suspended or withdrawn if an individual recognised person is found not to be performing well.

⁷ These two standards are available for purchase at: <https://www.iso.org/standards.html>, or can be viewed at the Ministry for Primary Industries Head Office at Charles Fergusson Building, 34-38 Bowen Street, Wellington, New Zealand.

Regulations would outline the requirements for agencies wanting to use the KTP model⁸. This model has been used successfully under other regimes administered by MPI including the Food Act and Animal Products Act.

Instead of using a KTP approach, we could require all recognised persons within a recognised agency to be individually assessed. However, our view is that this would significantly increase the costs of recognition for agencies, which ultimately would be passed on to businesses and consumers.

COMPETENCY REQUIREMENTS FOR RECOGNISED AGENCIES

Recognised agencies must be accredited to either ISO:17020 or ISO:17065

| | |
|----|--|
| 30 | How strongly do you agree or disagree that recognised agencies should be accredited to either ISO 17020 or 17065 to carry out roles under the organics regime? Please explain your view. |
| 31 | How strongly do you agree or disagree that recognised agencies should be able use a 'key technical persons' approach? Please explain your view. |

9.2 Competency requirements for recognised persons

PROPOSAL

Recognised persons must meet the relevant competency requirements for the role they will be carrying out

As well as recognising agencies, the Organic Products Bill allows MPI to recognise individual persons or a class of persons. As with agencies, individuals and classes of persons would be recognised for either or both evaluating plans and verifying businesses.

Where a person is recognised for both evaluating plans and verifying businesses, the same person would be able to carry out evaluation and the initial on-site verification for a business, as described in section 6.2.2. However, the same person would not be able to verify a business on a continuous basis to ensure impartiality and prevent any conflicts of interest.

9.2.1 Applying for recognition

People must apply to MPI to be recognised for carrying out any activities under the Organic Products Bill. They would need to demonstrate that they are capable and meet the required competencies for the role.

⁸ The requirements are likely to be similar to the KTP guidance under the Food Act 2014: www.mpi.govt.nz/dmsdocument/15484/LoggedIn

We propose that people applying to be a recognised must be able to demonstrate:

- a. knowledge and understanding of applicable requirements of the organic legislation and any other relevant legislation;
- b. knowledge and understanding of organic production and processing methods;
- c. the relevant skills for the role they are applying for (i.e. evaluations or verification);
- d. how to operate in accordance with the standard operating practices (SOPs) of their agency (if they are working for a recognised agency);
- e. impartiality, and management of conflicts of interest; and
- f. when specialist technical expertise is needed and how it could be obtained.

In addition to the above, persons applying to be recognised to evaluate and verify group schemes would need to have knowledge of the specific requirements of group schemes.

If an organisation applies for recognition of a class of persons, on their behalf, before MPI recognises that class of persons, we propose that they must be reasonably satisfied that it is appropriate for the applicant to make the application, and also consult with the persons identified in the application.

9.2.2 Conditions on recognition

If an application for recognition is approved, the approval would identify which services and sectors the person, or class, is recognised to provide, the types of products the person can provide services for, and when they would need to reapply for recognition. Depending on the individual’s knowledge and training, MPI may limit recognition to certain sectors, for example horticulture, wine, or dairy, or certain processes (for example, importing).

A person recognised for evaluation and/or verification would not necessarily need to be employed by an agency recognised under the organics regime. For example, they could be operating individually, or be a member of a relevant association. However, this will be decided by MPI when considering whether to recognise a person.

If a recognised person, or class, is not compliant with their obligations then MPI may suspend or withdraw all or part of their recognition. MPI must notify a person when they are proposing to withdraw their recognition and give them a chance to respond to the proposal. A person can request a review of the decision to suspend or withdraw their recognition.

COMPETENCY REQUIREMENTS FOR RECOGNISED PERSONS

Recognised persons must meet the relevant competency requirements for the role they will be carrying out

32

How strongly do you agree or disagree with the proposed competencies for verifiers and evaluators?

9.3 Information sharing between MPI and recognised entities

Under the Bill, it will be possible for businesses to switch between recognised entities. Without the correct settings, this could lead to situations where the new recognised entity is not aware of outstanding or ongoing non-compliance issues if the business does not inform them.

Systems and processes should be in place to ensure recognised entities have access to the information they need to evaluate plans and verify businesses while maintaining the integrity of the system. These could include a process for transferring between recognised entities, and specifying what information a recognised entity should be required to supply the new entity upon transfer. They could also specify what information a business must provide a recognised entity when switching providers.

INFORMATION SHARING BETWEEN MPI AND RECOGNISED ENTITIES

Systems and processes should be in place to ensure recognised entities have access to the information they need

33

What systems and processes should be in place to ensure organic businesses keep up to date with compliance obligation when switching between recognised entities?

10 Do we want a national logo for organic products?

The Bill enables a national organic mark, such as a logo, to be developed so that organic businesses can use it in their labelling and marketing. During our 2018 consultation, we received mixed feedback from submitters on whether a national logo for organics should be developed or not. We are interested in your views about whether you think we should develop a national logo, and if we did, who would be able to use it.

10.1 Background

Currently logos are used to indicate that a product is organic or of a certain quality by private companies in New Zealand, and by our key trading partners.

Logos can be used in labelling and representation of organic products to assist consumers in finding organic products, as well as for information and educational purposes. For example, the European Union, the United States, China and Canada each use a national logo to indicate products meet their requirements to be organic. In the United States and Canada, use of the logo is voluntary, but it is compulsory in the European Union. Logos can also be used as a marketing tool for businesses to easily show that they meet a certain standard.

Private certification bodies within New Zealand use private logos to indicate that products are organic and which standard (i.e. which certification body) they use. The government also uses logos on products. For example, the Ministry for the Environment uses the Environmental Choice logo for environmental performance certification and MPI uses the Halal logo under the Animal Products Act to indicate that products meet Halal requirements.

10.2 Who could use the logo?

If we were to develop a national logo for organics, there are a number of options around who would be able to use that logo. The Bill does not make use of a logo mandatory, so it would be a business' decision to use it if we developed one. We consider that all businesses who are approved against the New Zealand organic standard should be able to use the logo if one is developed. This means that businesses who are exempt from approval (and do not get approval) would not be able to use a logo.

10.2.1 Businesses who are approved individually versus a group

As outlined in this document, we have proposed that small organic businesses could be approved as part of a group. There is some question of whether businesses that are approved as part of a group should be able to use the logo.

On one hand, some people may perceive that group verification provides a lower level of assurance than individual verification, and therefore such businesses should not be able to use the logo. Not allowing groups to use the logo may also provide an incentive for group members to be verified individually when they are large enough to be.

On the other hand, these businesses are still approved as organic businesses, and have a system in place to ensure that they are meeting the requirements. Therefore, they should also have the benefit of using the New Zealand logo.

10.2.2 Imported products

We also propose that all imported products from businesses that are approved as meeting the New Zealand organic standard will be able to be represented as organic and use the New Zealand national logo. This is because they are meeting the requirements to be considered organic in New Zealand.

However, there is some question about imported products that don't meet the New Zealand standard – but instead meet an overseas standard that we have recognised as being suitable for import into New Zealand. We propose that such imported products would not be able to use the New Zealand logo, unless this was agreed as part of a trade arrangement. However, they could continue to use their own national or private organics logo. This would help consumers to recognise which products meet the New Zealand organic standard and would help manage risks of the logo being misused overseas.

10.2.3 Marketing not on individual products

Logos are often used directly on a product to show that it meets certain requirements. However, logos could also be used more generally in marketing. For example, a retail store that sells unpackaged organic products may wish to use a national logo in its front sign, or a transport business that meets requirements to transport organic products may wish to use a national logo in its marketing to attract customers.

As mentioned, we propose that any business wanting to use the logo would need to be approved by MPI, so in the above examples the retail store and the transport company would need to be approved as organic businesses. However, we are interested in what types of businesses or marketing you think should be able to use a logo in this way.

DO WE WANT A NATIONAL LOGO FOR ORGANIC PRODUCTS?

| | |
|----|---|
| 34 | Would a national logo for organic products be useful to you? Why or why not? |
| 35 | If a national logo was to be developed, who do you think should be allowed to use the logo? |

11 We will consult later on proposed cost recovery and infringements

We plan to consult in detail on the proposed organics cost recovery regulations at the same time as later consultation on standards. This later consultation will provide detail on the costs of MPI services and any proposed fees and levies. Before consulting on cost recovery, we need more certainty about the services being provided (as discussed in this discussion document).

Like other regimes administered by MPI, we propose to recover the costs that MPI incurs in providing services under this new organics regime. The cost recovery will be consistent with the principled approach set out in MPI's cost recovery policy guidance⁹, and the framework provided in the Bill. The principles for cost recovery set out in the Bill are equity, efficiency, justifiability, and transparency.

Some of the services that MPI will provide are services direct to individual businesses, and these services would generally be charged as a fee directly to that business. Many of the fees would likely be based on the hourly rate charged for similar services in existing MPI systems (currently set at \$135 per hour). In the proposed organics system these services could include:

- » assessing applications for approval;
- » assessing requests for an individual exemption;
- » MPI getting involved when issues are identified as part of verification; and
- » recognising agencies and persons to carry out roles under the Organic Products Bill.

In other cases, the services that MPI provides will benefit the whole sector rather than individual businesses. This could include maintaining organic standards, negotiating and/or maintaining market access, reviewing overseas standards, and running a monitoring programme to ensure overall compliance. For these services, MPI would generally charge an annual levy to all organic businesses (taking account of the cost burden on very small organic businesses who could be exempt from approval).

In addition to cost recovery, we will also consult later on infringement offences. The Bill empowers Organic Product Officers to issue infringement offences, which are subject to an instant fine. The purpose of infringement offences is to deter conduct that is of relatively low seriousness and that does not justify the full imposition of the criminal law. Infringement offences prevent the courts from being overburdened with a high volume of relatively straightforward and low-level offences.¹⁰

⁹ <https://www.mpi.govt.nz/dmsdocument/30855/direct>

¹⁰ An example of an infringement offence under the Health and Safety at Work (Hazardous Substances) Regulations 2017, is failing to keep and maintain an inventory of hazardous substances at a workplace

12 Moving to a new regime – how can we support you?

We understand that the proposals in this document may mean a significant change for some businesses, while for others it might mean smaller changes. We will ensure that all businesses have time to get up to speed with the new requirements, and to make any changes that are needed.

For those businesses who are currently certified to a private organic standard, the biggest change in the process will be being approved by MPI, rather than having all steps for organic certification through one agency. However, we consider that the other steps proposed (such as developing an organic management plan and being verified) should be familiar.

We will also help to make the move to the new regime as smooth as possible. For example, we may provide guidance and templates that businesses may choose to use. We won't expect businesses who are currently certified to an organic standard to go through another three year conversion period. There will be time allowed for existing products that meet a different organic standard to be sold as organic. If a national logo is developed, it will not be mandatory for any businesses to use it, so there will be no cost if businesses choose not to.

It will take time to work with international markets to develop agreements for trading organic products. However, we will minimise the impacts on the products imported into New Zealand as much as possible. For example, this means that if you currently use imported ingredients in processing your organic products, these should still be available.

MOVING TO A NEW REGIME

| | |
|----|--|
| 36 | If you have any concerns about transitioning to a new regime for organics, what are they? |
| 37 | What, if any, costs (other than those identified in this document) would your businesses face in transitioning that we should be aware of? |

13 Monitoring

As the proposed regime for organics will be new, MPI will monitor it to ensure we have got it right. It will be important to ensure that the regime is meeting its objectives.

For example, this might include:

- » looking at non-compliances with the organic standard and with the processes to see if there are any issues;
- » looking at the information we get on exempted businesses to ensure that the criteria for exemptions are right;
- » taking on board feedback from businesses or other organisations about whether the processes work;
- » assessing whether the costs to business are proportionate to the overall benefit to the regime; and
- » assessing whether customers feel more confident making organic purchases.

We will collect data from different parts of the regime, including feedback from businesses and others going through the process. We will assess the data on a regular basis to ensure we are aware of any issues and can make any changes if necessary.

14 Next steps

The high-level regulation proposals in this document reflect how the Organic Products Bill is currently drafted. During the Parliamentary process amendments are likely to be made to the Bill. This may mean that some of the proposed regulations have to change.

We will consider all the submissions we receive on this document and use them to inform our analysis and develop proposals for detailed regulations. If there are any significant changes that need to be made to these regulation proposals, you will get a chance to comment on those changes.

We will also be consulting on the organic standard itself, infringement offences, and the cost recovery aspects of this regime once these details are developed. Your feedback on this current discussion document will help inform proposals for this future consultation on the standard and cost recovery.

SUBMISSION FORM: PROPOSALS FOR REGULATING ORGANIC BUSINESSES IN THE PRIMARY SECTOR

Submissions must be lodged by 5pm on
Tuesday, 8 June 2021.

Submissions can be:

- completed online at
<https://www.surveymonkey.com/r/HSX8VVJ>

- emailed to
OrganicsConsultation@mpi.govt.nz

- posted to:
Organics Consultation
Ministry for Primary Industries
PO Box 2526
Wellington 6140

Disclaimer

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. Any decision MPI makes to withhold information can be reviewed by the Ombudsman, who may require the information to be released.

If you would like to have your submission or personal details withheld, please set out your reasons below. Reasons might include it being commercially sensitive or personal information.

Please note that late submissions will not be considered but may be released publicly.

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.

A. Please provide your details below:

Name: _____

Organisation name (if applicable): _____

Email: _____

Postal address:

B. Are you submitting:

as an individual

on behalf of a business or organisation (please specify) _____

C. Which one of the following best describes your main activity in relation to organic products?

a consumer

an organic producer

an organic processor

an organic retailer

an organic service provider (e.g. transporter, certifier)

other (please specify) _____

D. Which one of the following applies to you?

I import organic products

I export organic products

I import and export organic products

I don't import or export

E. If you export organic products, do you operate under MPI's Official Organic Assurance Programme?

Yes

No

F. If you provide a service, which one of the following best describes your primary service?

certification

verification

evaluation

transport/storage

logistics for import/export

other (please specify) _____

G. If you operate a business, does your business sell or deal with organic products?

Yes

No

H. If you operate an organics business, is your business certified?

Yes

No

I. If you operate a certified organic business, who are you certified with?

AsureQuality

BioGro NZ

Demeter

Hua Parakore

Organic Farm NZ

Would rather not say

Other (please specify) _____

J. In the last 12 months, what was your business's approximate turnover in relation to organic products?

less than \$10,000 per year,

\$10,001 – \$200,000 per year

more than \$200,000 per year

don't know

would rather not say

not applicable

K. If you operate a business, how many employees do you have?

None (owner-operated)

1-5

6-10

11-20

more than 20

don't know

would rather not say

The remainder of this survey takes around 20-25 minutes to complete. The information provided will help us to design and implement organics regulations.

Processes for approving businesses to describe products as organic

PROPOSED BASELINE PROCESS

The proposed baseline process for assessing compliance with the organic standard is: have a plan; get an initial assessment; get approval; and have ongoing verification. Refer to page 11 of the discussion document.

1. How strongly do you agree or disagree with the proposed baseline processes for assessing business' compliance with the organic standard?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

Please explain your view, including what, if any, alternative processes could be considered and why

APPROVING INDIVIDUAL BUSINESSES

HAVE A PLAN

We propose that organic businesses should have a documented plan for how they will meet the organic standard, and records to show compliance. Refer to page 12 of the discussion document.

2. How strongly do you agree or disagree with the proposed organic management plan requirements?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

3. Is there anything you would add or remove?

4. What would be the advantages for your business of keeping an organic management plan?

5. What would be the disadvantages for your business of keeping an organic management plan?

INITIAL ASSESSMENT

We propose that once a business has developed an organic management plan they go through an initial assessment. This which would consist of:

- » an evaluation of the plan by a person formally recognised by MPI for example and
- » a pre-approval verification check of the business (and any other businesses covered by the plan) by an agency recognised by MPI.

Refer to page 14 of the discussion document.

4. How strongly do you agree or disagree with each of these statements? Please select one option for each statement.

| | Strongly agree | Agree | Neutral | Disagree | Strongly disagree |
|---|----------------|-------|---------|----------|-------------------|
| An initial assessment should involve an evaluation of an organic management plan, and verification of the business. | | | | | |
| If the recognised person who evaluates the plan is also able to verify that the business is operating in accordance with its plan in one visit, then a second visit should not be required as part of the initial assessment. | | | | | |

Do you have any further comments on initial assessment?

MPI APPROVAL AND THE PUBLIC REGISTER

After having an initial assessment (evaluation and verification) from a recognised agency, the business will need to apply to MPI for approval. We propose that MPI will assess and approve:

- » the business’ organic management plan, and
- » the business to make organic claims.

Refer to page 15 of the discussion document.

5. How strongly do you agree or disagree that MPI should assess and approve business’ organic management plans (as well as assessing and approving the business)?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

Please explain your view

6. We propose that there be a public register of organic businesses, how strongly do you agree or disagree that the following details should be made public:

| | Strongly agree | Agree | Neutral | Disagree | Strongly disagree |
|---|----------------|-------|---------|----------|-------------------|
| The name and location of the organic business | | | | | |
| The products they are approved to describe as organic | | | | | |
| The processes they are approved to carry out for organic products | | | | | |
| The status of the approval e.g: approved; suspended | | | | | |
| Approval date | | | | | |
| The recognised agency or person who assessed the business | | | | | |

Is there any other information that should be published?

7. What factors do you think MPI should take into account when setting, or deciding to set a duration on the approval?

What should the minimum or maximum duration be?

ONGOING VERIFICATION

We propose that after being approved, businesses will need to be verified on an ongoing basis to confirm they remain compliant with the organic standards. Refer to page 17 of the discussion document.

8. How strongly do you agree or disagree that businesses should be verified on an ongoing basis?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

Please explain your view

VERIFICATION OUTSIDE OF THE REGULAR SCHEDULE

We propose that organic businesses should inform MPI of any significant changes, and should inform recognised agencies of any significant incidents (e.g. spray drift). Refer to page 19 of the discussion document.

9. How strongly do you agree or disagree with the following statements. Please select one option for each statement.

| | Strongly agree | Agree | Neutral | Disagree | Strongly disagree |
|--|----------------|-------|---------|----------|-------------------|
| Significant changes to organic management plans should be approved by MPI. | | | | | |
| Significant incidents should be notified to the recognised agency. | | | | | |

Do you have any other comments on verification?

RENEWAL OF APPROVAL

We propose that if a business’ approval has an expiry date, they will need to renew their approval before then, or be re-approved altogether.

10. What factors should be considered for whether an approval would expire?

11. What factors should be considered when determining the renewal frequency (if any)?

OPTIONS WITHIN INDIVIDUAL BUSINESS VERIFICATION

We propose that the frequency or scope of verification should be flexible to suit the nature and risks of the organic business. Refer to page 22 of the discussion document.

12. How strongly do you agree or disagree that there should be flexibility within verification?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

Please explain your view

13. We have identified three options for verification.

- » Flexibility in the nature of verification (1A): minimum verification frequency is fixed at annual, but there is flexibility regarding whether an onsite visit is carried out (preferred)
- » Flexibility in the frequency of verification (1B): verification frequency is flexible, but there would always be an on-site visit carried out
- » No flexibility (1C): verification frequency is fixed at annual, there would always be an on-site visit carried out,

Which is your preferred option for verification?:

Flexibility in the nature of verification (1A)

Flexibility in the frequency of verification (1B)

No flexibility (1C)

Another option (please specify) _____

Please explain your view

14. If we progress with our preferred option (1A: fixed frequency, flexible nature), what would be the advantages for your business?

15. We propose the following risk-based criteria to determine verification frequency or nature. How strongly do you agree or disagree with the proposed criteria:

| | Strongly agree | Agree | Neutral | Disagree | Strongly disagree |
|---|----------------|-------|---------|----------|-------------------|
| The intended market of the products (i.e. domestic or export) | | | | | |
| The value and volume of the products being produced | | | | | |
| The competence and performance history of the business, including how long it has been organic | | | | | |
| The complexity of the business and its plan, including whether non-organic products are also produced on the same premises and how many sub-contractors are covered | | | | | |

Please explain your view

16. What other criteria (if any) should be used to determine verification frequency or nature?

ALTERNATIVE METHODS OF APPROVAL, INCLUDING APPROVAL OF GROUPS OF BUSINESSES

We propose that small organic businesses would be able to be approved as a group, if they meet the proposed criteria. Refer to page 26 of the discussion document.

17. How strongly do you agree or disagree that small organic businesses should be allowed to be approved as a group?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

Please explain your view

18. How strongly do you agree or disagree with the proposed criteria for group scheme membership?

| | Strongly agree | Agree | Neutral | Disagree | Strongly disagree |
|---|----------------|-------|---------|----------|-------------------|
| Only producers and processors of organic products | | | | | |
| Only businesses that have an annual turnover of \$200,000 or less | | | | | |
| Groups must have three or more members | | | | | |

Please explain your view

19. What other criteria (if any) should there be for qualifying to be a member of an organics group scheme?

20. Is there another model for reducing the cost of verification that we should investigate?

21. Compared to organic businesses approved individually, how much confidence would you have in organic products that were produced by businesses approved using the group process?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

Please explain your view

Importing and exporting organic products

IMPORTING ORGANIC PRODUCTS

We propose that importers that need to be approved will follow the same approval and ongoing verification process as other organic businesses. Refer to page 29 of the discussion document.

22. How strongly do you agree or disagree that importers should be verified with the same flexibility as businesses producing and processing organic products domestically?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

Please explain your view

23. Do you have any other comments about importing organic products?

EXPORTING ORGANIC PRODUCTS

We propose that exporters that need to be approved will follow the same approval and ongoing verification process as other businesses. Refer to page 31 of the discussion document.

24. How strongly do you agree or disagree that exporters should be verified with the same flexibility as businesses producing and processing organic products domestically, where the export market allows it?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

Please explain your view

25. How strongly do you agree or disagree that regulations should allow businesses exporting from New Zealand to meet overseas market access requirements rather than the New Zealand standard (as long as those products aren't sold as organic in New Zealand)?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

Please explain your view

Exemptions

EXEMPTIONS FOR VERY SMALL ORGANIC BUSINESSES SELLING DIRECT TO CONSUMERS

We propose that very small domestic organic producers and processors (e.g. less than \$10,000 turnover per year, selling direct to consumers from a single physical location) should not need to have a plan evaluated, be verified, or be approved by MPI, if they meet the proposed criteria. They would still need to:

- » meet the relevant organic standard
- » have and follow a plan and keep records
- » provide their details to MPI, and
- » hold information demonstrating why an exemption applies.

Refer to page 34 of the discussion document.

26. How strongly do you agree or disagree with the following proposed criteria for exempting very small businesses from approval. Please select one option for each criteria.

| Criteria | Strongly agree | Agree | Neutral | Disagree | Strongly disagree |
|--|----------------|-------|---------|----------|-------------------|
| The business must only sell the products that they produce or process | | | | | |
| The business must only sell such products directly to the final consumer from a single physical location (i.e. not through internet sales or other electronic sales) | | | | | |
| The business must only use ingredients from businesses that are approved (if applicable) | | | | | |
| The business must have an annual turnover relating to organic production or processing which does not exceed \$10,000. | | | | | |

Please explain your view

EXEMPTIONS FOR RETAILERS

Retailers who only sell pre-packaged final products are excluded from the Bill, and therefore do not have any requirements. We propose that other retailers selling organic products should not need to be approved by MPI. They will still need to:

- » meet the relevant organic standard; and
- » have a plan or keep records that demonstrate how their retailing methods comply with the organic standard.

Refer to page 35 of the discussion document.

28. How strongly do you agree or disagree that retailers who sell bulk organic products or who repackage organic products should be exempt from having a plan evaluated, being verified, and being approved?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

Please explain your view

29. What, if any, other groups/classes of businesses do you think should be exempt from any parts of the approval and verification process?

Recognising Agencies and Persons

COMPETENCY REQUIREMENTS FOR RECOGNISED AGENCIES

We propose that recognised agencies should be accredited to either of the following standards, to demonstrate that they are competent and capable:

- » ISO:17020 (Conformity assessment – Requirements for the operation of various types of bodies performing inspection); or
- » ISO:17065 (Conformity assessment – Requirements for bodies certifying products, processes and services).

Refer to page 36 of the discussion document.

30. How strongly do you agree or disagree that recognised agencies should be accredited to either ISO 17020 or 17065 to carry out roles under the organics regime?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

Please explain your view

We propose a 'key technical persons' approach, which means that agencies would not have to get each verifier or evaluator recognised individually. This would reduce costs for agencies, but could also increase risks for agencies as their recognition could be suspended or withdrawn if an individual recognised person is found not to be performing well.

31. How strongly do you agree or disagree that recognised agencies should be able use a 'key technical persons' approach?

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

Please explain your view

COMPETENCY REQUIREMENTS FOR RECOGNISED PERSONS

We propose that verifiers and evaluators would need the following competencies. Refer to page 38 of the discussion document.

32. How strongly do you agree or disagree with the proposed competencies for verifiers and evaluators:

| Criteria | Strongly agree | Agree | Neutral | Disagree | Strongly disagree |
|--|----------------|-------|---------|----------|-------------------|
| knowledge and understanding of organic legislation and any other relevant legislation | | | | | |
| knowledge and understanding of organic production and processing methods | | | | | |
| relevant skills for the role they are applying for (i.e. evaluation or verification); | | | | | |
| how to operate in accordance with the standard operating practices (SOPs) of their agency (if applicable); | | | | | |
| impartiality, and management of conflicts of interest; | | | | | |
| knowledge of when specialist technical expertise is needed and how it could be obtained | | | | | |
| knowledge of the specific requirements of group schemes (if evaluating or verifying group schemes) | | | | | |

Are there any other competencies that should be included?

INFORMATION SHARING BETWEEN MPI AND RECOGNISED ENTITIES

It will be possible for businesses to switch between recognised entities. Without the correct settings, this could lead to situations where the new recognised entity is not aware of outstanding or ongoing non-compliance issues if the business does not inform them. Systems and processes should be in place to ensure recognised entities have access to the information they need.

33. What systems and processes should be in place to ensure organic businesses keep up to date with compliance obligation when switching between recognised entities?

Do we want a national logo for organic products?

WHO COULD USE THE LOGO

During the 2018 consultation, we received mixed feedback from submitters on whether a national logo for organics should be developed or not. Refer to page 40 of the discussion document.

34. Would a national logo for organic products be useful to you?

Yes

No

Don't know

Why or why not?

35. If a national logo was to be developed, who do you think should be allowed to use the logo?
(Tick all that apply)

Businesses that are approved individually

Businesses that are approved as a group

Importers importing products that meet the New Zealand Standard

Importers importing products that meet an overseas standard as agreed as part of a trade agreement

Importers importing products that are produced under an overseas organic regime deemed equivalent to New Zealand’s regime by the New Zealand government

Moving to a new regime – we’re here to help!

We understand that the proposals in this document may mean a significant change for some businesses, while for others it might mean smaller changes. Refer to page 44 of the discussion document.

36. If you have any concerns about transitioning to a new regime for organics, what are they?

37. What, if any, costs (other than those identified in this document) would your businesses face in transitioning that we should be aware of?
