

Thursday, 28 May 2020

## **SUBMISSION ON THE ORGANIC PRODUCTS BILL**

### **About the Organic Exporters Association of New Zealand**

The Organic Exporters Association of New Zealand was established in 28 years ago in 1992 and serves over 140 New Zealand organic exporters to 90 markets around the world earning \$400 million in export receipts and a market sector value of \$630 million. We are a solely member funded trade association. We assist with market access for certified organic food & beverage from New Zealand. Where no organic bilateral arrangements exist, we work with affiliates to provide the fastest, easiest and most economic route to market. We work closely together with the Ministry for Primary Industries to agree the prioritisation of work undertaken for the organic export sector. We provide a voice to government for organic exporter and organic foreign buyer representatives. We further encourage and support organic export growth by providing market knowledge, insight and guidance and networking opportunities to organic exporters.

**The Executive Board.** Alice Moore – Zespri – Chair, Donald Nordeng – BioGro – Deputy Chair, Jacqui Bird<sup>1</sup> – MPI, Andrew Henderson – Fonterra, Patrick Geals – NZTE, Jeff Gordon –ASUREQuality, Corrie den Haring – Tech Foods, Chris Morrison – Karma Cola, Mike McCarthy – JML Sales, Heidi Stiefel – Bostock NZ, Fabian Yukich - Villa Maria, Rick Carmont – Executive Director.

<sup>1</sup> *Note that Jacqui Bird in accordance with MPI conventions has been excused from participating in any discussions and submission development and has had no contribution to this document.*

### **We wish to be heard on this submission.**

**Clause 6. Transition time.** There appears to be no mention in the Bill of the transition periods.

**Request:** That the Bill expresses the transition periods following the accent of the Bill.

**Clause 9. Describing product as organic product.** We agree with the clause relating to the product.

**Request:** We would like the Bill to expressly forbid the use of the word “organic” in a company name or trading name unless all of their products are certified organic. There are current entities in New Zealand with the word organic in their trading name while selling non organic products.

**Clauses 12,13,16 & 17. Granting or refusing approval et al.** We note that the original intention considered by Cabinet in December 2018 expressly was to allow oversight to either the relevant ministry or a recognised agency and either could decide whether a business can make organic claims.

It was suggested that raising the decision-making power to the relevant ministry only will better secure consumer confidence and protect New Zealand’s trading reputation. This is difficult to reconcile when our major organic trading partners allow the recognised agencies to decide whether a business is permitted to make organic claims. We believe this will reduce the operational workload on MPI and allow them to better develop and maintain crucial organic trade arrangements with our trading partners.

**Request:** We would prefer that the allowance for oversight to either the relevant ministry or a recognised agency be reinstated. Or alternatively we would like the Bill to be amended to at least give provision for the relevant chief executive the powers to delegate this function to a recognised agency (non-government) currently referring to AsureQuality of BioGro.

We understand that part of the rationale for maintaining direct government oversight was New Zealand’s poor track record at delegated authority. In particular the 2019 WOF failures and the leaky homes debacle. We believe these two examples are not relative to the organic position. Firstly, the WOF failures were a direct failure by a government agency (NZTA) to prioritise

public safety. The second example was an experiment with reduced oversight and less prescribed techniques. And something that clearly did require direct government oversight. The Building Act 1991, changed building controls from a prescriptive system to a more self-regulated regime. For constructing buildings in New Zealand with a 50+ year life this clearly didn't work.

Organics however is a marketing proposition not a food safety one. The worst thing that could occur is that the organic food or beverage would be relegated down to the same status as mainstream food and beverage. This is part of the reason that the organic oversight in the US is operated by the USDA marketing department. We do not maintain that the benefits of such government direct control would come anyway close to the additional costs both in real dollars and extensive delays by adding the additional government layers of authority and double checking that already exists within the framework of international recognised third party certifiers namely AsureQuality and BioGro.

### **Clause 18 Use of national mark**

The Organic Exporters believe that a national organic mark expressly designed and used for marketing New Zealand product is not necessary. The best marketing tool available is the "Product of New Zealand" strapline. There are commercial organic logos in New Zealand already. Biogro and AsureQuality have organic logos which are used as part of the marketing collateral for New Zealand based businesses. Another difficult issue about the national organic mark is its use and control. For example, the USDA manage and control the use of the USDA national organic mark. Many New Zealand companies use the USDA organic logo in their marketing collateral. What would stop other countries from using the New Zealand logo? What would prevent Australian organic Manuka Honey operators from applying the New Zealand organic logo. If we restrict the use of the New Zealand logo to only New Zealand original product then we could open up reciprocating restrictions for New Zealand organic companies in their application of the USDA organic logo and the EU organic logo and New Zealand would be the poorer for it.

The Organic Exporters do not support the development of a New Zealand national organic mark but we are happy for the provision to stay in the Bill.

**Clause 37 & 38. Fees & Charges (Costs).** We accept that the appropriate fees will need to be in place. The structure and oversight level of the managing the organic regulations are still up for consideration.

**Request:** We would like to see a form of benchmarking of the total fees an operator is subjected to in comparison to many of our organic trading partners who have had organic regulations in for many years.

**Current government costs for the Official Organic Assurance Programme<sup>1</sup>**

\$315,000	OOAP Programme Implementation Fees from exporters
\$ 35,052	Official Assurance fees for all in scope markets except the US.
\$ 5,882	Official Assurance fees for the US.
<u>\$ 18,940</u>	Organic Exporter MPI annual registration fees.
<b>\$374,874.</b>	

<sup>1</sup>These costs are spread over 122 exporting entities.

<sup>1</sup>As published in the MPI OOAP report 2018-2019

<sup>1</sup>Excludes certifier costs (AsureQuality or BioGro)

**Request:** We would like MPI to be able to focus on organic market development and maintenance. They would be able to perform these functions with more efficiency by not being distracted by operating the organic programme. We would suggest that the operating budget for MPI organic regulatory regime be maintained at its current level. We ask that official assurances are not required to be registered for export transactions to any country.

## **Preferred MPI Funding Option**

### **Costs for the MPI Organic Regulatory Regime<sup>1</sup>**

\$315,000 (1,430 operators and producers x \$220) Programme Fees

\$0 Official Assurance fees (optional for exporters).

**\$315,000.**

## **Clause 47 Official Assurances**

**Request:** We would like to get to a position that mirrors most of the organic regulated world where official assurances are not required to be registered for export transactions to a country where New Zealand has negotiated organic trade arrangement with.

We note that the Bill does not require an official organic assurance and therefore is consistent with our future target. Current assurances are written into many of our organic trade arrangements and that these gave the right level of confidence while New Zealand operated without organic regulations.

Once the Bill becomes Law and New Zealand has its organic regulatory regime, we would like to see that organic exporting entities only require the respective veterinary certificate or phytosanitary certificate and their current organic certificate to the New Zealand national organic standard issued by their ISO17065 Third Party Agency (AsureQuality or BioGro).

## **Clauses 51, 52 & 53. Cost Recovery.**

**Request:** We would like to see provision in the Bill for a formal entity to be set up for the organic exporting sector whose function would be to address the development and maintenance of market access for organics. The Plant Market Access Council (PMAC) is considered a benchmark for successful consultative committees with government.

PMAC provides a forum where market access issues are freely discussed between Industry and Government representatives allowing them to agree strategies to remediate and improve market access. PMAC agrees the use of money collected from cost recovery.

Membership would include the key players in the organic export sectors (large organic growers, processors, industry associations, exporters, and from Government (MPI, NZTE and MFAT).

It utilises the principles of Club Good where people can be excluded from its benefits at low cost but its use by one person does not detract from its use by another.

We suggest provision for an Organic Market Access Council be considered for inclusion in the Bill.

### **Considerations in Addition to The Bill's Current Wording.**

1. **Organic Authority Council** - The sector asked for an Organic Authority Council to be part of the Act which would advise MPI on such things standards and inputs for example. MPI do not have pragmatic organic industry expertise. They have informal relationships with BioGro andASUREQuality to advise them on technical matters. In 1990 the US wrote into their Organic Foods Production Act of 1990 a requirement to have a National Organic Standards Board (NOSB) and this has served them well. When we commissioned international assessments of existing organic regulatory regimes back in 2012 and 2013, we visited and spoke directly with the architects of both the US law and the EU law and asked them if they could do everything over again what would they do

differently. The major recommendation was to ensure the Standard sat outside of the Act and regulation but the NOSB was considered vital to keep the regulators to account and ensure what they were proposing made pragmatic sense.

**Request:** To add to the Bill the requirement for an Organic Authority Council and express the composition of that Board.

2. **Organic Certification to Foreign Standards.** Currently BioGro andASUREQuality certify to Canadian Organic Standards while other countries like Korea and China have agents in New Zealand certifying organic to their specific country requirements. The Bill doesn't appear consider this activity or make allowance for them which accounts for about 25% of all organic exports from New Zealand.

3. **Harmonized Commodity Description and Coding System (HS code)**

**Request:** That organics is recognised and allocated within the New Zealand Harmonised System Classification 2017 (NZHSC). This is used by more than 190 other countries as a basis for their customs tariffs and for the collection of international trade statistics. An up-to-date trade commodity classification is essential for maintaining the relevance, accuracy, and international comparability of New Zealand organic trade statistics.

On Behalf of the Organic Exporters Association



Alice Moore

Chair

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