



9 June 2023

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Dear Sir/Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the *Consultation document on the proposed National Organic Standard*.

Yours sincerely

A handwritten signature in blue ink, appearing to be "Raewyn Bleakley".

Raewyn Bleakley  
**Chief Executive**



# **Consultation document on the proposed National Organic Standard**

**Submission by the New Zealand Food & Grocery  
Council**

**9 June 2023**

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## NEW ZEALAND FOOD & GROCERY COUNCIL

1. The New Zealand Food & Grocery Council (**NZFGC**) welcomes the opportunity to comment on the *Consultation document on the proposed National Organic Standard* (the **Consultation Document**)
2. NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over \$40 billion in the New Zealand domestic retail food, beverage and grocery products market, and over \$34 billion in export revenue from exports to 195 countries – representing 65% of total good and services exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 45% of total manufacturing income. Our members directly or indirectly employ more than 493,000 people – one in five of the workforce.

## OVERARCHING COMMENTS

3. NZFGC's comments are restricted to the manufacture, processing and packaging of organic products rather than production. We therefore focus on post-production activities covered by the Consultation Document.
4. The majority of our comments are detailed and technical and therefore need to be considered in the sequence in which they appear below. In a number of areas we seek amendment, clarification or addition of phrases to assist with the effective application of the Standard and for internal consistency.
5. Overall we found the form of the consultation document difficult to and constantly had to shift focus from red, green and blue boxes to try to separate out the legislative drafting and the explanatory text. It is still not clear to us what drafting will go where – into regulations or into a tertiary instrument.
6. We also found the lack of definitions and the spread of provided definitions throughout the red, green and blue sections to be frustrating and unnecessarily complicating for the consultation. As well, it was difficult to distinguish between what was intended to be in guidance and what was intended to be mandated. This was so confusing as to warrant consideration of an additional round of consultation that provides the draft standard, any consequential amendments to existing regulations and the draft guidance.

## DETAILED COMMENTS

### General Requirements

7. Under 3.2 *Links to other legislation*, the correct title of h. is the:  
Australia New Zealand Food Standards Code.
8. Under 3.5 *Prohibitions*, uses repeated phrases such that if used at the outset the list could be greatly simplified. Some definitions would be helpful as would an indication if the list is exhaustive.
9. In relation to synthetic substances, we note that the use of synthetic pesticides and fertilisers is prohibited. It would be important whether this precludes the presence of incidental amounts of pesticide residues and heavy metals occasionally found in foods that are within the maximum permitted level (MPL) and any MPLs/default MRLs set for organics. Certifiers from private schemes currently manage this and we would refer you to BioGro's 'Appendix A Residue Levels in Certified Products, Water, Soil and Composts.'
10. We also note that there is a prohibition on:

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“b. synthetic veterinary medicines or antibiotics for preventive treatments, excluding vaccines.”

11. However, under 5.6.2 it states that:

“If non-synthetic treatments are not effective, veterinary medicines, may be used...”

12. Reading the two provisions together they are contradictory. We therefore suggest the addition of a phrase to b. so that it reads:

““b. synthetic veterinary medicines or antibiotics for preventive treatments, excluding vaccines unless otherwise allowed in this Standard.”

13. Under 3.12 *Packaging and labelling*, the proposed regulation would read:

“Packaging of organic products must be fit for purpose and comprised of suitable packaging that is reusable, recycled, recyclable, compostable or biodegradable where possible.”

14. Consideration should be given to including the limited range of viable options especially relating to ‘compostable’, ‘biodegradable’ and ‘reusable’. We note, for example, that container deposit return schemes (CDRs) do not accommodate or support reusable or returnable packaging.

15. Under 3.12, the proposed supplementary guidance states:

“Packaging materials should compact easily to reduce space in trucks and landfills and should be compatible with endpoint disposal methods such as incineration.”

16. In the current environment, we suggest refuse trucks, landfills and incineration would be incompatible with the organic operator’s ethos. We note for example that in 9.4.1 General criteria for assessment, d. refers to:

“manufacture, use and disposal of the substance does not result in, or contribute to, harmful effects on the environment, human or animal health and welfare”.

17. We therefore suggest the following:

“Packaging materials, whether recyclable or not, ~~are~~ should compact easily to reduce space in trucks and, where unavoidable, landfills. This also applies to packaging materials that require and should be compatible with endpoint disposal methods such as incineration.”

18. Under 3.12.1 *Labelling*, we are concerned at the possible requirement that it be mandatory to identify a registered entity (i.e., recognised agency/person) on the label. If a business wanted to reference a national logo, then combined with the mandatory reference to a registered entity, these two elements would not be possible on smaller packaging due to space constraints on the label (i.e., not enough space/real estate on label). Given this, and that information would be readily available on the public domain, we suggest this requirement be more flexible in terms of optional requirements to identify a minimum of one logo (either national logo or registered entity).

19. Under 3.12.1.1 *Organic*, the statement is made that:

“The remaining product ingredients must be less than 5% of allowed non-agricultural ingredients or non-agricultural products.”

20. We consider that this should include 5% and that the statement should read:

“The remaining product ingredients must be less than or equal to 5% ...”.

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21. Under 3.12.1.1 *Organic*, we also wonder if the final phrase should read 'or non-agricultural ingredients' instead of 'or non-agricultural products'.
22. Under 3.12.1.2 *Made with Organic ingredients*, for products containing less than 70% organic ingredients, could it made clear if it is permissible for organic ingredients to be identified as organic in the ingredients list.

#### Processing & Handling requirements

23. Under 8.2 *Processing and preservation*, we note the proposed guidance will list 'allowed processing and preservation methods'. We wonder if there are any processes which are expressly prohibited and whether these should be listed also. It is not clear whether enzymatic hydrolysis (such as in the production of oat milk) is covered in the permissible list.
24. Also under 8.2, we note item 'l. Gas flushing' refers to CO<sub>2</sub> and N<sub>2</sub> and accepted inert gas. As noted below, CO<sub>2</sub> might also be an ingredient (CO<sub>2</sub> and N<sub>2</sub> are permitted food additives and are covered under the Food Standards Code) and perhaps should not be specifically mentioned but rather refer only to 'inert gases'.
25. Under 8.3 *Composition, ingredients, additives, and processing aids*, we note special provision is made for water and salt. Water is not of agricultural origin special mention is justified. Some gases such as CO<sub>2</sub> should have the same treatment.
26. Under 8.3.1 *Use of organic & non-organic ingredients*, an exception to the 95% rule should be made for gases as it is for salt and water. For consistency, we also suggest the wording of this section be aligned with the same wording under section 3.12.1.1.
27. In stating that "The operator must demonstrate that the non-organic agricultural ingredient cannot be sourced as organic in sufficient quality and quantity", it should be made clear that this also covers supply shocks that prevent supply at all (not just 'sufficient' quantity) and costs such as when world events cause ingredient costs to increase dramatically and beyond commercial access. We would suggest the provision of guidance on these aspects.
28. Under 8.3.1 also, we note that there is reference to 'more than 70% of the ingredients' when 3.12.1.2 *Made with Organic ingredients*, refers to 'where 70% or greater of ingredients... are organic'. These references should be consistent and we suggest '70% or greater' be used.
29. Under 8.3.2, the text of the chapeau could be simplified as follows for readability:  
"Only ~~if~~ Food additives and processing aids allowed under this Standard, are only to be used under one of the following circumstances:".

#### Inputs requirements

30. Under 9.2 *Definition of an 'Input'*, an input is described as a substance or product. This is somewhat confusing since the document previously refers to 'ingredients and products'. Gases do not fit under this description but should be added. It is also not clear why an input definition is only in guidance and not in the regulation. In any case, it would be very helpful to provide further clarity around the meaning of 'input', especially since an 'input' is not an 'ingredient' including a food additive/processing aid.
31. Under 9.3 *Emergency pest or disease treatment*, reference is made to "The CE must make a decision regarding ...". This is the first and only mention of the CE. Presumably this is the Chief Executive of an organic products business. However, such a term is generally

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avoided in food related legislation and reference to the 'operator' is more commonly used and understood.

32. Under 9.4.1.4 Substances used for the purpose of food additives and processing aids, item c. states that 'they are found in nature'. Readers already know that 'ingredients of non-agricultural origin' are permitted so therefore requirements for 'natural' under this section are unnecessary. Under item e., we wonder if 'no organic ingredients' should also read 'no non-organic agricultural ingredients' since it is likely that the food additives and processing aids considered would be non-agricultural ingredients. Under item h., since the overarching permissions are set out in this Standard, we would suggest adding the phrase 'and set out in this Standard'.

#### Form of the Standard

33. We are uncertain about the form the Standard might take. This was in significant part the result of the form of the consultation document – it was difficult to extract relevant text and we had to constantly shift focus from red, green and blue boxes to try to separate out the legislative drafting and the explanatory text. It is still not clear to us what drafting will go where – into regulations or into a tertiary instrument.
34. We also found the lack of definitions and the spread of those definitions provided throughout the red, green and blue sections to be difficult and unnecessarily complicating for the consultation. As well, it was difficult to distinguish between what was intended to be in guidance and voluntary what was intended to be mandated. For example:
- a) **RED** 5.1 defines "livestock production"
  - b) **GREEN** 5.12.2 defines "rotational systems"
  - c) **RED** 6.1.1 defines "active cultivation"
  - d) **BLUE** 9.12 defines "input" and "ingredient".
35. It is also unclear to us whether the standard/regulation/instrument will be colour coded. There has been a mixed response to this in discussions with others in industry. We would be opposed to the use of colour in legislation. Similarly we are unclear about the use of logos. We favour the option of retaining internationally recognised private logos.
36. In our view, these issues collectively were so confusing as to warrant consideration of an additional round of consultation that provides the draft standard, any consequential amendments to existing regulations and the draft guidance.