New Zealand Food Safety

Haumaru Kai Aotearoa

Mānuka honey sold in New Zealand: is further regulation needed?

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Contents

Page

SUBMISSIONS

The Ministry for Primary Industries (MPI) is seeking submissions from interested parties, both individuals and organisations, on whether mānuka honey sold in New Zealand should have to meet the science definition and have the same level of assurance as exported New Zealand mānuka honey, and if so, what any regulatory changes might look like.

This document sets out proposals for potential regulations in a number of areas. Your submission will help us assess whether we need to amend these proposals in any way to ensure they are as practical as possible before the final proposals are put to Government for approval.

HOW TO HAVE YOUR SAY

All interested people and organisations are invited to respond to the questions in this document or provide other information relevant to the domestic mānuka honey market.

The deadline for submissions is 5:00pm on Monday 17 September.

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

We will consider all relevant material provided in submissions so you are welcome to provide information that will support your comments.

Please make sure you include the following information in your submission:

- your name;
- your contact details (e.g. phone number, postal address and email);
- your organisation's name (if you are submitting on behalf of an organisation);
- your position within your organisation (if applicable);
- the size and location of your organisation (if you are submitting on behalf of an organisation);
- 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 to these proposals and why.

You can **send your submission** to us in any of the ways below:

Email: Manuka.Honey@mpi.govt.nz

Online: https://www.mpi.govt.nz/news-and-resources/consultations/manuka-honey-sold-in-new-zealand-is-further-regulation-needed

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

Consultation: Mānuka honey sold in New Zealand: is further regulation needed?
Ministry for Primary Industries
PO Box 2526
Wellington 6104

For answers to any **questions you have** about this consultation, please email Manuka.Honey@mpi.govt.nz or telephone: 0800 00 83 33.

Please make sure your submission gets to us no later than 5:00pm on Monday 17 September.

YOUR FEEDBACK IS PUBLIC INFORMATION

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

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

SCOPE

The purpose of this consultation is limited to the domestic purchase and sale of New Zealand mānuka honey, and how New Zealand mānuka honey sold domestically should be regulated. The rules and requirements would apply to New Zealand businesses producing New Zealand mānuka honey and would not apply to businesses outside New Zealand.

We appreciate that there are a wide range of issues surrounding mānuka honey that interest the public, stakeholders and industry. Should we receive opinions about (but not limited to) non-mānuka honey, tutin, biosecurity, data, traceability, the General Export Requirements for Bee Products (the GREX), the New Zealand mānuka honey science definition, trademarks, and so on, they will be forwarded on to the appropriate parts of MPI to be considered.

TIMING

Consultation will run for eight weeks, from Monday 23 July to Monday 17 September 2018.

EXECUTIVE SUMMARY

Due to the rise in demand for New Zealand honey, honey prices have increased, and are continuing to increase. Honey labelled as mānuka generally sells for a higher price than other honey types and, although current data does not separate honey types, reports suggest that a significant amount of honey is sold as mānuka, with prices ranging from $12 per kilogram to over $140 per kilogram.

Some of our international trading partners raised concerns about the authenticity of New Zealand mānuka honey. The New Zealand Government responded with an extensive, three year, science programme. This resulted in a Government mānuka honey science definition to provide confidence that New Zealand mānuka honey is sourced from New Zealand mānuka plants. Now all mānuka honey exported from New Zealand must meet the Government mānuka honey science definition.

While the science definition gives overseas consumers' confidence that the mānuka honey they are purchasing is authentic, it does not apply to mānuka honey sold in New Zealand. When MPI began work applying a science definition to exported mānuka honey we were clear that the next step would be considering whether mānuka honey sold in New Zealand should also be subject to testing against the science definition. This consultation is an opportunity to understand if New Zealand consumers, the honey industry and stakeholders think mānuka honey sold in New Zealand should meet the same science definition to have the same level of assurance as exported New Zealand mānuka honey.

MPI is seeking public feedback on whether and how to apply the science definition to mānuka honey sold in New Zealand. During this consultation we want to hear from a range of individuals and businesses with an interest in mānuka honey that is sold and purchased in New Zealand, to ensure we properly understand the impacts, anticipated benefits and costs of our proposals on all parts of the sector.

The document is separated into four main parts.

PART 1: Introduction, purpose and context	Provides an introduction to how mānuka honey is regulated in New Zealand, background information and a summary of the current protections in the law.
PART 2: Options for the mānuka honey science definition to apply domestically	Assesses the two options we have identified for how the mānuka honey science definition could be implemented for mānuka honey sold in New Zealand, if implementing the science definition is preferred.
PART 3: Rules and requirements if the mānuka honey science definition is applied domestically	Provides detail for how a domestic mānuka honey standard could operate, including: • what products the standard would apply to; • who the standard would apply to; • labelling requirements; • testing requirements; • record keeping and administration; • options for how operators who follow the standard could be verified; • compliance provisions and the possibility of an infringement fee; and • transitional provisions.
PART 4: Summary and next steps	Seek your feedback and views in response to the information and questions that have been raised throughout the document.

PART 1: INTRODUCTION, PURPOSE AND CONTEXT

1.1 THE RISING VALUE OF MĀNUKA HONEY

New Zealand's honey production has increased significantly in recent years. This is largely driven by the growing value of, and demand for, honey exports. In the year ended 30 June 2017, New Zealand's honey exports were worth $330 million - more than double the 2012 total of $121 million. Prices have increased due to this rise in demand for New Zealand honey, as well as more honey being sent overseas in retail packages rather than in bulk.

Much of this growth can be attributed to demand for honey labelled as mānuka, which generally sells for a higher price than other honey types. Although current data does not separate honey types, evidence suggests that a significant amount of export honey is sold as mānuka, with prices ranging from $12 per kilogram to over $140 per kilogram.

Alongside this global demand, there is a premium price attached to mānuka honey sold in New Zealand. In the year ended 30 June 2017, the price of bulk light clover honey was between $10 and $14 per kilogram. The price for mānuka honey ranged from $10 to $127 per kilogram.

Strong demand for mānuka honey is also driving the increase in registered beekeepers and hives in New Zealand. There were 7,800 registered beekeepers and 811,357 registered hives in 2017 - more than double the number from 10 years ago.

1.2 MĀNUKA HONEY AS AN AUTHENTIC PRODUCT

The high price that mānuka honey commands around the world has exposed the sector to scrutiny from overseas consumers, media, and regulators.

Our overseas trading partners have an expectation that the New Zealand Government will make sure that a product is what the label says it is and that New Zealand mānuka honey is sourced from New Zealand mānuka plants. Concerns have been raised about the authenticity of New Zealand mānuka honey since 2013, particularly in the United Kingdom and China.

1.3 INDUSTRY GRADING SYSTEMS

There are a range of approaches, including industry-run grading systems and content claims, such as numbers and symbols on the label that indicate particular qualities or ingredient levels of their mānuka honey. Some systems measure 'quality' or 'purity' of the honey, and others provide content claims, including reference to the amount of particular chemicals or pollen.

The proposals in this document do not impact companies being able to use grading systems on labels.

1.4 AN OFFICIAL DEFINITION AND THE GENERAL EXPORT REQUIREMENTS FOR BEE PRODUCTS (GREX)

Due to the lack of an agreed definition of mānuka honey and the need to address overseas market concerns, in 2014 MPI initiated the mānuka honey science programme to analyse how to differentiate New Zealand mānuka honey from other types of honey.

The programme developed a chemical and DNA test to determine whether the honey is sourced from New Zealand mānuka plants. Using this test, mānuka honey can be separated into monofloral and multifloral types. Monofloral mānuka honey is sourced predominantly from the mānuka plant, whereas multifloral mānuka is sourced from multiple plant types, including the mānuka plant.

Developing this science definition was a complex task because of the inevitable mixing of floral sources by the bees when collecting nectar. Defining mānuka honey required a thorough scientific process supported by robust data collection and analysis. It was important that MPI took the time to get things right. The definition is described in Figure 1 on page 6.

MPI issued the GREX[1] that came into force on 5 February 2018. It requires exported mānuka honey to be tested to ensure that it meets the science definition. It is important to note that the science definition is only applicable to mānuka honey produced in New Zealand.

1.5 CURRENT PROTECTION FOR DOMESTIC CONSUMERS

Mānuka honey sold in New Zealand is not currently required to be tested against the mānuka honey science definition test before being sold. But there are protections for New Zealand consumers in existing legislation.

Honey sold domestically must comply with food law (including the Australia New Zealand Food Standards Code requirements) and consumer protection law. These laws protect domestic consumers of mānuka honey from food fraud, misrepresentation, and non-compliant labelling.

More specifically:

- New Zealand's consumer legislation is designed to protect consumers from false or misleading representations by traders.
- The Animal Products Act 1999 forbids deceptive conduct including misrepresenting an animal product so that it no longer matches its description or label. It is also an offence under the Food Act 2014 to misrepresent or mislabel food. MPI has similar powers across both acts, including infringement notices, direction notices and prosecution.
- The Australia New Zealand Food Standards Code provides a common set of food composition and labelling rules agreed between New Zealand and Australia. It also provides access for consumers to information about what is in the food they eat.

MPI has guidance for honey producers selling honey within New Zealand to assist them in meeting domestic labelling requirements.

Currently, only honey from Niue, Pitcairn Island, Samoa, Tonga, Tuvalu, and the Solomon Islands can be imported into New Zealand. These countries and territories do not produce mānuka honey.

1.6 THE DEFINITION DOES NOT CURRENTLY APPLY TO MĀNUKA HONEY SOLD IN NEW ZEALAND

The Government science definition for mānuka honey has provided confidence in the authenticity of New Zealand mānuka honey for overseas consumers and our trading partners. However, the same level of assurance is not available for New Zealand mānuka honey sold domestically as it is not required to be scientifically tested before being sold.

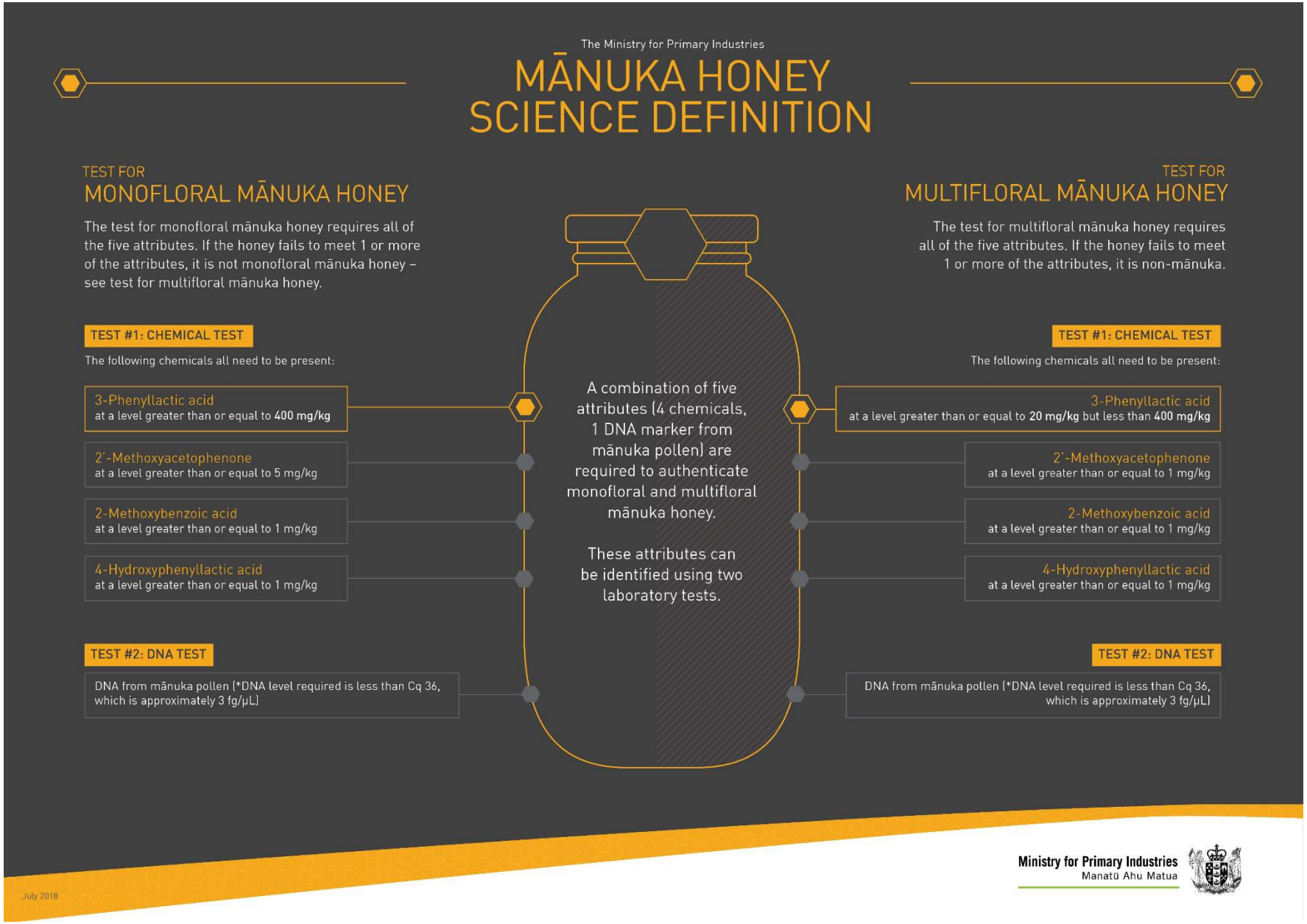
Now that this level of protection has been implemented for export markets, it is time to test whether New Zealand consumers, the honey industry, and stakeholders think mānuka honey sold in New Zealand should have to meet the science definition and have the same level of assurance as exported New Zealand mānuka honey.

There are three main reasons to explore this:

- Consumer protection;
- Clarity for producers of mānuka honey; and
- The potential for the reputational risk of grey trade.

[1] *Animal Products Notice: General Export Requirements for Bee Products,* issued under section 60 of the Animal Products Act, specifying general export requirements for New Zealand bee product exports

Figure 1- Infographic showing GREX Notice requirements for mānuka honey



1. Consumer protection

As described above, there are some protections afforded to New Zealand consumers already. All honey sold in New Zealand needs to comply with a range of requirements relating to food and consumer protection law. This provides protection to New Zealand consumers to the extent that all products need to be what they say they are on their labels.

However, there are no agreed domestic standards or definitions that mānuka honey must meet. Regulators currently rely on a range of factors when deciding whether mānuka honey sold in the domestic market is labelled appropriately. Without a clear definition that is applied to the domestic mānuka honey market, it is difficult to know what the outcome of an investigation might be, especially as this has not been tested in the courts.

MPI is aware that it is likely that not all honey currently labelled as mānuka would meet the science definition. This means that New Zealand consumers do not have the option of purchasing mānuka honey with the same assurances as the overseas market and there is a continued risk that they could purchase mislabelled honey.

2. Clarity for producers of mānuka honey

A domestic standard that applies the science definition to mānuka honey sold in New Zealand could provide clarity and consistency for industry producing mānuka honey intended for sale in New Zealand. It would mean that both exported and New Zealand sold mānuka honey would have to meet the same standard.

Currently, domestic traders can choose between a range of private industry standards but they do not have a government mandated mechanism to use to prove to the domestic market that their mānuka honey is sourced from mānuka plants. Under current law, they do not currently have certainty on what regulators and the courts will judge to be mānuka honey.

3. The potential for the reputational risk of grey trade

We know it is highly likely that mānuka honey sold on the domestic market ends up overseas, either because it is purchased by overseas visitors who take it offshore, it is purchased in New Zealand and sent through the post, or it is traded through online sales platforms.

If this honey was tested offshore and did not meet the science definition, this could diminish trust in New Zealand's regulatory system. This could be seen as undermining the general assurance we give to our export markets and call into question the authenticity of our other exported products.

Questions

1.	Do you think we have identified the right reasons to explore whether or not the mānuka honey science definition should be applied to domestically sold mānuka honey? Why/why not?
2.	Do you agree that New Zealand consumers and businesses do not currently have certainty on what regulators consider constitutes mānuka honey? Why/why not?
3.	Do you agree with our assumption about mānuka honey that is sold in New Zealand making its way to overseas markets? Why/why not?
4.	Do you agree with the risks that we have identified if mānuka honey that was sold in New Zealand were to be traded overseas? Why/why not?

PART 2: OPTIONS FOR THE MĀNUKA HONEY SCIENCE DEFINITION TO APPLY DOMESTICALLY

As described above, testing against the science definition can be used for monofloral and multifloral New Zealand mānuka honey. Monofloral mānuka honey is sourced predominantly from the mānuka plant, whereas multifloral mānuka is sourced from multiple plant types, including the mānuka plant.

This discussion document looks at two ways that the science definition could be applied to domestically sold New Zealand mānuka honey:

1. a voluntary standard that applies the mānuka honey science definition; or
2. a mandatory standard that applies the mānuka honey science definition.

Under both options, consumer law provisions would also continue to apply to mānuka honey.

2.1 OBJECTIVES FOR A MĀNUKA HONEY SCIENCE DEFINITION STANDARD

We consider that a science definition standard for domestically sold New Zealand mānuka honey should meet the following objectives:

- provide consumers with:
    a) clarity regarding what they are buying, and what level of assurance is being given;
    b) a range of mānuka honey brands to purchase;
- provide clarity for the honey industry about what requirements will be applied to mānuka honey; and
- the costs of the standard are minimised.

In this section, we consider both options against the objectives, compared to remaining with the current protections.

Question

5. Do you think we have identified the right objectives? If not, what do you think needs to be included or changed?

2.2 OPTION 1: A VOLUNTARY SCIENCE DEFINITION STANDARD

A voluntary science definition standard would see MPI establish a voluntary system that businesses could choose to participate in to prove that they are testing against, and meeting, the science definition. This option would likely be managed through a contractual relationship with the recognised authority managing the system.

Participating businesses would agree to follow prescribed processes such as how to scientifically test their honey and what records need to be kept. As a result of meeting these requirements, businesses could say that the mānuka honey they produce meets the voluntary standard and therefore meets the science definition for New Zealand mānuka honey.

A voluntary standard would mean that consumers would have a way to purchase mānuka honey that meets the mānuka honey science definition. It also means they have a choice to purchase mānuka honey that has not been tested. Mānuka honey that was not part of the voluntary standard would still be required to meet New Zealand laws protecting consumers from false or misleading claims.

Consumers would need a way of identifying mānuka honey that meets the voluntary standard. Some options for how this could occur include MPI and industry representatives working together to develop a mark that businesses participating in the standard could use to show their mānuka honey meets the science definition, or MPI keeping a register of all businesses that have opted into the standard which could be made public. Businesses that participate in the voluntary standard could also advertise that their products meet the voluntary standard, and that they are participating in the standard.

Businesses participating in the voluntary standard would need to pay a registration fee. There would also be an annual fee as part of the voluntary standard, or cost recovery aspects built in to the voluntary standard for developing and maintaining the standard and contractual provisions, developing an identification tool for consumers, and carrying out enforcement activities. These costs would be dependent on what the standard would look like, how many businesses choose to participate in the voluntary standard, and would require MPI and industry representatives to work together to determine the outcome.

Businesses participating in the voluntary standard would also incur the cost of getting their honey tested and verified. These costs are discussed in more detail in Part 3.

Questions

6. If the voluntary option is progressed, do you agree that consumers will need a way of identifying mānuka honey that meets the standard? Why/why not?
7. Do you have any other suggestions for identifying mānuka honey that meets the standard for consumers?

Assessment against the objectives

Objective	Assessment
Provide consumers with: a) clarity regarding what they are buying, and what level of assurance is being given;	A voluntary standard would mean that consumers could choose to purchase mānuka honey that had been tested to prove that it has met the science definition and follows the requirements of the standard. To choose between products, consumers would need to be informed and aware of how to differentiate mānuka honey that has been tested to show that it meets the science definition from mānuka honey that has not been scientifically tested. Given that there are already a range of industry-run systems in use, it might be difficult for consumers to identify mānuka honey that meets the science definition, particularly if they are overseas consumers purchasing honey while they are in New Zealand. This option would mean a continued risk that mānuka honey sold in New Zealand that did not meet the science definition could reach overseas markets. This could potentially affect New Zealand's reputation as a producer of authentic food products, particularly if overseas consumers purchase honey while in New Zealand and expect that it meets the science definition.
b) a range of mānuka honey brands to purchase.	A voluntary standard would mean that consumers would likely see no reduction in the range of mānuka honey brands available. Consumers would have an increased ability to determine the level of assurance they wanted to pay for in selecting mānuka honey. This option depends on some businesses choosing to participate in the voluntary standard. Participating in the voluntary standard is a business decision that will likely be driven by there being consumers who want the higher level of assurance that the honey has been tested and meets the science definition.
Provide clarity for the honey industry about what requirements will be applied to mānuka honey.	For businesses participating in the voluntary standard, there will be increased certainty about the authenticity of their mānuka honey. Businesses would have a choice about whether they want this certainty or not. For businesses that do not participate, there would be no increased certainty on how to substantiate their claims for any honey they sell as mānuka. Existing consumer legislation would continue to apply.

The costs of the standard are minimised.	A voluntary standard would create costs for businesses that choose to participate. These costs are discussed in more detail in Part 3 below. This consultation will help us better understand those costs. Deciding whether or not to follow the standard is likely to be a commercial decision. Businesses that choose not to participate will not incur any increased compliance costs. These businesses may be impacted if consumers choose to purchase products that are given more certainty through participating in the standard.

Questions

8. Do you agree with the assessment of the option to apply the science definition through a voluntary standard against the objectives? Why/why not?
9. As a business, would you be likely to participate in a voluntary standard? Why/why not?

2.3 OPTION 2: A MANDATORY SCIENCE DEFINITION STANDARD

This option would mean MPI requires, through regulation, that all mānuka honey sold in New Zealand be tested and meet the science definition for either mono- or multi-floral mānuka honey. There would be associated requirements that all mānuka honey businesses covered by the standard must follow to sell New Zealand mānuka honey on the domestic market.

A mandatory standard would require businesses to follow a clear set of rules around areas such as how to scientifically test their honey and what records need to be kept. As a result of meeting these rules and requirements, businesses could label and sell their honey as mono- or multi-floral mānuka honey if it meets the science definition. There would be compliance costs in meeting the requirements of the standard. More detail on potential costs is provided below in Part 3.

A mandatory standard would mean that consumers would be certain that any mānuka honey they purchase has been tested to show that it met either the mono- or multi-floral science definition. Only mānuka honey that had been tested and met the science definition could be labelled as mānuka.

Businesses selling mānuka honey would incur the cost of getting their honey tested and verified. Enforcement would come under the general compliance activities of MPI, and would not cause additional costs for industry. These costs are discussed in more detail in Part 3.

Objective	**Assessment**
Provide consumers with: a) clarity regarding what they are buying, and what level of assurance is being given;	This option would provide the most certainty for consumers that honey sold in New Zealand as mānuka honey has been tested to show that it meets the science definition and has therefore been sourced from mānuka plants. A mandatory science definition standard would also mean that any mānuka honey sold domestically that reaches overseas markets would meet the science definition, therefore helping to maintain New Zealand's reputation as a producer of authentic food products.
b) a range of mānuka honey brands to purchase.	A mandatory standard could mean consumers have less choice in the brands of mānuka honey that are available for purchase. Businesses that are unable to meet the science definition or cannot meet the associated costs could no longer sell their honey as mānuka.

Provide clarity for the honey industry about what requirements will be applied to mānuka honey.	This option would provide certainty for all businesses about how to authenticate mānuka honey sold in New Zealand, as it would set clear regulatory requirements. Businesses would not have a choice about whether they want this certainty.
The costs of the standard are minimised.	This option would impose compliance costs on all mānuka honey businesses that the standard applies to. Businesses would not have a choice about whether or not to have their honey tested to see if it meets the New Zealand mānuka honey science definition if they want to sell mānuka honey on the domestic market. We do not know what the impact of the higher compliance costs will be on the New Zealand mānuka honey market for supply and pricing. We would like to understand more from industry about what the likely impacts will be. These costs are discussed in more detail in Part 3 below, and this consultation will help us better understand those costs.

Questions

10. Do you agree with the assessment of the option to apply the science definition through a mandatory standard against the objectives? Why/why not?
11. Do you have any evidence of what the impact of a mandatory standard would be on the mānuka honey market in New Zealand? Please provide evidence if you do.

PART 3: RULES AND REQUIREMENTS IF THE MĀNUKA HONEY SCIENCE DEFINITION IS APPLIED DOMESTICALLY

To give an idea about what a science definition standard for mānuka honey might look like, regardless of whether it was voluntary or mandatory, this section describes the kind of requirements we propose that businesses would follow to make sure the science definition can be applied effectively.

The core components of the standard would be similar for both a voluntary and mandatory standard. These include:

- what products a domestic mānuka honey scientific standard should apply to;
- labelling requirements;
- testing requirements (proposed requirements are consistent with GREX requirements);
- record keeping and administrative requirements (proposed requirements are consistent with GREX requirements);
- verification requirements; and
- transitional provisions.

The key difference between a voluntary and mandatory standard relate to:

- who would be required to comply with the standard; and
- compliance and enforcement provisions.

To develop these proposals, we have looked at existing requirements contained in the GREX for testing honey against the New Zealand mānuka honey science definition. We have indicated in the list above where we are proposing requirements that are consistent with the GREX.

Any domestic standard would be designed so that businesses meeting export requirements for New Zealand mānuka honey could be confident that their mānuka honey would also meet the requirements of a domestic standard, and can also be sold in New Zealand. We have also considered how the proposals fit within the current regulatory regime for producing honey.

Questions

12. Do you think any other areas need to be included in a domestic standard? If yes, what are they and why do you recommend they should be included?

3.1 WHAT PRODUCTS SHOULD A SCIENCE DEFINITION STANDARD APPLY TO?

We propose that the same products should be captured by the science definition, regardless of whether the standard is voluntary or mandatory.

Mānuka honey is sold to consumers as a single-ingredient product, such as table honey used as a spread, and also used as an ingredient in a variety of other products. The science definition test is designed to be applied to single-ingredient honey, therefore we propose that testing of mānuka honey should be done on single-ingredient honey for sale as a product for human consumption. This would capture mānuka honey being sold to be subsequently used as an ingredient in another product. Businesses using mānuka honey in their multi-ingredient products already have an obligation, under existing food and consumer protection law, to ensure their product is true to label.

This would mean that the requirement to test honey to ensure it meets the science definition and can be labelled as multifloral or monofloral New Zealand mānuka honey would apply from the time when the honey is packaged for sale. It would be the responsibility of the business packaging honey for sale to ensure the honey has been tested and meets the New Zealand mānuka honey science definition before selling the honey as mānuka.

If the domestic mānuka honey science standard applies this way, it would include mānuka honey for retail sale, and also mānuka honey sold in bulk which may go on to be used in other multi-ingredient products for human consumption, such as foods that contain mānuka honey. Bulk drums of honey labelled mānuka in storage would not need to be tested until they were prepared for sale.

Question

13. Do you agree with the proposed scope of what the mānuka honey science definition would apply to? Why/why not?

3.2 WHO SHOULD THE DOMESTIC MĀNUKA HONEY SCIENCE DEFINITION STANDARD APPLY TO?

Who the domestic mānuka honey science definition standard should apply to is one of the key differences between a voluntary and mandatory standard.

The voluntary science definition standard would only apply to those businesses that choose to participate in the standard. We anticipate that those able to participate would be operators of premises packaging New Zealand mānuka honey for retail sale or selling New Zealand mānuka honey in bulk to third parties intending to use it as an ingredient in another product.

For a mandatory science definition, we propose that the requirements apply to all operators of premises packaging New Zealand mānuka honey for retail sale or selling New Zealand mānuka honey in bulk to third parties intending to use it as an ingredient in another product. This would mean that these operators hold responsibility for ensuring the mānuka honey meets the requirements of the standard, and would be subject to enforcement action if it did not. This is the operator that has control of the composition of that product in a form that can be tested against the science definition. The test is not designed to be used on products where mānuka honey is one of a number of ingredients.

Beekeepers who do not package honey for retail sale, do not sell the honey directly to consumers, or do not sell the honey to third parties intending to use it as an ingredient in another product, would not be required under this standard to have their honey tested to ensure it meets the science definition. This would mean that the honey is only required to be tested once rather than multiple times during production. This is similar to the 'premises of final control' in the GREX, and therefore would mean a similar system for both the domestic and export markets.

Question

14. Do you agree with this assessment of who the requirements should apply to? Why/why not?

3.3 TESTING REQUIREMENTS

We propose that the testing requirements could be the same for both a voluntary and mandatory science definition standard.

For mānuka honey to meet a science definition standard, we propose that before any honey for sale is labelled as mānuka (monofloral or multifloral), it must be tested to show that it complies with the science definition.

To be confident that the tests are carried out correctly, the test methods would need to be performed by a laboratory recognised by MPI under the Recognised Laboratory Programme and follow MPI mandated testing methodology. This programme registers laboratories that perform tests under the Animal Products Act 1999 associated with live animals, animal material or animal products.

To ensure that samples allow for accurate testing of batches of honey, we propose that the businesses that the standard applies to will be responsible for ensuring:

- samples prepared for testing by a MPI recognised laboratory are representative;
- samples are not contaminated during sampling, storage or transit to the laboratory that will be testing it;
- samples are taken by persons trained to take samples; and
- the test results produced by laboratories are interpreted correctly – so that any test results relied upon by businesses to show that honey meets the mānuka honey science definition actually show the honey has the right markers in the right amounts to meet the definition.

As part of the testing process, the operators the standard applies to would be responsible for ensuring that they could accurately trace the sample and the test results for each batch of honey to that batch, and be able to trace the products from each batch back to the sampling, test results and batch number.

These proposals are consistent with GREX requirements. MPI would be able to provide guidance, if required, to clarify and give recommendations to operators that the standard applies to about how they could meet their responsibilities under these requirements. The GREX contains guidance relating to representative sampling.

Meeting these requirements would mean increased costs for operators responsible for ensuring mānuka honey meets the science definition before being labelled as mānuka honey. These costs would include:

- cost of the testing. This is currently $180-$190 per sample at the two commercial laboratories recognised by MPI that offer both the chemical and DNA tests. This price is a commercial decision made by the laboratories. Currently, a chemistry-only test is $80-$95 per sample and a DNA-only test is $95-$100 per sample;
- costs associated with storing and transporting samples – these costs would be variable depending on business practices and the distance of the business from the testing laboratory. We would like to know more from businesses about what these costs would be;
- costs associated with the time required to take samples, and ensuring staff taking samples are trained to take samples. We would like to know more from businesses about what these costs would be;
- costs associated with storing honey and needing to wait for test results before it can be marketed. We would like to know more from businesses about what these costs would be; and
- costs associated with ensuring that traceability systems are able to accurately trace from each batch of honey the sample and the test results that relate to that batch, and be able to trace the products from each batch back to the sampling, test results and batch number.

Questions

15. Do you agree with the proposals for testing requirements and associated areas of responsibility for operators that the standard applies to? Why/Why not?
16. What do you estimate the increased costs would be for your business if you needed to follow these testing requirements? Please provide evidence if available.

3.4 LABELLING REQUIREMENTS

Under a voluntary standard, businesses could only label honey as complying with the mānuka honey science definition if they were participating in the voluntary standard. Other honey produced by non-participating businesses could be labelled ‘mānuka’, provided the claims were truthful.

A mandatory mānuka honey science standard would mean that businesses could only label honey for sale as ‘mānuka’ if it had first been tested to show it meets either the mono- or multi-floral science definition.

For either a voluntary or mandatory standard, honey could only be labelled as mono-floral mānuka honey if it met the mono-floral science definition. Honey could only be labelled as multi-floral mānuka honey (or a similar name such as mānuka blend) if it met the multi-floral science definition, and was clear that it was a multi-floral honey.

Some New Zealand businesses may have trademarks or registered legal entity names with the word 'mānuka', which they use when selling honey. We propose that these businesses can continue to use these trademarks on labels of honey products that do not meet the definition, as long as the label clearly and obviously shows that the honey is not mānuka, if their trademark is otherwise compliant with labelling rules.

This requirement may mean that some honey businesses that currently label their honey as mānuka would no longer be able to do so if their honey does not meet the science definition. These businesses will still be able to sell this honey if it is labelled as 'bush' or another type of honey, and meets the general requirements for producing honey.

Question

17. Do you agree with the proposals for labelling requirements? Why/Why not?

3.5 RECORD KEEPING AND ADMINISTRATION REQUIREMENTS

We propose that the record keeping and administrative requirements are the same for both a voluntary and mandatory science definition standard.

Past test results may need to be referred to from time to time by businesses, verifiers, recognised agencies or MPI. To ensure this is possible, we propose that operators that the standard applies to would be responsible for:

- keeping records of sampling. This would include, for example, information about who took the sample, when the sample was taken, the associated batch numbers, and when the sample was sent to the laboratory for testing;
- keeping records of test results;
- collecting sufficient information when keeping records of sampling and test results for businesses to accurately trace from each batch of honey the sample and the test results that relate to that batch, and be able to trace the products from each batch back to the sampling, test results and batch number; and
- ensuring records can be provided to MPI, verifiers or other recognised agencies within 24 hours of a request for records being made.

These proposals are consistent with GREX requirements.

The records kept would need to be sufficient to allow mānuka honey for sale in a shop to be traced back to the sampling record and test results that show it met the science definition.

Meeting these requirements may mean increased costs to prepare and store records for the operators that the standard applies to. These costs would be variable depending on current business practices and whether the business has already established traceability and record keeping systems. Estimating the increased costs would need to include the estimated staff time required to keep records. We need to know more from businesses about what these costs would be.

Questions

18. Do you agree with the proposals for record keeping and administration requirements? Why/Why not?
19. What do you estimate the increased costs would be for your business if you needed to follow these record keeping and administration requirements? Please provide evidence if available.

3.6 VERIFICATION REQUIREMENTS

We propose three options for verification that could apply for both a voluntary and mandatory domestic mānuka honey science definition standard.

Verification is an important part of New Zealand's food system. Verifiers check a business to ensure the systems the business follows meet the regulatory requirements. There are different options for how verification requirements of a standard could work.

The honey processors who produce mānuka honey are already verified against current food safety requirements under New Zealand's existing food safety system. Some, who operate under the Animal Products Act, are verified every six months. This includes all operators that export mānuka honey to countries that require an official assurance. Others, who operate under the Food Act, may only be verified once if they show they meet all their requirements.

As part of a domestic mānuka honey standard, there would be a requirement for the mānuka honey science test results and sampling records to be verified. If a voluntary standard is preferred, those participating in the standard would need to be verified.

We propose the following options for how verification could take place. In particular, we need more information from businesses about what the costs for each option would be. All operators that export mānuka honey to countries that require an official assurance will already meet the requirements of each of these options.

Option 1: Verification of laboratory test results and sampling records occurs at the same time as regular verification visits.	
Benefits	This option aligns with existing verification requirements. This means that there would be minimal additional costs to businesses because there would be no additional effort in organising the verification for businesses. The cost of the verification would have been incurred under the current system. There may be some small additional costs if it means the verification visit is longer or it involves more preparation or follow-up. All operators that export mānuka honey to countries that require an official assurance would already meet these requirements.
Disadvantages	Some operators that a standard would apply to are not verified frequently, or at all, after an initial verification if they operate under a National Programme 1 under the Food Act. This would mean that there would not be checks in place to ensure the new mānuka honey domestic standard requirements are being met for these operators. However, if cases like these were brought to MPI's attention and there was reasonable evidence that requirements were not being followed, these operators can be required under food law to be verified again.
Option 2: Additional annual verification is required only for laboratory test records and sampling records (unless verification already occurs at least once a year).	
Benefits	This option would ensure there is a regular, independent check in place to see that all domestic mānuka honey operators that the standard applies to comply with testing and sampling requirements. With this option, operators that the standard would apply to who are not verified annually may be able to work with their verifiers to complete this verification using flexible arrangements such as desktop verification of test results and sampling records via email. For businesses that are already verified at least annually, this would mean no change. All operators that export mānuka honey to countries that require an official assurance would already meet these requirements.

Disadvantages	This would mean increased costs for businesses that are not currently verified annually. These costs would be variable depending on business practices, the time taken for the verification and the distance the verifier has to travel to get to the business if they need to be there in person. These costs would be lower than a full verification visit (Option 3) as the verification would require less time. There may also be additional costs for those businesses that are already verified at least annually, as increased requirements may mean more time is required to carry out the verification. However, these additional costs are likely to be minor if verification of the honey is already taking place as part of export requirements.
Option 3: As part of the standard, all mānuka honey operators that the standard applies to are required to be verified at least once a year.	
Benefits	This option would ensure there is a regular, independent check in place to see that all domestic mānuka honey operators comply with testing and sampling requirements, and their systems support this. For businesses that are verified at least annually this would mean no change. All operators that export mānuka honey to countries that require an official assurance would already meet these requirements.
Disadvantages	This option would mean increased costs for businesses that are not verified annually. These costs would be variable depending on business practices and the distance the verifier has to travel to get to the business. There may also be additional costs for those businesses that are already verified at least annually, as increased requirements may mean more time is required to carry out the verification. However, these additional costs are likely to be minor if verification of the honey is already taking place as part of export requirements.

Questions

20. Do you agree that test results and sampling records should be verified? Why/why not?
21. Which verification option do you prefer from
1) Verification of test and sampling records at the same time as regular verification visits;
2) Additional verification of test and sampling records; or
3) As part of the standard, all mānuka honey operators need to be verified annually?
Why? Do you have any other suggestions for how verification could take place? Would your preference be different for a mandatory or voluntary standard?
22. What do you estimate the increased costs would be for your business for each verification option? Please provide evidence if available.

3.7 ENFORCEMENT REQUIREMENTS

MPI currently has a role in ensuring that businesses comply with requirements for producing and selling food, and this role is supported by provisions in the Food Act and the Animal Products Act. Territorial authorities (city and district councils) have a role in compliance activities under the Food Act.

One of the key differences between a voluntary and mandatory standard is enforcement provisions. Under a voluntary standard, the existing enforcement powers MPI has in food legislation would not be extended to non-compliance with the standard, and non-compliance would be managed through what is agreed in contracts when agreeing to participate in the voluntary standard. Under a mandatory standard, existing enforcement provisions could be extended to non-compliance with the standard, and additional infringement fees could be considered.

Enforcement for a voluntary science definition standard

Because a voluntary domestic mānuka honey science definition standard would not be set up as a regulatory standard, the enforcement provisions set up in food safety legislation would not automatically apply to non-compliance with the standard. The results of non-compliance for the voluntary system could include prohibiting participating businesses from advertising that their product complies with the voluntary standard.

For a serious enforcement issue, this could be followed up through contract law. A significant failure to follow the rules and requirements by a business that has signed a contract agreeing to be part of the voluntary standard would be a breach of contract. A contractual arrangement would contain provisions about dispute resolution and consequences for breach of contract. Depending on the circumstances, this could be followed up through the courts.

Question

23. Do you agree with these enforcement mechanisms for a voluntary standard? Why? Do you have any other suggestions for how compliance could take place for a voluntary standard?

Enforcement for a mandatory science definition standard

A mandatory standard would sit under existing food legislation, meaning that existing enforcement provisions would apply to non-compliance with the mandatory standard. Enforcement activities cover a range of actions including working with businesses to ensure they understand the requirements they must meet, warning notices, or a formal prosecution for an offence.

Creating a domestic science standard for mānuka honey would mean that MPI and territorial authorities would be empowered to take steps to ensure businesses are complying with the requirements, and investigate non-compliance complaints.

In addition to the existing criminal offences in food legislation, a provision could be created as part of a domestic mānuka honey standard that allows an infringement notice and fee to be issued when businesses do not comply with the standard. Adding an infringement offence would increase the range of options MPI has for enforcement. This would provide MPI and territorial authorities with an additional enforcement method that can be issued quickly and the option to issue an infringement fee rather than undertaking a full investigation with a view to prosecution.

Existing infringement fees for similar labelling requirements under the Food Act range from $300-$450. If an infringement fee was progressed as part of a mandatory standard, it would be consistent with infringement fees for other products under the Food Act. An infringement fee would apply to the business or individual that is responsible for the infringement.

Questions

24. Do you agree with there being an infringement fee for non-compliance with a mandatory mānuka honey standard? Why? Do you have any other suggestions for how compliance could take place?
25. If there was an infringement fee, what do you think would be an appropriate amount? Should this amount change depending on whether it applies to an individual or a business?

3.8 TRANSITIONAL PROVISIONS

We recognise that honey can be produced and stored for a long time before it is packaged and sold, therefore if a standard for domestically sold mānuka honey were introduced, a suitable transition period would be needed.

We propose the following transitional provisions are put in place so that operators who the standard applies to have an opportunity to package and sell their current inventory of mānuka honey before new domestic requirements come into force, allowing sufficient time to prepare for new requirements.

For a mandatory standard:

- mānuka honey already packaged for sale on the date the regulations come into effect can still be sold as such.

For both a mandatory or voluntary standard:

- mānuka honey that has met the science definition prior to the standard coming into effect can still be sold as such if testing was carried out by an MPI recognised laboratory; and
- the new requirements would come into effect between May and November, outside of usual honey harvest times, with a six month transition period from the date that the standard is made.

Question

26. Do you agree with these transitional provisions? Why/why not? Do you have any other suggestions for transitional provisions that should be put in place?

PART 4: SUMMARY AND NEXT STEPS

We are interested to hear your thoughts about whether or not you think the regulation of domestically sold mānuka should change, and if so, how?

We have aimed to provide you with enough information so you can make an informed submission, including information about:

- how domestically sold mānuka honey is currently regulated;
- how that differs to the regulations of exported mānuka honey, mainly because there are added assurances made available to overseas markets with the use of the mānuka honey science definition and the GREX;
- three reasons why we want to explore this topic further; consumer protection, clarity for producers of mānuka honey, and reputational risk through grey trade; and
- two options about how domestically sold mānuka honey could use the same scientific standard that is applied to exported mānuka honey; a voluntary or a mandatory standard.

Based on the information provided, we welcome your views in response to the questions we have asked throughout this document, in particular questions 27-29 below. Please feel free to submit any other relevant information.

Questions

27. Do you think the regulation of domestically sold mānuka honey products should change? Why/Why not?
28. If regulation were to change, would you want all mānuka honey sold in New Zealand to meet a scientific standard? OR would you still like to be able to purchase/produce mānuka honey that did not meet a scientific standard? Please explain.
29. If you think the mānuka honey science definition should be applied to mānuka honey sold on the domestic market, do you prefer the voluntary standard option or the mandatory standard option to implement it? Why?

Next steps

Once we have received submissions from interested parties, we will consider all of the new information and perspectives that have been provided. We will use this to further inform our analysis and a summary of the information we have received through consultation will be made available.

If the submissions we receive during consultation suggest that change is needed, we will consult further with industry representatives about what the standard will look like.

Appendix 1: Summary of Questions

We seek your views on what these proposals would mean for you as an individual or business having an interest in mānuka honey.

Please tell us a bit about yourself:
Understanding who you are will help us best understand your feedback and address any concerns you may have.

Please make sure you include the following information in your submission:

- your name;
- your contact details (e.g. phone number, postal address and email);
- your organisation's name (if you are submitting on behalf of an organisation);
- your position within your organisation (if applicable);
- the size of your organisation (if you are submitting on behalf of an organisation);
- 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 to these proposals and why.

What region of New Zealand are you located?

☐ Auckland	□ Bay of Plenty	☐ Canterbury
☐ Gisborne	☐ Hawke's Bay	☐ Manawatu-Wanganui
☐ Marlborough	☐ Northland	☐ Otago
☐ Southland	☐ Taranaki	☐ Tasman-Nelson
☐ Waikato	☐ Wellington	☐ West Coast

Please select those that apply to you. Are you:
☐ a **consumer**

a. Do you purchase mānuka honey?
   ☐ Yes, all the time
   ☐ Yes, sometimes
   ☐ No

☐ an **organisation**

a. Please tell us who you are or who you represent.
b. How many members do you represent?

☐ a **business**

a. What part of the supply chain do you operate in (please select all that apply):
   ☐ beekeeper
   ☐ extractor
   ☐ processor
   ☐ packer
   ☐ exporter
   ☐ retailer of bee products
   ☐ other – please specify

b. How long have you been involved in the apiculture industry:
   ☐ 0-5 years
   ☐ 5-10 years
   ☐ 10 + years
   ☐ not applicable

c. Do you operate under:
☐ an RMP under the Animal Products Act 1999
☐ the Food Act 2014 (Food Control Plan or National Programme)
☐ none of these
☐ not applicable

d. If you are a beekeeper, how many hives do you currently have:
☐ 0 – 5
☐ 6 – 50
☐ 51 – 500
☐ 501 – 1000
☐ 1001 to 3000
☐ More than 3000

e. If you are a business, how many people work in your business (full time or part time, including owner-operators)?
☐ 0 - 5
☐ 6 – 9
☐ 10 – 19
☐ 20 or more

f. How much mānuka honey do you produce or sell each year (approximately)?
☐ 0 – 50 kg
☐ 50 – 100 kg
☐ 100 – 500 kg
☐ 500 – 1000 kg
☐ 1000 – 5000 kg
☐ 5000+ kg
☐ not applicable

g. If you do produce or sell mānuka honey, how much do you produce for or sell on the domestic market each year (approximately)?
☐ 0 – 50 kg
☐ 50 – 100 kg
☐ 100 – 500 kg
☐ 500 – 1000 kg
☐ 1000 – 5000 kg
☐ 5000+ kg
☐ not applicable

Part 1: Introduction, purpose and context

1. Do you think we have identified the right reasons to explore whether or not the mānuka honey science definition should be applied to domestically sold mānuka honey? Why/why not?
2. Do you agree that New Zealand consumers and businesses do not currently have certainty on what regulators consider constitutes mānuka honey? Why/why not?
3. Do you agree with our assumption about mānuka honey that is sold in New Zealand making its way to overseas markets? Why/why not?
4. Do you agree with the risks that we have identified if mānuka honey that was sold in New Zealand were to be traded overseas? Why/why not?

Part 2: Options for the mānuka honey science definition to apply domestically

Objectives for a mānuka honey science definition standard

5. Do you think we have identified the right objectives? If not, what do you think needs to be included or changed?

Option 1: a voluntary science definition standard

6. If the voluntary option is progressed, do you agree that consumers will need a way of identifying mānuka honey that meets the standard? Why/why not?
7. Do you have any other suggestions for identifying mānuka honey that meets the standard for consumers?
8. Do you agree with the assessment of the option to apply the science definition through a voluntary standard against the objectives? Why/why not?
9. As a business, would you be likely to opt-in to a voluntary standard? Why/why not?

Option 2: a mandatory science definition standard

10. Do you agree with the assessment of the option to apply the science definition through a mandatory standard against the objectives? Why/why not?
11. Do you have any evidence of what the impact of a mandatory standard would be on the mānuka honey market in New Zealand? Please provide evidence if you do.

Part 3: Rules and requirements if the mānuka honey science definition is applied domestically

12. Do you think any other areas need to be included in a domestic standard? If yes, what are they and why do you recommend they should be included?

What products should a science definition standard apply to?

13. Do you agree with the proposed scope of what the mānuka honey science definition would apply to? Why/why not?

Who should the domestic mānuka honey science definition standard apply to?

14. Do you agree with this assessment of who the requirements should apply to? Why/why not?

Testing requirements

15. Do you agree with the proposals for testing requirements and associated areas of responsibility for operators? Why/Why not?
16. What do you estimate the increased costs would be for your business if you needed to follow these testing requirements? Please provide evidence if available.

Labelling requirements

17. Do you agree with the proposals for labelling requirements? Why/Why not?

Record keeping and administration requirements

18. Do you agree with the proposals for record keeping and administration requirements? Why/Why not?
19. What do you estimate the increased costs would be for your business if you needed to follow these record keeping and administration requirements? Please provide evidence if available.

Verification requirements

20. Do you agree that test results and sampling records should be verified? Why/why not?
21. Which verification option do you prefer from:

    1) Verification of test and sampling records at the same time as regular verification visits;

    2) Additional verification of test and sampling records; or

    3) As part of the standard, all mānuka honey operators need to be verified annually?

    Why? Do you have any other suggestions for how verification could take place? Would your preference be different for a mandatory or voluntary standard?
22. What do you estimate the increased costs would be for your business for each verification option? Please provide evidence if available.

Enforcement requirements

Enforcement for a voluntary science definition standard

23. Do you agree with these enforcement mechanisms for a voluntary standard? Why? Do you have any other suggestions for how compliance could take place for a voluntary standard?

Enforcement for a mandatory science definition standard

24. Do you agree with there being an infringement fee for non-compliance with a mandatory mānuka honey standard? Why? Do you have any other suggestions for how compliance could take place?
25. If there was an infringement fee, what do you think would be an appropriate amount? Should this amount change depending on whether it applies to an individual or a business?

Transitional provisions

26. Do you agree with these transitional provisions? Why/why not? Do you have any other suggestions for transitional provisions that should be put in place?

Part 4: Summary and next steps

27. Do you think the regulation of domestically sold mānuka honey products should change? Why/Why not?
28. If regulation were to change, would you want all mānuka honey sold in New Zealand to meet a scientific standard? OR would you still like to be able to purchase/produce mānuka honey that did not meet a scientific standard? Please explain.
29. If you think the mānuka honey science definition should be applied to mānuka honey sold on the domestic market, do you prefer the voluntary standard option or the mandatory standard option to implement it? Why?