

National Organic Standard Bill 2024

Senate Standing Committees on Rural and
Regional Affairs and Transport



1. INTRODUCTION

CropLife Australia (CropLife) is the national peak industry organisation representing the agricultural chemical and plant biotechnology (plant science) sector in Australia. CropLife represents the innovators, developers, manufacturers, formulators and suppliers of crop protection products (organic, synthetic and biologically based pesticides) and agricultural biotechnology innovations. CropLife's membership is made up of both large and small, patent holding and generic, Australian and international companies and accordingly, CropLife advocates for policy positions that deliver whole of industry and national benefit. Our focus is, however, specifically on an Australian agricultural sector that is internationally competitive through globally leading productivity and sustainability. Both of which are achieved through access to world-class technological innovation and products of the plant science sector.

CropLife welcomes the opportunity to provide comments to the Senate's Rural and Regional Affairs and Transport Legislation Committees Inquiry into the National Organic Standard Bill 2024 (the Bill).

The plant science industry provides products to protect both crops and Australia's vast, biodiverse natural spaces against damaging insects, invasive weeds and diseases that pose a serious threat to the nation's agricultural productivity, sustainability, food security and delicate biodiversity. Our members provide a full suite of innovations and products to support all farming production systems, including organic. CropLife's membership develop, manufacture and market organic, biologic, and synthetic pesticides, whose use generates more than \$31 billion annually to the Australian economy and directly employs thousands of people across the country.¹

Sustainably increasing food production to meet growing global demand, particularly in the face of climate change, requires science-based policies that support all farming systems whether organic or conventional. CropLife members bring science-based innovation to Australian farmers, supporting sustainable and profitable farming practices across all systems. While we acknowledge the legitimacy of the organic farming business model, it is important to note that the weight of scientific evidence does not support claims that there is a plausible or quantifiable nutritional, health, or safety advantage of organic and biodynamic production compared to conventional systems. Therefore, our submission

¹ Deloitte Access Economics, 'Economic contribution of crop protection products in Australia' (Report, 2023).

focuses on the need for accurate, evidence-based labelling and regulation to ensure transparency and consumer confidence.

Australia's regulatory system for agricultural chemicals and genetically modified (GM) crops is world-leading, scientifically rigorous and politically independent. The Australian Pesticides and Veterinary Medicines Authority (APVMA), the Office of the Gene Technology Regulator (OGTR), and Food Standards Australia New Zealand (FSANZ) ensure the safety and efficacy of these products, protecting applicators, consumers, the environment, and the integrity of Australia's domestic and international trade.

2. AN AUSTRALIAN ORGANIC STANDARD

CropLife Australia supports the development of science-based standards that improve market access, ensure the wellbeing of people and the environment, and support the prosperity of Australian farmers. Specifically, this includes the development of the domestic regulation of organic production as proposed by the Bill.

While many organic producers use the Australian-owned National Standards for the export of organic products, or voluntarily seek accreditation under AS6000, there is no legal requirement for them to do so. Although this has not yet led to market failure, concerns have been raised by organic producers, marketing agencies, and accreditation authorities that the potential exists for abuse of the term “organic”.

The adoption of a nationally enforced, harmonised standard for organics production would provide certainty to producers by providing regulatory clarity around organic claims and certification, prevent operations from making false and misleading claims (either directly or through insinuation), and ensure a level playing field among organic producers. These actions will prevent a potential market failure from the abuse or misappropriation of the terms.

The certification procedures must facilitate clear, transparent public understanding of the regulatory requirements. The lack of appropriate regulation and consistent labelling standards allows the organics sector to perpetrate misconceptions about non-organic (conventional and biotechnology) farming systems. This results in misleading consumers about the health and environmental credentials of food produced by farmers whose production systems implement modern, science-based practices and technologies.

3. CONCERNS

CropLife Australia strongly supports the Ag2030 goal of achieving \$100 billion in agricultural production by 2030. Achieving this ambitious target requires the government to establish



the foundational policies necessary for the industry to harness emerging opportunities and increase efficiencies. A key component of this foundation is consumer knowledge and confidence, which serves as a cornerstone for both market growth and trust in agricultural products.

Regulation of the sale of organic goods that is well designed will provide consumers with the transparency required to exercise their purchasing intentions for food and groceries. In doing so, such a scheme will also assist the marketplace to avoid unscientific and misleading comparisons between the safety and environmental credentials of food produced using conventional agricultural practices and organic farming systems.

Public Education

Public education and understanding of organic and biodynamic production systems are paramount. Clear and consistent messaging is needed to contextualise the health, safety, and nutrition of foods produced across all agricultural systems, irrespective of farming practices; whether organic or conventional or if they use crops developed using genetic modification (GM) or new breeding techniques. Currently, there is no legal or regulatory requirement to provide such messaging, resulting in a lack of cohesive public awareness. This creates a void that allows misinformation and misconceptions to flourish, undermining the integrity of the broader agricultural sector.

The regulation of food produced using organic and biodynamic farming systems must not serve as a promotional or advertising campaign for a single segment of Australian agriculture at the expense of others. Instead, it should focus on delivering accurate, evidence-based information that empowers consumers to make informed choices based on facts, rather than marketing-driven narratives.

Misleading Labelling & Unsupported Claims

As part of a functional market for food, consumers deserve certainty that when electing to purchase organic goods, the goods have been produced according to published, accepted and stringent standards. Likewise, where these purchasing intentions are formed due to concerns surrounding human health and environmental safety, transparency in the market should ensure that consumers are not misled by false and unscientific comparison.

As such, it is important that domestic regulation of organic goods supports consumers to be informed about the terminology, practice and specific requirements of organic production. This transparency will assist in preventing misleading claims and improve consumer understanding and confidence in food produced by all farming systems.



Making false or misleading representation about prescribed organic goods

Section 12 of the Bill enables the provision of penalties for making false or misleading representation about prescribed organic goods. However, section 12 (1)(d)(i) indicates this misleading representation is expressly limited to branding, misrepresenting that the goods are organic by using a logo, mark or sign that is the same, substantially identical or deceptively similar to an issuing body's registered trademark or intellectual property.

The Bill must also prohibit making false statements or representation about organic goods with regard to their health, nutritional or safety profile. Section 12 of the bill must be expanded to include penalties for making unscientific, false, and misleading claims about organic food which are not supported by science or empirical data.

Market research commissioned by the then Department of Agriculture, Water and Environment suggests consumer appeal to organic foods relies on misleading and deceptive promotion of products as “healthier”, “safer” and “more sustainable” than non-organic produce. Specifically, one of the major consumer beliefs about organic farming systems identified by the research was that these farming systems and all products derived from them are ‘chemical free’.²

These public perceptions have been shaped by demonstrably false claims that seek to alter public perception of the safety and environmental profile of conventional agricultural production systems in order to create the price premium commanded by organic produce. This further creates incentive for some promoters of organics to exaggerate these perceived risks and overstate ‘organic’ claims.

“Chemical Free/Pesticide Free” claims and perceptions

One of the most popular claims and perceptions that appears to be inherent when referring to organics is that organic farming systems and all products derived from them are ‘chemical free’ and produced without pesticides. Not only is a claim for produce to be “chemical free” scientifically incorrect, noting all matter is by definition a chemical, it also fails to accurately represent the use of pesticides in organic farming. Unbeknown to a large segment of the community and most consumers, is the substantial number of pesticides that are approved and routinely used in organic production. This not only includes pesticides derived from “natural” or biological sources, but also many synthetic chemical pesticides under exemption to manage special circumstances such as disease outbreak in

² PwC, ‘Consultation Findings Report’ (Report, Department of Agriculture, Fisheries and Forestry, February 2022) commissioned for the Organic and Biodynamic Produce - Consultation on Domestic Organics Regulation.



a crop. The benefit and use of these chemicals, whether derived from natural or synthetic sources, is present and quantifiable.

All pesticide chemicals lawfully used in Australian agriculture, whether used in conventional or organic farming are required to be approved by the Australian Pesticides and Veterinary Medicines Authority (APVMA). The APVMA uses substantial scientific evidence in its approval and registration of pesticides and to develop mandated conditions of use that ensures they are applied in a manner that ensures the safety of applicators, bystanders, consumers and the environment.

As such, claims that food or fibre produced using organic systems are “safer” or more environmentally friendly are not supported by the weight of peer reviewed science. Additionally, pesticides based on natural substances may in many cases present a higher hazard profile than those based on synthetic chemistry, with farmers relying on the same registration process to ensure the safety of “organic pesticides” in their production.

Therefore, as part of the Bill meeting its objective of providing clear information to consumers, the standard should require consumers to be advised when organic goods are produced using pesticides that are approved by the APVMA. This will assist to remove any potential distortion in purchasing preferences based on the prevalent misunderstanding with regard to the role of pesticides in organic production systems.

Ensuring certified organic producers do not inappropriately make non-GM claims

Additionally, the inappropriate use of terms such as “GMO-Free” on products where no GM varieties exist let alone are approved for consumption or cultivation in Australia (e.g., coffee or tea) exacerbates consumer confusion. In some cases, these labels have been used absurdly on non-agricultural, inorganic products like bottled water or table salt. Such practices mislead consumers into assuming the absence of labels on similar products means they contain GMOs, creating unwarranted stigma around modern farming technologies.

The regulation should prohibit a business holding an organic certification to inappropriately make non-GM claims about their produce.

Cost Recovery

CropLife Australia supports the implementation of appropriate and targeted cost recovery mechanisms across the agricultural sector. Such mechanisms are essential for ensuring the financial sustainability of regulatory frameworks while aligning with broader government policies on cost recovery. Therefore, the proposed organic regulatory framework must



explicitly acknowledge and adhere to the current Government policy on cost recovery,³ ensuring that those who benefit from the regulatory system contribute fairly to its operation.

Although the draft bill includes provisions allowing the charging of fees for certification and auditing by approved certifying bodies and auditors, it does not include clear provisions for cost recovery by the relevant regulatory authorities. In contrast, other established regulatory frameworks, such as those for Food Standards Australia New Zealand (FSANZ) or the Australian Pesticides and Veterinary Medicines Authority (APVMA), include explicit cost recovery provisions, ensuring that the agencies overseeing these systems can operate effectively and sustainably.

Conventional wisdom says that those seeking to extract value or profit from market segregation would normally bear the costs of this segregation. It remains unfair to push the costs of market segregation on to >97% of Australian agriculture or to the Australian taxpayer due to abnormally sensitive provisions of organic marketing standards. Therefore, CropLife Australia recommends the inclusion of provision within the National Organic Standard Bill 2024 to permit cost recovery by the Department of Agriculture, Fisheries and Forestry in a similar manner to those covering FSANZ⁴ or the APVMA⁵. While a fee need not be immediately charged, especially during the period in which the actual costs of the regulatory framework are determined, having explicit provisions for cost recovery ensures that the framework can adapt to future operational needs. Such flexibility is critical to ensure that the regulatory framework remains financially sustainable as it matures and grows in scope.

Exemptions

All products marketed as “organic” or “biodynamic” must be captured under any mandatory domestic organic standard. This includes food products, fibre, pet food, cosmetics, or any other non-prescribed goods. A regulated and clearly defined organic system must ensure that any products making claims related to organic or biodynamic production adhere to the same rigorous standards. Allowing exemptions for specific classes of consumer goods, or permitting self-regulation within certain sectors, risks undermining the credibility and

³ Department of Finance, Australian Government, ‘Australian Government Cost Recovery Policy’ (Web Page) <https://www.finance.gov.au/government/managing-commonwealth-resources/implementing-charging-framework-rmg-302/australian-government-cost-recovery-policy>.

⁴ *Food Standards Australia New Zealand Act 1991* (Cth), s146.

⁵ *Agricultural and Veterinary Chemicals Act 1994* (Cth), s26; *Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994* (Cth).



consistency of the organic certification system. This would diminish consumer confidence and trust in organic produce, which is a cornerstone of the proposed regulatory framework.

The exemption for businesses with annual sales below \$25,000 undermines the overarching objectives of a national standard.⁶ By permitting a subset of operators to bypass certification, this provision creates a dual-tier system that could lead to inconsistencies in the marketplace. Such exemptions open the door for misuse of the term “organic” by small-scale producers who may not adhere to the required standards, ultimately eroding consumer trust in the certification process as a whole. While supporting small businesses is an important consideration, this should not come at the expense of market integrity.

Moreover, exempting smaller producers risks incentivising deliberate underreporting of sales or structuring of businesses to fall below the threshold, potentially leading to regulatory loopholes. It may also place certified operators at a disadvantage by creating unfair competition, as uncertified products could carry the same market appeal without incurring the costs of compliance.

CropLife is mindful that the burden on smaller producers would be impractical. The introduction of a tiered compliance framework based on the scale of operations, where smaller producers meet simpler reporting requirements but remain subject to audits and the overarching standards. This approach preserves inclusivity while accommodating small-scale operators. At a minimum, the threshold annual sales threshold should be lowered to \$5,000. This would be in line with standards within the United States.⁷

By ensuring that all products, or at least the vast majority, marketed as organic are subject to the same rigorous standards, the regulatory framework will instil confidence among consumers, create fairness for producers, and strengthen Australia’s reputation for high-quality organic produce in both domestic and international markets.

Coexistence

Australian agriculture must support diversity in farming systems. It is unfair for those seeking to extract value to shift the burden and costs of this value to other areas of the sector while reaping the rewards. The *Marsh v Baxter* case⁸, and subsequent appeal⁹, provide the most comprehensive legal discussions of coexistence in Australia. The appeal noted in running an organic farm “the appellants could not, by putting their land to an

⁶ National Organic Standard Bill 2024 (Cth), s14(5)

⁷ Code of Federal Regulations (US), Title 7 § 205.101(a) (2024).

⁸ *Marsh v Baxter* [2014] WASC 187.

⁹ *Marsh v Baxter* [2015] WASC 169.

abnormally sensitive use, thereby 'unilaterally enlarge their own rights' and impose limitations on the operations of their neighbours to an extent greater than would otherwise be the case."¹⁰

A key example of successful coexistence in Australia is the industry-led Market Choices Framework that facilitates the successful coexistence of GM and non-GM crops. This framework has evolved from a broad range of guidelines, reports, surveys, and studies conducted by government agencies, industry groups, and stakeholders across the supply chain. Ongoing refinement and robust stewardship measures ensure the framework remains effective, maintaining transparent and verifiable segregation throughout production, handling, and distribution processes.

Towards facilitating the coexistence that will support the Australian agriculture sector as a whole, the federally legislated standards must be open to engagement by the entire agricultural sector.

The Organic Industry Advisory Group convened by the Department does not include representatives from the broader farming sector. The recommendations stemming from the Group must be socialised with the broader industry to ensure any proposals do not undermine, compromise or cause unnecessary conflict for Australia's conventional and GM farming system producers.

Likewise, the Organic Industry Standards and Certification Council (OISCC), currently tasked with administration of the National Standard, continues to be a 'closed shop' made up primarily of organic certifiers despite assurances given to the Department when it was established that it would appoint representatives from broader farmer and agricultural industry groups. While the National Farmers Federation (NFF) is nominally a member, there is no further industry membership beyond the organics sector. This has led to rejection of organic products adhering to the ideological principles outlined in the standard and registered as "organic" in other jurisdictions such as the EU but denied to organic producers in Australia. New legislation and regulations must reflect agronomic integrity as opposed to ideological dogma.

Domestic regulation must also establish clear and appropriate low level presence thresholds of GM crops and pesticides used in conventional production to ensure all systems can coexist and remain productive, profitable and more environmentally sustainable. These are currently recognised in both the National Standard and AS6000 as behavioural, in that producers must plan for and take all reasonable precautions to prevent

¹⁰ *Ibid* at 785.

the introduction or admixture of produce derived from conventional production. To enhance clarity, the Bill should establish a nationally consistent threshold for any inadvertent introduction of conventionally produced materials that is realistic and science-based. This is imperative to ensure that the creation of a domestic organic standards does not impinge upon the use of safe, sustainable, well-regulated conventional agriculture practices in and around organic production.

A zero-tolerance approach to low-level presence of conventional and GM products is biologically implausible, if not impossible. Conventional producers must be given freedom to operate within their already highly regulated environment. As Justice Martin described in the landmark GM 'contamination' *Marsh v Baxter* decision, a situation where exposure to GM material is unintended is not addressed in the National Standards. The intentional application of a prohibited substance will trigger decertification, as will "a demonstrated failure to take reasonable precautions against contamination."

The introduction of domestic regulation provides the opportunity to incorporate language around co-existence and inadvertent presence that is clear, concise, realistic, and nationally harmonised.

Conclusion

CropLife and its members are committed to supporting all farming systems in Australia by providing farmers access to the innovations, technologies, tools and products they need to ensure sustainable and profitable farming practices. Australia is fortunate to have established world leading independent regulatory agencies, including FSANZ, APVMA, OTGR and the Australian Competition and Consumer Commission. Disinformation propelled by some consumer proponents of organics not only creates unnecessary community concern but also erodes confidence in Australia's modern farming systems and our world leading scientific, evidence based regulatory systems.

Effective regulation of the domestic organics market would improve the transparency and consistency of information, increasing their trust in organic produce, and supporting informed purchasing decisions. As stipulated above, it is imperative that any regulatory effort be transparent and open. Consumers must be fully aware of the regulations, which must be accessible and freely available. The certification therefore must be informative in that the product in question has been produced according to the regulations set out in the legislated standard, and no more. It cannot insinuate or promulgate any unsupported claims regarding health or safety of the product. While the "organic" designation has traditionally been marketed either directly or indirectly to reflect a benefit which is not present, a modern regulatory scheme must present no such marketing.

