

Appendix Four: Cost Recovery Impact Statement (Food Act levies)

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Stage 2 Cost Recovery Impact Statement

Ministry for Primary Industries' Cost Recovery proposal to maintain and expand New Zealand Food Safety's core regulatory services under the Food Act 2014

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1 Executive summary

The proposals in this cost recovery impact statement cover the introduction of seven new services via cost recovery under the Food Act 2014. Two of the seven services are new, while the other five have been funded via time-limited Crown funding. The proposal is to have the services cost recovered via a levy on domestic food businesses and food importers. The table below sets out the services and the businesses which will be levied for them.

Table 1: Proposed services covered by proposed levies

Service name	Business levied
Domestic food safety and suitability rules	Domestic food businesses
Imported food safety and suitability rules	Food importers
Oversight of co-regulator systems and services	Domestic food businesses
Oversight of verification systems and services	Domestic food businesses & food importers
Business education and support services	Domestic food businesses & food importers
Identify and deliver nationwide interventions to raise performance	Domestic food businesses & food importers
Systems auditing	Domestic food businesses & food importers

The proposed services for cost recovery directly benefit the identified businesses. In the case of importers, the proposed levy and services would allow MPI to implement the recommendations made by the Auditor-General in their report on the monitoring of imported high-risk foods¹. The services would support the functioning of the Food Act.

1.1 Moving away from Crown funding

Services provided under the Food Act were always intended to be cost recovered but have been Crown funded to date. Time-limited Crown funding was provided to support the initial implementation period of the Food Act and to ensure early adopters were not penalised. Services provided under the Act, where the user is getting a direct benefit, have been intended to be cost recovered. Attempts to move away from Crown funding had been delayed due to COVID and other issues including the increase in the consumer price index (CPI).

Since time-limited Crown funding ceased, the Ministry for Primary Industries (MPI) has been limited in the number of services it can provide. The current provision of services has not been provided at a sufficient level to ensure the Food Act regulatory system is performing as intended.

1.2 Proposed levy rates

The two tables below set out the levies for the two types of businesses and how they will be levied.

Table 2: proposed levy rates for domestic food businesses per registered site

	2025/26	2026/27	2027/28
Per registered site	\$57.50 per annum	\$86.25 per annum	\$115 per annum

¹ Monitoring importers of specified high-risk foods” Controller and Auditor-General, 9 February 2024
<https://oag.parliament.nz/2024/food-safety>

Table 3: proposed per annum levy for food importers

Volume of imported food	Levy
0 – 118,500 kg	\$67.50 per annum
118,501 - 249,999 kg	\$0.57 per tonne
250,000 - 4,999,999 kg	
5,000,000 - 49,999,999 kg	
50,000,000+ kg	

The proposal is to levy domestic food businesses by their registered site(s), and importers by the tonnage imported. For importers there a de minimis for the first 118,500 kgs. Due to the information available to MPI, this is the most equitable way to cost recover.

The table below sets out the portion of costs each business would fund. The table sets out the estimated averages over the 2024/2025 to 2026/2027 financial years.

Table 4: share of costs between domestic food businesses and food importers (24/25 – 26/27 average)

Service	Domestic Food Businesses	Food Importers
Domestic food safety and suitability rules	100% (\$1.680m)	
Imported food safety and suitability rules		100% (\$0.988m)
Oversight of TA co-regulatory services	100% (\$1.816m)	
Oversight of verification systems and services	82.5% (\$0.633m)	17.5% (\$0.134m)
Business education and support	82.5% (\$0.967m)	17.5% (\$0.205m)
Campaigns to reduce systemic non-compliance	82.5% (\$0.377m)	17.5% (\$0.080m)
Systems auditing	82.5% (\$0.217m)	17.5% (\$0.046m)
Total	79.6% (\$5.690m)	20.3% (\$1.453m)

1.3 Submitters were opposed to the proposals

Public consultation was held between 2 February 2024 and 15 March 2024. The total number of submissions received were 321. The table below provides a breakdown of submissions made by submitter type.

Table 5: Number of submissions received by type of submitter

Submitter type	Number
Individual	59
Territorial Authority/on behalf	30
On behalf of an organisation	13
Business	203
Peak body	16
Total	321

Submitters were overwhelmingly opposed to proposals. The themes of the feedback from submitters were:

- fairness of the structure of the levies, particularly the impact on small businesses. The view was that the levies should be structured as a tiered system based on income and size.
- The additional costs would be a burden on business in the current economic environment. Many suggested that existing regulatory frameworks are sufficient or that funding be provided by the Crown.
- Submitters could not perceive the benefits from the proposed services.
- Some territorial authorities disagreed that food safety services are under-resourced, and consider that the safe operation of food businesses is well managed by them.
- Some expressed concern that the proposals may conflict with the principles of the Food Act.

1.4 Monitoring and implementation

The proposals in this document scale-up existing services and proposes two new services. There is a risk the calculation of costings, as well as assumptions that have been used for the growth in costs and levy payers would change over time.

Section 202 of the Food Act 2014 requires the Minister to undertake a review of the levels and methods of cost recovery once in every three-year period. This is to ensure that cost recovery regulatory settings remain appropriate. An initial review could occur after 30 June 2025, alongside an initial industry report on the use of levy funds.

It is also MPI's intention to undertake a review of cost recovered services. The nature of the services provided go to the performance of the Food Act 2014 and may raise useful questions for MPI to consider on the overall regulatory performance of the Act.

1.5 Description of proposed services for cost recovery under the Food Act 2014

1.5.1 Domestic food safety and suitability rules

It is proposed to implement this service under the Domestic Food Business Levy to develop and maintain accessible risk and science-based rules and templates that protect consumer health, ensure fair practices in trade, and make it easier for domestic food businesses to understand requirements.

1.5.2 Imported food safety and suitability rules

It is proposed to implement this service under the Importer Food Business Levy to develop and maintain accessible risk and science-based rules and templates that protect consumer health, ensure fair practices in trade and make it easier for food importers to understand legislated requirements.

1.5.3 Oversight of co-regulator systems and services

NZFS is responsible for administration of the Food Act, including oversight of co-regulatory partners in delivering their functions. It is proposed that this service will maintain the national register of all registered food businesses, and work with Territorial Authorities to support them to fulfil their regulatory roles.

Services for both Domestic and Importer Food Businesses

The following services are proposed to be implemented using the Domestic and Importer's Food Business Levy.

1.5.4 Oversight of verification systems and services

Businesses are responsible for providing safe and suitable food. Verification provides businesses with assurance they are meeting their obligations under the Food Act, and consumers with confidence that compliance issues are identified and addressed. Business verification is a cornerstone of the food safety assurance system. Most food businesses must be routinely verified, though some low-risk businesses do not require ongoing verification. It is proposed that this service will support national consistency of verification services, including by providing further training for verifiers.

1.5.5 Business education and support services

It is proposed that this service will ensure ongoing development and maintenance of content and tools to help guide food businesses to find and implement the rules that apply to them.

1.5.6 Identify and deliver nationwide interventions to raise performance

It is proposed that this service will identify areas of low national performance, investigate drivers of performance to target and work with co-regulatory partners to develop and deliver national interventions through education, assistance, and deterrence.

1.5.7 Systems auditing

This service will undertake audits to enable NZFS to provide assurance regarding specific food sectors, or issues.

2 Agency disclosure statement

This Cost Recovery Impact Statement (CRIS) has been prepared by the Ministry for Primary Industries (MPI)

MPI seek to address whether the proposed services for food businesses should be cost recovered from the industries that benefit from them. This CRIS provides an analysis of the options aimed at enhancing New Zealand Food Safety's services for food businesses.

2.1 Scope of analysis

This Cost Recovery Impact Statement (CRIS) considers whether and how to cost recover for a mix of interventions to support the robust operation of the Food Act regulatory regime, being:

- Domestic food safety and suitability rules
- Imported food safety and suitability rules
- Oversight of co-regulatory systems and services
- Oversight of verification systems and services
- Business education and support
- Identifying and delivering nationwide interventions to raise performance
- National monitoring programmes
- Systems audits

The CRIS also considers how to best allocate costs to differing beneficiaries, through a mix of two levies:

- A Domestic Food Business Levy
- A Food Importer Levy

2.2 Data

In conducting the analysis, a comprehensive approach was adopted, incorporating both qualitative and quantitative methods. A thematic analysis was employed to examine the qualitative data obtained from submissions, offering insights into the re-occurring themes and overarching perspectives. Additionally, a quantitative assessment was conducted, utilising responses from closed questions to provide numerical data for a more structured evaluation.

Throughout the analysis, several key aspects were highlighted, including identifiable gaps in the information, underlying assumptions guiding the analysis, and dependencies between different variables and factors. Moreover, significant constraints, caveats, and uncertainties pertaining to the analysis were identified, shedding light on the limitations and potential biases inherent in the data and methodologies employed.

2.3 Cost recovery principles and preferred options

Options have been developed and assessed in accordance with MPI's cost recovery principles.

MPI is confident in the factual analysis in this CRIS, though whether the principles have been sufficiently met involves a level of judgement. MPI considers that the Transparency, Justifiability, and Efficiency principles have been sufficiently met for each preferred option.

Additional judgement is required around the Equity principle. Equity involves consideration of fairness and, therefore, value judgements. As such, views about what is fair can differ and it is ultimately up to the Government (and Parliament) to decide.

2.4 Impact analysis

Estimates of the immediate financial impact of options on the market and at the business-level are presented. However, as the options are minor relative to the size of the industry, the CRIS does not contain a full analysis of the market impacts or of demand for MPI services over the longer term.

Bruce Arnold
Director Cost Recovery
3 April 2024

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3 Quality assurance

An internal MPI Regulatory Impact Assessment Panel considers that the Stage 2 Cost Recovery Impact Statement - Ministry for Primary Industries' *Cost Recovery proposal to maintain and expand New Zealand Food Safety's core regulatory services under the Food Act 2014* **partially meets** the Regulatory Impact Statement criteria.

The Panel considers that the Statement is concise relative to the context of the complex issue it deals with, and clearly sets out the objectives and outcomes sought from cost recovered services. The statement also sets out the substantial consultation undertaken and provides responses to submitters' specific concerns. Impact analysis has been constrained by existing information and data gaps, including analysis of equity issues for some of the proposed levy services. The lack of existing information on the Food Act's performance makes it difficult to accurately quantify the likely uptake and benefit of the services to businesses. Statutory reviews under the Food Act on the levels and methods of cost recovery and MPI's recommended full review of cost recovered services should provide further data to refine services as needed, as well as improve the overall regulatory performance of the Food Act.

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4 Common terms

A list of common terms is provided in the table below.

Term	Description
Memorandum account	These nominal accounts are used to record whether services are in deficit or surplus for rate setting purposes. The rule with memo accounts is that they must always track to a zero balance.
Verification	The application of methods, procedures, tests, and other checks to confirm: <ul style="list-style-type: none">• compliance with a risk-based measure (such as a risk management programme or regulated control scheme), including:<ul style="list-style-type: none">○ the applicability of the programme or scheme to the operations of the relevant animal product business, and○ the effectiveness of the programme or scheme• whether the animal material or animal products have been produced or processed in a way that meets the requirements for the official assurance• whether a regulated person has complied with a requirement imposed by or under legislation

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5 Background on cost recovery

5.1 Cost recovery in general

MPI provides a range of services across the Biosecurity, Food, Fisheries, Forestry and Animal Welfare systems. These services help protect New Zealand from biosecurity risks, ensure that food is safe to eat, and manage the sustainability of our natural resources. The exclusion of pests and diseases, a safety assurance, also improves trading partners willingness to accept New Zealand products. The improved market access enables the primary sector to grow the value of its production, including exports. Services include:

- biosecurity inspections to prevent pests entering the country
- developing and maintaining domestic and overseas standards for food and other products
- monitoring and testing products to ensure consumer safety
- gaining market access and providing assurances to overseas customers.

Cost recovery helps ensure the provision of these services. About 30% of MPI's departmental funding typically comes from cost recovered revenue.

5.2 Which systems are the subject of this CRIS?

This CRIS covers a number of issues affecting the food safety, biosecurity and animal welfare systems.

5.3 How are cost recovery changes regulated?

Legislation allows MPI to recover costs, with regulations setting out specific charges. The specific legislation is cited later in this CRIS as each issue is considered.

Most of MPI's legislation requires costs to be recovered in accordance with the cost recovery principles of Transparency, Justifiability, Efficiency, and Equity. These principles also appear in MPI's cost recovery guidance² and in the Office of the Auditor General's guidance³. The principles are discussed further below.

5.4 How are cost recovery regimes reviewed?

In line with best practice guidance, MPI generally undertakes a review of expenditure and revenue at least once every three years. Fees and levies may be updated outside of the normal three-year review cycle if a material surpluses or deficits arise, such as if:³

- accumulated deficit or surplus is more than four months (33%) of annual revenue
- the accumulated deficit or surplus is \$1 million or more
- a deficit is due to be written-off (due to time limits in legislation on the recovery of deficits), or a surplus has existed for an equivalent amount of time such that it would be written-off if it was a deficit.

Frequent and timely reviews help ensure that revenue and expenditure are balanced and are preferred by industry as they help avoid large swings in charges.

² Ministry for Primary Industries Cost Recovery Policy Guidance, MPI Information Paper No: 2018/08, <https://www.mpi.govt.nz/dmsdocument/30855-Ministry-for-Primary-Industries-Cost-Recovery-Policy-Guidance>

³ Setting and administering fees and levies for cost recovery: Good practice guide, <https://oag.parliament.nz/2021/fees-and-levies>.³ Triggers come from MPI's internal operational policy *Managing deficits and surpluses*.

Reviews of cost recovery settings will also be triggered if 'design' issues are identified. Design issues cover potential faults around:

- who should pay for services
- the scope of expenditure that is cost recovered
- the way in which costs are recovered
- the level of the charge.

An example of a design issue around the level of a charge would be an inconsistency in the amount charged for the same type of cost between different services.

MPI takes a principles-based approach to reviews, as set out in the 'Cost Recovery Principles and overall approach to cost recovery' chapter, to expenditure and revenue reviews and design issues.

5.5 MPI's services, charges, and the regulatory framework

5.5.1 How are cost recovery charges regulated?

Legislation allows MPI to recover costs in accordance with the Cost Recovery Principles of Transparency, Justifiability, Efficiency, and Equity (see below).

Regulations under each Act set out specific levies and fees.

5.5.2 How are cost recovery regimes reviewed?

In line with best practice guidance, MPI generally undertakes a review of expenditure and revenue at least once every three years. Additionally, MPI aims to set fees and levies at levels that ensure memorandum accounts trend towards zero over a three-year period. To achieve this, fees and levies may be updated outside of the normal three-year review cycle if a material surplus or deficit accumulates in a memorandum account.

Reviews of cost recovery settings will also be triggered if 'design' issues are identified. Design issues cover potential faults around:

- who should pay for services
- the scope of expenditure that is cost recovered
- the way in which costs are recovered
- the level of the charge.

An example of a design issue around the level of a charge would be an inconsistency in the amount charged for the same type of cost between different services.

MPI takes a principles-based approach to reviews, as set out in the 'Cost Recovery Principles and overall approach to cost recovery' chapter, to expenditure and revenue reviews and design issues.

On occasion, 'first principles' reviews are conducted to test whether MPI's cost recovery frameworks and legislation remain fit for purpose.

5.6 Goods and Services Tax (GST)

The fees and levies in this CRIS are GST-exclusive.

6 Cost recovery principles and overall approach to cost recovery

This section summarises MPI's cost recovery principles and the overall approach to cost recovery.

6.1 MPI's cost recovery principles

MPI's cost recovery principles are as follows:

- Transparency – costs are transparent
- Justifiability – costs are reasonable
- Efficiency – costs are recovered in a way that net benefits are maximised
- Equity – costs are recovered in a way that is fair.

These principles are set out in MPI's cost recovery guidelines,⁴ and most of MPI's legislation⁵.

The principles build on each other with Transparency and Justifiability providing a foundation to the consideration of, and sometimes trade-offs between, Efficiency and Equity. MPI can only cost recovery if it has sufficiently met the Transparency and Justifiability principles.

Once the Transparency and Justifiability principles have been met, the Efficiency and Equity principles state that the beneficiaries of a service should generally pay for that service. That is, beneficiaries pay 100% of the costs unless there is a strong efficiency or equity reason why they should not.

A more comprehensive description of the principles and how they relate to each other can be found in Appendix B.

6.2 Overall approach to cost recovery

6.2.1 Beneficiaries generally pay

Beneficiaries should generally pay for the services they demand and use. If the costs of services are subsidised by others, beneficiaries would demand more and higher quality services without concern for how those services are funded. The higher demand is an inefficiency, as it leads to more resources being used in the provision of services than their beneficiaries actually value or are willing to pay for.

Charging beneficiaries helps ensure that the quality and volumes of MPI services are not higher than is economically efficient.

6.2.2 When beneficiaries might not pay

Beneficiaries *might* not pay full costs in four situations:

Transparency and Justifiability

The first is where MPI has not sufficiently demonstrated that it is doing all it reasonably should to keep costs low (i.e. that it cannot meet the Transparency and Justifiability principles).

⁴ [Ministry for Primary Industries Cost Recovery Policy Guidance](#), MPI Information Paper No. 2018/08

⁵ This includes the [Agricultural Compounds and Veterinary Medicines Act 1997](#) and the [Animal Products Act 1999](#) which are relevant to the revenue and expenditure reviews, and to some design changes. The [Animal Welfare Act 1999](#) and [Biosecurity Act 1993](#), which are relevant to some design changes, name only equity and efficiency.

If MPI has not sufficiently demonstrated that past expenditure is justified, then write-offs might occur. If the Ministry has not sufficiently justified expected future expenditure, it may be appropriate for MPI to:

- change the fees or levies to a level that can currently be justified, and
- cover the remainder of costs, or
- recover the deficit from a future time period after further work has been undertaken;
- guarantee that fees/levies will not exceed a certain level over the next period, or
- charge fees at a fixed level, rather than variable charges, to encourage efficient service delivery.

Administration costs

The second is where the administrative costs of charging (e.g. invoicing, collection) are excessive compared to the revenue raised and the efficiency gain of precisely charging beneficiaries.

Externalities

The third is where there are externalities. Externalities are positive or negative impacts on third parties that result from the demand and supply of a good or service. MPI primarily deals with negative externalities. An example of a negative externality is when consumers demand, and importers supply, overseas products that create a biosecurity risk from the pest incursions on domestic farmers. In this example, charging importers for MPI activities around managing the negative externality encourages importers to reduce risk at their end and, therefore, the need for MPI services.⁶

Equity

The fourth is where the Government determines that there are equity (fairness) reasons as to why the Government, or some other party, should pay or contribute to costs. Equity involves value judgements. It will normally be considered fair that beneficiaries or exacerbators pay (in line with the Efficiency principle), but there may be reasons why the Government might want to make a contribution, e.g. because the Government wants to support small businesses or emerging industries, or because parties cannot afford to pay and the Government would rather not see parties stop operating.

⁶ The administration costs of charging to account for externalities is also relevant.

**PART ONE:
EXPENDITURE AND REVENUE REVIEWS**

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7 Moving away from Crown funding

7.1 The Food Act system is currently Crown funded

Services provided under the Food Act were always intended to be cost recovered but have been partially Crown funded to date.

Time-limited Crown funding was provided between 2015-2021 to support the initial implementation of the Food Act and to ensure early adopters were not penalised. Time-limited Crown funding ended in 2021. Baseline Crown funding has since returned to the level prior to the Food Act's implementation (approx. \$1.6m) which is only 22% of what is needed to sustainably deliver core regulatory services required by the Food Act.

Since time-limited Crown funding ceased, the Ministry for Primary Industries (MPI) has been significantly constrained in the level service it can provide. Many services have been scaled back, and in some cases stopped altogether, despite the services directly benefiting business (e.g. education and support). The current provision of services is not at a sufficient level to ensure the Food Act regulatory system is performing as intended.⁷

Services provided under the Act, where the user is getting a direct benefit, have been intended to be cost recovered. Attempts to move away from Crown funding had been delayed due to COVID and other issues including the increase in the consumer price index (CPI).

7.2 Moving to cost recovery

The CPI continues to be high⁸ at 4.7% as at December 2023. The proposal to cost recover for services is also within the context of the tight fiscal environment the Crown is expected to operate in.⁹ On balance, between concerns of high CPI rates, the tight fiscal environment, and having an effective Food Act system, MPI is recommending that seven services be cost recovered from beneficiaries. It is MPI's view that cost recovering for these services would ensure the Food Act is performing as Parliament intended.

The proposed food levies are estimated to raise \$7.143m per annum (average). If these costs are fully passed through to consumers, by the levied businesses, domestically produced food prices would increase by approximately 0.014% and imported food by 0.029%. The weighted price increase is estimated to be approximately 0.017%.

The option to move to a funding model that is partially Crown funded and cost recovered has been discounted. The reason is because these services are for private benefit and so should be cost recovered. The existing Crown funding for the services will end soon, and it has been made clear that in the current fiscal environment, additional funding would not be available.

⁷ See problem definitions for each service

⁸ The Reserve Bank of New Zealand is required to keep annual increases in the CPI between 1 and 3% on average over the medium term, with a focus on keeping future average inflation near the 2% target midpoint.

⁹ The Treasury's *Half Year Economic Fiscal Update 2023* 20 December 2023, notes that the fiscal outlook is expected to improve over the forecast period, but this improvement over time is underpinned by declining growth in core Crown expenses.

8 Cost recovery via an annual levy

The proposal is that services will be cost recovered via an annual levy. It is estimated that the levy will raise approximately \$7.143m per annum, beginning with a phased implementation from 2024/25. There will be two levies, one for domestic food businesses and the other on food importers. The table below sets the services covered by the levy and which business apply.

Table 6: Proposed services covered by proposed levies

Service name	Business levied
Domestic food safety and suitability rules	Domestic food businesses
Imported food safety and suitability rules	Food importers
Oversight of co-regulator systems and services	Domestic food businesses
Oversight of verification systems and services	Domestic food businesses & food importers
Business education and support services	Domestic food businesses & food importers
Identify and deliver nationwide interventions to raise performance	Domestic food businesses & food importers
Systems auditing	Domestic food businesses & food importers

As you will note, except for three services, all are services are paid for by both business groups. Those services that benefit both groups are proposed to be split based on the economic activity that the two groups undertake – 17.5% to importers and 82.5% to domestic food businesses. Food importers account for \$8.6 billion of food while domestic businesses account for \$40 billion. Services that will be provided through the Food Importer Levy will be targeted to benefit food importers and managing risks in the imported food system. This is to recognise the difference in requirements and activities that are undertaken between food importers and domestic food businesses.

The proposal is for domestic food businesses to be levied annually and per registered site. The table below sets out the levy per site from 2025/26 to 2027/28.

Table 7: proposed levy rates for domestic food businesses per registered site

	2025/26	2026/27	2027/28
Per registered site	\$57.50 per annum	\$86.25 per annum	\$115 per annum

Food importers will be levied based on the volume of food they import. However, unlike domestic food businesses, it is proposed that food importers will be levied from 2024/2025 financial year. The table below sets out the proposed levy rate.

Table 8: proposed per annum levy for food importers

Volume of imported food	Levy
0 – 118,500 kg	\$67.50 per annum
118,501 - 249,999 kg	\$0.57 per tonne
250,000 - 4,999,999 kg	
5,000,000 - 49,999,999 kg	
50,000,000+ kg	

It is expected that the levy on domestic food businesses, on average, raise \$5.690m, and the levy on food importers, on average, raise \$1.453m. The table below sets out how costs, on average are shared between the two business groups where they overlap.

Table 9: share of costs between domestic food businesses and food importers (24/25 – 26/27 average)

Service	Domestic Food Businesses	Food Importers
Domestic food safety and suitability rules	100% (\$1.680m)	
Imported food safety and suitability rules		100% (\$0.988m)
Oversight of TA co-regulatory services	100% (\$1.816m)	
Oversight of verification systems and services	82.5% (\$0.633m)	17.5% (\$0.134m)
Business education and support	82.5% (\$0.967m)	17.5% (\$0.205m)
Campaigns to reduce systemic non-compliance	82.5% (\$0.377m)	17.5% (\$0.080m)
Systems auditing	82.5% (\$0.217m)	17.5% (\$0.046m)
Total	79.6% (\$5.690m)	20.3% (\$1.453m)

8.1 Commentary on the domestic food business levy

In New Zealand, there are 39,000 registered food businesses that operate 44,800 sites across the country. MPI does not have information on the economic size of each individual business, and the level of benefit they individually receive from the services provided. Therefore, the proposal is to levy per registered site. Without knowing the level of benefit each business receives from services provided, to levy per registered site is the best proxy MPI has identified. The financial burden is likely to be more substantial for small businesses compared to larger ones; however, this cannot be confirmed as MPI lacks sufficient information to conduct this analysis.

The table below sets out the estimated per annum costs per site(s).

Table 10: estimated per annum levy by registered site

Number of sites	2025/26	2026/27	2027/28
1 site	\$57.50	\$86.25	\$115.00
2 sites	\$114.40	172.50	\$230.00
3-9 sites	\$172.50-\$517.50	\$258.75-\$776.25	\$345.00-\$1,035.00
10 – 49 sites	\$575.00-\$2,817.50	\$862.50-\$4,226.25	\$1,150-\$5,635.00
50+ sites	\$2,8750 and above	\$4,312.50 and above	\$5,750.00 and above

The table below summarises the business-level impact of the proposed Domestic Food Business Levy based on the number of sites registered currently. The total revenue below is lower than the \$5.690 million to be recovered annually from 1 July 2024. This is because MPI forecasts the number of sites to continue growing as they have done historically.

Table 11: estimated impact on domestic food businesses

Number of sites per registered business	Registered businesses	Total sites	Percentage of total domestic food businesses	Estimated costs	Percentage share of costs
1 site	32,445	32,445	91.9%	\$3,731,175	71.9%
2 sites	1,833	3,666	5.2%	\$421,590	8.1%
3-9 sites	889	3,592	2.5%	\$413,080	8.0%
10 – 49 sites	112	2,080	0.3%	\$239,200	4.6%
50+ sites	29	3,315	0.1%	\$381,225	7.4%
Total	35,308	45,098	100%	\$5,186,270	100%

The table below sets out the forecast for the domestic food business levy.

Table 12: forecast for the domestic food businesses levy

	\$m			
	2024/25	2025/26	2026/27	2027/28
Amount to recover (\$m)	-	2.712	4.198	5.777
Levy revenue raised	-	2.712	4.198	5.777
Surplus / Deficit	-	0.000	0.000	0.000
Closing balance (\$m)	-	0.000	0.000	0.000

8.2 Commentary on the food importer levy

To demonstrate the estimated impact of the proposed food importer levy, the table below provides an example of the impacts using a full year's data of imports from the 2023 calendar year, and the businesses that remained registered as at 31 December 2023.

Table 13: example of estimate impact of food importers levy using 2023 data

Volume of imported food	Number of businesses	Volume imported by business segment	Estimated revenue raised
0 – 118,500 kgs	3,127	39.107m kg	\$211,072.50
118,501 - 249,999 kgs	196	35,537m kg	\$20,188.00
250,000 - 4,999,999 kgs	346	435.564m kg	\$248,082.00
5,000,000 - 49,999,999 kgs	69	1.039b kg	\$592,434.00
50,000,000+ kgs	6	661.293m kg	\$376,938.00
Total	3,744	2.210b kg	\$1,448,714.00

Based on the volume of food imported in 2023, an example 2024/25 levy rate would have worked out to be an effective rate of \$0.00057 per kg of food imported, with a flat fee of \$67.50 for those importing between 0 – 118,500kg of food. However, this rate would be refunded as the volume of food imported increases.

The table below sets out the forecast for the food importer levy.

Table 14: forecast for the food importer levy

	\$m			
	2024/25	2025/26	2026/27	2027/28
Amount to recover (\$m)	1.418	1.453	1.484	1.32
Levy revenue raised	1.416	1.452	1.488	1.52
Surplus / Deficit	(0.002)	(0.001)	0.003	0.202
Closing balance (\$m)	0.002	0.003	0.000	0.202

It is proposed that the Food Importer Levy be introduced a year ahead of the Domestic Food Business levy.

Food importers are subject to verification only when there is a known issue, not routinely in the same way that most other food businesses are subject to regular verification (and the associated verification costs) to ensure operators understand and are meeting requirements. When sickness or product recalls occur, compliance investigations regularly show that importer’s knowledge about their responsibilities is weak, and food safety practices often poor. Monitoring will provide the majority data for assurance to be given to consumers and trading partners that importers are doing a good job; this currently is not possible.

The Food Importer Levy will be targeted to benefit food importers and managing risks in the imported food system. The Food Importer Levy, unlike the Domestic Food Business Levy, does not require enabling Territorial Authorities to become collection agents and therefore does not require additional time to implement.

The levy on food importers funds services that which benefit importers, including supporting importers to meet requirements more effectively, and addresses internal food safety matters. It assists MPI to implement the Office of the Auditor General recommendations on high risk imported foods.

8.3 Calculation of service levels

The cost of delivering each of the services has been calculated using a combination of direct experience from work carried out during the initial implementation project, and from equivalent services provided elsewhere in the food safety system.

The current service levels provided in the service descriptions and accompanying tables below reflect the current levels of investment. These levels are lower than the level of investment during the implementation project for the Act. To calculate the minimum level of service required, a combination of staff and non-staff costs have been considered, as well as the number and nature of the outputs each service will deliver in a typical year.

The domestic food safety and suitability rules, and imported food safety and suitability rules, rely on experienced staff engaging with industry, scientists, and legal professionals. From experience, MPI knows that the creation and maintenance of rules can vary widely,

both in the effort needed and the impact they have. Inserting a new card into the template Food Control Plans used by tens of thousands of food service and retail business is a large change. In contrast, allowing the new importation of beef products from a low-risk country, is a small change. The right size of these services has been informed by the known backlog of out-of-date rules that need improvement or new risks that need managing (these are listed below). While more staff would allow faster progress to address the backlog of work, the service level has been sized to tackle the backlog over the next three years. Future services level will be best informed when the levy rates are reviewed in the future and using information about the work required and industry needs.

The services that will provide oversight of co-regulatory systems and services, and oversight of verification systems and services, require direct and ongoing engagement with the organisations who deliver these services, clear performance expectations, practical support and co-ordination, and ongoing performance monitoring and reporting. Staff are required to deliver each of these functions. There are 67 Territorial Authorities and a further 16 private service providers. The effort needed has been estimated to deliver a basic effective service. Prior to the Food Act 2014, five staff delivered a smaller liaison function for the 67 Territorial Authorities across the country. The scope of the two oversight services includes liaison/support, but also adds training, performance expectations, and monitoring. The effort needed for these additional functions has been informed by similar work elsewhere in the food safety system, for example the quarterly calibration workshops that help to co-ordinate Animal Products Act verifiers.

Proactively Reviewed

9 Domestic food safety and suitability rules

9.1 Service description

It is proposed that this service will form a part of the levy on domestic food businesses. This service allows MPI to develop and maintain accessible risk and science-based rules for businesses that protect public health, ensure fair practices in trade, and make it easier for domestic food businesses to understand requirements.

The service provides template plans and programmes for businesses to assist them in complying with the rules. Translating the rules into multiple languages have also helped make it easier for those whom English is a second language to comply. The service aims to ensure that the rules are evolving as the food sector evolves, along with changes to consumer preferences.

9.2 Status quo and problem definition

Currently, the service has an annual cost of \$0.728 million and 4.5 staff members, and funded from Crown funding which will end. The service emphasises regular online engagement with the industry to gather feedback and insights.

This service maintains Food Act Notices, 14 of which contain the rules required to be met by 35,000 businesses, operating 44,800 sites. It also develops and maintains six templates (Simply, Safe and Suitable, National Programmes 1, 2 & 3, My Food Plan, and Cheesemaker's templates) which set out the steps businesses need to take to make safe and suitable food. The intention is that the rules and the templates are updated regularly to ensure they include all legal changes, continue to contain relevant information, are fit for purpose, and can be used by all stakeholders.

The most recent review amended the rules and templates to include:

- Including new recall requirements from the Food Safety Law Reform Act;
- Including new Plain English allergen labelling from the Food Standards Code;
- Adding mandatory fortification of flour with folic acid from the Food Standards Code;
- Improving guidance on the cooling food process, based on user feedback;
- Amending the pH range for acidified rice;
- Allowing businesses to prove their cooling and reheating methods to help reduce the number of records they need to keep.

Due to resourcing constraints, not all feedback could be addressed, and priority was given to the most urgent issues. Low resourcing also meant it took two years to complete these improvements. In terms of outputs, this service need is closer to two to three improvements per year.

The intended outcome is the development of rules to address issues within the food industry. However, urgent issues may take priority, overshadowing other important but less pressing tasks, so there is a risk that less effective or outdated rules may continue for extended periods, resulting in higher costs and inefficiencies.

Table 15: Backlog of known domestic food safety standards in need of review, maintenance, development or implementation

Production and process standards	
<ul style="list-style-type: none">• Plant-based and alternative proteins	<ul style="list-style-type: none">• Making biltong safely under a template food control plan

Production and process standards	
<ul style="list-style-type: none"> • Foods susceptible to Listeria 	<ul style="list-style-type: none"> • Carbohydrate and sugar claims
<ul style="list-style-type: none"> • Plain-English allergen labelling 	<ul style="list-style-type: none"> • Energy labelling on alcoholic beverages
<ul style="list-style-type: none"> • Formulated supplementary sports foods 	<ul style="list-style-type: none"> • Pregnancy warning labels on alcoholic beverages
Sector and industry standards	
<ul style="list-style-type: none"> • Internet trading platforms 	<ul style="list-style-type: none"> • Review and update risk-based measure sector categories
<ul style="list-style-type: none"> • More efficient and effective verification models for groups of businesses 	<ul style="list-style-type: none"> • Review and update scope-of-operations categories
<ul style="list-style-type: none"> • National grading scheme for food service businesses 	<ul style="list-style-type: none"> • Review and update processes-of-interest
<ul style="list-style-type: none"> • Easier to follow, more visual, National Programme templates 	<ul style="list-style-type: none"> • Food delivery services

One recent example of what is possible was the creation of a domestic standard for the safe cooking of medium-rare burgers in food service businesses. This was in response to businesses wanting to retain fashionable practices but that were being carried out in an unsafe way.

The current framework may delay the implementation of new technologies in New Zealand food businesses, impacting their growth and competitiveness in the global trade landscape. Businesses often struggle to navigate complex regulatory requirements, leading to uncertainty, inhibited growth, and missed opportunities for innovation and waste reduction. The current system falls short in adequately integrating new technologies and alternative production methods while ensuring rigorous food safety standards. For example, providing sufficient data to support the validation of high-pressure processing technologies.

9.3 Options

MPI identified the following options to address the problem be provided under this service. Costs identified in the table below are the annual averages from 2024/25 through to 2026/27.

Options for the service level of 'Domestic food safety and suitability rules'

	Status Quo Service Delivery	Option 1 (recommended)	Option 2
Cost	\$0.728 million	\$1.540 million	\$2.240 million
Resources (inputs)	4.5 staff. Regular online industry engagement.	8.3 staff. Regular online industry engagement. Occasional in-person industry engagement. Communication of rules, including translation when beneficial.	11.1 staff. Regular online industry engagement. Regular and high-quality in-person industry engagement. Communication of rules, including translation when beneficial. Data analysis and prioritisation.
Likely outputs	Each year 2-3 existing rules reviewed, with 2 improved.	Each year 2-5 existing rules reviewed, with 2-3 improved. Plus the development of 1-3 new rules to address emerging issues.	Each year 4-6 existing rules reviewed, with 3-4 improved. Plus the development of 2-4 new rules to address emerging issues.
Likely outcomes	Rules are developed to address urgent issues.	Deeper understanding of businesses' operating practices and business models. Rules are easier to understand. Compliance rates help to guide the future programme of improvements.	Businesses are engaged early, including exploration of the risk and on finding feasible solutions that are desirable to them and viable. Better integration of rules with the food safety system and other legislation. Compliance rates and industry feedback help to guide the future programme of improvements.

9.4 Assessment against the cost recovery principles

MPI considers that consultation on this proposed service is sufficient to meet the Transparency principle. Staff expertise and experience from previous rules development inform the effort needed to address un-resourced rules and to identify the alternate funding levels. MPI considers this meets the justifiability principle as the best available method of identifying the level of service required.

Charging users who utilise the rules created by NZFS supports economic efficiency, as it strengthens the incentive for businesses to provide feedback about areas of difficulty, reducing unnecessary compliance costs. This means the service provided will more appropriately reflect business needs. There are no administrative efficiency reasons to depart from full cost recovery.

Initially, the Crown funded this service during the implementation of the Food Act, so as not to disadvantage early adopters, but now that the Food Act regulatory system is fully applied, MPI do not see a rationale for continued Crown funding. The equity principle is met if beneficiaries of the service pay for it.

9.5 Consultation

From the submissions received, approximately 59% were not in favour of the proposed funding level for the service, and approximately 10% were uncertain about the proposed

increase. The remaining submitters viewed the proposed level of funding as appropriate. Submitters are of the view that:

- alternative funding mechanisms for small businesses with small profit margin should be put in place. Regulatory frameworks and fee structures should consider fairness and equal opportunities for businesses of all sizes. MPI needs to ensure transparency in government spending and explore ways to reduce financial pressure on businesses. Submitters also expressed the view that most businesses do not benefit from the guidance and tools provided by MPI, therefore it need to provide evidence or explanation regarding the benefits and effectiveness of the service.
 - MPI recognises there may be equity issues with the proposed fee structure. However, it does not have the information to create a fee structure based on the economic performance of food businesses. If MPI were to have the necessary data, consideration would need to be made whether it would be administratively efficient to structure the fee according to economic performance.. On the other hand, MPI does understand that the service provided is used equally by all food businesses. If the proposals are accepted, there may be an opportunity for MPI to understand the equitable impact of this service, and whether economic performance may indeed be the appropriate fee structure. This may be considered at the next opportunity to review this service.
 - Food safety risk is not a suitable way to structure these levies, as all businesses will benefit from these services broadly equally. For example, every business must register a plan or programme, and this is a common requirement for low, medium, and high-risk businesses equally. Providing a suite of up-to-date plans, programmes and guidance is part of these levy funded services. Food safety risk is also a poor proxy for business size or affordability, as there are large businesses that are low risk (eg freight) and small businesses that are high food safety risk (eg cafes).
 - In considering the proposals for cost recovery, they are assessed whether services are equitable, transparent, and justifiable. However, MPI acknowledges that it needs to demonstrate to businesses how the services they are paying for are performing and whether they remain relevant.
- Submitters are concerned the levy would add to the challenges businesses are experiencing from inflation and the post-COVID environment.
 - MPI acknowledges that the increase in the CPI and the post-COVID environment are presenting challenges for food businesses. The service is needed to ensure the Food Act is effective and businesses rules are efficient. As discussed earlier in this document, MPI estimates the weighted price increase to be approximately 0.017%.
- Submitters asked that MPI ensure transparency on spending and explore ways to reduce financial pressure on businesses. Submitters are of the view that most of them do not benefit from the guidance and tools provided, therefore, MPI needs to provide evidence or explanations regarding the benefits and effectiveness of these resources.
 - The Food Act 2014 requires that transparency be one of the criteria for when determining cost recovery options. The proposals have identified and

allocated as closely as practicable the costs and the provided services. However, MPI is considering options to provide additional information on how the spend from the proposed levy and performance of the services.

- Many food businesses perform well, but there are those who do not. It is MPI's experience that those who perform poorly rarely recognise this, until an event with consumers occurs.
- Submitters suggested that it may be easier for businesses to work with local councils rather than relying on MPI for guidance. Submitters asked for the effectiveness of guidance provided by MPI compared to support provided by territorial authorities.
 - As the agency responsible for administering the Food Act 2014, MPI is the only one that provide this service. While territorial authorities are also a regulator under the Act, and fulfil a critical role, but it is only MPI that can modernise the rules and ensure there is a coherent national messaging on food safety matters.

9.6 Conclusion

While there is recognition of the importance of food safety regulations, there is a clear divide regarding the method of funding and the perceived benefits of the proposed service. Many stakeholders advocate for a more equitable system that considers the financial constraints faced by small businesses and emphasises the tangible benefits derived from the service.

MPI recommends that the preferred option (Option 1) is implemented from 1 July 2024 for the Importer Food Business Levy.

10 Imported food safety and suitability rules

10.1 Background and service description

It is proposed that this service will be funded from the levy on food importers. This service develops and maintains accessible risk and science-based rules and templates that protect consumer health, ensure fair practices in trade, and make it easier for food importers to understand legislated requirements. As with the service provided on domestic food safety, the service ensures that importers can comply with the rules.

10.2 Status quo and problem

Currently, the service is provided by 1.3 MPI staff, and funded by the Crown at \$0.199 million. The service reviews one to two existing rules annually, with the potential for another rule to be reviewed. The intended outcome of this process is the development of rules to address urgent issues within the Food Act regulatory framework.

There is a possibility that less effective or outdated rules persist for prolonged periods, leading to increased costs for certain importers who may bear the burden of compliance with suboptimal regulations. A recent example is where MPI was aware that the rules for imported frozen berries were ineffective since 2015 but was unable complete sufficient work to improve these rules in time to prevent the outbreak in 2022/23. During this outbreak 39 people became seriously ill with Hepatitis A from imported frozen berries, half of whom were hospitalised which burdened the taxpayer hundreds of thousands of dollars in healthcare cost. In addition, the importer and retailer had to conduct a high-profile public recall of product at huge expense and caused significant reputational damage to both them and similar businesses.

Currently levels of services are not effective. This has resulted in a backlog of imported food safety risks, requiring the development of new rules and improvements to existing ones. Current levels are insufficient to address this backlog or enhance regulatory effectiveness.

Table 16: Backlog of known food safety standards in need of review, maintenance or development

High-risk foods in need of review	
• Tahini and crushed sesame	• Fresh pasteurised cheese
• Raw milk cheeses	• Smoked ready-to-eat fish
• Histamine susceptible fish	• Fermented meat products
• Bivalve molluscan shellfish	• Puffer fish
• Ready-to-eat crustaceans	• Pepper, paprika, chilli
• Peanuts and pistachios	
Emerging risks in need of assessment/management	
• Raw pork	• Highly caffeinated foods and drinks
• Raw chicken	• Cyanogenic foods.
• Enoki mushrooms	• Foods at high risk of fraud
• Chemicals in aqua-cultured seafood	• Seaweed foods
• Dates	• Permitted ingredients in sports supplements
• Kava	• Melons

The work required to review, improve or develop new imported food rules is variable, and can include: engaging with industry, carrying out risk assessments, risk profiling, analysing trade data, commissioning and reviewing research, developing risk management proposals, engaging with overseas markets, managing targeted or public consultations, and managing World Trade Organisation notifications.

In addition, effective management of imported food risks is crucial for protecting New Zealand's reputation for delivering safe and suitable food products globally.

10.3 Options

MPI have identified the following options to address the problem be provided under this service. Costs identified in the table below are the annual averages from 2024/25 through to 2026/27.

Typically, one experienced staffer can complete 1-2 rules per year. One skilled staffer costs approximately \$150,000 per year. Allowing for management overhead, the recommended funding levels, over three years, would allow review and improvement of 6-12 rules, and 3-9 new risks to be assessed/managed. This would allow MPI to clear the backlog of work. An ongoing work programme is expected after three years, although the content is less evident at this time, but new risks and issues will occur.

Options for the service level of 'Imported food safety and suitability rules

	Status Quo Service Delivery	Option 1 (recommended)	Option 2
Cost	\$0.199 million	\$1.121 million	\$1.526 million
Resources (inputs)	1.3 staff.	6.6 staff, as well as dedicated research, travel and communication costs associated with development of rules.	8.8 staff, as well as dedicated research, travel and communication costs associated with development of rules.
Outputs	Each year 1-2 existing rules reviewed, with up to 1 improved.	Each year 2-4 existing rules reviewed, and 2-3 improved. Development of 1-3 new rules to address emerging issues.	Each year 3-5 existing rules reviewed, and 2-4 improved. Development of 2-4 new rules to address emerging issues.
Outcomes	Rules are developed to address urgent issues.	Stronger engagement with importers on developing rules that affect them. Rules are easier to understand. Importers have access to all rules. Importer's confidence in their compliance is enhanced.	As with option 1, with greater capacity to engage with importers on the design of rules.

10.4 Assessment against the cost recovery principles

MPI considers that consultation on this proposed service is sufficient to meet the Transparency principle. Staff expertise and experience from previous rules development inform the effort needed to address un-resourced rules and to identify the alternate funding levels. MPI considers this meets the justifiability principle as the best available method of identifying the level of service required.

This service could be levied on a product value or volume basis using information provided at point of import. It would mean that importers who import more products more frequently

would pay a higher cost. This more appropriately reflects the benefit an importer receives from a strong import system than charging all importers an equal amount regardless of scale. The equity principle is met if beneficiaries of the service pay for it.

10.5 Consultation

From the submissions received, approximately 45% disagreed with the proposed levy for the service, 46% were unsure of the proposal, and 9% found the proposed levy appropriate. Submitters are of the view that:

- their concerns about the timing and the necessity of introducing a levy have not been addressed.
 - The service was previously funded by Crown funding. The move to cost recovery is necessary as Crown funding is expiring, and importers benefit from the service. Also, the Auditor-General recently published its report into the import of specified high-risk foods.¹⁰ The report makes three recommendations:
 - MPI take a more proactive approach to identify non-compliance with requirements for importing specified high-risk foods by regularly collating and evaluating information about importers and imported food.
 - MPI further improve its understanding of the information that importers need to improve their compliance with requirements for importing specified high-risk foods; and the most effective way of informing importers.
 - MPI strengthen the system for controlling the import of specified high-risk foods by ensuring that it has the information it needs to regularly review the requirements for importing specified high-risk foods so that they are appropriate, clear, and working as intended; and detect food safety risks earlier, better understand them, and respond more effectively.
 - The proposed levy would enable MPI to carry out the recommendations from the Auditor-General's findings, for this service – recommendation two.
- Submitters questioned how costs have been determined for this service.
 - MPI has set out in the discussion how costs have been determined. Also, as set out in the document, there is a backlog of rules that need to be updated. MPI is of the view that the increased level of staffing would ensure a more effective service. However, with MPI moving these services for being fully cost recovered, it is recommended that a review of all cost recovered services under the Food Act 2014 be undertaken within a year or two of the current proposal's implementation.
- Submitters are of the view that imported foods are heavily regulated and are unsure how MPI would ensure that businesses understand the value and necessity of regulations and tools.

¹⁰ Monitoring importers of specified high-risk foods" Controller and Auditor-General, 9 February 2024
<https://oag.parliament.nz/2024/food-safety>

- As noted above, MPI recommends that a review of all cost recovered services under the Food Act 2014 be undertaken within a year or two of the current proposal's implementation. Also, as noted in the Auditor-General's findings, MPI needs to develop a better understanding of how to ensure importers are complying. MPI is of the view that the proposed levy on food import business would assist with this.
- Submitters are of the view that not all food import business benefit from MPI's guidance, therefore the imposition of a levy is not justified.
 - MPI does not have the information to determine the uptake of its services are for importers. As per recommendation three in the Auditor-General's report, MPI needs to collect the right information to assess whether controls are working. MPI is of the view that the level of cost recovery proposed would enable it to engage with importers and modernise the rules. Also, in lieu of other information available, the proposed levy method for importers, based on tonnage, is equitable.

10.6 Conclusion

There is a clear divide in opinion regarding the proposed imported food safety and suitability rules. While some stakeholders advocate for the implementation of the service with certain modifications, others question its necessity and raise concerns about the financial implications for businesses and consumers. Further consideration and potential adjustments may be necessary to address these divergent perspectives.

MPI's own compliance investigations has shown that importer's knowledge of the risks their actions create for consumers and their legal responsibilities are often poor. The services that would provide data that proves otherwise are part of the proposed services. MPI considers too many importers food safety performance is unacceptable but lacks data to know in what ways and to what extent.

MPI recommends considering adjustments to the proposed imported food safety and suitability rules, including exploring improving communication, offering flexibility, and continuing collaboration with stakeholders for a more inclusive framework.

By addressing these considerations and making appropriate adjustments to the proposed service, it's possible to bridge the divide in opinion and create a more inclusive and effective framework for imported food safety and suitability rules.

Once the above considerations have been accounted for MPI's recommends Option (1) as it best meets the cost recovery principles.

11 Oversight of co-regulator systems and services

11.1 Background and service description

MPI is responsible for the administration of the Food Act, including oversight of co-regulatory partners in delivering their functions. This service maintains the national register of all registered food businesses and works with Territorial Authorities to support them to fulfil their regulatory roles. It is proposed that this service will be funded from levies on both domestic food business and food importers.

11.2 Status quo and problem definition

Currently the service is provided by 1.2 staff members, funded by the Crown at \$0.178 million. The primary focus of this service is in managing the national register of food businesses. This entails providing technical support for the Registry IT system to Territorial Authorities. Additionally, the outcomes of this system include conducting trend analysis based on self-reported registry and enforcement data to identify national trends in food safety.

Across New Zealand, there exist 67 Territorial Authorities, or local councils, each serving as a legal co-regulatory partner with designated responsibilities for registry and enforcement within their jurisdictions. In the event of a co-regulator failing to fulfil these duties, poorly performing food businesses may pose significant risks to public health. Presently, there are no established performance standards for Territorial Authorities, and insufficient monitoring and support mechanisms are in place for local councils.

MPI urgently requires the ability to track the performance of Territorial Authorities against clear benchmarks to identify issues proactively before they escalate into significant or unforeseen problems. The current levels of service do not permit the development of performance standards or enable robust oversight of co-regulator systems and services, leaving critical gaps in the regulatory framework.

One problem MPI has noted is that only 4 out of 68 registration authorities have all their food businesses fully up to date with their verifications.

11.3 Options

MPI have identified the following options to address the problem be provided under this service. These include:

Options for the service level of 'oversight of co-regulator systems and services'

	Status Quo Service Delivery	Option 1 (recommended)	Option 2
Cost	\$0.178 million	\$1.820 million.	\$2.562 million
Resources (inputs)	1.2 staff. Running the national register of food businesses.	7.8 staff, as well as travel and engagement costs. Running the national register of food businesses and supporting systems.	11.7 staff, as well as travel and engagement costs. Running the national register of food businesses and supporting systems.
Outputs	Registry IT system technical support available to Territorial Authorities.	National performance rules. Monitoring and audit of co-regulatory partner performance.	In addition to Option 1, Option 2 will improve local services by strengthening the support in place for Territorial Authorities.

	Status Quo Service Delivery	Option 1 (recommended)	Option 2
		Training, support, and co-ordination. Engagement with Territorial Authority leaders for ongoing accountability.	
Outcomes	Trend analysis of self-reported registry and enforcement data identifies national trends.	Businesses are treated consistently throughout the country regardless of location. Local, and national performance issues are identified early and widely reported. Creation of national compliance priorities for food businesses to co-ordinated system response.	In addition to Option 1, Option 2 will find suitable solutions any national performance issues identified.

11.4 Assessment against the cost recovery principles

MPI considers that consultation on this proposed service is sufficient to meet the cost recovery transparency principle. The National Register noted is in place already, and so actual costs have been used. Staff have been costed based on MPI pay bands, and Option 1 has been recommended to minimise the possibility of levying costs in excess of what is required to deliver the service.

The information provided aligns with the cost recovery transparency principle, as it utilises actual costs associated with the existing National Register. Staff costs have been calculated based on MPI pay bands, and Option 1 has been proposed to mitigate the risk of levying costs exceeding those necessary to deliver the service effectively.

For the oversight of co-regulator systems and services, charging Territorial Authorities appears to be the most efficient approach, given that they are the direct recipients of these services. By doing so, Territorial Authorities are encouraged to only request services that hold value for them and cannot be provided at a lower cost internally. On the contrary, imposing fees on food businesses doesn't align well with economic efficiency. Unlike Territorial Authorities, food businesses lack the ability to influence the consumption of services, potentially leading to overconsumption. It is also to be noted that this issue extends to general taxpayers as well, although food businesses tend to be more direct beneficiaries of such services.

Legally, recovering costs directly from Territorial Authorities, the primary beneficiaries, isn't feasible. Consequently, both Crown funding and charging food businesses have drawbacks in terms of accurately attributing costs to beneficiaries. If food businesses bear the costs, those registered with Territorial Authorities would benefit more from the service compared to those registered with NZFS.

11.5 Consultation

There were 167 submissions made regarding this service. Approximately 57% of submitters disagree with the proposed level of funding, 37% are unsure, and 6% agreed with the proposed level of funding for the service. Submitters are of the view that:

- MPI needs to provide clear evidence and justification for the necessity of oversight of co-regulator systems and services, addressing scepticism and demonstrating how proposed changes will improve efficiency or effectiveness.

- MPI is of the view that the service will help support nationally equitable and effective delivery of registry and enforcement services, across all 67 Territorial Authorities. Registry services ensure all regulated business are correctly regulated based on their food safety risk. Enforcement services tackle poor performing business and help to maintain public trust in all food businesses.
- Submitters expressed concerns about cost and equity and the implications of proposed changes, particularly for small businesses, and ensure that any levy structures are perceived as equitable and fair.
 - MPI does not have the information on the economic performance of food businesses. Taking a food site approach is the most equitable approach.
- Submitters are of the view that MPI needs to clearly communicate the expected benefits and outcomes of proposed changes, including how success will be measured and what stakeholders can expect as a result of the changes.
 - MPI's view is that the increased service would enable it to engage with territorial authorities to build relationships and clarify accountabilities. Deliver national performance outcomes for Territorial Authorities. Audit, measure, monitor and report Territorial Authority performance. Deliver regional operational training, support, guidance, and coordination. Monitor food business' compliance trends and co-ordinate national operational priorities.
- Submitters are of the view that consideration needs to be made whether a middle ground between the status quo and proposed options might be more feasible and acceptable to stakeholders.
 - As discussed earlier in this document, Crown funding for services will end soon. Due to the tight fiscal environment, additional Crown funding will not be available.

11.6 Conclusion

Overall, there is a clear divide in opinion regarding the proposed funding and service level for oversight of co-regulator systems and services. Further consideration and potential adjustments may be necessary to address the concerns raised by stakeholders and ensure a more balanced and effective approach to oversight.

12 Oversight of verification systems and services

12.1 Background and service description

Businesses are responsible for providing safe and suitable food. Verification provides business with assurance they are meeting their obligations under the Food Act, and consumers with confidence that compliance issues are identified and addressed. Business verification is a cornerstone of the food safety assurance system. Most food businesses must be routinely verified, though some low-risk businesses do not require ongoing verification.

This service will support national consistency of verification services, including by providing further training for verifiers.

12.2 Status quo and problem definition

Currently, the service is provided by 1.2 staff members, and Crown funded at \$0.294 million, supplemented by provisions for travel and engagement expenses. This service focuses on facilitating verifier access to online training materials and overseeing the Continuous Professional Development program. As a result, new verifiers can receive training and attain recognition within the field.

Evolving verification needs may outstrip current verifier capabilities over time, potentially limiting access to effective and affordable services, and compromising the integrity of the food safety system. Additionally, alignment between verifiers from Territorial Authorities and private service providers may remain inconsistent for certain businesses, further complicating the delivery of verification services.

Inconsistent verification practices within the Food Act framework risk uneven outcomes and disparate costs for businesses. The absence of performance benchmarks for verification services necessitates their implementation, alongside comprehensive training, and support for verification personnel. While the Food Act mandates verification, businesses require accessible and reasonably priced services tailored to their technical needs and meeting minimum quality standards. However, the current competitive market for verification services may not consistently deliver on this goal due to factors such as limited competition in certain areas, niche technical requirements, and challenges posed by New Zealand's small size. As a result, businesses may face varying quality and costs of verification, potentially increasing compliance burdens or compromising public health.

All recognised verifiers must complete Continuous Professional Development to maintain their legal recognition. Currently only 67% have carried out a self-assessment of their learning needs, and only 64% and completed a learning plan. The increased service levels would support operational alignment across 380 individual verifiers and 83 verification agencies; develop verifier training materials and manage the national Continual Professional Development programme; and monitor the provision of verification services to identify if any service gaps or unreasonable cost barriers occur.

12.3 Options

MPI have identified the following options to address the problem be provided under this service.

Options for the service level of 'oversight of verification systems and services'

	Status Quo Service Delivery	Option 1 (recommended)	Option 2
Cost	\$0.294 million	\$0.766 million	\$1.002 million
Resources (inputs)	1.2 staff, as well as travel and engagement costs.	4.7 staff, as well as travel and engagement costs.	5.9 staff, as well as travel and engagement costs.
Outputs	Facilitate verifier access to online training materials. Monitor and manage the Continuous Professional Development programme.	Review and update training materials Deliver 1-2 new or overhauled training programmes per year. Host 2-3 national verifier webinars annually. Maintain processes and rules for the recognition of verifiers, including agency accreditation. Monitor national services and identify supply gaps. Limited sponsorship and annual conference for Territorial Authority verifiers. Independently review verifier reports, and undertake verification agency audits.	In addition to the outputs provided by Option 1, Option 2 will: Develop 2-3 new or overhauled training programmes per year. Host a national conference for all Food Act verifiers. Investigate alternative verification methods with potential to reduce costs for food businesses.
Outcomes	New verifiers can continue to be trained and get recognised.	Consumers are assured that business compliance is independently checked by skilled professionals, and poor performance is addressed. Core verifier capabilities are consistent across the country, so businesses are all treated fairly. Training is developed so industry can access reasonably priced services. Poorly performing verification service providers are identified and issues resolved.	In addition to the outcomes of Option 1, Option 2 will see stronger leadership and adaptation for future verifier workforce capability needs.

12.4 Assessment against the cost recovery principles

MPI considers that consultation on this proposed service meets the transparency and justifiability principles as the costs and outputs are able to be interrogated for reasonableness by potential levy payers.

Economic efficiency supports charging Verification Agencies for this service and typically assumes that it is most efficient to charge those who have the ability to affect the level of demand for the service. Charging verification agencies would provide an incentive to improve the quality of verification as this will reduce the need for the service. However, the Food Act does not allow the levying of Territorial Authorities. This leaves the option of Crown funding or levy funding from businesses who get verified. Crown funding would support economic efficiency, as NZFS would be incentivised to manage funding pressures against competing demands for Crown funding.

Equity considers whether the beneficiaries are paying for services in proportion to the level of effort received. This would support charging food businesses who get verified (rather than Crown funding through general taxpayer funding). NZFS does not have information at point of registration on the frequency of verification a business does or will receive. A close proxy is the average verification rate that a class of food businesses gets verified (i.e. National Programme 1 businesses are on average verified at a lower rate than National Programme 3 businesses).

12.5 Consultation

Approximately 53% of submitters opposed the proposed level of funding for this service, 39% remain undecided, and 8% are in support. Submitters expressed the view that:

- They are concerned about the overall cost of the proposed changes and suggested that the scheme should be more cost-efficient or funded by the government.
 - As discussed earlier in this document, Crown funding for services will end soon. Due to the tight fiscal environment, additional Crown funding will not be available.
- Submitters are of the view whether it is necessary to have oversight of verification systems and services, with submitters expressing doubts about the clarity of the problem being addressed and the effectiveness of additional regulation.
 - MPI is of the view that oversight of verification system and services is necessary due to the critical role they play in the food system. A majority of registered food businesses must be routinely verified, and buy this service from one of 193 Verifiers, working for 83 different verification agencies. Without sufficient checks, MPI could not give assurance to the public of national compliance.
- Submitters are of the view that MPI should address concerns about the overall cost-effectiveness of the proposed changes and explore ways to make the scheme more cost-efficient while still meeting regulatory objectives.
 - MPI is of the view that the current level of the service is not achieving the regulatory objectives of the Food Act. An increase in the level of staffing and services is likely to improve regulatory performance. Also, as indicated earlier in this document with MPI recommends that a review of all cost recovered services under the Food Act 2014 be undertaken within a year or two of the current proposal's implementation. Such a review would provide a complete picture on regulatory performance, whether services provided are indeed appropriate, and the level of service needs to be adjusted.
- Submitters are of the view that alternative funding mechanisms should be considered, such as government funding or volume-based levies, to address concerns about the fairness and affordability of the proposed charges.
 - MPI has discussed Crown funding, see above. In terms of other mechanisms, food import businesses – the proposal is to levy by tonnage, and domestic food businesses by food sites. With the information available to MPI, this is the most equitable way to cost recover.

12.6 Conclusion

Further consideration and potential adjustments may be necessary to address the concerns raised by stakeholders and ensure a more balanced and effective approach to oversight.

Proactively Released

13 Business education and support services

13.1 Background and service description

This service will ensure ongoing development and maintenance of content and tools to help guide food businesses to find and implement the rules that apply to them.

13.2 Status quo and problem definition

In the current service delivery, resources totalling \$0.318 million are allocated, sustaining a workforce of 2.1 staff members.

This operational model relies primarily on email and phone channels to address inquiries from businesses. Outputs include responding to queries received through these channels, ensuring that businesses can seek answers to questions relevant to their operations. Nealy 800 enquiries were received from businesses in the year to date.

The effectiveness of the service hinges on businesses proactively reaching out with their inquiries, potentially leaving those unaware of the service without necessary support and education, consequently increasing their risk of poor food safety performance. There are over 35,000 businesses who would be able to access support.

During periods of high demand, lengthy wait times for responses may ensue, leading to delays in business activities and increased costs, thereby disincentivizing businesses from seeking assistance when needed.

The multitude of food safety regulations presents a daunting task for businesses to identify and apply relevant rules, leading to inadvertent non-compliance and associated costs. With regulations dependent on specific products and processes, businesses struggle to navigate this complex landscape. Additionally, businesses must navigate various regulatory processes, from registration to verification.

Continuous demand for education arises as new businesses enter the market and existing ones close; the national turnover rate is approximately 20% annually. This requires ongoing funding to maintain and disseminate relevant and up-to-date guidance materials.

13.3 Options

To support businesses to confidently identify and comply with their requirements, MPI propose a multi-channel service that any food business can access. This will fund the development and maintenance of content and tools to help guide food businesses to find and implement the rules that apply to them.

MPI has already created tools to help business quickly and confidently know which risk-based measure they fit in - [My Food Rules](#) - which reduces the time it takes to successfully register and operate legally. My Food Rules is a web-based tool that requires analysts and software specialists to maintain the built-in logic and test the results it provides (approx. \$280k pa).

To reduce the cost of Custom Food Control Plan evaluation, MPI has built and provides the [My Food Plan](#) service (approx. \$120,000 pa). Pre-evaluated procedures can be selected to suit many common business operations, and after validated, can save the business up to \$25k and 9 months in evaluation costs they'd otherwise have to pay to develop a Custom Food Control Plan.

MPI worked with food service and retail businesses to publish Simply, Safe & Suitable, to save them time and money. To improve confidence, these were translated in to 8 languages commonly spoken in cafes, restaurants and shops around New Zealand. These were provided free to businesses on request. However, the translated versions are no longer valid, and changes have been made to the base standard, and there's insufficient funding to update the translated versions. It costs between \$10,000 to \$17,000 to translate Simply, Safe & Suitable into another language.

Business education and support will help businesses understand the rules that apply to them, in ways that meet their needs. Guidance will target all business stages such as expanding or moving site and will be co-designed with businesses to make them easier to use. Increased support and guidance will help lift business' confidence that they know what to do to successfully meet food safety, even during times of change and growth.

An initial suite of effective guidance was provided through the Food Safety Toolkit, which was posted to all Simply Safe & Suitable template businesses – free of charge in 2018. The Toolkit included posters, magnets, games and a magazine to help businesses on a range of useful food safety topics, such as staff training. Additional collateral can be downloaded or purchased online, along with a range of helpful informative videos.

Email and phone enquiry channels will continue to be provided, with trained advisers remaining available to answer enquiries from food businesses. In the year to date, MPI received 778 enquiries on a wide variety of topics.

NZFS already responds to business enquiries, and this is currently Crown funded, which is the status quo below. Costs identified below are the annual averages from 2024/25 through to 2026/27.

Options for the service level of 'business education and support'

	Status Quo Service Delivery	Option 1 (recommended)	Option 2
Cost	\$0.318 million	\$1.171 million	\$1.739 million
Resources (inputs)	2.1 staff. Email and phone channels.	6.8 staff. Email and phone channels. Travel, logistics and venue hire.	9.7 staff. Email and phone channels. Travel, logistics and venue hire.
Outputs	Email and phone replies to businesses' enquiries.	Digital and print guidance material. Targeted outreach and engagement. Promote NZFS guidance and services in targeted media, e.g. industry magazines. Key collateral translated into key user languages when needed. Maintain online tailoring tools, like My Food Rules and My Food Plan.	In addition to the Outputs provided by Option 1, Option 2 seeks to engage at industry events and conferences. Expanded outreach of guidance material.
Outcomes	Businesses can seek answers to questions that apply to them.	Businesses can identify the rules that apply to their type of operations. Greater confidence reduces uncertainty and leads to fewer enquiries for targeted guidance topics.	Businesses can easily search and filter for rules specific to their context and operations. Increased confidence and accessibility of information reduces enquiries.

13.4 Assessment against the cost recovery principles

Based on current resourcing levels, advisors are prepared to respond to business inquiries, with additional service components delivered based on past experiences, forming the basis for cost calculations. MPI are confident that the level of service provision is appropriate. MPI consider this to meet the transparency and justifiability principles.

Guidance provided may not directly benefit all businesses, as it can be sector-specific, rule-specific, or tailored to certain stages of a business's lifecycle. While it would be economically efficient to charge businesses directly for inquiries, administrative inefficiencies arise from invoicing each business individually compared to a single funding source for the service.

Administrative efficiency favours charging businesses generally for costs, assuming that all businesses benefit from at least one education or support guide over time. Identifying specific beneficiaries presents practical challenges, making departure from full cost recovery impractical despite potential equity concerns.

There may be some equity concerns from the risk of levying businesses who do not benefit from the education and support, however MPI consider it would be impracticable to identify these businesses. As such, MPI do not suggest departing from full cost recovery for the service.

It would be equitable to only charge businesses that enquire for the cost of answering. However, charging fees for answers would likely disincentivise many businesses from asking questions. This may lead to higher rates of non-compliance as businesses may not enquire about perceived issues. Non-compliance may expose consumers to greater risk of harm and placing New Zealand's trading reputation at risk. On balance, the positive externalities generated from higher compliance is a sufficient reason to not charge a user-pays service.

13.5 Consultation

From the submissions received, approximately 57% of submitters disagree with the proposed increases to this service, while 33% are unsure, and 10% are in support. Submitters are of the view that:

- Submitters expressed challenges in keeping pace with regulatory changes, underscoring the necessity for targeted guidance and a more user-friendly website interface to facilitate better understanding and compliance.
 - The increased level of staffing for this and other services may improve the quality of guidance and facilitate better understanding and compliance.
- Submitters are of the view that funding for the service should be Crown funded, implying a preference for public funding to support regulatory initiatives.
 - As discussed in this document, Crown funding for services will end soon. Due to the tight fiscal environment, additional Crown funding will not be available.
- Submitters are of the view that the status quo be maintained, asserting that current services and associated costs are adequate and sufficient to meet regulatory needs without necessitating further expansion or adjustment.

- Submitters are doubtful about its potential effectiveness in supporting businesses or aiding compliance with regulatory requirements. These concerns underscored the need for a clearer understanding of the service's intended benefits and outcomes.
 - MPI is of the view that the current staffing levels of the service are not adequate. However, MPI recommends that a review of all cost recovered services under the Food Act 2014 be undertaken within a year or two of the current proposal's implementation. Such a review would provide a complete picture on regulatory performance, whether services provided are indeed appropriate, and whether the level of services provided need to be adjusted.

13.6 Conclusion

Further consideration and potential adjustments may be necessary to address the concerns raised by stakeholders and ensure a more balanced and effective approach to providing assistance to businesses.

Proactively Released

14 Identify and deliver nationwide interventions to raise performance

14.1 Background and service description

This service will identify areas of low national performance, investigate drivers of performance to target and work with co-regulatory partners to develop and deliver national interventions through education, assistance, and deterrence.

Allows national campaigns and information for businesses – chance to avoid duplication of campaigns; address poor performance; public trust that the food system is performing and keeping vigilant on issues. Example: allergen management – consistently poor compliance across domestic and imported food. Too many of them are struggling, an education campaign would help. Ensures businesses can benefit and comply with good practice; and those with poor practices could improve.

14.2 Status quo and problem

Currently this service is not provided. The analysis of nationally reported data, including verification, monitoring, and enforcement data, enables the measurement of compliance rates with food safety rules. This analysis reveals patterns of non-compliance among businesses, highlighting areas where adherence to regulations is lacking. However, if NZFS lacks sufficient resources to address performance issues, businesses may persist in operating poorly, thereby posing potential food safety risks to consumers. Additionally, continued non-compliance jeopardises the collective reputation of businesses, which may have far-reaching implications for consumer trust and public health.

14.3 Options

To address the problem this service will identify areas of significant national poor performance, investigate drivers of performance, and work with co-regulatory partners to develop and deliver proactive national level operations that lift the rate of business compliance – including education, assistance, and deterrence.

Proactively finding and tackling areas of widespread low performance will lift consumers’ trust in food safety regulation and protect the reputation of well-performing businesses. This is more than would be achieved by responding only to complaints and reacting to issues after they occur.

NZFS does not currently provide this service. Continuing without the service is the status quo below. Costs identified below are the annual averages from 2024/25 through to 2026/27.

Options for the service level of ‘identify and deliver nationwide interventions to raise performance’

	Status Quo	Service Delivery	Option 1 (recommended)	Option 2
Cost	Not provided currently.		\$0.458 million	\$0.792 million
Resources (inputs)	None.		2.5 staff. Travel, logistics and venue hire. Publication, printing, postage, and media.	4.1 staff. Publication, printing, postage, and media. Researchers and specialist expertise

	Status Quo Service Delivery	Option 1 (recommended)	Option 2
		Researchers and specialist expertise	Travel, logistics and venue hire.
Outputs	None.	1 targeted operation per year. Behavioural and social research and investigations. Digital and print resources. Proactive media messaging. Virtual events and promotions.	2 targeted operations per year. Extensive behavioural and social research and investigations. Digital and print resources. Proactive media messaging and engagement. Targeted physical events and promotions.
Outcomes	None.	Improved national rate of compliance. Consumers are better protected from harm.	Proactive engagement with hard-to-reach groups increases overall operation effectiveness and protects consumers from harm.

14.4 Assessment against the cost recovery principles

NZFS has first-hand experience in developing information collateral and delivering engagement and media campaigns. While different, the intervention behind compliance operations is similar enough that staff experience can be used to estimate the costs to identify and address non-compliance. As such, MPI consider the information above to meets the cost recovery transparency and justifiability principles.

Not all operations will directly benefit all businesses. For example, operations can be sector specific, rule specific, or aimed at a point in the supply chain.

It would be administratively inefficient to accurately attribute costs to specific beneficiaries of individual operations. Assuming that over the medium term, all businesses will receive benefits, and that it is impractical to identify which businesses receive more or less benefit, all businesses who take part in the broader food system are proposed to be levied.

Levy funding a service which would disproportionately target areas of non-compliance could be seen to benefit only those that are non-compliant. However, as all businesses benefit from a robust system, on balance MPI consider equity considerations support full cost recovery for the service.

14.5 Consultation

Approximately 54% submitters disagree with the proposed need for this service, 38% are unsure, and 8% agreed with the proposal. Submitters stated:

- concern about additional the costs, questioned the efficiency of the proposed nationwide interventions, and suggested that the current system lacks efficiency to justify extra expenses.
 - MPI's view is that services under the Food Act are not at the appropriate level. The additional staffing and the introduction of this service may improve performance in the food system and assist business to better understand issues as they arise.
- Submitters are of the view that Crown funding should support nationwide interventions to lighten the burden on businesses.

- As discussed in this document, Crown funding for services will end soon. Due to the tight fiscal environment, additional Crown funding will not be available.
- Submitters are concerned that the proposed levy is based on earnings, or the cost of intervention costs should be placed on non-compliant entities.
 - MPI does not have the information to levy businesses by their economic performance. The proposed levy structure is equitable within these limitations. It is MPI's view that this service will benefit all businesses operating under the Food Act. The intervention is not designed to solely be an enforcement mechanism, but an intervention to improve performance of all businesses, for example, providing specific information on food allergens.
- Submitters sought proposals for alternative solutions, such as clearer rules, online resources, or penalizing non-compliant businesses instead of imposing costs on compliant ones.
 - MPI recommends that a review of all cost recovered services under the Food Act 2014 be undertaken within a year or two of the current proposal's implementation. Such a review would provide a complete picture on regulatory performance, whether services provided are indeed appropriate, and whether the level of services provided need to be adjusted.
- Submitters requested clarification on proposed interventions, seeking details on specific actions or measures and their implementation.
 - If the proposals are accepted, MPI would identify areas of significant national non-compliance, investigate the cause, and develop a strategy to address it. MPI would work with co-regulators to deliver proactive and co-ordinated campaigns to raise business compliance, which includes education, assistance, deterrence, and enforcement.

14.6 Conclusion

Overall, concerns revolved around financial burden, effectiveness, responsibility, clarity, and alternative solutions related to the proposed interventions.

15 Systems auditing

15.1 Background and service description

This service will undertake audits to enable NZFS to provide assurance regarding specific food sectors, or issues. The service would create data that around which system performance measures could be developed.

15.2 Status quo and problem definition

At present, there is no resources or inputs allocated toward this service. Crown funding allowed temporary systems auditing during the transition to the Food Act regulatory system, but this time-limited funding ceased. Continuing without systems auditing is the status quo.

The absence of this service may pose risks, as system weaknesses might remain unidentified, potentially enabling underperforming businesses to jeopardise consumer safety. Additionally, this lack of transparency may lead to criticisms regarding the efficacy of the food safety system as a whole.

The regulatory systems governing food safety in New Zealand require consistent review and amendment to ensure they remain current and effective. Failing to undertake regular improvements risks stagnation or failure of the regulatory framework, potentially exposing consumers to heightened risks of food-borne illnesses and eroding trust in New Zealand's ability to produce safe food for both domestic and international markets. Implementing independent audits to assess various components of the regulatory system can offer an unbiased perspective, facilitating the identification of issues and enabling necessary enhancements to rules, systems, and processes, thereby ensuring the robustness and suitability of the regulatory systems.

15.3 Options

This service will undertake a systematic programme of audits which target areas of the food safety systems suspected of performing poorly. This includes audits of business sectors, audits of a specific rule or groups of rules, and audits of regulatory systems and services.

The benefits of doing this are to identify areas for improvement in the food safety system. This helps to maintain trust in the effectiveness of the domestic and imported food safety systems on which our reputation as a producer of safe and suitable food is based and access to export markets is founded.

Previous provision of the service, along with the same service provided under other regulatory systems, means that MPI have a strong basis for determining the level of output and benefits that can be realised at the recommended funding level. Costs identified below are the annual averages from 2024/25 through to 2026/27.

Options for the service level of 'systems auditing'

	Status Quo Service Delivery	Option 1 (recommended)	Option 2
Cost	Not provided currently.	\$0.267 million	\$0.534 million
Resources (inputs)	None.	1.5 staff and domestic travel.	3 staff and domestic travel.

	Status Quo Service Delivery	Option 1 (recommended)	Option 2
Outputs	None.	5-7 audits per year	10-14 audits per year
Outcomes	None.	Areas of known weakness are audited and recommendations for improvement may be made.	Greater assurance that the system remains robust.

15.4 Assessment against the cost recovery principles

MPI consider the information above to meet the cost recovery transparency and justifiability principles as the costs and outputs can be interrogated for reasonableness by potential levy payers.

Systems audits can be sector specific (like in the retailer case study), focused on a point in the supply chain, or on a specific regulatory function. As such not all systems audits will benefit all businesses within the food system.

It would be administratively inefficient to accurately attribute costs to specific beneficiaries of individual audits. Assuming that over the medium term, all businesses registered under the Food Act will receive benefits, and that it is impractical to identify which businesses receive benefit, it is appropriate for all businesses who take part in the broader food system to be levied.

MPI do not consider there are any equity considerations that would suggest departing from full cost recovery for the service. The Crown funded systems auditing during implementation of the Food Act, to avoid disadvantaging early adopters. Now that the Food Act regulatory system is fully embedded, MPI do not see a rationale for continued Crown funding.

15.5 Consultation

Approximately 62% of submitters did not agree with the need of the proposed service, 39% were unsure, and 13% agreed with the proposals for the service. Submitters expressed the following views:

- clear guidelines and existing regulatory mechanisms are sufficient for small businesses to follow without the need for additional auditing
 - It is MPI's view that if the food control system is not subjected to ongoing scrutiny to ensure it effective and meets its objectives, the system may degrade.
- Concern about the additional costs, highlighting that businesses are already facing financial strain, considering the economic situation.
 - MPI acknowledges the difficulties that businesses are currently experiencing. It is MPI's view that the service would improve the system as periodic audits and reviews would help inform actions needed to evolve the system and ensure it remains fit for purpose.
- Criticised the Food Act, as mere "box-ticking exercise" which imposes undue burdens on businesses without tangible benefits.
- Preference for territorial authorities over MPI-led auditing, suggesting that existing structures and processes are better suited to handle regulatory compliance.

- Businesses already using the Global GAP certification process felt that further monitoring from MPI was unnecessary, indicating satisfaction with the current system.
- Assurance to stakeholders of MPI's capacity to carry out the proposed auditing efficiently and effectively, addressing concerns about budgetary management and operational efficiency.
 - MPI is of the view that the proposed service would improve the performance of the Food Act and provide the necessary information needed to assess its performance. This information may assist in MPI's recommendation that a review of all cost recovered services under the Food Act 2014 be undertaken within a year or two of the current proposal's implementation. Such a review would provide a complete picture on regulatory performance, whether services provided are indeed appropriate, and whether the level of services provided need to be adjusted.

15.6 Conclusion

It is MPI's view that the information provided from the proposed service would inform decision makers on the performance of the Food Act. It may assist in addressing issues effectively, and ensure the regulatory system is performing well and evolving.

16 Monitoring and review

MPI recognises that performance reporting is a critical component in providing transparency to industry and other interested parties, as well as ensuring ongoing system efficiency. This is explicitly acknowledged in the policies and guidance on our cost recovery principles.

To improve transparency, MPI has worked with industry to create a framework for reporting on the performance of cost-recovered services for all sectors. This involves publishing annual reports about MPI's performance for the primary sectors. Performance reporting is an area of continuous development for MPI – the annual reports currently focus on transparency around financial data.

MPI prepares industry reports for a range of sectors who are charged (through fees and levies) for MPI services. MPI could develop a similar report to cover fees and levies across the food system to begin following 30 June 2025, once there has been one full year of levied services.

The proposals in this document scales-up an existing service or proposes two new services. There is a risk the calculation of costings, as well as assumptions that have been used for the growth in costs and levy payers would change over time.

Section 202 of the Food Act 2014 requires the Minister to undertake a review of the levels and methods of cost recovery once in every three-year period. This is to ensure that cost recovery regulatory settings remain appropriate. An initial review could occur following 30 June 2025, alongside an initial industry report on the use of levy funds.

It is also MPI's intent that a review of cost recovered services be conducted. The nature of the services provided go to the performance of the Food Act 2014 and may raise useful questions for MPI to consider on the overall regulatory performance of the Act.

Many food safety rules are based on scientific positions and evidence that have not been re-tested within the new operating framework. To revisit the ongoing value proposition of NZFS' services, a cost benefit analysis covering the existing and proposed regulatory interventions could re-establish the level of benefit industry receives for fees and levies paid. Doing so would be a multiyear endeavour and would require a strong view from industry about the value of such work.

16.1 Consultation

The feedback on implementing systems auditing was predominantly negative, with a significant percentage disagreeing with the proposal. Many respondents suggested that the service should be government-funded, expressing concerns about the unfair distribution of costs and the potential burden on small businesses. Some argued that private enterprise could handle auditing more efficiently, while others questioned the necessity and benefits of system auditing. Concerns were also raised about the impact on consumers and businesses, with calls for a review of costs and a preference for existing funding mechanisms.

16.2 Conclusion

There was a widespread sentiment against implementing systems auditing as proposed, with a notable emphasis on cost concerns and doubts about its effectiveness.

17 CRIS Conclusions and recommendations

MPI recommends that the proposals set out in this document be accepted. To summarise the tables below provide the services and levy rates covered in this proposal.

Table 17: Proposed services covered by proposed levies

Service name	Business levied
Domestic food safety and suitability rules	Domestic food businesses
Imported food safety and suitability rules	Food importers
Oversight of co-regulator systems and services	Domestic food businesses
Oversight of verification systems and services	Domestic food businesses & food importers
Business education and support services	Domestic food businesses & food importers
Identify and deliver nationwide interventions to raise performance	Domestic food businesses & food importers
Systems auditing	Domestic food businesses & food importers

Table 18: proposed levy rates for domestic food businesses per registered site

	2025/26	2026/27	2027/28
Per registered site	\$57.50 per annum	\$86.25 per annum	\$115 per annum

Table 19 proposed per annum levy for food importers

Volume of imported food	Levy
0 – 118,500 kg	\$67.50 per annum
118,501 - 249,999 kg	\$0.57 per tonne
250,000 - 4,999,999 kg	
5,000,000 - 49,999,999 kg	
50,000,000+ kg	

The rationale to move to full cost recovery is that the services benefit the identified businesses, and therefore should be cost recovered. Crown funding is not recommended for services where there are clear private benefits. The increase to existing services would allow MPI to implement the Auditor-General's recommendations on the monitoring of high-risk imported foods and allow MPI to improve its administration of the Food Act. The new services would allow MPI to make interventions on systemic issues and allow it to collect information that would allow it to determine how the regulatory system is performing.

However, it is also MPI's recommendation that a review of all fees and charges under the Food Act take place as per section 202. In addition, as the proposals in this document go beyond simply adjusting the fees and charges for existing services but touched on aspects of regulatory performance. MPI recommends that a review of the services provided under the Act, and the regulatory performance also be undertaken.

18 Implementation plan

The changes proposed will be made through creation of new regulations under the Food Act, which will then be publicly notified in the New Zealand Gazette. Implementation will apply from 1 July 2024, with a full waiver for the Domestic Food Business Levy and a partial waiver of the Food Importer Levy. NZFS will update its application forms and other material to include appropriate levy rates.

The Domestic Food Business Levy is proposed to be collected by the relevant Registration Authority, which is a mix of NZFS and Territorial Authorities. MPI will work with Territorial Authorities to develop information sharing arrangements and process for transferring collected levy funds to NZFS.

The Food Importer Levy is proposed to be billed to registered food importers each year on the basis of the value of food imports in the previous financial year. MPI will need to ensure that data from 1 July 2023 – 30 June 2024 is reviewed, and quality assurance processes are robust prior to the use of the data.

Proactively Released

19 Appendix A: MPI's cost recovery principles

MPI's four Cost Recovery Principles are:

- Transparency – costs are transparent
- Justifiability – costs are reasonable
- Efficiency – net benefits are maximised
- Equity – costs are fair.

These four principles appear in much of MPI's legislation.¹¹

The legislative definition and interpretations of each principle are set out below.

19.1 Transparency

19.1.1 Legislation

'Costs should be identified and allocated as closely as practicable in relation to tangible service provision for the recovery period in which the service is provided.'

19.1.2 Policy interpretation

'Transparency' means providing adequate information to people such that they can understand charges and have an opportunity to input into their calculation and setting.

'Identified and allocated...' means presenting the costs in a way that people can see what services generate what costs, and when. 'Allocated' does not mean 'charged'. How costs are charged is a result of consideration of all the principles.

19.2 Justifiability

19.2.1 Legislation

'Costs should be collected only to meet the reasonable costs (including indirect costs) for the provision or exercise of the relevant function, power, or service.'

19.2.2 Policy interpretation

'Reasonable costs' are those necessary to deliver the service at the demanded quantity and quality¹², acknowledging that small inefficiencies may occur from time to time. Large, persistent inefficiencies would not be justifiable costs.

19.3 Efficiency

19.3.1 Legislation

'Costs should generally be allocated and recovered to ensure that maximum benefits are delivered at minimum cost.'

19.3.2 Policy interpretation

Efficiency is about how to recover the justified costs and is made up of several elements:

- Costs should be charged to:
 - Those who benefit from the service – if the customer pays, they have the incentive to demand only those services that provide them benefit compared to other things they might purchase. If parties other than the beneficiary pays, then the beneficiary will demand more services than otherwise

¹¹ <https://www.legislation.govt.nz/act/public/1999/0093/latest/whole.html#DLM35716>
<https://legislation.govt.nz/act/public/2003/0114/latest/DLM223236.html>

¹² The quality of service is sometimes determined by overseas requirements, sometimes by New Zealand Government requirements (e.g. to address public health risks), and sometimes by users (e.g. how much effort to expend to maintaining market access to countries). The use/quantity of those services is determined by users when deciding how much to produce and export and whether to operate in particular markets.

- Those whose behaviour can reduce the need and cost of the service – this factor covers situations where there are externalities. In these cases, it may be efficient to charge the third party as well, or instead of, charging the customer/beneficiary.
- Charges should account for administrative costs – for instance, sometimes it will be administratively prohibitive to charge according to precisely charge those that benefit or those that can reduce costs, so a simplified approach is warranted.
- Charges should be competitive neutral – MPI should not use any dominant market position to charge inflated prices and make more than a fair economic return.

19.3.3 Efficiency and the type of costs

All relevant costs are potentially recoverable, including:

- direct costs associated with services, such as staff time, travel costs, systems and equipment used in delivering the specific service, and
- support costs associated with delivery of the service, such as training and development costs for staff, administrative support costs, management costs, project costs and capital costs, and
- a proportion of wider business support or common costs, for example costs associated with corporate functions like finance, human resources management, information technology, and costs of property and utilities.

It is administratively impractical to precisely allocate wider business support or common costs to the wide range of MPI services. Instead, staff hours are used as a proxy on the assumption that the more staff hours are part of a service, the more property, human resources and other wider support and common costs the service will use.

19.3.4 Efficiency and type of services

If costs are to be recovered from beneficiaries, the appropriate type of charge to use depends on whether the service is a private good or club good.¹³

Fees are used for private goods – services that are of direct benefit to individual businesses. Levies pay for club goods – services that benefit sectors or groups of businesses as a whole.

If costs are to be recovered from exacerbators, the appropriate type of charge is a levy on the activity, or proxy for the activity, that causes the risk.

19.4 Equity

19.4.1 Legislation

‘Funding for a particular function, power, or service, or a particular class of functions, powers, or services, should generally, and to the extent practicable, be sourced from the users or beneficiaries of the relevant function, power or service at a level commensurate with their use or benefit from the function, power, or service.’

19.4.2 Policy interpretation

The Government will usually deem it fair that beneficiaries pay.

On other occasions, the Government will determine that other fairness considerations mean that another party contributes to the costs. For example, sometimes industry will be happy to support parts of its industry. Other times, Governments will want to provide additional support.

19.5 Relationship between the Cost Recovery Principles

The principles build on each other with Transparency and Justifiability providing a foundation to the consideration of Efficiency and Equity.

¹³ There is also a category of merit goods – services which the community as a whole desires more of than would be provided if charged for at full cost.

Figure 33 summarises the relationship between the principles.

19.5.1 Transparency and Justifiability come before considering Efficiency and Equity

Around Justifiability, MPI legislation says that MPI can only recover reasonable costs.

While the Transparency principle itself doesn't have a similarly strong statement, the very next clause says that costs should not be recovered unless there's been adequate consultation with affected parties including 'sufficient time and information to make an informed contribution'. Adequate consultation can only happen if MPI has been transparent.

With language of 'should not' and 'only', Transparency and Justifiability require¹⁴ some minimum standard to be met. In contrast, Efficiency and Equity are to be achieved 'generally'.

This sequential approach to the principles, rather than considering the principles simultaneously, makes sense. It is not possible to be confident that the efficient way of cost recovering has been identified if costs have not been sufficiently justified, or affected parties have not had a reasonable opportunity to test the costs.

19.5.2 There will sometimes be trade-offs between Efficiency and Equity

The 'generally' in the Equity principle means that a Government might decide to charge someone other than the beneficiary. The 'generally' in the Efficiency principle means that cost recovery settings will not always maximise benefits and minimise costs.

This also makes sense. If the Government determines that it is more equitable to pay for a service through Crown funding rather charging beneficiaries or those whose behaviour can reduce the need for the service, then the cost recovery setting will not be maximising net benefits.

The two 'generally' allow for trade-offs to be made between Efficiency and Equity.

¹⁴ Legislation, such as the Animal Products Act 1999, however, also say that failure to consult sufficiently does not affect the validity of cost recovery charges.

Appendix B: Relationship between the Cost Recovery Principles

