

**Kiwifruit**  
New Zealand



**Statement of Intent**  
**2023 - 2026**



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This Statement of Intent (SOI) is a forward-looking document that details KNZ's strategic goals and priorities and demonstrates progress towards KNZ's strategic intentions.

Transparency and clarity of purpose are essential to KNZ's role as an independent professional regulator.

In this, our third SOI, the focus remains on performing our key functions fairly, independently and to a high standard. We aim to build on the work undertaken in previous years and maintain similar performance measures to ensure consistency and comparability with previous years. We continue to review our processes to ensure efficiency and transparency.

As the industry grows in volume and complexity, we maintain a focus on meaningful stakeholder engagement and on our capacity and capability so we can carry out our functions effectively and contribute to the development of the New Zealand kiwifruit industry.

**Kristy McDonald ONZM KC**  
Chair  
21st February 2023

**Andrew Fenton**  
Deputy Chair  
21st February 2023

## Values

- Promote a culture of professionalism and capability
- Act with Integrity
- Maintain independence through good governance
- Deliver accountable, consistent, and transparent processes.



## Financial Principles

KNZ is funded on a cost-recovery basis by charging Zespri and collaborative marketers in accordance with the Regulations.

When deciding the type and level of charges, we must, in accordance with Regulation 39, take the following principles into account as far as is reasonably practicable;

- Equity
- Efficiency
- Justifiability
- Transparency

## Functions

KNZ is an independent industry regulator established on 1st April 2000 under the Kiwifruit Industry Restructuring Act 1999 and Kiwifruit Export Regulations 1999. We have three key functions:

1. Issue the Export Authorisation
2. Monitor and enforce the mitigation measures
3. Regulate collaborative marketing

### 1. Export Authorisation

KNZ grants an Export Authorisation to Zespri. The authorisation enables Zespri to export kiwifruit on the terms and conditions that are set out in the authorisation. The Export Authorisation also details how we may take enforcement action against Zespri if we consider Zespri has not complied with its legislative obligations.

### 2. Mitigation Measures

The purpose of the mitigation measures is to mitigate the costs and risks associated with the single desk. More specifically, the mitigation measures aim to encourage innovation while managing risks, promoting efficient pricing signals, providing protections for kiwifruit growers, and promoting downward pressure on Zespri's costs. We carry out our functions to best achieve these purposes.

There are four mitigation measures that we monitor and enforce:

- i. The non-discrimination rule. This rule provides that Zespri must not unjustifiably discriminate in the way it purchases New Zealand grown kiwifruit.
- ii. The prior notice rule. Zespri must inform KNZ before carrying out activities that are not core business, but do support core business.
- iii. The non-diversification rule. Zespri is prohibited from carrying out activities that are not core business and do not support its core business (as defined in the Regulations) unless approved by kiwifruit producers.
- iv. The information disclosure requirements. Zespri is required to make certain information (e.g. financial statements and kiwifruit purchase terms) available to the public and KNZ within specified timeframes.

### 3. Collaborative Marketing

Collaborative marketing provides an opportunity for others to export New Zealand grown kiwifruit in collaboration with Zespri. KNZ determines, monitors, and enforces the collaborative marketing requirements detailed in the Regulations. This includes Zespri's collaborative marketing obligations and the collaborative marketing application process.

KNZ can require Zespri to enter into a collaborative marketing arrangement for the purpose of increasing the overall wealth of New Zealand kiwifruit producers. Collaborative marketing is intended to increase grower choice, innovation, and market opportunities, thereby increasing kiwifruit industry performance and returns.

### **Official Information Act**

KNZ is subject to the Official Information Act 1982, and operates in a way that is consistent with meeting our responsibilities under that legislation.

## Objective 1

### Effective monitoring and enforcement of regulatory protections

To offset and mitigate the risks and costs inherent in Zespri's monopsony position, the Regulations charge KNZ with monitoring and enforcing a range of mitigation measures. Our role is to deliver effective oversight of Zespri's compliance with those 'mitigation measures'. We also regulate Zespri's collaborative marketing obligations and the collaborative marketing application process.

To be an effective independent regulator, we take a risk-focused approach to monitoring and enforcement. This is informed by a detailed understanding of the Regulations, Zespri operations, the kiwifruit industry and relevant external factors that influence the industry.

Following amendment to the Regulations in 2017 there was a period of interpretation and adjustment. Over the last three years KNZ's emphasis has been on strengthening the monitoring and enforcement of the mitigation measures. The focus for the next three years is for KNZ to:

1. encourage clear communication and early engagement between stakeholders and KNZ to promote regulatory compliance;
2. streamline our processes and approach to our monitoring function; and
3. continue to undertake systematic and thorough analysis and risk assessments of Zespri's activities as required by the Regulations.



## Objective 2

### **Accountable regulation and decision making**

KNZ's functions and responsibilities are set out in the Regulations. Our independent decision making is protected by statute and our governance structure. Our independence is essential in ensuring trust and confidence in our role as a regulator.

Transparent and robust processes and standards are key to delivering consistent and accountable regulation and decision making. We will focus on developing a shared understanding with Zespri and the kiwifruit industry of the regulatory process and KNZ's role within it.

We will continue to develop, and review processes and policies to ensure these remain fit for purpose, efficient, proportionate and effective. We must follow procedures which comply with natural justice principles and any decisions must be clear, impartial and fair.

We have experienced permanent staff, and a Board that brings skills and knowledge to ensure robust regulation and decision making. We also engage specialist external expertise where required.





### Objective 3

#### Stakeholder engagement

To be an effective independent Regulator, industry stakeholders must be aware of the Kiwifruit Export Regulations and how KNZ operates to monitor and enforce those Regulations.

We will increase our stakeholder interactions across the following groups;

**Government** - MPI, MFAT, NZTE, Customs

**Zespri** - Board, Management, key personnel in NZ and offshore

**Industry Bodies** - NZKGI, MKGI, KVH, HEA, Hort NZ

**Post-harvest** - pack-houses and supply entities (all signatories to the Supply Agreement)

**Growers** - Green, Gold & Red growers, organic growers, Māori growers, Kiwiberry, small and large orchards and regional representatives.

Engagement will consist of in person meetings wherever possible, video conferencing, attendance at roadshows, Zespri AGM, industry summits and events. The KNZ website will be kept up to date to provide access to relevant information for stakeholders.

We aim to be accessible to all in the industry, to have meaningful engagement with stakeholders and to be transparent and consistent in undertaking our functions. We will continue to educate the industry on the intent and scope of the Regulations and KNZ's role within them.

## Objective 4

### **Capacity, Capability and depth of experience**

KNZ requires sufficient resources both in terms of capacity and capability to carry out our functions in a cost-effective and efficient manner.

Our capability is designed around skilled inhouse staff to effectively carry out the day-to-day monitoring and enforcement activities. We utilise relevant external consultants for advice on complex complaints, investigations, and key industry issues. Maintaining long term institutional memory and experience is important to KNZ's successful performance.

We constantly review our capacity and capability and depth of experience and expect to increase in-house resources to ensure alignment with industry growth and complexity and to build resilience for staff turnover.

Technology and data management will remain a focus and KNZ will ensure all information is kept confidentially, securely and meets best practice standards to protect it against network failures and cyberattacks.

The KNZ Board is cognisant of environmental, social and governance (ESG) responsibilities and risks and will develop relevant policies and processes to align with good ESG practices where appropriate.

KNZ will measure progress towards our strategic objectives through the following performance measures:

## Export Authorisation

### Performance Measure

The Export Authorisation provides an enforcement regime to ensure reasonable compliance with our enforcement function under the Regulations. It is assessed annually to ensure it is robust and fit for purpose.

In considering any enforcement event we will comply with the rules of natural justice and adhere to the enforcement regime as set out in the Export Authorisation.

### Measurement of Success

- Annual review of Export authorisation prior to 1 February (Reg 33(1)(a)).

- 95% of complaints received are acknowledged within 5 working days.
- Preliminary assessment, investigation and enforcement activities undertaken and completed in accordance with the Export Authorisation.
- 95% of written investigation decisions provided within 30 working days from conclusion of investigation.

## Non-Discrimination

### Performance Measure

We will proactively identify and respond to potential discrimination issues based on our knowledge of Zespri's activities and engagement with stakeholders.

### Measurement of Success

- Final kiwifruit purchase terms and conditions reviewed within 30 working days of information disclosure by Zespri.
- Regular meetings with and reporting by Zespri to identify potential discrimination issues (at least quarterly).
- Potential discrimination issues disclosed by the Executive to the Board as soon as practicable but within 30 calendar days of becoming aware of the issue.

## Prior Notice and Non-Diversification Rules

### Performance Measure

We will ensure we have the necessary knowledge and capability to monitor Zespri's assessment of activities that constitute 'core business' and 'supports core business' against the Regulations.

### Measurement of Success

- Regular meetings with and reporting by Zespri (at least quarterly) to identify potential activities that fall outside 'core business' (as defined in the Regulations).
- Activities identified as potentially falling outside 'core business' disclosed by the Executive to the Board as soon as practicable but within 30 calendar days of becoming aware of the issue.
- Annual review of 'working definitions' developed by KNZ under 'core business' definition.

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We will assess Zespri's prior notice of activities that 'support the core business' against the Regulations (Reg 10A). We will assess how the prior notice assessment process has been applied.

- Annual review of the prior notice assessment process (including relevant KNZ documentation).

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We will monitor the process requirements for a Zespri producer vote (Regulations 11(1)(a)-(c)). We will also assess how the producer vote assessment process has been applied.

- Annual review of the producer vote assessment process (including relevant KNZ documentation).



## Information Disclosure

### Performance Measure

We will review, monitor and enforce Zespri's information disclosure obligations under Regulations 12-20.

We will make determinations on and administer exemptions from the information disclosure requirements under Regulation 21.

### Measurement of Success

- Review compliance calendar annually and monitor Zespri's information disclosure performance.
- Review any application or submissions for exemptions under Regulation 21 and provide notice of our decision to Zespri as soon as practicable but within 30 calendar days.



## Collaborative Marketing

### Performance Measure

We have processes in place to assist applicants and give transparency to stakeholders on KNZ's decision making processes.

### Measurement of Success

- Collaborative marketing guidelines published on KNZ website at least 45 days before application close date.
- Consider applications and give notice of our decision to Zespri and applicants in accordance with the Collaborative Marketing Guidelines.
- Annual review of collaborative marketing process (including guidelines) in consultation with Zespri and 80% of applicants.
- Any KNZ fruit allocation direction made no later than 1 May each year (Regulation 26(1)).

We will assess whether collaborative marketing contracts have been entered into between Zespri and Collaborative Marketers and the terms are consistent with the KNZ approval conditions (Regulation 29).

- All signed collaborative marketing contracts reviewed within 20 working days of being provided by Zespri.

We will take a risk-focused and responsive monitoring and enforcement approach to the parties' collaborative marketing obligations and commitments.

- Within 3 months after 31 March, disclose the identity of collaborative marketers, the volume marketed by each, and financial information on net returns (Regulation 15).
- Conduct monthly assessment of collaborative marketer's compliance reporting.

## Official Information Requests

### Performance Measure

We will ensure adequate resourcing is available to meet the Official Information Act's requirements.

### Measurement of Success

- Acknowledge receipt of request, and where necessary, request clarification within 7 working days.
- Make and communicate decision, or extend time limits to make decision, within 20 working days after request received.
- Track average response times to requests and publicly disclose the results on the KNZ website each year.
- Where appropriate, publish the information released under an OIA request on the KNZ website.

## Stakeholder Engagement

### Performance Measure

We will increase meaningful stakeholder interactions by attending stakeholder and industry events and by initiating meetings.

### Measurement of Success

- Quarterly engagement with key stakeholders.
- Attend at least 2 Zespri "roadshows" per year.
- Presentation to NZKGI forum annually.
- Attend Zespri and NZKGI AGM's.

## Capability and Depth

### Performance Measure

We will regularly review our capability and competency to ensure KNZ resourcing is aligned with industry growth and has the required aptitude to undertake its functions.

### Measurement of Success

- Annual review of KNZ resourcing requirements.

We will ensure all information is kept confidentially, securely and is resilient to network failures and cyber-attacks.

- Annual internal audit of handling of sensitive and confidential information.
- Biennial external review of IT risk factors and controls.

We will manage and review relevant ESG risks.

- Monitor ESG risks to KNZ and develop relevant policies where appropriate.





## **Organisation Health & Capability**

We have a highly capable team with experienced employees with the skills to deliver outcomes on a wide range of functions. We invest in ongoing professional development and innovation is encouraged. Personal and professional development plans are agreed with the executive every six months. This in-house expertise is enhanced and guided by a Board of six Directors.

Our Chair and two Directors are independent of the kiwifruit industry and appointed by the Minister of Agriculture from a list of potential candidates compiled by the Ministry for Primary Industries in consultation with the Board. Our other three Directors are elected by kiwifruit growers. As a result of this composition, we have a comprehensive range of skills on the Board, are able to effectively manage conflicts of interest, and are impartial in discharging our functions under the Regulations.

From time to time the Board may appoint committees to advise the Board or carry out specific functions. Examples include our Collaborative Marketing Committees and the Audit and Assurance Committee.

In addition to in-house expertise, we have a group of skilled external consultants to use “as and when required” for specialist or complex legal, economic or commercial advice.

## **ESG**

The KNZ Board is cognisant of environmental, social and governance responsibilities and risks.

We recognise the environmental impact of national and international travel and while recent travel has been limited due to covid restrictions, we anticipate that travel may be required in the future. The Board will assess the necessity of travel for KNZ to undertake its regulatory functions against its wider ESG responsibilities. Where appropriate we will use videoconferencing for our Board meetings or external meetings to reduce the need for domestic and international travel. We also encourage a work environment with minimal paper-based processes and use electronic documents where possible, including Board papers, minutes and collaborative marketing applications.

Social obligations for staff and stakeholders will be “front of mind” and all interactions will be respectful and in line with KNZ policies. We are conscious of our role as an organisation in understanding te ao Māori perspectives and Te Tiriti o Waitangi.

We pride ourselves on our Governance structures and operations and will ensure the leadership of KNZ is aligned with stakeholder expectations and is transparent and accountable.

### **Health and Safety**

We are committed to providing and maintaining a safe working environment, and taking all reasonably practicable steps to prevent illness, injury or harm from work carried out by, and on behalf of, KNZ.

### **Covid**

We have developed a COVID policy to ensure our employees, KNZ directors and members of the public operate in a safe and healthy working environment within the KNZ office and when attending in-person meetings or events offsite. We have adapted our processes to ensure flexibility for staff to work from home and encouraged greater use of videoconferencing to decrease the number of in-person interactions and the need for domestic and international travel. For the foreseeable future, we will be taking a precautionary approach and follow the Government's COVID-19 Protection Framework and associated requirements.

### **Employee engagement**

We are committed to a work environment where employees feel safe, supported and valued for their contribution. Our aim is to nurture an environment that encourages knowledge sharing and innovation, where our employees feel respected, engaged and understand how their role contributes to the success of KNZ.





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