

Plant Variety Rights Office Technical Focus Group Meeting

KEY DISCUSSION POINTS

Date	Wednesday, 23 August 2017
Time	10:00 am – 3:00 pm
Location	Plant Variety Rights Office, Southern Business Centre MBIE, 55 Wordsworth St, Christchurch

Participants

John Liddle	New Zealand Plant Producers Incorporated
Louisa van den Burg	Bloomz Ltd
Mark Paige	Plant and Food Research
Bruno Simpson	Waimea Variety Management
Humphrey Foote	AJ Park
Ricky Hann	Zespri

MBIE Business Law Warren Hassett, Ema Hao'uli

IPONZ/PVRO Liz Francis, Chris Hardy, Chris Barnaby, Cecilia R-Jackman,

Apologies received

Andy Warren	Bloomz Ltd
Catherine Snelling	Plant and Food Research
Joy Lin	Grasslanz New Zealand
Adrian Russell	Plant Research Ltd
Kerry Hughes	Alex MacDonald Ltd
Fiona Pringle	Baldwins
Thomas Chin	Plant Breeding and Research Association

1. Welcome and MBIE and IPONZ update

- Geographical Indications (Wine and Spirits) Registration Amendment Bill has been implemented, applicable to viticulture and the wine industry. This is a specialist type of Intellectual Property as is PVR.
- The IPONZ 2017-2020 Business plan and IP statistics were tabled for information.
- A Plant Variety Rights infographic has been published and a copy provided for each participant.

2. Adoption of the agenda

The agenda was adopted unchanged.

3. Matters arising from the previous meeting

- In response to discussion at the 2016 meeting regarding availability of plant material and the length of DUS Testing, changes and addition to Technical guidance documents on the website have been made:
 - New documents for use of the Technical Questionnaire and for Length of Testing
<https://www.iponz.govt.nz/about-ip/pvr/technical-guidance/current/the-tech/>
<https://www.iponz.govt.nz/about-ip/pvr/technical-guidance/current/the-duration-of-dus-testing-and-fee-requests/>
 - A revision of Availability of Plant Material have been posted.
<https://www.iponz.govt.nz/about-ip/pvr/technical-guidance/current/availability-and-supply-of-plant-material/>
- Compulsory licences: Following the report of improvements to Technical Guidance documents, it was suggested that a review of the current website guidance provided for compulsory licences should be carried out. PVRO agreed to progress this for 2018.
- In the course of a discussion at the 2016 meeting regarding the PVR Journal, it was agreed that the current Journal format needs improvement. A plan for proposed improvement to the Journal have not progressed since the last meeting but have been included in a wider programme for the enhancement of IPONZ Journals and their publication.
- In the course of the above references to the Journal and publication, information was requested providing explanation on the frequency of publication of NZ PVR information on UPOV- PLUTO website and examples of known frequency for other countries. PVRO agreed to consider how this existing information on the UPOV website could be provided on the IPONZ website.

4. PVR Act Review

The Business Law team provided a summary of activity in 2017 and the next steps.

- Industry and Maori consultation workshops have been held with the primary aim of identifying issues, and producing an Issues Paper. Issues identified include matters regarding UPOV-91, compulsory licences, farm save seed, Essential Derivation, determination of distinctness among others mentioned by the Industry. The release of the issues paper, will

include a consultation period. The issues paper is expected to be released for public submissions late in 2017.

- A first draft of the Act could be anticipated later in 2018.
- PVR fees. While a fees review may form part of the PVR Act Review it is not dependent on this. Any review would involve consultation and a discussion document would be circulated. PVRO confirmed the current fees do not adequately cover the costs of operating the scheme and in particular the increasing cost of growing trials and field evaluation.

5. Report on technical activities- Reports are available on request.

6. Availability of plant material for PVR purposes

- PVRO indicated that it will continue to show flexibility for applicants that are facing bio security constraints around the supply of plant material. Applicants considered this to be very helpful and commended PVRO for this pragmatic approach.
- Industry advised that the Ministry of Primary Industry (MPI) have restrictions on entry of certain plant genera e.g. pears, avocado. These ongoing delays impact negatively on the relationship between agents and the overseas breeder.
- Views were expressed that MPI's limited quarantine space is a barrier to innovation.
- UPOV 91 – views were expressed that overseas breeders are reluctant to share material with NZ because current protection is less than that provided by law under UPOV- 91.
- The meeting agreed that problems existed in three key areas:
 - The current PVR law: foreign breeders' reservations about making their variety available.
 - MPI biosecurity protocols and the general lack of approved quarantine facilities.
 - A lack of understanding by foreign breeders of the national testing system; the broader concerns about potential competitors using their varieties; and commercial conflict of interest.

7. Areas of focus for 2018

- Supply of Plant Material for official PVR purposes
 - PVRO will include a reminder paragraph in the Application Acceptance Letter to applicants/agents regarding their obligation to supply material for official purposes, as requested. The paragraph will explain how the material will be used.
 - PVRO in consultation with the Industry will draft education material for the website to inform foreign breeders about the NZ PVR system and the plant material requirements that apply when making application. Options for Centralised Trials
 - Industry and PVRO agreed to cooperatively explore possibilities regarding an independent central testing site, in particular for Berryfruit. A possible approach may be a facilitated meeting including berry industry parties, applicants, breeders and PVRO to discuss and outline the concept. Participants were queried about the possibility of including the discussion topic within a suitable Industry conference/forum.

8. UPOV developments and international

A report was circulated to participants prior to the meeting. PVRO highlighted the introduction of the UPOV electronic application tool which provides the possibility of essentially completing only one application form globally, storing that data on a UPOV site and then using that data to make application in multiple countries.

9. Other business

- Renewals. The following matters were raised:
 - The desirability of an applicant's Renewals calendar. PVRO advised this element is included in longer term system upgrades but is not provided for in the short to medium term programme.
 - A suggestion was made that the system variety surrender function should have a confirmation step. At present the action proceeds immediately. The suggestion was noted and will be passed on to IPONZ Systems team.
 - In the October Journal 2017, a reminder regarding variety Surrender v Cancellation will be included.

10. Next meeting

The next meeting date will be set in March/April 2018 and participants indicated a preference for it being held in Wellington.