

Plant Variety Rights Office (“PVRO”)

Technical Focus Group (“TFG”) Minutes

Date/Time	9.00am, Wednesday, 11 August 2021
Location	Government Services, 161 Cashel St, Christchurch
Apologies	Bruno Simpson, Waimea Variety Management

Participants

MBIE / Intellectual Property Office of New Zealand (“IPONZ”)	Other
Session 1: 9.30am – 11.00am	
Chris Barnaby, PVR Manager Cecilia Requejo-Jackman, Senior PVR Examiner Kylie Miller, Senior PVR Examiner Scott Gregan, PVR Examiner Jacquie Broadhead, PVR Examiner Tanya Carter, Stakeholder Engagement Manager Sean Uy, Senior Stakeholder Advisor Monique Cardy, IPONZ, Team Administrator (minutes)	Thomas Chin, NZ PBRA Louisa van den Berg, Bloomz Andy Warren, Bloomz Cath Snelling, Plant and Food Research Malcolm Woolmore, Kiwiflora Heidi Jade, Zespri Josie Dawber, Plant and Food Research Emma Brown, Plant and Food Research Helen Bellchambers, AJPark Joy Lin, Agresearch Jo Stephens, Gourmet

Session 1	
Topic	Speaker
1. Welcome and Introduction	Chris Barnaby
2. Update for IPONZ and MBIE	Chris Barnaby

- IPONZ is now part of the Business and Consumer group, which is linked to NZBN, Better for Business, Business Connect, Regional Business Partners, Business.Govt and Business and Consumer.

3. Updates on actions from previous meeting

Action	Status
Provide examples of the DUS improvements identified in the review. (Wendy Cashmore)	DUS QM Audit programme. Examples were provided by email on 21 August 2020 from the Cultivar Centre July 2019 and Agriculture Central testing June 2020. Consisted of concern regarding Examiner seasonal workload and concentrated crop specialisation at the Cultivar Centre and trial record keeping for Agriculture Central testing.
Better inform people on what it means to enter the PVR system as a whole (Wendy & Morgan's comments).	Existing website guidance is considered fit for purpose and the review carried out did not indicate any major omissions. An infographic on the PVR application and testing process has been scheduled for drafting.
Circulate timeline of interactions for direct conversations with MPI to the members.	PVRO and MPI Plant Import group held their first quarterly meeting in February 2021, with the intention to share information and establish a direct line of contact between the two offices, to discuss relevant biosecurity developments and varieties and species being imported. The most recent meeting was in May 2021.
Provide a summary of what has been discussed in relation to the MPI importation requirements. Members to provide examples of hindrances so a case can be formed.	
Meet with MPI Policy drafting team, with a focus on how we are going to be encouraging innovation.	
Chris to include Malcolm in UPOV PRISMA workgroup and organise a webinar with UPOV	Complete – NZ training webinar was held in October 2020.
Circulate link to updated journal and quarterly report, once prepared, for member's feedback.	Complete - Improvements have been made to the distribution of the Journal information

	and news page. A new by Genus search function was introduced in late 2020.
4. Terms of Reference	Chris Barnaby
<ul style="list-style-type: none"> It was noted that the purpose of the TFG had changed over time, and no longer functions as an advisory committee, as originally established over twenty years ago. The Terms of Reference were drafted to better align with its function. These were circulated to the TFG in March 2021. The feedback has been incorporated and a revised version circulated prior to this meeting. No additional comments were raised. It was therefore resolved to approve the adoption of the Terms of Reference. 	
5. Overview of PVRO activities and developments	Chris Barnaby
<ul style="list-style-type: none"> The PVRO moved from Wordsworth Street to Cashel Street, in February 2021. Scott Gregan and Jacquie Broadhead joined the PVR team, following Chris Hardy's resignation. This is quite a substantial change, given the size of the team. The team continue to attend UPOV meetings, in a virtual capacity, whilst travel restrictions are in place. Work on the PVR Act Review continues, alongside operational preparations for the new law. <p>Stats 2020-2021</p> <p>Applications:</p> <ul style="list-style-type: none"> 25% total increase on previous year 50% increase in ornamentals Steady for agriculture and fruit <p>Grant decisions:</p> <ul style="list-style-type: none"> 10% decrease on previous year <p>Total Granted varieties:</p> <ul style="list-style-type: none"> slight increase on previous year <p>Table of Varieties under test 2015 – 2021 was provided.</p>	

- It was noted that it would be useful to add to the circulated table of statistics, the grants due to expire. This could be helpful to indicate how long grants are maintained and how many go full term.
- Chris confirmed that with certain species provisional protection periods are increasing in length, there seem to be some significant delays, especially with imported fruit varieties. This is evident with the more recent applications for berryfruit varieties, where plant material is slow to become available due to limitations in quarantine space. Availability of quarantine space is a matter for MPI.
- It was added we are looking at around 80% of berryfruit variety applications are in the 2-5 year period under test. There is still around a quarter of all applications that would be over 5 years under test, most of which would be for fruit species. This is less common with seed propagated agricultural varieties, because for most species, seed is more readily available in NZ, and not subject to the same importation requirements as for vegetative plant material.

Developments

- The PVRO has been focusing on staff improvements and developments. In such a small team if someone leaves, a lot of knowledge also leaves, so the team are trying to diversify the skill set for species knowledge, to mitigate this risk.
- We are looking to improve searching in PVR journal. The Journal is all online and we have changed the way that we are providing updates, to make the information/news section more accessible to users. The meeting confirmed that they read this section of the Journal, and is useful.
- As mentioned, the PVRO are continuing to have quarterly meetings with MPI to improve information sharing on importation and biosecurity matters.
- Changes to the way the NZ application fee is paid when using UPOV PRISMA. The meeting noted that it is inconvenient to wait for an invoice to be raised by MBIE and arrange payment. It would be much easier to pay by card. The meeting discussed whether it was possible to arrange payment of the full amount through PRISMA to avoid delay, especially given that the application date is from when the full fee is paid. It was agreed that this process would be reviewed and discussed with the MBIE finance team.

Continued Projects

- The team have been more involved in international cooperation in the drafting of test guidelines, now that virtual attendance has become more familiar.
- The team have been looking at improving the availability of certain technical information which could be helpful for the making of applications and to the industry and growers in general.
- There is some international exchange of descriptions for certain groups of apple varieties originating as mutation. The UPOV project includes sharing of information about apple variety mutations, between NZ and Europe. Some of the challenges are that differences between variety mutations are relatively small. For example, NZ granted rights to an apple variety originating as a mutation, which had the darkest red fruit colouration ever seen. This character provided distinctness; however when the variety was tested in Europe, this dark red fruit colouration was not sufficiently darker than the most similar variety and did not qualify for grant. The most similar variety was the same in both territories. The different decision can probably be explained by NZ's high light levels and this greater intensity

of colour was not evident under European light conditions. For this example, the sharing of descriptive information prior to the decision in each territory may have been helpful.

- The PVRO are looking into the use of foreign test reports for additional species which have previously not been considered.

Quality Management for DUS Testing

- Audits using the new system were completed for Agriculture and Pasture species, with AsureQuality earlier in the year, the outcome was positive.
- The PVRO have a new contract with AsureQuality for agricultural testing.
- Close attention is given to the regional describer network, as this is a network which functions on considerable goodwill and we want to ensure that everyone is comfortable with the process. PVRO pays an hourly fee for evaluation work done but it is not unknown for a Describer to only claim part of their time. PVR income and the evaluation work in general is not a significant part of most Describers overall activity and income. For this reason, should a current Describer finish, it would be difficult to find a replacement; in the region required, with appropriate skill, and happy with an irregular workload and an as needed frequency.

Future Challenges

- DNA profiles and molecular techniques
- Traits for breeding goals v characteristics suitable for DUS testing.

There has been some discussion around the process for determining suitability of a characteristic for DUS testing. There is an internationally agreed criterion for what is acceptable and if the characteristic fails on any one of the criteria, it is unable to be used. Yield is an example of an unacceptable characteristic, because it is not consistent over years and not possible to assess uniformity. It was agreed that it would be beneficial for the PVRO to run a workshop to cover DUS characteristics and other technical topics such as Essential Derivation.

- Characteristics that require specialist requirements or tools.
- Availability of plant material.
- Increasing numbers of varieties of common knowledge.

6. Reports on technical activities for agriculture, fruit and ornamentals

Cecilia Requejo-Jackman

- A presentation on Ornamentals 2020/2021 was displayed to the meeting.

- There has been a 50% increase in applications compared with the previous year.
- 80% of the new applications belong to foreign breeders.
- There are 119 varieties current under test, with a mix of genera.
- Roses, lilies and tulips are the predominant applications this year.
- There has been an increase in application for indoor plant use e.g., *Philodendron*, *Zamioculcas*, *Phlebodium*, *Ficus* etc. Most are from Europe.
- At the UPOV Technical Working Party for Ornamentals there was discussion about Section #16 of the UPOV Model DUS Test Report. Some Members would like to see more information included regarding the comparator varieties considered in the testing. This matter will be taken further in 2022 because the opposition from some authorities to adding this information may be a case of misunderstanding as to what is actually wanted
- The PVRO has requested 15 Foreign DUS Test Reports for ornamentals in the past year.

Future Challenges

- We have been looking at how we test for characteristics that require specialist requirements or tools; eg. specific wood characteristics in the breeding of forestry species: levels of fertility and corresponding scales.

7. Fruit

Kylie Miller

- Number of Fruit Applications was viewed by the meeting. A total of 29 had been accepted in 2020/2021.
- Fruit Applications by species were displayed to the meeting. Applications for varieties in the main species were Strawberry 28%, Apple 24% and Blueberry 21%.
- It was noted that of the 29 applications received, 7 were from NZ breeders (27%) and 22 were from foreign breeders.
- A total of 23 fruit grant decisions were made, 15 for blueberry varieties.

Continuing Challenges

- Importation challenges for applicants and access to plant material for PVR purposes

One method to reduce the need to access plant material is the use of foreign test reports for the NZ decision. The office will increase the level of communication and interaction with overseas authorities to encourage sharing of technical information and expand the possibilities for cooperation. This could lead to the greater use of foreign test reports and reduce the need for access to plant material for testing. An example of this is investigating the more regular use of European test reports for *Rubus* varieties. The PVRO wants to obtain a better understanding how characteristics may change expression in a different environment and the potential impact on a DUS decision. For a whole range of species, many characters are very consistent in expression in different environments, but not all. It is useful to know which characteristics change and whether this is significant for determining distinctness. There must

be caution in making broad rules when varieties in all genera and species are protectable. It really comes down to variety by variety assessment.

- General access to reference and comparator material:

The office will continue communication with owners in response to accessing plant material for DUS proposes. This is an international issue and many authorities are having difficulties in accessing plants of varieties of common knowledge. There are many reasons why material is not readily available for a particular variety and authorities need to work with variety owners and suppliers to find solutions.

- Communication and access to overseas information due to the current global pandemic.

The office will continue to attend virtual meetings, where possible. Contribution to the drafting of international test guidelines has value for national testing and adds to the quality of NZ variety descriptions and decisions. The virtual format allows all Examiners to participate and be exposed to international PVR. Over the last year many authorities have had difficulty carrying out DUS field work and as a result have not had access to certain plant resources. This has made it challenging for these authorities to respond to some technical queries, particular around identifying varieties of common knowledge.

New for 2020/2021

- Further development of Strawberry, Apricot, Apple and Sweet Cherry Technical Guidelines. The Technical guidelines for apricot will be adopted this year, and the others will be reviewed
- The first apple decision was made based on a foreign test report.
- Three new Cherry Rootstock applications in the last 18 months. Previous application was in 1997.
- The first New Zealand application for a Banana for fruit production.

8. Agricultural, Vegetable & Fungi Variety Testing	Scott Gregan and Jacquie Broadhead
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- Jacquie and Scott introduced themselves to the meeting and gave an overview of their background.
- 37 new applications were received this year. 14 applications were from NZ owners. 19, from Europe and 4 from the USA. These include Siberian Kale, Quinoa, Lucerne, NZ bred Watermelon.
- 50% increase in agricultural and vegetable applications compared to 2019/20.

Total Applications

- The majority of applications, by species/variety are as follows:
Pasture Plans and Amenity Grasses - Perennial Ryegrass
Agricultural and Vegetable Crops – Potato

UPOV International Test Guidelines Under Review

- There are updated test guidelines for Red Clover, triticale, turnip and timothy grass.
- Revision of the Rape Seed, Cocksfoot, and Potato test guidelines continues.
- Hemp and rye will be revised, starting next year.

Agricultural Trials

- Trials were completed successfully, in spite of lockdown.
- New pasture trial site near Rolleston, will allow more control and flexibility with running trials. E.g. preparation, timing, management etc.

Programme for the next meeting

- A suggestion was made that future meetings could include a field trip. NZPBRA offered to assist in that regard and Plant and Food Research indicated that the 2022 meeting could possibly be held at the Canterbury Agriculture and Science Centre at Lincoln.

Close of Meeting

Summary of Action Points

Table of statistics: A suggestion was made to add an additional column to the Grants table to provide information on the number of Rights that will expire in the next financial year.

UPOV PRISMA payment system: The new invoice process recently introduced is not viewed very well. A clear preference was made for card payments. The process will be reviewed and options will be considered again by IPONZ Systems and MBIE Finance.

Workshop on technical PVR matters: The group considered that users would benefit from a session focusing on the more complex areas of PVR such as use of testing characters, selection of similar varieties and Essential Derivation. A time in the first six months of 2022 could be aimed for.