



INTELLECTUAL  
PROPERTY  
OFFICE  
PLANT VARIETY RIGHTS

## Plant Variety Rights Office Technical Focus Group Meeting

### Key Discussion Points

<b>Date</b>	Wednesday, 12 June 2019
<b>Time</b>	10:30 am – 2:50 pm
<b>Location</b>	Zespri International, Mt Maunganui

#### Participants

Louisa van den Burg	Bloomz Ltd
Andy Warren	Bloomz Ltd
Cath Snelling	Plant and Food Research
Josie Dawber	Plant and Food Research
Humphrey Foote	Davies Collison Cave
Ricky Hann	Zespri
Helen Bellchambers	AJ Park
Denise Cleverley	Kiwiflora Ltd
Bruno Simpson	Waimea Variety Management
Roberto Barajas	Driscoll's Inc.
Lynette Winters	AsureQuality
Rio Greening	Representing Treaty of Waitangi interests
Gary Cogdling	Representing Treaty of Waitangi interests

IPONZ/PVRO                      Chris Hardy, Kylie Miller

MBIE Corporate Governance and Intellectual Property Policy                      Aidan Burch

#### Apologies received

Chris Barnaby	PVRO
Cecilia R-Jackman	PVRO
Charlotte Tumilson	Grasslanz Technology
Malcolm Woolmore	Kiwiflora Ltd
Tomas Chin	New Zealand Grain & Seed Trade Association

## **1. Reports on technical activities for agriculture, fruit, and ornamentals**

Reports were presented on agriculture, fruit, and ornamental testing. Copies of the presentation slides are available on request.

Importation of plant material remains an issue. Concerns were raised about 12-18 month deadlines set by the Plant Variety Rights Office (PVRO) for importation of plant material for some species as being unrealistic. Where all reasonable effort has been made to import varieties by an applicant, requests for extensions of time made before the expiry of a deadline are granted. Annual or 18 month deadlines are of benefit to the PVRO in order to keep in touch with how efforts to import are progressing.

The PVRO has become more focused on obtaining information from overseas authorities, and other sources, as a method to reduce testing times which might otherwise be held up by plant importation issues.

Interest was expressed in the rationale for testing by foreign test report. A number of factors are considered in whether and how a test report may be used for a particular application and the decision is made on a case-by-case basis. Guidance can be found on the PRVO's website, <https://www.iponz.govt.nz/about-ip/pvr/technical-guidance/current/use-of-foreign-test-reports-for-dus-testing-in-new-zealand/>.

New Zealand's hosting of the UPOV Technical Working Party for Ornamental Plants and Forrest Trees in February provided valuable opportunities to build relationships and discuss technical issues with our overseas colleagues in the UPOV family.

The working party presented an opportunity to show an Australian plant breeders rights examiner how the New Zealand system operates and also learn more about how our Australian colleagues operate. Opportunities for further cooperation between PVRO and IP Australia are being pursued.

## **2. PVR Act Review update**

An options paper is still expected to be released later in July this year. This will be followed by consultation meetings with industry and Maori interests. The exact process following on from the options process is yet to be determined. It is likely the meeting venues will not be as widely dispersed around the country as those held previously.

Cabinet discussions and decisions are expected later this year and early next year, with a Bill expected to be presented to parliament around April or May 2020. The opportunity to influence the new law will be reduced once the select committee process commences. There will be additional opportunities to submit on the new law at select committee stage, but there is more potential for influencing the outcome before Cabinet policy decisions are made.

The key areas the options paper will focus on are: -

- The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and whether New Zealand accedes to UPOV91 or only gives effect to UPOV91. There is some flexibility here.
- Treaty of Waitangi obligations.
- Areas where there is inherent flexibility within UPOV91 such as essentially derived varieties (EDV), rights over harvested material, and rights around farm saved seed.

The Act review also requires updating of plant variety rights regulations, and this provides an opportunity to improve the “machinery” of how the PVRO operates. MBIE will be running a separate process to address these issues, including public consultation.

### **3. Zespri: Business, breeding and PVR**

Zespri presented an informative presentation on the value of plant variety rights, and the process and decision making that goes into commercialising a new variety.

### **4. Minutes from 2018**

Minutes of the Technical Focus Group meeting held last year on 12 June 2018 were circulated.

### **5. Developments within UPOV and internationally**

A written report was circulated. Due to time constraints not all items on the report were discussed.

UPOV's PRISMA electronic application tool has a number of benefits for those wishing to make a number of applications for the same variety in different jurisdictions. The number of countries and crops supported by PRISMA continues to grow. For the rest of the 2019 calendar year the tool is free to use. Further information on PRISMA can be found on UPOV's website, <https://www.upov.int/portal/index.html.en> .

### **6. Overview of PVRO activities and developments**

The PVRO continues to devote resources to the PVR Act review and the associated review of regulations.

Overall the level of applications and grants remains reasonably stable. However the decrease in applications for ornamental varieties continues with some compensating uplift in the number of applications for fruit varieties.

Cooperation with our international colleagues remains vital. As well as frequent ad-hoc contact with overseas offices, more formal cooperation is under way with the Community Plant Variety Office of the European Union regarding grass endophytes,

international collaboration is taking place on calibration of scales for range of expression in certain species, and the project for international exchange of descriptions of apple varieties arising from mutations continues.

### **7. Cooperation and the future**

PVRO depends heavily on cooperation with other parties to operate effectively and efficiently. This includes cooperation with applicants, experts, Crown Research Institutes, variety collection holders, and academics.

The Act review, and the associated review of operational aspects of the PVRO, provides an opportunity to ensure an appropriate framework is in place for the future. It is important to consider how best the PVRO can interact with other parties and the types of relationships that may be needed in the future.

Views were expressed that there should be increased communication and coordination from the PVRO regarding sourcing of protected varieties from competitors for inclusion in growing trials. Basic guidelines and a framework would assist this process. Obtaining comparator varieties for breeder trials is a potential barrier to applicants.

### **8. Next Meeting**

The date or location of the next meeting was not discussed. Participants are invited to contact the office with any comments and / or offers to host the 2020 meeting.

It was unfortunate that due to adverse weather Chris Barnaby and Cecilia R-Jackman from the PVRO were unable to attend, and nor was Thomas Chin from New Zealand Grain & Seed Trade Association. Participants are encouraged to contact the PVRO if as a result they were unable to raise or discuss any matters. Depending on the interest expressed of participants it may be possible to hold a second meeting this year using video conferencing.