



Plant Breeder's Rights (Approved Form) Approval 2018

I, Frances Roden, Registrar of Plant Breeder's Rights, under subsection 3(1) and subsection 3(1B) of the *Plant Breeder's Rights Act 1994*, approve the following attached forms:

- (1) "Application for Plant Breeder's Rights (Part 1)" for the purpose of an application made under section 26.
- (2) Applications submitted using the "International Union for the Protection of New Varieties of Plants (UPOV) PRISMA PBR Application Tool" (accessed via <http://www.upov.int/upovprisma/en/index.html>, as updated from time to time) are deemed to be in the approved form for the purposes of an application made under section 26.
- (3) "Nomination of a Qualified Person" for the purposes of an application made under section 26.
- (4) "Supplementary Pages to the Part 1 Application" for the purposes of an application made under section 26.
- (5) "Application for Plant Breeder's Rights (Part 2)" for the purposes of a detailed description under section 34.
- (6) "Certification by a Qualified Person (QP)" for the purposes of a detailed description under subsection 34(4).
- (7) "Application for a Declaration of Essential Derivation" for the purposes of an application made under section 40 or section 41.
- (8) "Application to Rectify the PBR Register" for the purposes of an application made under subsection 62A(2).

Dated 24 November 2018

Frances Roden

Frances Roden
Registrar of Plant Breeder's Rights

Application for Plant Breeder's Rights

GENERAL INFORMATION

Privacy Notice

- The personal information collected on this form is collected for the purposes of the Plant Breeder's Rights Act 1994 and the Plant Breeder's Rights Regulations 1994 (www.ipaustralia.gov.au/about-us/publications/ip-legislation/) and is protected by the Privacy Act 1988 (www.comlaw.gov.au/series/c2004a03712).

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- how you may seek access to and correction of the personal information we hold;
- how you may make a complaint about a breach of the Privacy Act and how we will deal with your complaint; and
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In accordance with the PBR Act, IP Australia may make this completed form available to any person, upon request and payment of a fee.

IP Australia will publish the:

- Applicant name, phone and fax numbers;
- Agent name, phone and fax numbers;
- Town, State and Country of the applicant's address; and
- full address of the Genetic Resource Centre

in the Register of Plant Varieties, the Plant Varieties Journal and the Plant Breeder's Rights Database. Once information is available on the internet, IP Australia has no control over its subsequent use and disclosure. You should be aware that the information (including personal information) held in IP Australia's online IP Rights databases is also available on request, subject to our terms and conditions.

You should also be aware that under the International Union for Protection of New Varieties of Plants (UPOV) (www.upov.int/portal/index.html.en) Convention, IP Australia is required to disclose information regarding plant breeder's rights applications (including the name of the applicant) to the UPOV in Geneva, Switzerland. Once information is provided to UPOV, IP Australia has no control over its subsequent use and disclosure.

If you do not provide the personal information required on the form, IP Australia may not be able to process this form.

IP Australia will not otherwise use or disclose your personal information without your consent, unless authorised or required by or under law.

Consent

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When you provide your consent to your personal information being disclosed to overseas recipients, including publication online, you understand that IP Australia will not be accountable for any subsequent use under the Privacy Act, nor are you able to seek redress under that Act, for the actions of any overseas recipient.

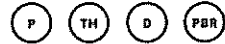


Australian Government
IP Australia

Plant Breeder's Rights Act 1994 - Section 26

PART

1



Application for Plant Breeder's Rights

GENERAL INFORMATION

Information provided by you on this form may be used in facilitating the operation of the Plant Breeder's Rights Program.

Note: There are two parts of the PBR application.

Part 1 - GENERAL INFORMATION: Successful completion of this form is a prerequisite to acceptance into the PBR scheme and qualification of the variety for provisional protection. The authorisation and declaration must be completed.

Part 2 - DESCRIPTION OF NEW VARIETY: After acceptance of the Part 1, the results of the comparative trial are presented - the evidence of distinctness, uniformity and stability (DUS).

Office Use Only

Application No.

Date:

Is this form intended to be attached as part of an eServices / B2B electronic lodgement? No Yes

Section 1 - Information about the applicant, agent and breeder

1. Name and contact details of the applicant - The name and address of each applicant is required

For joint applicants, use Supplementary Pages to Part 1 Application form (PBR00003) for each additional applicant.

One applicant only More than one applicant Supplementary Pages attached: No Yes

Name of Applicant

Address (can be a PO Box)

State Postcode

Country (if not Australia)

Contact Name

Contact Details

Telephone () Fax ()

Mobile Number

Email address

ACN/ARBN (if applicable)

2. Contact details in Australia or New Zealand - If the applicant is not resident in Australia or New Zealand, the applicant must: either appoint an agent resident in Australia or New Zealand to act on the applicant's behalf in the application; or specify an address in Australia or New Zealand for the service of notices on the applicant.

If the applicant is resident in Australia or New Zealand, the applicant may appoint an agent resident in Australia or New Zealand to make the application on the applicant's behalf.'

Not applicable, applicant is a resident in Australia or New Zealand and contact details are provided in question 1 Go to question 3

Postal address for service of notices on the applicant is different to address in question 1 Provide details on next page

Agent appointed to act on behalf of the applicant

Name of Agent (if applicable)

Address (can be a PO Box)

State Postcode

Country (if not Australia)

Contact Name

Contact Details

Telephone

Fax

Mobile Number

Email address

ACN/ARBN (if applicable)

3. Name and address of the breeder - The breeder of the variety is the applicant, unless ownership has been transferred by assignment, by will or by operation of law. Where the breeder is an employee or member of an organisation and the variety was bred in the course of performing duties as an employee or member of that organisation, then consider the organisation as the breeder.

A statement in relation to each applicant as to whether or not they are the breeder of the variety is required. Where the applicant is not the breeder the particulars of the transfer of ownership must be provided.

For joint applicants, use Supplementary Pages to Part 1 Application form (PBR/00/003) for each additional applicant.

Name of original breeder(s) who conducted or directed the work

Employer (if applicable)

Address

State Postcode

Country (if not Australia)

Relationship of the breeder to the Applicant detailed in question 1

Breeder is the applicant

Breeder is an employee or member of an organisation which is the applicant **Go to question 4**

Breeder is not the applicant **How were the ownership rights transferred to the applicant?**

By assignment

By will

By operation of law/other **Specify**

Copy of the document attached?

No **Why not?**

Yes

Section 2 - General information about the variety

4. Botanical name of the variety

5. Common name of the species

Does the species have a common name?

No

Yes Provide details

6. Proposed name for the variety - If an application for this variety has already been lodged overseas then you must propose the same name. Please note that before a name is accepted it must conform with section 27 of the PBR Act. When accepted, the variety name is protected under the PBR Act.

7. **Synonym** - A synonym is an alternative name for a variety. Please note that once accepted, the synonym is also protected. A synonym must also conform with section 27 of the PBR Act.

No

Yes Provide details

8. **Other names** - Please list any other names under which the variety has been known in Australia or overseas.

Do other names exist?

No

Yes Breeder's code

Trade name

Other name

9. Is the variety an Australian native species?

No

Yes It is mandatory to submit a herbarium specimen to the Australian Cultivar Registration Authority (ACRA). Please indicate the time of flowering and/or ideal time for a specimen to be collected and sent to ACRA.

10. Has this species ever been declared a noxious weed in any Australian state or territory?

No

Yes Provide details

11. Are you under any obligation to notify the supplier/owner of the original germplasm about your intention to obtain PBR?

Not applicable No obligation Yes, notified

12. Are you required, under any agreement with your current employer/funding agency, to inform them of your intention to acquire rights to this variety?

Not applicable No obligation Yes, notified

13. Has an application for PBR in this variety been lodged in a country other than Australia?

No

Yes Provide details

Country filed	Date of Lodgement dd/mm/yyyy	Application No.	Current Status	Variety name

14. Is priority claimed in respect of the earliest overseas application lodged with a UPOV member state?

Note: A claim for priority can only be made if the Australian application is lodged within 12 months of lodgement of the earliest overseas application with a UPOV member state. If this is the first lodgement of an application for this variety (i.e. no overseas applications with a UPOV member state), please indicate 'Not applicable'.

Not applicable

No

Yes

15. Has the variety been sold in Australia with the breeder's consent?

No

Yes Date of first sale

dd/mm/yyyy

Under what
variety name

16. Has the variety been sold overseas with the breeder's consent?

No

Yes Date of first sale

dd/mm/yyyy

Under what
variety name

Which country

Section 3 - Information about the origin and breeding procedure used to originate the variety

17. Origin and parentage of the variety

(i) Origin of the variety - the variety arose from:

Controlled pollination

Spontaneous mutation or sport

Selection from "source" material (including, but not restricted to, selections: from within uncultivated populations, from landrace varieties or unnamed plants; or selected from heterogeneous material supplied by a Genetic Resource Centre (GRC)) - further information will be sought in question 17(iv).

Open pollination

Induced mutation or sport

Genetic manipulation

Other origin

Specify

(ii) Breeding system of the species

Not Known

Self pollination

Often self pollinated

Cross pollinated

Apomixis

Other

Specify

(iii) Information on parent material

Name of maternal parent or source germplasm/variety

Breeder

Is the maternal parent or source germplasm/variety protected by PBR in Australia?

No Yes

Is the maternal parent or source germplasm/variety protected by PBR in another country?

No

Yes Provide particulars of registration

Country Filed

dd/mm/yyyy

Date of Lodgement

Application No.

Are there other parent(s)?

No

Yes Name of other parent(s)

Breeder

Is the other parent(s) protected by PBR in Australia?

No Yes

Is the other parent(s) protected by PBR in another country?

No

Yes Provide particulars of registration

Country Filed

dd/mm/yyyy

Date of Lodgement

Application No.

Were any of the parents sold in Australia under other names?

No Yes Provide details

(iv) Was 'Selection from 'source' material' indicated in question 17(i)?

No

Yes Please complete the following where relevant

Relevant passport data is provided with this application

The source material is:

A cultivated/obsolete variety

Collected from the wild

A land variety (one which has been traditionally cultivated by farmers for their own use)

Special genetic stock (e.g. breeding lines)

The source material is:

Subject to a Material Transfer Agreement

Copy enclosed? No Provide reason

Yes

Subject to FAO trust or material transfer agreements

Still available for inclusion in a comparative trial

- 18 **Prima facie case for breeding and prima facie case for distinctness** - List the characteristics or combination of characteristics which make your variety (the candidate) clearly distinguishable from its parents/ source material and the 'most similar varieties of common knowledge (VCK)' (the comparators). Characteristics must be capable of precise definition to establish a prima facie case. Please attach a photograph of the variety showing its distinguishing features.

Example

Name of comparator	Characteristic(s) in which the candidate variety differs from the comparator	Describe the expression of the characteristic for the comparator	Describe the expression of the characteristic for the candidate
<i>Variety X</i>	<i>Flower colour</i>	<i>Red</i>	<i>White</i>

(i) Prima facie case for breeding

Comparison with maternal or source germplasm/variety

Name of maternal parent or source germplasm/variety	Characteristic(s) in which the candidate variety differs from the maternal parent or source germplasm/variety	Describe the expression of the characteristic for the maternal parent or source germplasm/variety	Describe the expression of the characteristic for the candidate

Comparison with other parent(s). If unsure, list putative pollen parents (attach additional sheets if necessary)

Name of other parent(s)	Characteristic(s) in which the candidate variety differs from the other parent(s)	Describe the expression of the characteristic for the other parent(s)	Describe the expression of the characteristic for the candidate

(ii) Prima facie case for distinctness

Is the candidate variety the first variety of the species/hybrid?

No Provide details of distinctness

Yes Go to question 19

Comparison with most similar variety of common knowledge (VCK)

Name of comparator - the most similar VCK	Characteristic(s) in which the candidate variety differs from the comparator	Describe the expression of the characteristic for the comparator	Describe the expression of the characteristic for the candidate

Comparison with other similar varieties of common knowledge (VCK)

Name of comparator - other similar VCK	Characteristic(s) in which the candidate variety differs from the comparator	Describe the expression of the characteristic for the comparator	Describe the expression of the characteristic for the candidate

Section 4 - Information about the Genetic Resources Centre and DUS trial

21 **Nominate the name and location of the Genetic Resources Centre (GRC) where propagating material of the variety will be maintained** - A Genetic Resource Centre is a place considered to be suitable for the storage and maintenance of germplasm material and may include a part of a nursery set aside for the purpose of maintaining stock plants.

*Street Address:

* Must be a street address in Australia or New Zealand

22 **Details of the proposed DUS test** - Usually applicants conduct comparative growing trials in Australia. However the PBR office has the discretion to accept overseas DUS test reports provided certain conditions are met (details available on the PBR website).

Some taxa must be trialled in Australia - It is the policy of the PBR office to not accept overseas data for the following taxa due to the wide genotype by environment interactions that have been previously experienced. Varietal descriptions from overseas trials have consistently been different from those obtained from trials grown under Australian conditions. Consequently, for the following taxa a full DUS trial must be conducted in Australia: *Solanum tuberosum* (Potato).

The proposed DUS test will be:

- a comparative trial in Australia, including the candidate variety and the most similar varieties of common knowledge
- a verification trial in Australia, including the candidate variety only, grown to confirm the states of expression provided in an overseas DUS test report
- based solely on an overseas DUS test report

Details on trials grown in Australia

Location	No. of Plants	Date of Commencement dd/mm/yyyy	Growth stage at which the distinguishing characteristics can be observed

Details on overseas DUS test report

Testing Country

Test Date dd/mm/yyyy Estimated date of Availability dd/mm/yyyy

Note: Normally, it is the responsibility of the applicant to procure the overseas DUS test report directly from the relevant testing authority and supply a certified copy of it to the PBR office. If the report is already available to you then include a certified copy with this application. Once supplied, the PBR office will review the data for acceptability. In some cases, where there is a specific agreement, the testing authority will only supply the DUS test report directly to the PBR Office. For more details on these situations consult the ipaaustralia.gov.au/pbr website.

23 **Nominate the date when you wish the examination to occur** - The estimated examination date should be the time when the examiner can verify the distinguishing characteristics claimed in this application. It is mandatory to provide a date. If necessary, it can be changed later in consultation with the PBR office.

Estimated date for DUS examination dd/mm/yyyy

Section 5 - Authorisation and Declaration

For joint applicants, use Supplementary Pages to Part 1 application Form (PBR/00/003) for each additional applicant

24 Application for PBR, declaration that all information is true and correct.

I (we)

- apply for Plant Breeder's Rights to the variety described in this application, and
- authorise the Plant Breeder's Rights Office, for the purposes of examination, to exchange with the Plant Breeder's Rights Authorities of other countries all necessary information and material related to the variety, provided that the rights of the Applicant are safeguarded, and
- agree to the release of propagative material prior to the granting of PBR if required for comparative testing or scientific purposes, providing the material is used for no other purpose and all material relating to the variety is returned when the trials are complete, and
- declare that the information given in all parts of and attachments to this application is true and correct.

Declaration of Agreement:

I
(Please print name)

am the applicant/agent or am a signatory thereof and declare that all parties involved have agreed to the terms and conditions outlined above.

Position in Company/
Department
(if applicable)

Name of Company/
Department
(if applicable)

Date *dd/mm/yyyy*

*The penalty under section 75(1) for intentionally or recklessly making a false statement in support of an application is six months imprisonment.

Checklist of Attachments - Part 1 Application

Have you included the following?

- One completed original Part 1 Application form (PBR/00/001) for Plant Breeder's Rights
- A copy of the transfer of ownership documentation (e.g. assignment) from the breeder to the applicant, if the applicant is not the original breeder
- Completed Supplementary Pages to Part 1 Application form (PBR/00/003) (if applicable)
- A completed Authorisation of Agent form (PBR/00/004) if you are applying on behalf of the applicant
- A completed Nomination of a Qualified Person form (PBR/00/005)
- Photograph or photographs showing the distinguishing characteristics of the new variety
- Application fee if submitting by Post (see www.ipaustralia.gov.au for payment methods and the current fee schedule).
Note: the fee when submitting by eServices is less than when submitting by Post.
- Have ALL relevant questions been answered?

If you are submitting this form as an attachment for an eServices lodgement, save this PDF form to your desktop, then attach using IP Australia's eServices



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Plant Breeder's Rights Act 1994 - Section 26



Nomination of a Qualified Person

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IP Australia will publish the:

- Applicant name;
- Agent name;
- Qualified Person name and contact details; and
- Town, State and Country of the applicant's address

in the Register of Plant Varieties, the Plant Varieties Journal, the Plant Breeder's Rights Database and/or on our website. Once information is available on the internet, IP Australia has no control over its subsequent use and disclosure. You should be aware that the information (including personal information) held in IP Australia's online IP Rights databases is also available on request, subject to our terms and conditions.

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Consent

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Nomination of a Qualified Person

This form is to be completed by the applicant or their agent at the time of the initial application and submitted with the Part 1 of the application for PBR.

If accredited as a Qualified Person (QP) for the species, the applicant or agent can nominate themselves.

However, if the applicant or agent is not accredited by the PBR Office as a QP there are two options available:

- the applicant or agent can complete this form and simultaneously apply for accreditation, or
- the applicant or agent can select and nominate an accredited consultant qualified person from the list in appendix 3 of Australian *Plant Varieties Journal*. If this option is selected you should contact the selected qualified person as soon as possible and use this form as a guide to come to an understanding with them on what role they will play in the application process.

Name of variety

Name of nominated Qualified Person (QP)

I intend the nominated QP to perform the following functions:

- review the application documents related to the above variety first filed in another UPOV member country and make recommendations to the PBR Office on their suitability for examination without a DUS test growing in Australia, and/or Yes No
- perform those functions ticked in the box below if the PBR Office requires a comparative DUS test growing in Australia as part of the application process. Yes No

In addition to those already listed, tick only those functions that the QP has agreed to perform in relation to this application

- | | | | |
|--|-------------------------------------|--|-------------------------------------|
| Completion of Part 1 of the application form. | <input type="checkbox"/> | Certification of the Part 2 application form. | <input checked="" type="checkbox"/> |
| Determine the most similar varieties of common knowledge and the need to include source or parental material in trial. | <input checked="" type="checkbox"/> | Provide observations, data and statistical analysis of the DUS trial for the applicant to complete Part 2 of the application form. | <input type="checkbox"/> |
| Planning the test growing trial..... | <input type="checkbox"/> | Completion of Part 2 of the PBR application. | <input checked="" type="checkbox"/> |
| Recommending the most appropriate trial site for the varieties in trial. | <input type="checkbox"/> | Verification of the field trial, observations, data and statistical analysis. | <input type="checkbox"/> |
| Choice of trial site..... | <input type="checkbox"/> | Perform the necessary statistical analysis of the measurements to determine DUS. | <input type="checkbox"/> |
| Supervision of the layout and planting of the trial | <input type="checkbox"/> | Provide a detailed description of variety in the PBR approved format. | <input checked="" type="checkbox"/> |
| Care and maintenance of the trial..... | <input type="checkbox"/> | Provide a comparative slide or a colour print of the variety showing distinctness characters. | <input type="checkbox"/> |
| Instruction to applicant on the timing and nature of observations/measurements needed. | <input type="checkbox"/> | Make observations/take measurements to comply with approved DUS test guidelines. | <input type="checkbox"/> |

Declaration:

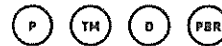
By ticking this box I declare myself to be the person identified *below and the information to be true and correct.

I am an authorised signatory for the applicant agent Date:
(DD/MM/YYYY)

*THE PENALTY UNDER SECTION 75(1) FOR MAKING A FALSE STATEMENT IN SUPPORT OF AN APPLICATION IS SIX MONTHS IMPRISONMENT.

By completing this form you consent to your personal information being handled in accordance with the Privacy Notice on page 1 of this form and the IP Australia Privacy Policy.

Supplementary Pages to the Part 1 Application



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In accordance with the PBR Act, IP Australia may make this completed form available to any person, upon request and payment of a fee.

IP Australia will publish the:

- Applicant name;
- Agent name;
- Qualified Person name; and
- Town, State and Country of the applicant's address

in the Register of Plant Varieties, the Plant Varieties Journal and the Plant Breeder's Rights Database. Once information is available on the internet, IP Australia has no control over its subsequent use and disclosure. You should be aware that the information (including personal information) held in IP Australia's online IP Rights databases is also available on request, subject to our terms and conditions.

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Supplementary Pages to the Part 1 Application



Supplementary pages to the Part 1 Application - Questions 1, 3 and 24.

1. Name and contact details of the applicant - The name and address of each applicant is required

Total number of applicants: (Note: Please use a separate form for each applicant)

Name of applicant:

Address
(can be a PO Box)

	State	Postcode
Country (if not Australia)		

Contact Name:

Contact Details

Telephone	<input type="text"/>
Fax	<input type="text"/>
Mobile Number:	<input type="text"/>
Email address:	<input type="text"/>
ACN/ARBN (if applicable)	<input type="text"/>

3. Name and address of the breeder

Name of original breeder(s) who conducted or directed the work:

Employer:
(if applicable)

Address
(can be a PO Box)

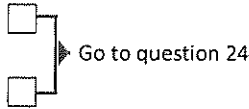
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Relationship of the breeder to the Applicant detailed in question 1

Breeder is the applicant

Breeder is an employee or member of an organisation which is the applicant



Breeder is not the applicant

How were the ownership rights transferred to the applicant?

By assignment

By will

By operation of law/other Specify

Copy of the document attached?

Yes

No Why Not?

24. Application for PBR, declaration that all information is true and correct.

I/We the

Applicant as outlined in question 1

Agent as outlined in question 2 of the PBR00001

- apply for Plant Breeder's Rights to the variety described in this application, and
- authorise the Plant Breeder's Rights Office, for the purposes of examination, to exchange with the Plant Breeder's Rights Authorities of other countries all necessary information and material related to the variety, provided that the rights of the Applicant are safeguarded, and
- agree to the release of propagative material prior to the granting of PBR if required for comparative testing or scientific purposes, providing the material is used for no other purpose and all material relating to the variety is returned when the trials are complete, and
- declare that the information given in all parts of and attachments to this application is true and correct.

Name (please print)

--

Position in Company/
Department
(if applicable)

--

Name of Company/
Department
(if applicable)

--

Date

--

(DD/MM/YYYY)

*The penalty under section 75(1) for intentionally or recklessly making a false statement in support of an application is six months imprisonment



Australian Government
IP Australia

Plant Breeder's Rights Act 1994 - Section 34

PART
2



Application for Plant Breeder's Rights

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Application for Plant Breeder's Rights

DESCRIPTION OF NEW VARIETY (the candidate variety)

The purpose of Part 2 is to present the results from the growing trial and/or information arising from a certified overseas test report - and in particular to present evidence of **Distinctness, Uniformity and Stability**.

The evidence of **Distinctness** will be published on the web in *Plant Varieties Journal* and must be submitted through the online **Interactive Variety Description System (IVDS)**.

The evidence of **Uniformity and Stability** is generally not for publication and can be presented in the format outlined on the following pages. Where necessary attach additional pages. Uniformity and Stability information can be provided on disk or hard copy. Please read this form before entering information.

Part 2 must be accompanied by completed forms PBR/00/006 - Certification by a Qualified Person and PBR/00/009 - Confirmation of submission of propagating material to a genetic resource centre (GRC).

1. Application number

2. Name and synonym of the candidate variety as accepted by the PBR Office Australia

Name	synonym
------	---------

3. Botanical name

4. The candidate variety will be maintained by (Tick)

Seed Vegetative propagation

If it is also a grafted/budded variety, please provide the name of the rootstock to which the candidate is grafted/budded

5. Stress Status of candidate variety (Tick)

(Tick 'n/a' only for varieties subject to post entry quarantine)

Pathogen/pest free Not free n/a
 Virus indexed Not indexed n/a
 Stress free Not free n/a

Stress Status of comparator varieties (Tick)

Pathogen/pest free Not free
 Virus indexed Not indexed
 Stress free Not free

Important: If disease, pest or stress observed, provide a full explanation of the factors and effects on a separate page.

DECLARATION BY ACCREDITED QUALIFIED PERSON

The information in and attached to this form was obtained from: a) a scientifically conducted trial, collated and analysed under my supervision, and faithfully represents the expressions of the characteristics of these varieties; and/or b) a certified overseas test report obtained from a International Union for the Protection of New Varieties of Plants (UPOV) member state with any additional data presented being used to supplement and verify the overseas test report.

A list of my functions as agreed with the applicant/agent is set out in the attached form PBR/00/006. In addition, I certify that this variety is distinct from the most similar varieties of common knowledge and meets the criteria of uniformity and stability appropriate for propagation of the variety.

By ticking this box I declare myself to be the person identified in this form and the information supplied to be true and correct.*

Name (please print)

Date

(DD/MM/YYYY)

*THE PENALTY UNDER SECTION 75(1) FOR MAKING A FALSE STATEMENT IN SUPPORT OF AN APPLICATION IS SIX MONTHS IMPRISONMENT.

Distinctness

Evidence for distinctness is included in the detailed description of the variety and is usually based on a comparative trial grown in Australia. In some cases and subject to conditions*, the detailed description can be drawn from an official overseas test report, obtained from a UPOV member state.

- While preparing a description based on an overseas test report the distinctive characteristics of the variety must be confirmed under Australian conditions and appropriate Australian comparators should be considered and included in the description. Details of how the confirmation was conducted should be included in the 'Conditions' section of the detailed description.

The Qualified Person uses information from the comparative trial (or from the overseas test report) to prepare a Detailed Description of the variety. This detailed description **must** be submitted through the Interactive Variety Description System (IVDS). The IVDS is a secure system which needs individual username and password for access. All PBR accredited Qualified Persons are provided with their individual username and password. Please contact the PBR office if you do not have a username and password. IVDS can be accessed from PBR website at (www.ipaustralia.gov.au/pbr).

The IVDS allows Qualified Persons to complete and submit detailed descriptions online by accessing relevant test guidelines and selecting specific characteristics with their various states of expressions from the options provided. The IVDS incorporates all of the approved UPOV test guidelines (and some additional national equivalents where a UPOV test guideline is not available) in interactive forms with easy to use drop-down menus. Qualified Persons can "build" their own additional/special characteristics if suitable options are not available in the guideline. The IVDS also accepts statistical information.

The IVDS emphasises the use of "grouping characteristics" in selecting comparator varieties. It allows Qualified Persons to lodge the completed variety descriptions with minimum typing.

To claim distinctness, the Qualified Person must nominate one or more characteristic(s) which distinguishes the candidate from the comparator variety(ies). Inbuilt check boxes are provided for this purpose.

There are **step by step on-screen instructions with examples in each step of IVDS**, which will assist the Qualified Person to complete the process smoothly. In addition, PBR Office (PBRO) is ready to help Qualified Persons, if they encounter any problems. Please send an email to pbr@ipaustralia.gov.au if there is a problem in completing the description using IVDS.

Requirement to supply a photograph

A photograph must be provided for publication purposes. A good quality digital image depicting one or more distinguishing features of the candidate variety along with the comparators is preferred. The digital image should be well-labelled to avoid any confusion with the variety names. Please upload your digital photograph in the attachments section within eServices (www.ipaustralia.gov.au/get-the-right-ip/eservices/).

In absence of a digital photograph you can also supply a good quality colour transparency or a colour print. In special cases, composite photographs can be produced by the PBR office.

Briefly describe the subject of your photograph. Indicate the position of the candidate and the comparators.

Indicate the distinct characters of the candidate variety that can be observed in the photograph.

Uniformity

Each candidate variety must be uniform. A variety is taken to be uniform, if subject to the variation that may be expected from the particular features of its propagation, it is uniform in its distinctive characteristics. For many species the level of uniformity required is specified in the relevant UPOV Technical Guideline (UPOV Technical guidelines are available at (www.upov.int/en/publications/tg-room/index.html)).

Observed characteristics

For observed characteristics (ie not measured characteristics), uniformity is usually assessed using the off-type method. Qualified Persons should submit information recording the number of off-types (ie number of plants or samples which have a state of expression different from that claimed for the candidate) for the relevant distinctive characteristics. For example the candidate variety might be distinctively red flowered but occasionally there is a yellow flower (in the example below, one yellow flower in each ten flowers sampled).

*Please contact the PBR office to discuss any detailed requirements

RELATIVE VARIANCE TABLE

Characteristic	Variance of candidate variety	Variance of comparator variety	Variance of comparator variety	Variance of comparator variety	Variance of comparator variety	Variance of reference variety	Combined mean variances of comparator varieties	Ratio candidate/ mean of comparators
----------------	-------------------------------	--------------------------------	--------------------------------	--------------------------------	--------------------------------	-------------------------------	---	--------------------------------------

Example:

Plant: height (cm) 5.1 6.5 5.5 4.3 5.3 6.2 5.56 0.917

Stability

A variety is taken to be stable if its distinctive characteristics remain unchanged after repeated propagation. There is no need to provide stability data for comparator varieties.

Stability - for candidate varieties maintained by seed

Plants grown from a minimum of two seed generations of the candidate variety should be so alike that they could not be declared distinct from each other for any characteristic used to show distinctness of the candidate variety from the comparator or varieties.

- 'state' refers to the state of expression of a characteristic recorded in words
- for observed characteristics (ie not measured characteristics), leave columns 4 and 5 blank

STABILITY TABLE

Characteristic	Mean or state Generation 1	for	Mean or state Generation 2	for	Difference between the means	LSD* (P <= 0.01) (measured characteristics only)	Same (S) or Different (D)?
----------------	----------------------------	-----	----------------------------	-----	------------------------------	--	----------------------------

Example:

Plant: height (cm) 127.1 130.2 3.1 3.5 S

*Least Significant Difference (LSD) test preferred though other appropriate statistical tests can also be used.

Stability - for candidate varieties maintained by vegetative means

Where no instability between generations for distinctive characteristics has been observed, then it is generally sufficient for the Qualified Person to make a statement to that effect by checking the box (see under) in lieu of completing a stability table.

The distinctive characteristics of the candidate variety are stable (ie have remained unchanged) after repeated propagation.

Where instability of distinctive characteristics is present in a vegetatively propagated candidate variety, the Qualified Person will need to contact the PBRO.

Checklist of Attachments - Part 2 Application

Have you included the following?

One completed original Part 2 Application form (PBR/00/002) for Plant Breeder's Rights

A completed Certification by a Qualified Person form (PBR/00/006)

A completed Confirmation of submission of propagating material to a genetic resource centre form (PBR/00/009)

Has evidence of distinctness been submitted via the online Interactive Variety Description System (IVDS)?

Photograph or photographs showing the distinguishing characteristics of the new variety

Have ALL questions been answered ?

Has the Qualified Person completed the declaration on page 1 of this form?

Certification by a Qualified Person (QP)

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IP Australia will publish the:

- Applicant name;
- Agent name;
- Qualified Person name and contact details; and
- Town, State and Country of the applicant's address

in the Register of Plant Varieties, the Plant Varieties Journal, the Plant Breeder's Rights Database and/or on our website. Once information is available on the internet, IP Australia has no control over its subsequent use and disclosure. You should be aware that the information (including personal information) held in IP Australia's online IP Rights databases is also available on request, subject to our terms and conditions.

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Certification by a Qualified Person (QP)

- To be completed by the applicant or the applicant's agent and the Qualified Person.
- The Qualified Person must be officially accredited for the species, in writing, by the PBR Office (PBRO).
- This completed form should be attached to, and submitted with, Part 2 of the application form PBR/00/002.

Name of variety:

Application number:

Applicant's or Agent's name:

Qualified Person's name:

Answer all questions by ticking the appropriate box

I am accredited with the Plant Breeders Rights Office for this taxon as a:

- consultant Qualified Person
- non-consultant Qualified Person

As the Qualified Person I have:

reviewed the application documents related to the above variety first filed in another UPOV member country and recommend to the PBRO that they are suitable for examination without a comparative test growing in Australia, and/or

Yes No

performed those functions ticked in the box below as part of the application process, the results of which are reported in Part 2 of the application form

Yes No

Tick only those functions that the QP performed in relation to this application

Completion of Part 1 of the application form.	<input type="checkbox"/>	Certification of the Part 2 application form.	<input checked="" type="checkbox"/>
Determine the most similar varieties of common knowledge and the need to include source or parental material in trial.	<input checked="" type="checkbox"/>	Provide observations, data and statistical analysis of the DUS trial for the applicant to complete Part 2 of the application form.	<input type="checkbox"/>
Planning the test growing trial.....	<input type="checkbox"/>	Completion of Part 2 of the PBR application.	<input checked="" type="checkbox"/>
Recommending the most appropriate trial site for the varieties in trial.	<input type="checkbox"/>	Verification of the field trial, observations, data and statistical analysis.	<input type="checkbox"/>
Choice of trial site.....	<input type="checkbox"/>	Perform the necessary statistical analysis of the measurements to determine DUS.	<input type="checkbox"/>
Supervision of the layout and planting of the trial	<input type="checkbox"/>	Provide a detailed description of variety in the PBR approved format.	<input checked="" type="checkbox"/>
Care and maintenance of the trial.....	<input type="checkbox"/>	Provide a comparative slide or a colour print of the variety showing distinctness characters.	<input type="checkbox"/>
Instruction to applicant on the timing and nature of observations/measurements needed.	<input type="checkbox"/>	Make observations/take measurements to comply with approved DUS test guidelines.	<input type="checkbox"/>

Declaration by Qualified Person

By ticking this box I declare myself to be the Qualified Person identified in this form and the information supplied to be true and correct.*

Name (please print): Date:
(DD/MM/YYYY)

The applicant or agent for the applicant should complete the section below to confirm that there is an agreed understanding on the respective roles of the applicant/agent and QP in this application.

Applicant/Agent

By ticking this box I declare myself to be an authorised signatory for the Applicant/Agent identified in this form and the information supplied to be true and correct.*

Name (please print): Date:
(DD/MM/YYYY)

Name of Company or Department (if applicable)

For joint applicants where an agent has not been authorised, the name of each of the joint applicants is required.

By ticking this box I declare myself to be the person identified below and am authorised to sign. The information is true and correct.*

Name (please print): Date:
(DD/MM/YYYY)

Name of Company or Department (if applicable)

***THE PENALTY UNDER SECTION 75(1) FOR MAKING A FALSE STATEMENT IN SUPPORT OF AN APPLICATION IS SIX MONTHS IMPRISONMENT.**

Application for a Declaration of Essential Derivation



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In accordance with the PBR Act, IP Australia may make this completed form available to any person, upon request and payment of a fee.

IP Australia will publish the:

- Applicant name;
- Agent name; and
- Town, State and Country of the applicant's address

in the Register of Plant Varieties, the Plant Varieties Journal and the Plant Breeder's Rights Database. Once information is available on the internet, IP Australia has no control over its subsequent use and disclosure. You should be aware that the information (including personal information) held in IP Australia's online IP Rights databases is also available on request, subject to our terms and conditions.

You should also be aware that the Registrar for Plant Breeder's Rights may need to:

- contact the grantee of the Plant Breeders Right for which you are seeking a declaration, regarding your application; and
- disclose the contents of your application to the grantee of the Plant Breeder's Right.

If you do not provide the personal information required on the form, IP Australia may not be able to process this form.

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Plant Breeder's Rights Act 1994 - Sections 4, 40 and 41

Application for a Declaration of Essential Derivation



Sections 1 to 3 to be completed by the Applicant

Note: This application must be accompanied by the prescribed fee.

Section 1: General information about the Applicant and varieties concerned

Name of Applicant:
(person making this request for declaration of essential derivation)

Address (can be a PO Box):
 State Postcode
 Country (if not Australia)

Contact Details

Contact person:
(if different from applicant)

Telephone: () Fax: ()

Mobile Number:

Email address:

Initial Variety (details of your granted PBR variety)

PBR Application No.

PBR Certificate No.

Variety name:

Botanical name:

Has the initial variety itself been declared to be essentially derived from another variety?

Yes

No

Second Variety (details of the variety you are claiming is essentially derived)

If the second variety is the subject of an existing PBR then provide details:

PBR Application No.

PBR Certificate No. (if granted)

Variety name:

Botanical name:

Second Variety (continued)

If the second variety is not the subject of an existing PBR then provide details:

Variety name:	
Botanical name:	
Breeder:	
Breeder Address:	

The above information must be sufficient to enable the Registrar to notify the breeder of the second variety of the application for essential derivation.

If you are unable to reasonably identify the breeder of the second variety then outline steps you have undertaken to attempt to obtain the information

Note: To further consider the application, the information provided must be sufficient to satisfy the Registrar that reasonable steps have been undertaken in an attempt to identify the breeder of the second variety.

Section 3: Declaration by the Applicant

As the grantee or an exclusive licensee of the grantee of the initial variety stated in this application, I apply under Section 40 or 41 of the *Plant Breeder's Rights Act 1994* for a declaration that the second variety stated in this application is essentially derived from the aforementioned variety.

By ticking this box

I/We:

Date:

--

(DD/MM/YYYY)

declare to be authorised to complete this application and that the information given in all parts of and attachments to this form are true and correct.*

*** THE PENALTY UNDER SECTION 75(1) FOR MAKING A FALSE STATEMENT IN SUPPORT OF AN APPLICATION IS SIX MONTHS IMPRISONMENT.**



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Plant Breeder's Rights Act 1994 - Section 62A



Application to Rectify the PBR Register

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In accordance with the PBR Act, IP Australia may make this completed form available to any person, upon request and payment of a fee.

IP Australia will publish the:

- Applicant name, phone and fax numbers;
- Agent name, phone and fax numbers;
- Town, State and Country of the applicant's address; and
- Details of any amendment to the PBR Register

in the Register of Plant Varieties, the Plant Varieties Journal and the Plant Breeder's Rights Database. Once information is available on the internet, IP Australia has no control over its subsequent use and disclosure. You should be aware that the information (including personal information) held in IP Australia's online IP Rights databases is also available on request, subject to our terms and conditions.

You should also be aware that under the International Union for Protection of New Varieties of Plants (UPOV) (www.upov.int/portal/index.html.en) Convention, IP Australia is required to disclose information regarding plant breeder's rights applications (including the name of the applicant) to the UPOV in Geneva, Switzerland. Once information is provided to UPOV, IP Australia has no control over its subsequent use and disclosure.

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Plant Breeder's Rights Act 1994 - Section 62A



Application to Rectify the PBR Register

Personal Details of Applicant

(* denotes mandatory fields)

*Name	<input type="text"/>		
	ACN/ARBN/ABN		
*Address (can be a PO Box)	<input type="text"/>		
	Country (if not Australia)	State	Postcode

*Address for Service (if different from the above address)

Address for Service of documents in Australia or New Zealand (can be a PO Box)

Address	<input type="text"/>		
	Country	State	Postcode

OR

Agent Details (only complete if you are being represented by an Agent authorised to act on your behalf)

Name	<input type="text"/>		
Address	<input type="text"/>		
	Country (if not Australia)	State	Postcode

Optional Details:

Telephone	()	Fax	()	Mobile Number	<input type="text"/>
Email Address	<input type="text"/>			Customer Number	<input type="text"/>

By completing this form you consent to your personal information being handled in accordance with the Privacy Notice provided on page 1 of this form.

IP Australia publishes address details in our online databases and bulk data products. Please provide a post office box if you do not want your residential address to be published.



Application to Rectify the PBR Register

THIS FORM SHOULD BE USED FOR AMENDMENTS TO RECTIFY THE PBR REGISTER UNDER S62A of the PBR Act

Part 1 Formality Details

If more room is required than is provided on the following pages you can attach your request to the back of this form

PBR Certificate Number(s)	Variety name

Current proceedings

The Register cannot be rectified while relevant proceedings in relation to the PBR are pending or proceedings in a court or in the AAT, relating to a decision under s21 of the PBR Act to amend or refuse to amend, the Register in relation to the PBR, are pending.

Complete the following:

- I am not aware of any current proceedings in relation to the PBR varieties identified in this application
OR
 I am aware of the following current proceedings in relation to the PBR varieties identified in this application

Details of current proceedings

Part 2 Amendment Details

Tick the appropriate box(s) and provide reasoning.

Type of amendment requested

- omission of an entry from the register
 an entry made in the Register without sufficient cause
 an entry wrongly existing in the Register
 an error or defect in any entry in the Register

Note: If the reason is not sufficient the Registrar may seek further information from any person

