



Australian Government

IP Australia

PBR

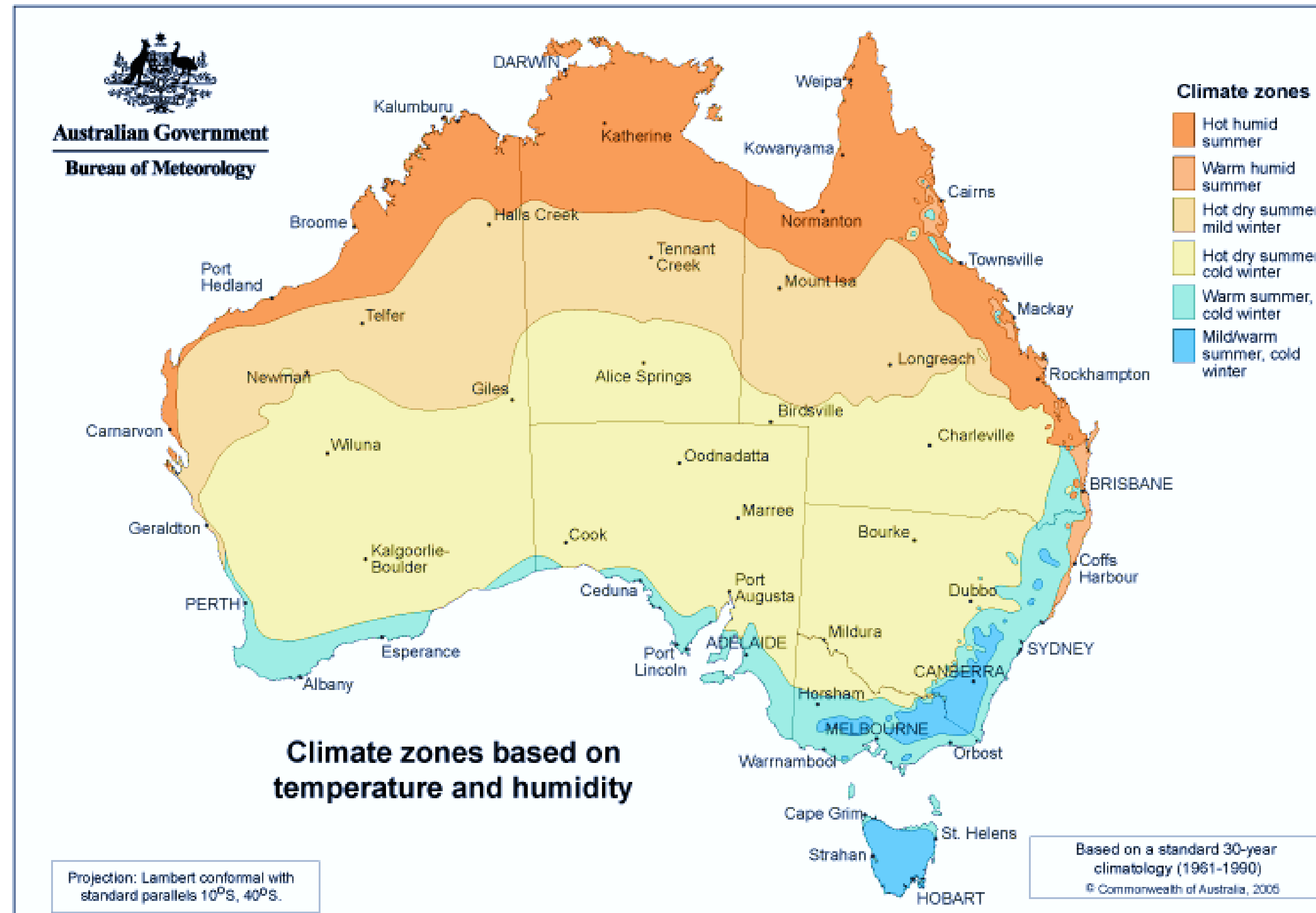
# Setting the Scene

Independent DUS examination in Australia





# Australia – Size and Climate



<http://www.bom.gov.au/climate/maps/averages/climate-classification/>



# Australia – Size and Climate

- Due to the size and variation in Australia's climates and environments, centralised testing at one location is impossible.
  - This relates to both the variations in climate but also the range of plant types that grow within Australia.
- PBR system operates as a cost recovery system from a Government perspective.
- PBR also needs to be economically viable for users of the system.
  - If centralised testing was chosen, costs would be prohibitive and many test centres and requisite staff would be required
  - If the system is too expensive no one will use it.





# Novel Approach – Qualified Person

## 8 Approved persons

(1) In this Act, a reference to an approved person is a reference to a person who, on the basis of the person's qualifications and experience, the Registrar has designated, by instrument in writing, to be such a person in relation to one of more species of plant.

- Section 8 of the *PBR Act 1994* establishes “approved persons” who are required to perform duties under the Act. In practice, these persons are known as Qualified Persons (QPs).
  - Accreditation of QPs is the responsibility of the PBRO
  - QPs need expertise in their particular plant types
  - Applicants are assessed by the PBRO as being capable to perform the role
  - Undertake training so that they understand the UPOV approach.





# Breeders/Applicants

- Undertake breeding
- Apply for PBR
- Profit from their investments and efforts.





# Approved Persons (Qualified Persons)

QPs are legally required for all applications. They play an important role and at a minimum;

- Supervise the growing trial
- Verify the claims made
- Submit a Certified Detailed Description

They are engaged directly by the applicants and can also provide advice and guidance to applicants and agents.





# Approved Persons (Qualified Persons)

How does someone become a QP?

- Accreditation and administration of QPs is the responsibility of the PBRO.
- QPs need to expert in their particular plant types.
- QPs must apply to the PBRO to be assessed and approved as acceptable to perform he role of a QP.
- Additionally, QPs must undertake training so that they understand the UPOV approach to describing plants.





# The PBR Office (IP Australia)

- Is responsible for all decisions with regards to the acceptance or rejection, and the grant or refusal of rights.
- The PBRO through an examiner, physically attends growing trials to verify claims made by applicants and QPs.



# Independence

- The QP has oversight of the growing trial.
- The QP (in conjunction with the PBRO) chooses the most appropriate comparator varieties.
- The QP then legally certifies the Description (strong penalties exist for false declarations).
- The Description is then published for public comment for a minimum period of 6 months before Grant can be considered.





# Selection of Comparator Varieties

- QPs are required to consider all varieties of common knowledge.
  - This includes varieties from around the world (not just Australia)
- Comparator varieties are not restricted to those in a reference collection and are selected using grouping characteristics.
- All plants (candidate and comparator) are expected to be;
  - Propagated the same way,
  - at the same time; and,
  - grown under the same conditions.
  - They are therefore a “Like for Like” comparison.





# Onsite Examination

- The policy of the PBRO is for an examiner to physically examine the trial to verify the claim/s made by the applicant and or QP.
- PBRO gets to 99% of growing trials, trials that we can't reach are formally risk assessed, and extra evidence is required.
- Examiners then independently assess the trial and claims made.





# Publication of Description – Public Notification

- Descriptions are published for a period of 6 months and must;
  - Describe both candidate and comparator/s to show how the new variety is different
  - show how the comparator varieties were selected (grouping characteristics)
  - provide information on trial design and conditions to make it as repeatable as possible.
- Anyone can raise issues about the application during this time, formally or informally.
- If the PBRO is sufficiently swayed by third party comments and/or objections this can result in retrials, or the refusal to Grant the right (amongst a myriad of other possibilities).





# Benefits

## **Trials**

- Enables growing trials to be conducted at the most suitable location for the variety
- Reduced costs/fees for applicants/agents
- Reduced costs for Government.

## **Public Notifications**

- Transparency, allows for public scrutiny
- Allows industry and expert knowledge to be introduced into the examination process that otherwise would not, through commentary and objections.



# Challenges

- Maintaining a well-trained QP cohort
- Providing training for QPs
- Having QPs in all regions
- Having QPs that are qualified in niche/obscure plant types.





# Opportunities

- Technology enabling, possible virtual examinations for low-risk trials.





PBR

# Questions?





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# Contact us

 1300 65 1010 (9am-5pm)

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