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Response to the consultation on the possible release of a biocontrol agent to control Japanese Knotweed

The City of London Law Society (“CLLS”) represents approximately 13,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 17 specialist committees. This response in respect of the possible release of a biocontrol agent to control Japanese Knotweed has been prepared by the CLLS Planning and Environmental Law Committee.

The CLLS Planning and Environmental Law Committee contributed to the previous consultation on Japanese Knotweed. The lawyers in the Planning and Environment Committee have written widely on this subject and have advised numerous clients on both the issues associated with the control of Japanese Knotweed and the tax reliefs available for remediating affected land. While it is encouraging to see that the control of Japanese Knotweed is back on the agenda, the CLLS have some concerns regarding the proposed release of the psyllid *Aphalara itadori*.

Biocontrol will be unsuitable for development sites

The CLLS notes that one of the reasons a biological control is sought is that the more traditional chemical methods of control are not always considered suitable for controlling Japanese Knotweed growing close to waterways. However, the CLLS would suggest, that whilst chemical methods are less suitable for locations near waterways, the proposed biocontrol methods will be unsuitable for development sites, as the psyllid will only affect the plant above ground; it will not kill the rhizome, thus the presence of Japanese Knotweed will be concealed from developers, who will then unwittingly spread it around their sites (and possibly to other sites). In reality, at the very least, a combination of biological and more traditional chemical methods will be required to control Japanese Knotweed and avoid exacerbating the current situation.

Suppression below an ‘economic or environmental threshold’

The DEFRA consultation claims that *Aphalara itadori* will not eradicate Japanese Knotweed, as the psyllid depends on the survival of Japanese Knotweed as its only food source. However, it is suggested that Japanese Knotweed will be suppressed below an ‘economic or environmental threshold’. It is difficult to contemplate how the psyllid will know when to stop eating its only food source! Is it not possible that when

supplies of Japanese Knotweed begin to dry up, the psyllid, like most other creatures, will look for an alternative food source and adapt to eating a native species, even if it does not do so currently?

Biocontrol may encourage the development of hybrids

The CLLS is aware that there is already a hybrid species of Japanese Knotweed, namely, Bohemian Knotweed. Is it possible that the introduction of a non-native biocontrol could encourage the formation of further hybrid species and exacerbate the spread of Japanese Knotweed?

Lack of native 'natural enemies'

Finally, the CLLS has reviewed the risk assessment summary which accompanies this consultation and notes that the psyllid is not expected to have any native 'natural enemies'. There will surely need to be a native species to keep the non-native *Aphalara itadori* in balance. If not, the CLLS imagines that it would have the potential to become the next non-native invasive species, in much the same way as the cane toad has in Australia.

The CLLS appreciates that it is not possible to test every variable prior to release. However, we suggest that the points outlined above highlight quite significant risks concerning the release of *Aphalara itadori* and the CLLS would be interested to learn how DEFRA intends to deal with these risks.

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