



UTILISATION OF CRC RESEARCH & MANAGEMENT OF INTELLECTUAL PROPERTY

Australia's best capability
working together

This Guide is part of a series of Guides aimed at industry, including small and medium enterprises, and others who are new to the CRC Program.

INTRODUCTION

Cooperative Research Centres (CRCs) are engines of innovation for Australia.

An initiative of the Australian Government, CRCs bring together the best minds from research and industry to work as a team. Together, and driven by the needs of private, public or community end-users, CRCs turn research results into products, services and technologies and address national priorities within a local and global context.

This Guide has been developed by the CRC Association to help interested parties, both current and potential CRC partners, plan and implement utilisation activities and consider issues associated with intellectual property. It is part of a series of CRC Association Guides focused on providing useful information about the CRC Program to industry and other end-users, including small and medium enterprises (SMEs) and organisations unfamiliar with the CRC Program.

RATIONALE AND REQUIREMENTS

The CRC Program Guidelines require CRCs to undertake 'utilisation activities to deploy research outputs and encourage take-up by end-users'.

The coherence and credibility of proposed utilisation activities is an integral consideration in the assessment of CRC applications, particularly in relation to Selection Criterion 1 – Research, and Selection Criterion 2 – Results.

CRCs approach deployment and utilisation of their research outputs in different ways, determined by the needs of their end-users.

Utilisation includes:

- technology transfer and take up by end-users
- the manufacture, sale, hire or other exploitation of a product or process developed by the CRC, or
- the provision of a service, that may also incorporate intellectual property (IP) developed by the CRC

The most recent National Survey of Research Commercialisation noted that income derived by CRCs from licences, options and assignments (LOA) activity per \$100m research expenditure increased by 162% from \$1.3m in 2003–04 to \$3.4m in 2007–08.



BENEFITS

FOR END-USERS

- through well-designed utilisation activities, deliver new and/or improved goods, services, processes, practices, policies and technologies, and enable their full exploitation to improve productivity, competitiveness and access to global supply chains
- create new industries and new markets for industry/businesses
- provide new evidence and expertise to inform decision-making, including by Government and community groups

FOR RESEARCHERS

- supports and enhances medium to long-term collaborations between researchers and end-users
- increase opportunities for international collaborations and exchanges
- increase demand for research that delivers innovative solutions to the challenges facing Australian industry and society more broadly

FOR AUSTRALIA

- strategic approaches to utilisation, commercialisation and the management of intellectual property build Australia's reputation as an innovative country and enhance prospects for future international collaboration
- deliver direct economic benefits to Australia through increased productivity, competitiveness and access to global supply chains
- deliver direct environmental and social benefits to Australia through greater understanding and acceptance of policies and practices that improve our management of the environment, assist with climate change adaption and improve participation in Australian society

SCOPE OF UTILISATION ISSUES FOR CONSIDERATION BY CRCs

ASSESSING IMPACT AND RISK

Utilisation should be considered at all the critical points in the CRC life cycle. Utilisation planning and monitoring will parallel and contribute to research planning and monitoring. The Impact Tool, included in the Selection Round application pack, provides applicants with an open and transparent way of consistently assessing the expected outcomes of

their proposed research such as new and/or improved goods, services, processes or technologies. The Tool also requires the examination of risks inherent in the achievement of the benefits, and the risk mitigation strategies required to reduce or to manage these risks. Assessment of the risks can be understated if all factors are not fully considered.



COMMERCIALISATION

Commercialisation may be seen as the most demanding aspect of utilisation because it requires a clear understanding of the commercial value of the knowledge produced by a CRC. Important steps in commercialisation are the engagement of commercial partners from industry, and market analysis to determine the most appropriate pathway for commercialisation of IP. An example of this process is in the Vision CRC engagement with CIBA Vision to plan the pathway to commercial adoption of new generations of contact lenses and establish the parameters of commercialisation up front.

INTELLECTUAL PROPERTY (IP)

Underpinning utilisation and commercialisation concepts is the notion of IP and IP protection strategies. CRCs need to decide whether maximising benefits to end-users requires wide public release of IP (without the need for protection other than copyright), or whether they need a more specific protection strategy involving trade secret, patent, attaching it to a trade mark, copyright or plant breeders' rights.

CRCs are likely to need to seek specialist advice in framing and applying their IP strategies. Some of the questions about IP which may arise include the following:

HOW DO YOU MAKE SURE ALL PARTNERS ARE FULLY AWARE OF THEIR OBLIGATIONS REGARDING IP?

Participants' responsibilities in relation to utilisation and IP management are defined in agreements including the Participants Agreement, project agreements and/or letters of engagement. All participants should be aware of the responsibilities of agreements to which they enter.

HOW DO YOU HANDLE COMMERCIALLY VALUABLE IP WHEN THE PhD STUDENT WHO WORKED ON THE PROJECT WANTS TO PUBLISH?

Many PhD students are invited to work on areas in CRCs that are not highly sensitive for commercial reasons. Where their work is of significant commercial value, public release of their thesis may be delayed until suitable protection of IP can be arranged. Students need to be made aware of this possibility at the outset of their placement.

HOW DO YOU MANAGE IP WITH GOVERNMENT AGENCIES?

Depending on the mission of government agencies, they may require strict protection of knowledge and intellectual property to the same degree as private sector companies, but in other situations they may also require widespread dissemination of knowledge in the interests of the community or for industry sector benefit.

IS CRC RESEARCH ULTIMATELY DESTINED FOR THE PUBLIC DOMAIN?

The outputs of CRC research are put through a process of determining whether they are commercially valuable and therefore subject to protection or can be taken straight to the public domain via publication. Often participants will require CRCs to keep the knowledge that they generate out of the public domain until commercially valuable IP has been identified and a suitable protection strategy put in place (which may include patent or trade secret prior to widespread dissemination).

WHAT IS THE VALUE OF IP?

CRCs need to identify the potential market related to novel IP. Until a market value is identified it is difficult to assign a value to the IP. Ultimately, any IP position can be challenged in legal proceedings and until that process is complete, there may be little assurance on the claim on value of IP that can be made by the CRC and its participants.



POINTERS FOR NEW APPLICANTS

- consider and discuss utilisation of outputs when a CRC is being created and at all key stages of the CRC's operations
- participants' responsibilities in relation to utilisation and IP management are to be defined in the Participants Agreement and may also need to be considered in relation to project agreements or letters of engagement
- ensure protocols for handling IP are developed early in the life of CRC (within the first few months if not during the application or contract negotiation stage)
- ensure the field for a CRC research project is novel and not already covered by the IP rights of others before starting research
- examine all commercialisation options for IP sale, licensing and manufacture and identify resources needed for each option
- Patent attorneys may provide essential advice regarding protection of IP, and lawyers on tax implications for exploitation strategies; commercialisation strategists and venture capital providers can also be of assistance, together with university based commercialisation companies or commercialisation officers
- IP is an issue for all CRC staff and students – they need to understand who owns IP and the rights to use it – CRCs should consider organising specific training for students and staff who are not already familiar with IP management procedures and strategies

FURTHER ASSISTANCE

CRC Association

02 6270 6524

www.crca.asn.au

CRC Program

02 6213 7177

www.crc.gov.au



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REFERENCES AND RESOURCES

CRC Association www.crca.asn.au

CRC Program website www.crc.gov.au

Information on utilisation, within the CRC context, can be found in the
discussion of the CRC Impact Tool available on www.crc.gov.au

National Survey of Research Commercialisation http://www.innovation.gov.au/Section/Innovation/Documents/NCRC_final_o3o8o9.pdf

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