



Australian Government

Department of Health and Aged Care

# Intellectual Property Policy

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THE FREEDOM OF INFORMATION ACT 1982 (CTH)  
BY THE DEPARTMENT OF HEALTH AND AGED CARE

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# 1. Background

- 1.1 The Australian Government has issued a whole of government policy for the management of intellectual property (IP) by Commonwealth entities, known as the [Statement of IP Principles](#). Originally issued by the Australian Government in 2007, the Statement of IP Principles was amended in 2010 and again in 2018.
- 1.2 In 2012, the Attorney-General's Department developed an Australian Government Intellectual Property Manual for the assistance of agencies in implementing the Statement of IP Principles. The [Australian Government Intellectual Property Manual](#) was amended in 2018.
- 1.3 The Department has an existing 2015 IP policy that requires updating due to the amendments made to the Statement of IP Principles and the Australian Government Intellectual Property Manual.

# 2. Purpose

- 2.1 The purpose of this Intellectual Property Policy is:
  - (a) to replace and update the Department's existing IP policy;
  - (b) to reflect the updated guidance contained in the Australian Government Intellectual Property Manual; and
  - (c) to provide updated practical rules to assist Departmental officers to manage IP within the framework of the Australian Government Intellectual Property Rules.

# 3. Framework

- 3.1 This Intellectual Property Policy adopts the Australian Government Intellectual Property Rules as its framework for the management of IP by the Department, in particular:
  - (a) the Statement of IP Principles as the policy framework;
  - (b) the Australian Government Intellectual Property Manual as the best practice manual;
  - (c) sample model or whole-of-government clauses as a preferred position;
  - (d) the [Guidelines on Licensing Public Sector Information \(PSI\) for Australian Government Entities](#) as the guidelines for disseminating Public Sector Information; and

- (e) the management rules in this document (see 5 – *Management Rules for Significant IP and Existing IP* below) as the practical guidelines.

## 4. Scope

- 4.1 The Department creates and acquires IP every day. IP management involves identifying, recording, protecting, reviewing and, in most cases, sharing the IP used by Departmental officers.
- 4.2 This Intellectual Property Policy is only concerned with the management of Significant IP and Existing IP. However, to the extent the use of IP is covered by legislation or in other Departmental policy and practice documents, Departmental officers must comply with those requirements in addition to this Intellectual Property Policy.
- 4.3 The Department must manage the Significant IP and Existing IP in accordance with this Intellectual Property Policy
- 4.4 IP other than Significant IP or Existing IP may be managed in accordance with this Intellectual Property Policy.
- 4.5 This Intellectual Property Policy applies to all Departmental officers who:
  - (a) create, acquire or use Significant IP; or
  - (b) acquire or use Existing IP.
- 4.6 This Intellectual Property Policy does not apply to copyright covered by an arrangement with a declared collecting society, such as CAL or Screenrights. However, the Department must comply with the terms and conditions of those arrangements for the use of such copyright.

## 5. Management Rules for Significant IP and Existing IP

- 5.1 The Department will use Significant IP and Existing IP in an effective, efficient and ethical manner consistent with the Statement of IP Principles.
- 5.2 Decisions regarding use of Significant IP and Existing IP should be made to achieve the Department's outcomes and objectives.
- 5.3 The following management rules are practical guidelines to assist Departmental officers to acquire and/or manage Significant IP and Existing IP under their control or in their possession.

## MR 1 - Ownership of Significant IP

**It is not mandatory that the Department own Significant IP. The need for IP ownership by the Department depends on the specific circumstances of each case.**

MR 1.1 The Department's requirement for ownership of Significant IP will vary according to the circumstances of each case.

MR 1.2 Factors (not an exhaustive list) to be taken into account that would influence the Department to decide to own Significant IP are:

- the need to control access to the Significant IP;
- the importance and value of the Significant IP in being able to achieve Departmental outcomes and objectives; and
- the long term commitment to, and strategic significance of, using the Significant IP as a cornerstone or building block for future policies and programs.

Note: The Australian Government Intellectual Property Manual lists a number of principles which are also factors to be taken into account when deciding on IP ownership.

MR 1.3 In procurement and grant arrangements, the Department normally adopts standard default settings of IP ownership (see *MR 2 – Acquisition of Significant IP*). However, the Department may accommodate a different IP ownership position that diverges from the standard default settings, where considered appropriate.

MR 1.4 Where the Department does not require ownership of Significant IP, the standard default position is that the Department must be given, or be able to acquire, a licence to use that Significant IP to carry out the Department's objectives and purposes, taking into account the proper use of Departmental resources in obtaining that licence.

MR 1.5 The Department will own all Significant IP and any other IP created by its employees in the course of their employment unless different arrangements have been made with those employees.

## MR 2 – Acquisition of Significant IP

**In procurement and grant arrangements, the Department may adopt the standard default settings when creating, acquiring or using Significant IP.**

## Procurement

- MR 2.1 In contracts for services or consultancies, the standard default position is that the Department should own the Significant IP created or acquired under those contracts, unless a suitable model or whole-of-government clause is adopted as a different ownership position.
- MR 2.2 In contracts for goods or software, the standard default position is that the Department should not own the Significant IP created or acquired under those contracts, unless:
- a suitable model or whole-of-government clause is adopted as a different ownership position; or
  - the Department can identify an important factor (see MR 1.2) for the Significant IP to be owned by the Department.

## Grants

- MR 2.3 In a grant arrangement, the standard default position is that the Department should not own the Significant IP created or acquired under that grant arrangement, unless:
- a suitable model or whole-of-government clause is adopted as a different ownership position; or
  - the Department can identify an important factor (see MR 1.2) for the Significant IP to be owned by the Department.

## Licensing

- MR 2.4 The standard default position is that the Department should acquire a licence to use Significant IP not owned by the Department. Such a licence should provide rights to allow the Department:
- to use that licensed Significant IP to carry out the Department's objectives and purposes; and
  - to sub-license that licensed Significant IP to others for the same Departmental objectives and purposes,
- unless a suitable model or whole-of-government clause is adopted as a different licensing position.
- MR 2.5 If any licensed Significant IP is Restricted Information, no licence or sub-licence for the use of that licensed Significant IP may be given by the Department, unless an exception in MR 6.6 applies.

## MR 3 – Ownership and Acquisition of Existing IP

**Existing IP may continue to be owned by the owner of that Existing IP, however, a licence to use Existing IP should be obtained when necessary.**

MR 3.1 The Department does not require ownership of Existing IP.

### Licensing

MR 3.2 The Department only requires a licence to use Existing IP to the extent necessary to carry out the Department's objectives and purposes.

MR 3.3 When necessary, the standard default position is that the Department should acquire a licence to use Existing IP. Such a licence should provide rights to allow the Department:

- to use that licensed Existing IP to carry out the Department's objectives and purposes; and
- to sub-license that licensed Existing IP to others for the same Departmental objectives and purposes,

unless a suitable model or whole-of-government clause is adopted as a different licensing position.

MR 3.4 If any Existing IP is Restricted Information, no licence or sub-licence for the use of that Existing IP may be given by the Department, unless an exception in MR 6.6 applies.

## MR 4 – Identification and recording of Significant IP and Existing IP

**Departmental officers must identify and record the Significant IP and Existing IP that they will use or intend to use.**

MR 4.1 All Significant IP and Existing IP must be identified and recorded to enable Departmental officers to use IP correctly and to manage any risk of IP infringement.

### Review

MR 4.2 Significant IP and Existing IP are identified by conducting an IP review in the normal course of the Department's activities and operations.

MR 4.3 IP reviews may vary in complexity and in detail. Departmental officers may seek assistance with IP reviews from Financial Management Division. If legal advice or

assistance is required, Departmental officers may refer the matter to the Corporate, Commercial and Litigation Branch or, in the case of the Therapeutic Goods Administration, to the Regulatory Legal Services Branch.

## Recording

- MR 4.4 Following identification of Significant IP, Departmental officers should record the Significant IP in an IP register as soon as possible, preferably using the form attached as Attachment A.
- MR 4.5 Following identification of Existing IP, Departmental officers should record the Existing IP in an IP register as soon as possible, preferably using the form attached as Attachment B.
- MR 4.6 IP register forms may be completed by Departmental officers with assistance from Financial Management Division. If legal advice or other assistance is required to complete these forms, Departmental officers may refer the matter to the Corporate, Commercial and Litigation Branch or, in the case of the Therapeutic Goods Administration, to the Regulatory Legal Services Branch.
- MR 4.7 Departmental officers should update the IP register as soon as possible after each dealing with Significant IP and Existing IP.
- MR 4.8 Departmental officers in the relevant program or business area should ensure that the details in an IP register are current and available for review and audit when needed.

## MR 5 – Registration of Significant IP

**The Department may protect Significant IP owned by the Department by registering it.**

- MR 5.1 To protect the Significant IP owned by the Department, the Department may register a patent, trade mark or design with IP Australia to acquire exclusive rights.
- MR 5.2 Departmental officers must seek legal advice and assistance before applying to register for protection with IP Australia.
- MR 5.3 Copyright, such as literary (written), artistic, dramatic or musical works, cannot be registered in Australia, but is protected under legislation when created.
- MR 5.4 A domain name is able to be registered with a domain name registrant and be protected. However, registration gives only a licence to use and no ownership rights are granted.



- MR 5.5 Departmental officers must seek legal advice and assistance before applying to register a domain name with a domain name registrant, but not if the domain name ends in 'gov.au'.

## MR 6 – Sharing and releasing of Public Sector Information and Restricted Information

**In most cases, the Department will make Significant IP and Existing IP available where it is or contains Public Sector Information, but not if it is or contains Restricted Information.**

### Public Sector Information

- MR 6.1 Where Significant IP or Existing IP is or contains Public Sector Information, the Department will make every effort to make that Public Sector Information available to the public, organisations and other government agencies in the most open way.
- MR 6.2 Public Sector Information may be shared or released by the Department if the copyright in that Public Sector Information is entirely owned by the Department.
- MR 6.3 If Public Sector Information includes licensed Significant IP or any Existing IP, Departmental officers should conduct an IP review to determine whether the Public Sector Information may be released or not. If they are uncertain about releasing, Departmental officers should seek legal advice and assistance from the Corporate, Commercial and Litigation Branch or, in the case of the Therapeutic Goods Administration, from the Regulatory Legal Services Branch.
- MR 6.4 Public Sector Information may be shared or released under a Creative Commons Licence or other open content licence on a case-by-case basis but only after conducting an IP review confirming that the Public Sector Information consists entirely of Significant IP owned by the Department and contains no licensed Significant IP and Existing IP.
- Note: The Australian Government Open Access and Licensing framework (AusGOAL) is a useful tool to determine whether to release Public Sector Information under a Creative Commons Licence or other open content licence.
- MR 6.5 The starting position is for copyright in the Public Sector Information, entirely owned by the Department, to be licensed for free under a Creative Commons 'BY' licence (the broadest licence of the Creative Commons Licences), but another Creative Commons Licence or other open content licence may be chosen if it is more suitable.

## Restricted Information

MR 6.6 Where Significant IP and Existing IP is or contains Restricted Information, the Significant IP and Existing IP must not be shared outside the Department or be released publicly, unless:

- the Restricted Information is permitted or required to be disclosed by law;
- all necessary consents, permissions, licences and authorisations have been obtained allowing the disclosure to occur; or
- the Restricted Information has been redacted or removed prior to disclosure.

## MR 7 – Commercialisation of Significant IP

**The Department may commercialise Significant IP owned by the Department, but it is not a core activity of the Department.**

- MR 7.1 The Department may consider commercialisation of Significant IP owned by the Department where it will benefit the Australian community.
- MR 7.2 The Department must consider whether exposure to commercial and financial risk from commercialisation is consistent with its objectives and purposes.
- MR 7.3 Commercialisation is generally not an integral part of the Department's core activities. At best, commercialisation is an incidental activity that may occur only if staff and resources are not diverted from the Department's core activities.
- MR 7.4 Cost recovery is not commercialisation and falls outside this *MR 7 – Commercialisation of Significant IP*.
- MR 7.5 Before deciding to undertake commercialisation of Significant IP owned by the Department, Departmental officers must seek legal advice and assistance from the Corporate, Commercial and Litigation Branch or, in the case of the Therapeutic Goods Administration, from the Regulatory Legal Services Branch.

## MR 8 – Ongoing use of Significant IP and Existing IP

**Departmental officers must manage the ongoing use of Significant IP and Existing IP consistent with the rights the Department has for their use.**

- MR 8.1 Departmental officers proposing to deal with Significant IP and Existing IP must check whether the proposed dealing is permitted. Checks should include an examination of the IP register and conducting an IP review to confirm what IP rights the Department has and whether they cover the proposed dealing.

- MR 8.2 If Departmental officers are uncertain or do not know whether the Significant IP and Existing IP may be used for the proposed dealing, they must seek legal advice and assistance from the Corporate, Commercial and Litigation Branch or, in the case of the Therapeutic Goods Administration, from the Regulatory Legal Services Branch.
- MR 8.3 Unless already licensed under a Creative Commons Licence or other open content licence, requests from the public, organisations and other government agencies for use of Significant IP owned by the Department must be treated on a case-by-case basis in accordance with MR 8.1 and MR 8.2.
- MR 8.4 Requests from the public, organisations and other government agencies for use of licensed Significant IP or Existing IP should be referred to the IP owner of that Significant IP or Existing IP in the first instance. If the IP owner cannot be contacted and the Department is permitted to sub-license, the Department may decide to sub-license the licensed Significant IP or Existing Material to the requesting public, organisation or government agency on a case-by-case basis in accordance with MR 8.1 and MR 8.2.
- MR 8.5 All requests for use of Significant IP and Existing IP must be received in writing and all requests granted by the Department must be documented in writing.

## MR 9 – Disposal of Significant IP

**Departmental officers must dispose of Significant IP owned by the Department in an accountable and transparent manner, exercising sound judgment.**

- MR 9.1 Departmental officers must exercise sound judgment to ensure that the disposal of Significant IP owned by the Department is in the best interests of the Department and consistent with the Department's objectives.
- MR 9.2 All decisions to dispose of Significant IP owned by the Department must be made by the relevant delegate in a transparent and accountable manner, ensuring that the reasons and grounds for disposing of that Significant IP are properly documented and approved.
- MR 9.3 All disposals of Significant IP owned by the Department must comply with relevant finance law and be reported to the Financial Management Division.

## MR 10 – Infringement of Significant IP and Existing IP

**Departmental officers must refer all IP infringement matters immediately to the Corporate, Commercial and Litigation Branch or, in the case of the Therapeutic Goods Administration, to the Regulatory Legal Services Branch for legal advice and assistance.**

- MR 10.1 Where Departmental officers receive an infringement claim in writing from a person claiming that the Department is using IP without permission, they must refer that infringement claim immediately to Corporate, Commercial and Litigation Branch or, in the case of the Therapeutic Goods Administration, to the Regulatory Legal Services Branch for legal advice and assistance.
- MR 10.2 Where Departmental officers suspect, or become aware of, Significant IP or Existing IP being used by a person without permission from the Department, they must refer the circumstances and details of that use as soon as possible to the Corporate, Commercial and Litigation Branch or, in the case of the Therapeutic Goods Administration, to the Regulatory Legal Services Branch for legal advice and assistance.

## **6. Responsibility for the Intellectual Property Policy**

- 6.1 The Corporate, Commercial and Litigation Branch is responsible for:
- (a) managing this Intellectual Property Policy; and
  - (b) making any necessary amendments to it from time to time.

## **7. Commencement**

- 7.1 This Intellectual Property Policy is effective on and from the date on which it is released on the Department's intranet website.

## **8. Therapeutic Goods Administration**

- 8.1 For clarity, this Intellectual Property Policy applies to the Therapeutic Goods Administration as part of the Department.

## **9. Further Assistance**

- 9.1 For general guidance regarding the Department's approach to managing IP, please refer to the Australian Government Intellectual Property Rules.
- 9.2 For questions about the interpretation of this Intellectual Property Policy, please contact the Corporate, Commercial and Litigation Branch.

- 9.3 For questions about the application of this Intellectual Property Policy, please contact the Corporate, Commercial and Litigation Branch or, in the case of the Therapeutic Goods Administration, the Regulatory Legal Services Branch.
- 9.4 Appropriate training and resources can be provided for staff to assist in understanding and managing IP.

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## 10. Glossary

10.1 In this Intellectual Property Policy, the following definitions apply, unless the context requires otherwise:

<b>Australian Government Intellectual Property Manual</b>	means the <i>Australian Government intellectual property manual</i> publication as amended from time to time;
<b>Australian Government Intellectual Property Rules</b>	means: <ul style="list-style-type: none"> <li>(a) the Statement of IP Principles;</li> <li>(b) the Australian Government Intellectual Property Manual;</li> <li>(c) sample model contract clauses and related explanatory material; and</li> <li>(d) the Guidelines on Licensing Public Sector Information (PSI) for Australian Government Entities;</li> </ul>
<b>Corporate, Commercial and Litigation Branch</b>	means the Corporate, Commercial and Litigation Branch or such other part of the Department responsible for providing or arranging legal advice to the Department from time to time but not the Regulatory Legal Services Branch;
<b>Creative Commons Licences</b>	means the suite of creative commons licences released by Creative Commons Australia;
<b>Department</b>	means the Commonwealth of Australia as represented by Department of Health and Aged Care, including when it acts through the Therapeutic Goods Administration;
<b>Existing IP</b>	means pre-existing IP licensed or sub-licensed to the Department;
<b>Financial Management Division</b>	means the Financial Management Division or such other part of the Department responsible for managing the financial and related affairs of the Department;
<b>Guidelines on Licensing Public Sector Information (PSI) for Australian Government Entities</b>	means the <i>Guidelines on licensing public sector information for Australian Government entities</i> publication as amended from time to time;

<b>Intellectual Property or IP</b>	means intangible property that is the result of creative activity and intellectual effort of the human mind in the industrial, scientific, literary or artistic fields, such as discoveries and inventions, literary and artistic works, computer programs, databases, broadcasts, films, sound recordings, plant varieties, trade marks and designs, whether registered or not;
<b>Intellectual Property Policy</b>	means this document, including its attachments;
<b>Public Sector Information</b>	<p>means material created for the main purpose of providing government information to the public that:</p> <ul style="list-style-type: none"> <li>(a) informs and advises the public of government policy and activities;</li> <li>(b) provides information that will enable the public and organisations to understand their obligations and responsibilities to government;</li> <li>(c) enables the public and organisations to understand their entitlements to government assistance;</li> <li>(d) facilitates access to government services; or</li> <li>(e) meets public accountability requirements;</li> </ul>
<b>Regulatory Legal Services Branch</b>	means the Regulatory Legal Services Branch or such other part of the Therapeutic Goods Administration responsible for providing legal advice to the Therapeutic Goods Administration from time to time;
<b>Restricted Information</b>	<p>means material containing information that is:</p> <ul style="list-style-type: none"> <li>(a) sensitive;</li> <li>(b) confidential;</li> <li>(c) personal;</li> <li>(d) protected; or</li> <li>(e) secret</li> </ul> <p>in nature and only allowed to be disclosed:</p> <ul style="list-style-type: none"> <li>(f) within the Department; or</li> <li>(g) within a restricted class of individuals or restricted number of organisations;</li> </ul>
<b>Significant IP</b>	<p>means IP, but not Existing IP, that:</p> <ul style="list-style-type: none"> <li>(a) is valuable to the Department;</li> </ul>

	<p>(b) contributes significantly to the Department's objectives;</p> <p>(c) is developed from the Department making a substantial investment or using its substantial resources;</p> <p>(d) is, or may be, included in any commercial or commercialisation activity; or</p> <p>(e) is, or may be, registered for protection with IP Australia or elsewhere;</p>
<b>Statement of IP Principles</b>	means the <i>Intellectual property principles for Commonwealth entities</i> publication as amended from time to time; and
<b>Therapeutic Goods Administration</b>	means the Therapeutic Goods Administration, which is that part of the Department responsible for the regulation of therapeutic goods.

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Australian Government

Department of Health  
and Aged Care

ATTACHMENT A – Form 1

## INTELLECTUAL PROPERTY FORM TO REGISTER SIGNIFICANT IP

DESCRIPTION OF MATERIAL WITH SIGNIFICANT IP	CATEGORY OF SIGNIFICANT IP	OWNER OF SIGNIFICANT IP	SIGNIFICANT IP RIGHTS ACQUIRED BY THE DEPARTMENT	EXISTING IP INCLUDED	REFERENCE
<i>Identify and describe the material which has the Significant IP.</i>	<i>Identify what type the Significant IP is e.g. copyright, patent, trade mark, design.</i>	<i>Identify who owns the IP.</i>	<i>If the Department is <b>not</b> the owner of Significant IP, identify what rights the Department has to use the Significant IP by including a reference to the terms and conditions and/or document which govern the Department's use of the Significant IP.</i>	<i>Indicate 'Yes' or 'No'. If 'Yes', you need to also complete a separate IP Register Form (Form 2)</i>	<i>Insert the relevant file's reference number and, if the IP is registered, the IP's registration number.</i>

## Department of Health and Aged Care – Intellectual Property Form to Register Significant IP (Form 1)

### Instructions for use:

This Form 1 is to be used for recording Significant IP details and is to be completed only if IP is Significant IP.

### Meaning of terms:

*Significant IP* is IP that:

- is important to the operations of the Department;
- contributes significantly to achieving the Department's objectives;
- is developed from the Department making a substantial investment or using substantial resources;
- is, or may be, included in any commercial or commercialisation activity; or
- is, or may be, registered.

*Existing IP* is pre-existing IP owned by a person other than the Department and is provided to the Department for use.

### Notes:

The following notes will assist you to complete the table in this Form 1:

1. *Description of Material with Significant IP*: Please provide in this column a description identifying and describing the Material with the Significant IP.
2. *Category of Significant IP*: Please identify in this column the type of IP. Types of IP include copyright, trade marks, patents and designs. Use a separate row for each different type of IP.
3. *Owner of Significant IP*: Please state in this column the owner's legal name.
4. *Significant IP Rights Acquired by the Department*: If the Department is not the owner of Significant IP, please provide in this column a reference to the terms and conditions and/or the document which govern/s the Department's use of the Significant IP. If the Department is the owner of Significant IP, please leave this column BLANK.
5. *Existing IP Included*: Please indicate by using "Yes" or "No" whether there is any Existing IP included with, or incorporated into, the Significant IP.
6. *Reference*: The program area's file number should be stated, which is the reference to the relevant file (e.g a TRIM file) that has the details about the development, acquisition and permitted use of the Significant IP. If the Significant IP is registered (e.g. a registered trade mark), the registration number of the IP should also be stated in this column.

## Examples:

DESCRIPTION OF MATERIAL WITH SIGNIFICANT IP	CATEGORY OF SIGNIFICANT IP	OWNER OF SIGNIFICANT IP	SIGNIFICANT IP RIGHTS ACQUIRED BY THE DEPARTMENT	EXISTING IP INCLUDED	REFERENCE
<i>Identify and describe the material which has the Significant IP.</i>	<i>Identify what type the Significant IP is e.g. copyright, patent, trade mark, design.</i>	<i>Identify who owns the IP.</i>	<i>If the Department is <b>not</b> the owner of Significant IP, identify what rights the Department has to use the Significant IP by including a reference to the terms and conditions and/or document which govern the Department's use of the Significant IP.</i>	<i>Indicate 'Yes' or 'No'. If 'Yes', you need to also complete a separate IP Register Form (Form 2)</i>	<i>Insert the relevant file's reference number and, if the IP is registered, the IP's registration number.</i>
XYZ Software.  Software to assist pharmacists to identify purchase of addictive drugs	Copyright	ABC Pty Ltd	Clause 12.2 of the Contract for Services between the Commonwealth and ABC Pty Ltd for the delivery of the XYZ Software dated 1 November 2010	Yes	TRIM E14-678
Mediclinic logo  Logo to be used by mediclinics as part of the DEF Program	Trade mark	Department		No	TRIM E14-843  Registered trade mark no: 763987
<u>ghealth@health.gov.au</u>  Domain name to promote aged health care on ghealth website.	Domain name	AGIMO (Domain Registry)	Terms of Licence issued by AGIMO and accepted by the Department on 1 November 2010	No	TRIM E13-1923  Registered.
Kids-Assist training resources Resources consist of a CD (with songs), 6 different posters and a work manual.	Copyright	XYZ University	Letter of permission provided by XYZ University	No	TRIM E12-5665



Australian Government

Department of Health  
and Aged Care

## ATTACHMENT B – Form 2

## INTELLECTUAL PROPERTY FORM TO REGISTER EXISTING IP

DESCRIPTION OF MATERIAL WITH EXISTING IP	DESCRIPTION OF MATERIAL WITH SIGNIFICANT IP	CATEGORY OF EXISTING IP	OWNER OF EXISTING IP	EXISTING IP RIGHTS ACQUIRED BY THE DEPARTMENT	REFERENCE
<i>Identify and describe the material which is the Existing IP.</i>	<i>Identify and describe the Significant IP material which has the Existing IP.</i>	<i>Identify what type the Existing IP is e.g. copyright, patent, trade mark, design.</i>	<i>Identify who owns the Existing IP.</i>	<i>Identify what rights the Department has to use the Existing IP by including a reference to the terms and conditions and/or document which govern/s the Department's use of the Existing IP.</i>	<i>Insert the relevant file's reference number and, if the IP is registered, the IP's registration number.</i>

## Department of Health and Aged Care – Intellectual Property Form to Register Existing IP (Form 2)

### Instructions for use:

This Form 2 is to be used for recording Existing IP<sup>1</sup> and is to be completed only if you have indicated 'Yes' in the column with the heading *Existing IP Included* appearing in Form 1.

### Notes:

The following notes will assist you to complete the table in this Form 2:

1. *Description of Material with Existing IP*: Please provide in this column a description that identifies and describes the Existing IP.
2. *Description of Material with Significant IP*: Please provide in this column a brief description of the Significant IP Material that uses Existing IP included in, or as part of, it. You should use the same information from the first column in Form 1 to complete this.
3. *Category of Existing IP*: Please identify in this column the type of IP. Types of IP include copyright, trade marks, patents and designs. Use a separate row for each different type of IP.
4. *Owner of Existing IP*: Please state in this column the owner's legal name. The owner is never the Commonwealth. Existing IP may be owned by a contractor/consultant, grant recipient, sub-contractor or third party.
5. *Existing IP Rights Acquired by the Department*: Please provide in this column a reference to the terms and conditions and/or the document which govern the Department's use of the Existing IP.
6. *Reference*: The reference number of the file (e.g a TRIM file), which contains the details about the development, acquisition and permitted use of the Existing IP, should be stated in this column. If the Existing IP is registered (e.g. a registered trade mark), the registration number of the IP should also be stated in this column.

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<sup>1</sup> The meanings of *Significant IP* and *Existing Party IP* are set out in Form 1 and in the IP Policy.



## Examples:

DESCRIPTION OF MATERIAL WITH EXISTING IP	DESCRIPTION OF MATERIAL WITH SIGNIFICANT IP	CATEGORY OF EXISTING IP	OWNER OF EXISTING IP	EXISTING IP RIGHTS ACQUIRED BY THE DEPARTMENT	REFERENCE
<i>Identify and describe the material which is the Existing IP</i>	<i>Identify and describe the Significant IP material which has the Existing IP.</i>	<i>Identify what type the Existing IP is e.g. copyright, patent, trade mark, design</i>	<i>Identify who owns the Existing IP.</i>	<i>Identify what rights the Department has to use the Existing IP by including a reference to the terms and conditions and/or document which govern the Department's use of the Existing IP.</i>	<i>Insert the relevant file's reference number and, if the IP is registered, the IP's registration number.</i>
ITPS+ Program	XYZ Software	Copyright	ABC Pty Ltd	Clause 12.3 of the Contract for Services between the Commonwealth and ABC Pty Ltd for the delivery of the XYZ Software dated 1 November 2010	TRIM E14-678
Photographs on cover page and pages 7, 27 and 42	Final Report in relation to the National Health Food Study	Copyright	John Smith trading as Click Studios	Letter of permission signed by John Smith dated 1 November 2010	TRIM E14-543
Stop logo	TV Advertising in relation to the 'Stop' campaign	Trade mark	Smith's Advertising Agency Ltd	Deed of Trade mark Licence between Smith's Advertising Agency Ltd and the Commonwealth dated 1 November 2012	2TRIM E12-16785  Registered trade mark no:  6789123

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All information in this publication is correct as at September 2023

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