



FUTURE FARM
INDUSTRIES CRC

PROFITABLE PERENNIALS™ FOR AUSTRALIAN LANDSCAPES

INTELLECTUAL PROPERTY MANAGEMENT FOR INDUSTRY USE AND COMMERCIALISATION POLICY

9 June 2009

1. PURPOSE

This policy sets out the approach taken by the Future Farm Industries CRC Ltd (FFI CRC) in respect of the management of intellectual property (IP) arising from its investment in research, development, education and training. The Policy covers use of intellectual property (project outputs) to add value to farming businesses, including commercialisation where appropriate.

2. PREAMBLE

This policy is to be seen in the context of FFI CRC's object of developing Profitable Perennials™ farming systems and plant technologies for southern temperate Australia to provide farmers with choices in a changing climate.

The purpose of FFI CRC's investments and associated activities are to create Centre IP that will be used by industry to add value to commercial enterprises. The CRC's Participants' Agreement (PA) requires project plans to analyse the likely opportunities for use of project outputs to add value to farming businesses, including commercialisation of Centre IP (Clause 16.5) if appropriate, and describes the circumstances and process for preparing a Commercialisation Plan (Section 23).

This policy establishes the concept of 'Industry Use' which will assist this analysis and encompasses an approach and culture that includes:

- a market driven approach to determine areas of research priority that are identified by industry as having the potential to add value to farming businesses;
- an approach to the design of projects which addresses the questions: who will use the outputs; how will they be used; and how can the project be designed to maximise the usability of those outputs;
- the inclusion of an Industry Use Plan (IUP) as a part of the Project Plan or to be included at an early milestone. The IUP will serve as a decision tool to identify: the potential type of IP that will be embodied in the project outputs; the pathway to industry use that is most likely to maximise benefits; and the reasons for the choice of that pathway (e.g. direct adoption and training, third party commercialisation or a mix of these); and
- early identification, reporting and managing of IP embodied in project outputs, to ensure that industry use opportunities are optimised.

3. INDUSTRY USE PLAN

To focus on the optimum pathway for industry use of project outputs (IP), each project team will, as part of the Project Plan or as an early milestone, develop an IUP that addresses the following issues:

- who are the intended users of the project outputs and how are they likely to be used to add value to commercial businesses;
- what is the potential IP embodied in the project outputs;
- what is the best pathway for industry use and why; and
- what are the best tools to implement this pathway?

The plan will include how the project outputs and the embodied IP will be identified, managed and delivered to end users to maximise the benefits by value adding to their businesses. It will include an assessment of the best way to optimise industry use, whether that be through a direct adoption or training strategy, development of product brands, and/or licensing/assignment to a third party requiring a Commercialisation Plan. This may require extensive involvement of end users or next users in the project.

FFI CRC will develop **Operational Guidelines** for the format of the IUP and its incorporation into the Project Plan

FFI CRC recognises that as project outputs are identified there may be a need to make changes to the appropriate pathway to industry use, consistent with the objective of optimising outcomes.

An important element of the IUP is to recognise that Program Leaders, Project Leaders and project teams have key roles in designing, implementing and managing outputs/IP to maximise industry use. This will be done in **collaboration** with FFI CRC's adoption and commercialisation teams.

4. MANAGEMENT OF IP

All successful outcomes from FFI CRC's projects create some form of IP. Irrespective of the pathway, IP must be effectively managed to optimise industry use and add value. Accordingly, Project Leaders, and each team member, are responsible for managing their projects in accordance with the following policy principles:

1. Freedom to Operate

FFI CRC requires all its Participants, Project Leaders and team members ensure that they have Freedom to Operate before embarking on a project. Freedom to Operate means having all the necessary licences and other approvals required for CRC activities and industry use of outputs. This includes licences to use IP owned by others and legal approvals required by regulatory authorities.

2. Ownership of Intellectual Property

The Participants' Agreement (PA) includes agreed details on the ownership of IP. The necessary approvals for the use of IP must be obtained as required. The arrangements, as set out in the PA, are broadly as follows:

- a) **Background IP** (refer Section 15 PA). The existing owner of Background IP retains ownership, but licences FFI CRC to use the Background IP for the purposes of agreed projects.
- b) **Centre IP** (refer Section 22 PA) is legally owned by the FFI CRC (with use being subject to approval by FFI CRC). The Participants are the beneficial owners, equity being determined by their contribution to the CRC.
- c) **Student IP** (refer Section 42 PA) is legally owned by FFI CRC but students own the copyright in their thesis. The conditions of confidentiality apply to the publishing or examination of the student's thesis. Students will be required to assign their IP (other than copyright in the thesis) to FFI CRC, unless otherwise agreed in writing by FFI CRC.

3. Identification of IP

It is the responsibility of the Project Leader and team members to identify potential and actual IP at the commencement of a project and throughout the project as it proceeds. This includes, but is not necessarily limited to, the following phases of a project:

- a) project design stage;
- b) Project Plan;
- c) the project annual report; and
- d) in each milestone report.

At the time new IP is identified by the research team, it is the responsibility of the Project Leader to inform the relevant Program Leader, the Research Director and Commercial Manager.

4. FFI CRC confidentiality

Each Party must keep research outputs/IP confidential until FFI CRC has agreed on the pathway to industry use, whether or not the IP will be public domain or protected. Confidentiality agreements, which are subject to approval by the CEO, are to be put in place before disclosure of project outputs/IP. In this respect all parties must be aware of and observe the obligations set out in Section 42 PA.

5. Centre IP

The Project Leader and project team will manage Centre IP in accordance with the IUP. The Plan will be updated when any new project outputs or IP is identified. Use of Centre IP for any other purpose, including non-CRC activities, requires written agreement from FFI CRC.

6. Participant Use of Centre IP (refer Section 22 PA)

Participants have a non-exclusive, royalty free, right to use Centre IP for the purpose of undertaking projects in the PA or internal research, internal education and internal teaching purposes other than commercialisation.

7. **Protection of IP**

Assessment of the most appropriate form and timing of protection (if any) of IP will be undertaken on a project by project basis by FFI CRC and the project team.

8. **Branding**

A project output may be a system or product that FFI CRC will seek to protect through 'branding' (e.g. with a trademark such as EverGraze®). This will clearly indicate that particular IP was created by FFI CRC, thereby providing the end user with confidence as to the value of the research. FFI CRC has developed a branding strategy that includes appropriate use of trademarks, logos and slogans, for ease of recognition of the product or service.

9. **Disclosure of Information** (refer Section 42 PA)

Until such time as a decision is made in relation to protection of IP, both FFI CRC and project Participants will keep project outputs confidential, to the extent required, so as not to jeopardise future protection of IP.

Any communication of project information by way of publication, conference, discussion or other means requires prior written approval from FFI CRC.

10. **IP monitoring and review**

In addition to potential IP identified as part of the IUP, researchers, Project Leaders and Program Leaders are required to report to FFI CRC any new IP as soon as it is identified.

11. **IP Register** (refer Clause 22.9 PA)

FFI CRC will maintain an IP Register which will be made available to Participants. It will be updated by the Research Contracts Manager at least annually and when new IP is identified and reported by Project Leaders.

12. **Cost of IP Management** (refer Clause 23.10 PA)

In general, FFI CRC will be responsible for the cost of managing IP unless otherwise agreed with third parties. FFI CRC is permitted to recoup the cost of IP management from any income received (such as royalties) for the use of the IP.

13. **Licensing or Assigning Centre IP**

FFI CRC is the legal owner of Centre IP and is responsible for decisions to commercialise, license and assign such IP. Where an IUP indicates that the most effective way to optimise industry use is through licensing or assigning the Centre IP to a third party, FFI CRC will require the Project Leader (or other specified person) to prepare a Commercialisation Plan. This will be circulated to Participants for comment and expressions of interest in undertaking the commercialisation.

FFI CRC will develop **Operational Guidelines** containing criteria for deciding when a Commercialisation Plan is required.

14. Income from Intellectual Property Use (refer Clause 23.11 PA)

The FFI CRC shall retain up to the first \$1 million of net commercialisation income, in each financial year, which must be applied to CRC activities. Any surplus is remitted to Participants in accordance with their participating shares.

15. Training

FFI CRC will organise training in identification and management of IP for staff and project teams.

16. Responsibilities

- a) The CEO of FFI CRC is responsible for: the overall management of the **Intellectual Property Management for Industry Use and Commercialisation Policy**; execution of commercialisation agreements (e.g. licensing), subject to Board approval [not very precise as to Board's responsibility]; and other agreements relating to IP, such as confidentiality agreements.
- b) IUPs are subject to approval by the Commercial Manager, Research Director and Agribusiness Manager.
- c) The Board of Directors must approve the Commercialisation Plan for each project where it involves third parties or Participants as commercialising partners.
- d) The Commercial Manager is responsible for managing commercialisation of FFI CRC IP in accordance with Board approvals and delegations.
- e) Program Leaders, Project Leaders and researchers are responsible for identifying, managing and maintaining confidentiality of project IP.
- f) The Research Contracts Manager is responsible for maintaining the IP Register.
- g) The Communications Manager is responsible for training to ensure compliance with copyright requirements and use of brands associated with the production, distribution, and use of resources.
- h) Compliance with legislation and FFI CRC policies and procedures is the responsibility of all staff.

5. RISK ASSESSMENT AND MANAGEMENT

Analysis of project risk is a requirement of the Project Plan (refer Clause 16.5 PA). FFI CRC will develop **Operational Guidelines** which will provide guidance for risk assessment, management and mitigation for Project Leaders.

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