

EXHIBIT B: Mapping IP Principles 1-10

<i>IP Principle</i>	<i>Life cycle (from list in Scenario 2 table)</i>	<i>Relationships (from list in Scenario 2 table)</i>	<i>Policies (from list in Scenario 2 table)</i>
General principles			
<p>1. Australian Government agencies are responsible for managing IP in their control or custody in an effective, efficient and ethical manner.</p> <p>(Sub-text refers to managing IP 'for the benefit of the Australian community as a whole' in accordance with 'all relevant legislation, policies and guidelines').</p>	<p>Reference to 'management' of IP is broad, and suggests this principle encompasses all stages in the IP life cycle (as listed in column 1 of table in Scenario 2).</p>	<p>Similarly, this principle may be relevant in the context of any and all relationships (as listed in column 2 of our table).</p> <p>However the sub-text implies a particular concern with the general public and perhaps specific target groups in the community.</p>	<p>Reference to 'all relevant legislation, policies and guidelines' suggests that the Principle would encompass all policies we have identified (listed in column 3 of table).</p> <p>If there is a particular emphasis it is on policies linked to the perception of IP as a valuable (<i>albeit</i> intangible) ASSET that must be responsibly managed, including policies re: value for money, open and effective competition, conflict of interest, etc.</p>
<p>2. Agencies should periodically evaluate the overall effectiveness, including cost, risks, and benefits of the policies and practices they have in place for the management and use of IP.</p> <p>(Sub-text refers to 'management and use' of IP, not just for agency objectives, but also 'broader government objectives' and 'benefit to the Australian community as a whole').</p>	<p>As above.</p>	<p>As above.</p>	<p>Sub-text suggests that the Principle would encompass all policies we have identified.</p>
Corporate framework			
<p>3. Each agency should have an IP management policy which reflects its objectives and these IP Principles.</p> <p>(Sub-text states that an IP Policy should outline agency's approach to numerous stages (listed) in the management of IP).</p>	<p>As above. The sub-text following this principle makes it quite plain that it is meant to relate to all stages in the life cycle.</p>	<p>As above. This principle would be relevant to all contexts and relationships listed in our table.</p>	<p>With this Principle the emphasis is on <i>integrating</i> an agency IP Policy with other policies that are determined at an agency level, <i>i.e.</i> most of those listed in our table (as opposed to whole-of-Commonwealth policies such as PS Code of Conduct, value for money, <i>etc.</i>)</p>
<p>4. Implementation of the IP management policy should be supported by appropriate training and resources, including access to expert advice.</p>	<p>As above.</p>	<p>This is chiefly about agency staff, who require guidance in their management of IP. The guidance may come from designated staff, and/or may involve external advisors.</p>	<p>The Principle would invoke policies relating to PEOPLE and especially training.</p>
<p>5. Agencies should maintain appropriate systems and processes to identify and record IP.</p> <p>(Sub-text refers to relationship between IP Register and other systems such as asset and record management systems. Focuses on identification of IP with special value or importance).</p>	<p>Relates to the phases described as recognition and cataloguing in the table from Scenario 2. Can be overlooked when IP is generated internally.</p>	<p>In the main this requires action by agency staff.</p>	<p>Policies and strategies re KNOWLEDGE management and ASSET management are relevant.</p> <p>An IP Register may be integrated with an records, asset or contracts register.</p>
<p>6. Agencies should have strategies and guidelines to ensure that IP is protected in an appropriate manner.</p> <p>(Sub-text mentions preventing 'inappropriate use or infringement of IP'. (Does this relate to protection of agency IP from infringement by third parties, or protection of third party IP used in agency? First interpretation better, as the second is covered in Principle 7).</p>	<p>Relates to protection, in particular actions to obtain registration where required for that type of IP (and preventing publication of an invention prior to patent).</p> <p>The sub-text reference is about defending agency IP from infringement by third parties, especially in contexts where it is shared / commercialised etc.</p>	<p>Staff have key responsibility here. May need assistance from professional advisors to prosecute application for trade mark or patent.</p> <p>The subtext principle entails monitoring of use of agency IP by Distributors, clients / customers and the general public, and action to enforce proprietary or contract rights.</p>	<p>This is mainly about RISK . . .</p> <p>. . . especially loss of IP rights and opportunities from failure to protect agency IP.</p> <p>The subtext principle relates to risk of losing IP or diminution of value from infringing activities or IP challenge by others.</p>
<p>7. Agencies should have procedures in place to reduce the risk of infringement of the IP rights of others.</p>	<p>Relates to use within agency of third party IP, e.g. software, in accordance with licence conditions. Conversely, when agencies procure IP licences they should seek adequate scope of use and number of copies, etc.</p> <p>Also use of <i>unauthorised</i> software on agency systems.</p>	<p>Requires communication / guidance / training of staff re permissible use and monitoring of IT systems.</p> <p>Also involves relationships with suppliers to put in place licences that allow adequate flexibility in use of the licensed product, e.g. number of copies, <i>etc.</i></p>	<p>Relates to policies re PEOPLE, including guidance given re acceptable IT/internet/email use.</p> <p>Also KNOWLEDGE and ASSETS, etc., specifically <i>via</i> a register for management of software licences.</p>

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Creating and acquiring IP			
<p>8. Agencies should maintain a flexible approach in considering options for ownership, management and use of IP.</p> <p>(Sub-text invites agencies to consider costs of ownership (including depreciation) and whether other entities might be better placed to use, develop and deploy IP to achieve wider benefit).</p>	<p>This whole group of Principles is relevant to decisions made re development and procurement.</p> <p>Principle 8 additionally suggests that a decision to seek ownership of the IP at that point has attendant downside and costs in other phases in life cycle.</p>	<p>The Principle impacts on choices in agency's relationship with suppliers. Some encouragement is given to <i>not</i> seeking ownership in the supply contract.</p> <p>However, if the choice made is that the agency is to own IP but grant a licence back to the supplier or to a third party, then the agency will be in relationship with a distributor.</p>	<p>The main policy underlying the Principle is arguably value for money, along with others in the group labelled ASSETS, MONEY & CONTRACTS.</p> <p>A secondary theme is that an over-acquisitive approach to IP ownership carries associated RISK. (This could arguably be balanced against risk of loss of IP that is critical to an agency or government function, e.g. because it sets a standard.)</p>
<p>9. Agencies should recognise innovation and creativity in the development of IP in an appropriate manner which is consistent with agency objectives.</p>	<p>This Principle relates specifically to development of IP within an agency.</p>	<p>Addresses relationship with staff of the agency.</p>	<p>Links to policies re PEOPLE, including moral rights and rewards/suggestion schemes.</p>
<p>10. Contracts and other agreements must address IP issues where relevant.</p> <p>(Sub-text is about optimal allocation of ownership / licence rights re new / existing IP).</p>	<p>This Principle relates to procurement and/or development of IP under a contract.</p>	<p>Involves relationship with suppliers to the agency.</p>	<p>Policies in the group ASSETS, MONEY & CONTRACTS are the most relevant ones.</p>