CQUniversity welcomes the opportunity to prepare and submit a response to the consultation paper and briefing on the Higher Education Research Commercialisation IP Framework.

SUMMARY OF RECOMMENDATIONS

- Broader and more extensive consultation.
- Lengthening of implementation timeline.
- Dedicated government resources, e.g., centralised knowledge transfer office with resident experts dedicated to the regions to assist in advancing innovations toward commercial impact.
- Funding to support knowledge transfer e.g., translation funds and investor panels with active funders.
- Convert the IP Australia Toolkit to a dynamic education platform with advisory panels and IP experts.
- Proposed processes and draft agreements released for separate consultation.
- Removal of mandated adoption of standardised agreements.
- Beta-testing program for a period of at least two to five years prior to framework implementation.
- Education and awareness campaigns with targeted resources and materials to different stakeholders.

CQUniversity Australia appreciates the intent of this initiative and the Government's agenda in seeking to support research achieving impact and improving commercial outcomes. While elements of the proposed framework will be welcomed, such as additional education materials, the provision of a framework falls short of truly supporting the research commercialisation journey in Australia, particularly in regional Australia. The commercialisation journey is complex, is not a linear process and is different across industries, parties, and individual innovations and projects. It involves managing expectations on both sides and negotiating acceptable terms and positions which demands a specific set of skills (both technical and soft skills) and experience that go well beyond standard documents and templates and mapped processes.

KEY ISSUES

Prior to any IP security and commercialisation activities commencing, it is critical that the commercial merit of the IP is validated, including its novelty and its ability to solve, in a unique way, a genuine problem being experienced by industry and / or in the market. After all, industry partners are most interested in engaging with research institutions on an innovation that is technologically ready and commercially valid, or if there's an opportunity to work collaboratively together to reach this point. Universities currently perform this brokering role along with the next phase being the translation phase when potential partners are sought, and investment deals are negotiated. This is particularly demanding of regional universities that, while committed to increasing their research impact, are just starting out on the journey with severely limited resources, only internal expertise to leverage and no funding. Regional areas also lack a concentration of venture capital investors and other potential funders. Commercialisation expertise is also not retained within the regions and universities and industry alike often must gravitate to capital cities for this advice, detracting from the regional context and knowledge embedded in many projects. A framework with proforma templates and documents fails to address these critical constraints for regional universities.

The following initiatives are suggested to address these barriers for regional universities allowing us to focus on front-end processes such as industry-led research and engagement, innovation disclosure, initial IP validation, capture and confirmation:

- Dedicated government resources (not just documents and templates) to assist universities and industry and reduce the burden to drive and facilitate the entire engagement and commercial process. This could take the form of a centralised knowledge transfer office with resident experts dedicated to regional university innovation. These experts would require sufficient experience to be able to assist with advancing commercial opportunities in a regional context, including but not limited to market exploration and research, contact databases, dispute resolution services. In turn, the dedicated regional expert can gain a more in-depth understanding of emerging issues and disputes in regional research engagement and commercialisation by engaging with grass-roots workers in regional universities and industries.

- Funding to support translation and implementation, e.g., dedicated translation funds in research proposals with an identified IP generation and commercial agenda, access to investor panels with active funders.
- Convert the IP Australia Toolkit to an education platform with training, materials and access to advisors and panels to provide expertise and guidance on specific IP matters. Validating the novelty and inventiveness of IP is a complex matter particularly in advanced technology innovations which often attracts significant cost from IP attorneys. Running two different systems for different funding streams, i.e., the framework and the toolkit, would be confusing to all stakeholders and disincentivise its use.

OTHER ISSUES

Lack of Detail

It is impossible to provide thorough input and considered feedback on the consultation paper without sufficient detail. An outline of the proposed processes and copies of the draft agreements should be released for separate consultation and with sufficient lead time before implementation. The entire commercialisation journey should be process mapped in direct consultation with industry with identified go/no-go decision points and relevant resources highlighted against each stage in the process. This should be developed prior to any sub-processes.

Mandated Adoption and Standardised Agreements

Mandated adoption based on dollar thresholds with standardised agreements is problematic. It doesn't allow for the complexities of university and industry engagement across a variety of disciplines and innovation projects ranging from advanced technology to copyright materials. Pathways to engagement and commercialisation are different for each project and innovation. Standardised agreements will not account for the nuances of negotiating collaboration and commercialisation agreements in industries like AgTech and creative arts which traditionally attract low royalties and are challenged by smaller niche markets. Nor will they allow for the complexities of dealing with multiple parties and organisations. Hard IP (patented technology) versus soft IP (copyright materials) vary significantly in commercialisation approach and so do any underlying agreements. Opportunities for commercialisation on an international scale offer even more complexity in operating across different legal environments. These combined complexities are likely the reason for the lack of uptake of the template agreements in the IP Australia Toolkit. Why is the framework to be enforced when other models noted in the consultation paper (UK's Lambert IP Toolkit and Knowledge Transfer Ireland's Model Agreements) do not mandate the use of standard contracts? Has Australian undertaken sufficient consultation to understand why?

Timeliness and Lack of Consultation

Enforcing adoption of the framework in a very short timeframe without a pilot program or voluntary testing period that provides the opportunity for feedback and improvements to the framework may well have the reverse effect of a reduction in collaboration and commercialisation. The framework should be voluntary (at least initially), and a detailed and transparent consultation process should precede implementation. Implementation should begin with a pilot program to enable a period of beta testing and opportunity for feedback, the same process that any new product would follow to validate its use before general release. An awareness and education program should accompany the framework launch and an extended education program should follow the launch with ongoing opportunities for feedback. Education resources and materials should be developed and targeted to specific audiences including universities, industry, researchers, and knowledge transfer offices.

IP Negotiations between Universities

The framework does not appear to address the barriers associated with multiple universities working together and collaborating with industry. The consultation paper indicates that the default term will be for universities to maintain ownership of the IP. Timeliness would be impeded when universities collectively own IP and would need to negotiate this clause.

Impeding Industry Relationships

ARC funding is typically for early-stage research when relationships with industry are just developing. Locking in commercial and IP terms at such an early stage would seem counter-productive to growing those relationships when commercial impact often happens many years later.

CQUniversity Australia acknowledges the Governments efforts in driving the development of the HERC IP Framework. Having recently developed our own commercialisation framework for internal use in connection with commercialisation experts based on best-practice and accumulated experience in both the industry and university environments, we would be happy to work with Government and industry to consult on the framework and its underlying infrastructure with a view to incorporating an experience-based approach. Hasty implementation of the framework in its current form without sufficient consultation and transparency would likely negatively impact research commercialisation in Australia.