

UNCLASSIFIED

# REGULATOR PERFORMANCE FRAMEWORK

## 2016-17 SELF ASSESSMENT

October 2017



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## Revision history

Date	Amendments
01/08/2017	First draft by PAPR – information from 1 <sup>st</sup> edit of Annual Report
08/08/2017	Update draft to incorporate feedback from participating authors
25/08/2017	Update draft to incorporate DIIS and IPA Executive feedback
26/09/2017	Update to incorporate additional DG and DDG feedback
17/10/2017	Updated to incorporate IPSF feedback
06/11/2017	Final IPSF approval

# Executive Summary

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## Our Role

IP Australia is the Government agency responsible for administering Australia's registrable Intellectual Property (IP) rights system; specifically patents, trade marks, designs and plant breeder's rights. This includes processing applications, maintaining the IP rights registers, conducting hearings and deciding on disputed matters relating to granting or refusing Australian IP rights, and regulating the IP attorney profession.

IP Australia also promotes awareness of the IP system, provides advice to Government on the development of IP policy, and contributes to international negotiations and development cooperation programs to support the global IP system for the benefit of the Australian economy and society.

## Our Stakeholders

IP Australia's customers are individuals and businesses in Australia and overseas. IP Australia works closely with our customers to deliver new and improved administration of IP rights. IP Australia's stakeholders further include IP professionals, representative bodies, our international counterparts and other government agencies.

IP Australia's stakeholder consultation mechanism under the Regulatory Performance Framework includes representatives from the:

- Australian Chamber of Commerce and Industry (ACCI)
- Australian Federation of Intellectual Property Attorneys (FICPI Australia)
- Australian Industry Group (AIG)
- Institute of Patent and Trade Mark Attorneys of Australia (IPTA)
- International Association for the Protection of Intellectual Property (AIPPI)
- Law Council of Australia IP Committee
- Licensing Executives Society of Australia and New Zealand (LESANZ)
- Knowledge Commercialisation Australia (KCA)
- Universities Australia.

## Regulator Performance Framework

The Regulator Performance Framework (RPF) is an important part of the Government's commitment to reduce unnecessary or inefficient regulation imposed on individuals, business and community organisations. The RPF sets up a process to measure the performance of regulators, including IP Australia.

Annual externally-validated self-assessment reports aim to identify the extent to which the regulator is achieving the performance indicators in the RPF and highlight areas for improvement against the six key performance indicators (KPIs), which state the Government's expectations of a regulator's performance.

IP Australia's measures for the key performance indicators under the RPF have been selected to ensure:

- high quality services are provided in a timely way
- communication is clear, meaningful and timely
- compliance standards are transparent
- ongoing stakeholder engagement to improve the way we work.

Results from the RPF self-assessment process will be used alongside ongoing feedback

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from our customers to shape the future direction of our agency, and tailor the services and support we provide.

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## Performance Summary

This second annual self-assessment report provides an assessment of IP Australia's performance against the six KPIs under the RPF and sets the performance benchmarks to measure future performance improvement.

IP Australia met the majority of performance targets in 2016-17. The performance scorecard provides further detail on IP Australia's 2016-17 performance against specific metrics for the purposes of the RPF.

The following examples highlight some of our achievements in 2016-17 across the 6 RPF KPIs.

### Quality assurance

To ensure the quality of IP rights administration, IP Australia ran a quality improvement project throughout 2016-17. This review recommended improvements to the processes and procedures of the quality review system. Implementation of the recommendations included conducting quality trials and a reviewer exchange program, both of which were effective in improving staff perceptions of the system, and the system itself.

IP Australia's Customer Service Charter sets out the level of service that our customers can expect. In 2016-17, IP Australia undertook internal and external stakeholder consultation to review and update the charter. We introduced compliance reporting for charter commitments, as part of our ongoing commitment to transparency. The updated charter was published on the IP Australia website on 1 July 2017.

The creation of an IP Rights Technical Excellence Centre consolidated the delivery of competency-based and continuing technical training programs to examiners. This ensures consistency, quality and optimal use of resources in design, development and management of competency-based training across the four IP Rights.

### Targeting timeliness

Our 2016-17 results are generally good but do point to some areas for improvement. Timeliness in the designs business line has been below the targeted standard. This was in response to growing demand for services. Additional design examiners have been trained to support increased demands and improved responsiveness in 2017-18.

Timeliness of settling hearing outcomes, particularly in Trade Marks, remains under active discussion within the organisation and with the profession.

### International work sharing

IP Australia is committed to shaping the international IP system through work-sharing activities. These initiatives allow IP offices to share examination work, aim to increase the efficiency and quality of patent examinations, and reduce time and costs for applicants. In 2016-17, the Vancouver Group, consisting of the Australian, Canadian and United Kingdom IP offices, collaborated on an Inter-Office Quality Audit (IOQA) process that reviewed the quality of patent products. IP Australia conducted a full cycle of audits in 2015-16 followed by a review of the IOQA process in 2016-17. The Group offices are re-evaluating the resource commitments to this initiative. It is likely that a reduced program of periodic audits will be implemented subject to a meeting of the Heads of Offices scheduled during the WIPO General Assemblies.

Work-sharing opportunities were also realised with the European Patent Office, through the signing of a memorandum of understanding, which includes a Patent Prosecution Highway initiative that commenced on 1 July 2016. IP Australia will add patent dossier information to the European Patent Office's Global Dossier site from November 2017.

As part of IP Australia's ongoing commitment to ensure that our planning and modelling for demand is reliable and fit for purpose, we undertook to benchmark our trade mark demand forecasting against that of other IP offices. The autoregressive moving average (ARMA) methodology is used internationally to forecast trade mark demand. IP Australia collaborated with international IP offices to better understand their planning methodologies, and investigated the validity of using the ARMA methodology in our operations. The ARMA methodology was consequently incorporated into our financial and production modelling.

### **Customer tools and support services**

We have been working to progressively improve services for our staff and customers with a suite of tools designed to provide an easier and more streamlined approach to management of IP rights under the auspices of the Rights in One (RIO) investment program. In particular, we launched a new Australian Trade Mark Search tool, replacing the historical ATMOSS search tool. This tool delivers a vastly improved search experience making trade mark searching more accessible for small businesses, innovators and IP professionals.

Other important customer tools introduced in 2016-17 include Portfolio View, a tool that displays all patent and trade mark rights associated with the user in one simple and easy-to-access location. We also expanded the role of our virtual assistant Alex, to cover all four IP rights. We released IP NOVA, a data visualisation platform that allows policy makers, researchers, analysts and individuals to answer their own IP data questions within minutes, through an intuitive, easy-to-use interface.

IP Australia delivered a single regulatory system for patent attorneys in Australia and New Zealand. The new system features a single trans-Tasman register of patent attorneys, a single set of requirements for registration, a single code of conduct, and a single disciplinary process for Australian and New Zealand patent attorneys. Existing patent attorneys in both Australia and New Zealand were automatically registered as trans-Tasman patent attorneys on 24 February 2017, resulting in an increase of more than 100 attorneys registered to work in Australia. An additional feature that provides a single address for service for Australian and New Zealand patent, TM and designs applicants will be introduced later in 2017. This feature will be available to PBR applicants in 2018.

The Single Economic Market initiatives also included a single application process (SAP) and single examination process (SEP) for patent applications filed in both Australia and New Zealand. However in October 2016 the New Zealand Government indicated that it no longer wished to proceed with those initiatives. The Australian and New Zealand Governments are therefore no longer working on SAP and SEP.

### **Outreach and awareness activities**

IP Australia is expanding customer communication channels through its social media accounts. In 2016–17, IP Australia engaged online with more than 13 700 followers, across Facebook, YouTube, LinkedIn and Twitter, an increase of 4200 followers since 2015–16. Other engagement strategies expanded customer self-help tools. In particular, the addition of the virtual assistant Alex to IP Australia's Facebook profile offered additional customer support and interaction with IP Australia. Continued efforts to improve and increase IP Australia's social media presence focused on a series of educational IP activities, which resulted in stronger engagement and content sharing.

Public awareness activities are important for the delivery of IP information. Website content is the primary channel for this, alongside forums, subscription lists and promotion via social media channels. IP Australia delivered TEDx events targeted at the

university sector and supported Questacon's Smart Skills Initiative and the National Youth Science Forum. Other external communication campaigns focused on research report releases, IP Australia's forward legislation and policy agenda, consultations, events and general IP awareness.

### **Improvement Initiatives in 2017-18**

During 2016-17, IP Australia commissioned an internal audit to assess the extent to which the Regulator Performance Framework has been implemented in our business, whether there is evidence to support the implementation and measurement of improved performance as a regulator, and how our reporting approach can be strengthened to draw on lessons learned from across the Commonwealth.

Overall, IP Australia was found to have clear and documented evidence to support implementation of the Framework, and well-established reporting processes in place to measure performance against the 5 relevant KPIs.

IP Australia will continue to review our measures and approach to reporting in 2017-18 to strengthen our alignment with the Framework, and ensure that KPIs remain relevant and provide timely insight into how we can drive reform and improvements in our business. This work will be progressed in consultation with IP Australia's relevant stakeholder consultation bodies.

Results from the RPF self-assessment process will be used alongside ongoing feedback from our customers to shape the future direction of our agency, and tailor the services and support we provide.

Specific improvement initiatives planned for 2017-18 include:

- Exploring opportunities to improve business processes in IP Rights through artificial intelligence technology
- Reviewing and enhancing customer support tools for Designs images
- Implementing the government response to the Productivity Commission's review into Australia's IP arrangements
- Finalising the review of the IP Attorneys Code of Conduct
- Reviewing IP Australia's Quality Standards
- Transitioning to ISO 9001:2015 certification
- Publishing IP Australia's policy issues register, in line with the Australian Government's Open Government National Action Plan.

# 2016-17 Performance Scorecard

	MEASURE	OWNER	PERFORMANCE	COMMENTARY
<b>KPI 1 Do not unnecessarily impede the efficient operation of regulated entities</b>	85% of applications for standard patents will be examined and a first report issued within 12 months of receiving the request for examination.	PATENTS	Target met	93% of standard patent applications were examined and issued a first report within 12 months of receiving the request for examination.
	85% of plant breeder's rights applications will have initial examinations conducted within eight weeks of receiving the application.	PLANT BREEDERS RIGHTS (PBR)	Target met	100% of plant breeder's rights applications were examined within eight weeks of receiving the application.
	85% trade mark applications will be examined and issued with a report within 13 weeks of receiving the application.	TRADE MARKS (TM)	Target met	89% of trade mark applications were examined and issued a report within 13 weeks of receiving the request for examination.
	85% of registered designs will be examined and issued with a report within 13 weeks of receiving the request for examination.	DESIGNS	Target not met	73% of registered designs were examined and issued a report within 13 weeks of receiving the request for examination.  Designs is a small business line which is adversely affected by work demand perturbations. During the year, designs examiners continued to familiarise themselves with a new ICT system and its ongoing improvements as well as dealing with a 14% increase in examination demand compared to the previous year.
	Give at least 12 weeks' notice before implementing a change in fees or introducing major new fees	FINANCE, QUALITY, REPORTING AND PROPERTY GROUP (FQRPG)	Target met	More than 12 week notice was provided to customers for implementation of fees in 2016-17



	Tier 1 - 93.5% of search and research is correct	IP RIGHTS	Target met	Compliance was met across IP Rights for FY 2016-17 as follows: <ul style="list-style-type: none"> <li>• Patents – 97.8 %</li> <li>• TM – 94.1%</li> <li>• Designs – 100%</li> <li>• Plant Breeder’s Rights – 100%</li> </ul>
	Tier 2 – 90% of reports are comprehensive and informative and free of invalid objections / considerations	IP RIGHTS	Target met	Compliance was met across all IP Rights for FY 2016-17 as follows: <ul style="list-style-type: none"> <li>• Patents – 96%</li> <li>• PBR – 100%</li> <li>• TM – 95%</li> <li>• Designs – 90%</li> </ul>
	Tier 3 – 85% of written formalities are complete and correct	IP RIGHTS	Target met	Compliance was met across all IP Rights for FY 2016-17 as follows: <ul style="list-style-type: none"> <li>• Patents – 85%</li> <li>• PBR – 100%</li> <li>• TM – 95%</li> <li>• Designs – 93%</li> </ul>
<b>KPI 2 Communication is clear, targeted and effective</b>	Ensure our online lodgement services are available 99.5% of the time during business hours and 90% of the time after hours.	BIMS RIOBFG	Target Met	Online lodgment services were available for 99.84% during business hours and 99.93% available after hours.
	Complete final registration within 15 working days of receipt of applications for either individual or incorporated attorney registration, that are compliant with legislative requirements.	TRANS-TASMAN IP ATTORNEYS BOARD (TTIPAB)	Target met	100% of final registrations were completed within 15 days of receipt of application.

	Provide notification to our customers of any planned disruption to online lodgement service 4 working days in advance through a variety of communication channels.	BIMS RIOBFG	Target met	In 2016-17 IP Australia reviewed its customer service charter adding additional commitments to strengthen customer service and performance reporting. To demonstrate IP Australia's commitment to clear, targeted and effective communication, the new measure of "providing notification to our customers of planned disruption to online lodgement services" was included under the RPF. IP Australia agreed a forward communication work plan for 12 months of planned ICT releases, and developed a methodology to report on notification compliance from 1 July 2017 as part of the external quarterly customer service charter report. Year-end reporting will be included in the RPF self-assessment of 2017-18 performance.
<b>KPI 3 Actions are proportionate to the risk being managed</b>	IP Australia does not have a compliance or enforcement role in regard to IP rights once they are granted. Accordingly, this KPI is not relevant to IP Australia.	N/A	N/A	N/A
<b>KPI 4 Streamlined and co-ordinated compliance monitoring</b>	Undertake an annual audit of compliance with continuing professional education (CPE) requirements for Patent and Trade Marks Attorneys by 30 November each year to ensure continued competence in the profession.	POLICY AND GOVERNANCE GROUP (PGG)	Target met	The annual audit of compliance with CPE requirements for Patent and Trade Mark Attorneys was conducted in 2016-17. 100% of attorneys sampled were found to be compliant.

KPI 5 Open and transparent in dealings

<p>85% of correspondence relating to the examination of your application will be issued within 20 working days of receiving the correspondence</p>	<p>IP RIGHTS</p>	<p>Target partially met</p>	<p>Compliance across all IP Rights for FY 2016-17 was recorded as follows:</p> <ul style="list-style-type: none"> <li>• Patents – 83% of correspondence responded to within 20 days. This measure in the main relates to responses (further examination reports) to applicant/attorney submissions to examiner reports. While best endeavors are applied at all times at times it is difficult to balance peaks in other equally pressing examination work.</li> <li>• PBR – 100% of correspondence responded to within 20 days</li> <li>• TM – 89% of correspondence responded to within 20 days</li> <li>• Designs – 93% of correspondence responded to within 20 days</li> </ul>
<p>85% of decisions will be issued within 13 weeks of being heard, unless we receive further submissions or evidence.</p>	<p>IP RIGHTS</p>	<p>Target partially met</p>	<p>Compliance across all IP Rights for FY 2016-17 was recorded as follows:</p> <ul style="list-style-type: none"> <li>• Patents – average time to issue a decision was 9 weeks with 86% compliance</li> <li>• PBR – no decisions recorded</li> <li>• TM – average time to issue a decision was 10.4 weeks with 68% compliance. Performance against this measure was adversely affected by a number of unforeseen resourcing issues through the year which could not be readily ameliorated due to the specialist nature of the hearing officer competency.</li> <li>• Designs – average time to issue a decision was 68.3 weeks with 0% compliance. Designs hearings received three applications that covered multiple designs and to ensure consistency in decision-making, all decisions relating to those applications were worked on and issued simultaneously. Although, it adversely affected the timeliness of issued decisions consistency of decisions was considered more important.</li> </ul>

KPI 6 Actively contribute to the continuous improvement of regulatory frameworks

<p>Consult with a representative stakeholder body on regulation reform opportunities at least twice a year, including updating stakeholders on regulation reform measures that IP Australia is progressing and inviting stakeholders to suggest their own regulation reform ideas.</p>	<p>PEOPLE AND COMMUNICATION GROUP (P&amp;CG)</p>	<p>Target met</p>	<p>In 2016-17, IP Australia regularly consulted with representative stakeholder bodies including the Patents Consultation Group, the Trade Marks and Designs Consultation Group, the Plant Breeder’s Rights Consultation Group and the IP Stakeholders Forum on:</p> <ul style="list-style-type: none"> <li>• Revisions to our customer service charter commitments</li> <li>• Regulatory Performance Framework (RPF) 2015-16 &amp; 2016-17 self-assessments</li> <li>• Legislative updates, including IP regulations, IP Laws Amendment Bill and sunseting of IP Regulations</li> <li>• Our value added services, e.g. Source IP, IP Toolkit, IPNOVA and mediation referral service</li> <li>• Regulation reform initiatives and proposals</li> <li>• The Productivity Commission’s inquiry into Australia’s IP arrangements.</li> </ul> <p>Under the Regulatory Reform Agenda, IP Australia identified over \$2 million of estimated savings in 2016 and may identify further savings in 2017, dependent on the government response to the Productivity Commission’s inquiry into Australia’s IP arrangements.</p> <p>In addition, IP Australia:</p> <ul style="list-style-type: none"> <li>• Conducted several engagement events with attorney firms. These activities provided useful feedback from stakeholders that will inform ongoing improvement.</li> <li>• Consulted the public on exposure drafts of legislative proposals to streamline IP processes and support the Rights In One (RIO) program. The majority of key stakeholders supported the revised proposals.</li> <li>• Delivered a single regulatory system for patent attorneys in Australia and New Zealand.</li> </ul>
<p>Hold outreach activities to engage with customers. Examples include</p>	<p>P&amp;CG</p>	<p>Target met</p>	<p>IP Australia conducted a range of outreach activities to facilitate access to the IP system, promote understanding of</p>

holding workshops/forums, conducting stakeholder visits, improving IP Australia’s online presence, and conducting other public education and awareness activities.

its value and facilitate stakeholder feedback, including:

- A range of start-up workshops across Australia to educate and promote the value of IP protection among the start-up community
- Support for Questacon’s Smart Skills Initiative and the National Youth Science Forum
- A series of TEDx events targeted at the university sector
- IP Australia’s social media presence and online community continued to increase to over 13700 followers across its social media accounts, an increase of 4200 followers from 2015-16.
- IP Australia ran a number of external communication campaigns to communicate research report releases, legislative changes, consultations, events and general IP awareness to our stakeholders and customers. The communication campaigns reported a 69% increase in digital platform followers.
- IP Australia sent out a fortnightly e-newsletter to 2745 subscribers (down from 2835 in 2015–16) with an open rate of 35% (up from 30% last year).
- The provision of the *IP—Your Business Edge* magazine, which seeks to educate early-stage businesses about how protecting their IP can help them to grow. The magazine had 2700 subscribers in 2016–17.
- IP Australia hosted the annual OECD Intellectual Property Statistics for Decision Makers conference in Sydney.

Maintain certification of our Quality Management System (QMS) for business processes to the ISO 9001 standard to ensure we fulfil our role as administrators of the IP system effectively, efficiently and to a high standard.

FQRPG

Certification maintained

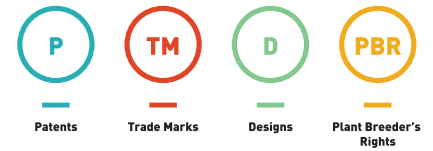
IP Australia maintained ISO 9001:2008 certification in 2016-17 for the functions performed within the IP Rights Division, FQRPG, P&CG, and the Business Improvement Support Centre. The scope of our certification was extended in 2016-17 to include our Portfolio Office and Governance Secretariat.

An annual external surveillance audit is conducted to ensure

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	<p>any instances of non-compliance with the ISO framework are identified early and improvements are actioned. A full external certification audit occurs every three years for IP Australia to maintain certification.</p> <p>In 2017-18 IP Australia will continue to demonstrate the high quality service and integrity of rights administration that our customers expect by transitioning certification of our Quality Management System to the latest version of the standard, ISO 9001:2015.</p>
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# 2016-17 RPF Performance

## KPI 1

Don't unnecessarily impede the efficient operation of regulated entities

### Examination conducted within Customer Service Charter timeframes

**93%** ✓  
Standard patent applications

**89%** ✓  
Trade mark applications

**73%** ✗  
Registered designs

**100%** ✓  
Plant breeder's rights

### Compliance against agreed quality levels

**Tier 1** ✓  
all IP rights met the AQL

**Tier 2** ✓  
all IP rights met the AQL

**Tier 3** ✓  
all IP rights met the AQL

## KPI 2

Communication is clear, targeted and effective

✓  
**Online lodgement availability**  
All commitments met



of Trans-Tasman IP Attorneys Board registrations completed in **15 days**

## KPI 3

Actions are proportionate to the risk being managed

IP Australia has no compliance or enforcement role in regard to IP rights once they are granted; however in 2016 an IP mediation referral service was introduced

## KPI 4

Streamlined and co-ordinated compliance monitoring



of attorneys audited were compliant with their continued professional education requirements

## KPI 5

Open and transparent in dealings

Respond within **20** working days of receiving the correspondence on examination of applications - **91.25%** compliance across four IP rights.

## KPI 6

Actively contribute to the continuous improvement of regulatory frameworks

Over \$2 million of estimated savings identified in 2016-17 under the Regulatory Reform Agenda

**13 700 followers**  
across Facebook, Twitter, LinkedIn and YouTube

- ✓ Meet with IP Stakeholders Forum every 6 months
- ✓ Engage with customers
- ✓ Quality Certification

**ISO** ISO Certification maintained



### Launched in 2016-17

A single regulatory system for AU/NZ patent attorneys  
ALEX - virtual assistant  
IP NOVA

