



**Australian Government**  
**Australian Public Service**  
**Commission**

CAPABILITY REVIEW

# IP Australia

*Effective leadership Diverse workforce **Capable organisations and workforce** Employee conditions APS Values*

Review Report: April 2014



© Commonwealth of Australia April 2014

All material produced by the Australian Public Service Commission (the Commission) constitutes Commonwealth copyright administered by the Commission. The Commission reserves the right to set out the terms and conditions for the use of such material.

Apart from any use as permitted under the *Copyright Act 1968* and those explicitly granted below, all other rights are reserved.

Unless otherwise noted, all material in this publication, except the Commission logo or badge, the Commonwealth Coat of Arms, and any material protected by a trade mark, is licensed under a Creative Commons BY Attribution 3.0 Australia licence.

Details of the licence are available at <<http://creativecommons.org/licenses/by/3.0/au/>>.

#### **Attributing Commission works**

Use of Commission material licensed under a Creative Commons BY Attribution 3.0 Australia licence requires you to attribute the work in the manner specified by the Commission (but not in any way that suggests that the Commission endorses you or your use of the work). Almost any form of words is fine provided that you:

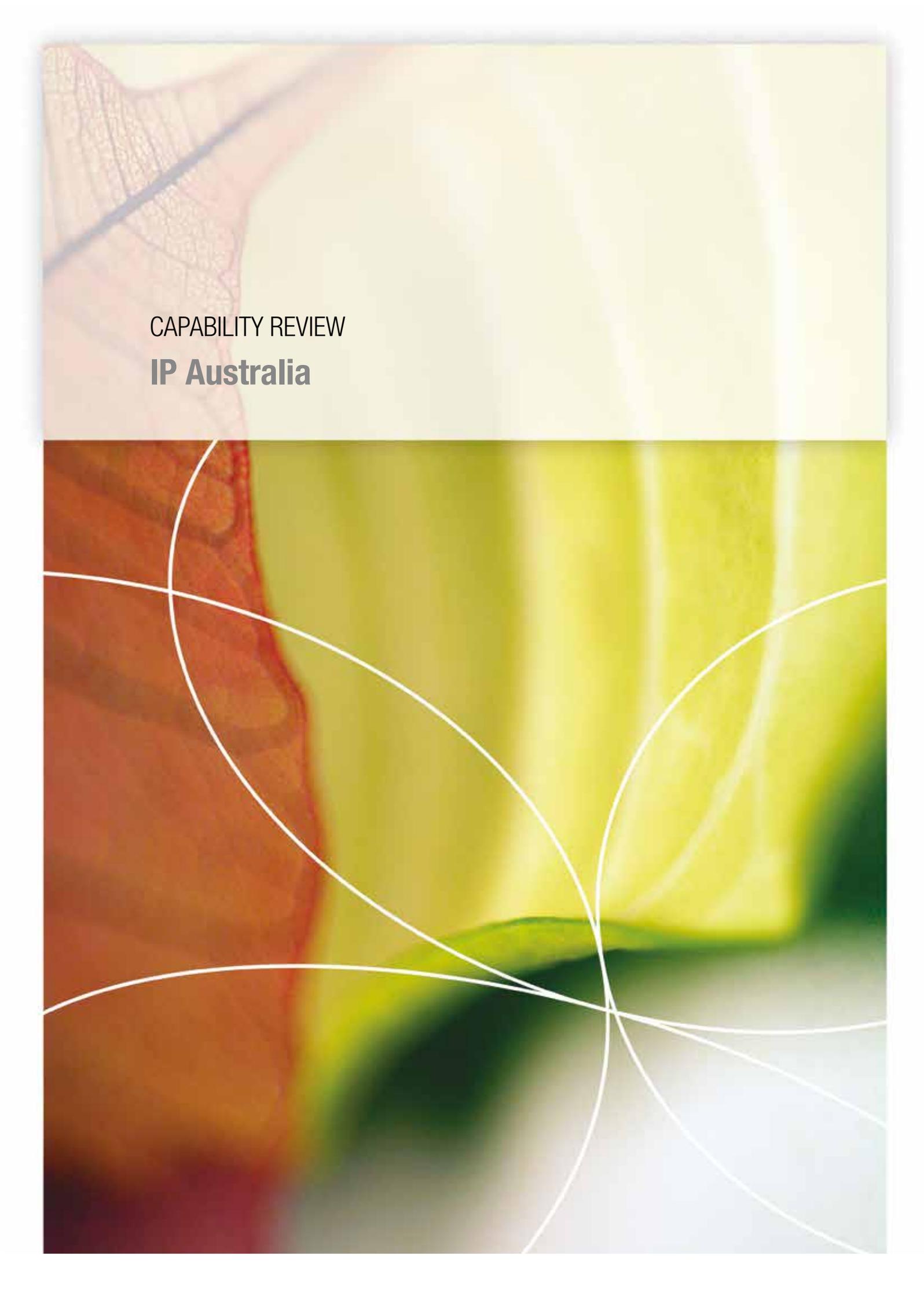
- provide a reference to the publication and, where practical, the relevant pages
- make clear whether or not you have changed Commission content
- make clear what permission you are relying on, by including a reference to this page or to a human-readable summary of the Creative Commons BY Attribution 3.0 Australia licence
- do not suggest that the Commission endorses you or your use of our content.

For example, if you have not changed Commission content in any way, you might state: 'Sourced from the Australian Public Service Commission publication CAPABILITY REVIEW IP Australia. This material is licensed for reuse under a Creative Commons BY Attribution 3.0 Australia licence.'

If you have made changes to Commission content, it would be more accurate to describe it as 'based on Australian Public Service Commission content' instead of 'sourced from the Australian Public Service Commission'.

#### **Enquiries**

For enquiries concerning reproduction and rights in Commission products and services, please contact: [communicationsunit@apsc.gov.au](mailto:communicationsunit@apsc.gov.au).

The background of the page features a close-up photograph of a flower, likely a gerbera, with vibrant yellow and orange petals. Overlaid on this image are several thin, white, curved lines that create an abstract, geometric pattern across the lower half of the page. The text is positioned in the upper left quadrant, set against a light, semi-transparent background.

CAPABILITY REVIEW

**IP Australia**

...the ...

## Foreword

In 2011, the Australian Public Service Commission (APSC) commenced a program of systematic reviews to assess capability in key agencies and identify opportunities to raise the institutional capability of the service as a whole.

The methodology used by the APSC to conduct these reviews has been gradually refined to more closely reflect the Australian context in which the review program is being conducted.

On the occasion of this review, I would like to thank IP Australia for volunteering for this review and for its professional and enthusiastic participation. All employees who participated in interviews and workshops were generous with their time and displayed great passion for their work.

I would also like to thank Dale Boucher, the chair of the review team, other senior members of the team, Heather Miles and Geoff Leeper and my own team from the APSC who supported and advised them. Once again, this review has demonstrated the advantages of bringing together a team of this calibre.



Stephen Sedgwick AO  
Australian Public Service Commissioner



the 1990s, the number of people in the UK who are employed in the public sector has increased from 10.5 million to 12.5 million, and the number of people in the public sector who are employed in health care has increased from 2.5 million to 3.5 million (Department of Health 2000).

There are a number of reasons for this increase in the number of people employed in the public sector. One reason is that the public sector has become a more important part of the economy. Another reason is that the public sector has become a more attractive place to work. A third reason is that the public sector has become a more important part of society.

The public sector has become a more important part of the economy because it provides a number of essential services. These services include health care, education, and social care. The public sector also provides a number of other services, such as housing and transport. These services are essential for the well-being of the population.

The public sector has become a more attractive place to work because it offers a number of benefits. These benefits include a secure job, a good pension, and a good work-life balance. The public sector also offers a number of other benefits, such as a good salary and a good working environment. These benefits make the public sector a more attractive place to work.

The public sector has become a more important part of society because it provides a number of essential services. These services include health care, education, and social care. The public sector also provides a number of other services, such as housing and transport. These services are essential for the well-being of the population.

The public sector has become a more important part of society because it provides a number of essential services. These services include health care, education, and social care. The public sector also provides a number of other services, such as housing and transport. These services are essential for the well-being of the population.

The public sector has become a more important part of society because it provides a number of essential services. These services include health care, education, and social care. The public sector also provides a number of other services, such as housing and transport. These services are essential for the well-being of the population.

The public sector has become a more important part of society because it provides a number of essential services. These services include health care, education, and social care. The public sector also provides a number of other services, such as housing and transport. These services are essential for the well-being of the population.

## Contents

1	About the review.....	1
2	About the agency.....	2
3	Summary assessment .....	5
4	More detailed assessment of departmental capability .....	9
5	The department's response .....	38
6	Abbreviations and acronyms.....	40







## 1 About the review

A capability review is a forward-looking, whole-of-agency review that assesses an agency’s ability to meet future objectives and challenges. It is conducted in accordance with the Australian Public Service Commissioner’s statutory function to review any matter relating to the Australian Public Service under paragraph 41(2)(j) of the *Public Service Act 1999*.

This review focuses on leadership, strategy and delivery capabilities in IP Australia.

It highlights the agency’s internal management strengths and improvement opportunities using the model set out in Figure 1. A set of 39 questions is used to guide the assessment of each of the 10 elements of the model covered by this report.

Capability reviews are designed to be relatively short and take a high-level view of the operations of the agency. They focus primarily on its senior leadership, but are informed by the views of staff who attend a series of workshops.

External stakeholders are also interviewed, including relevant ministers, private sector companies, state organisations, peak bodies, interest groups, clients and central agencies.

For this review, more than 300 documents were reviewed, 76 interviews were conducted and seven workshops were held with agency employees.

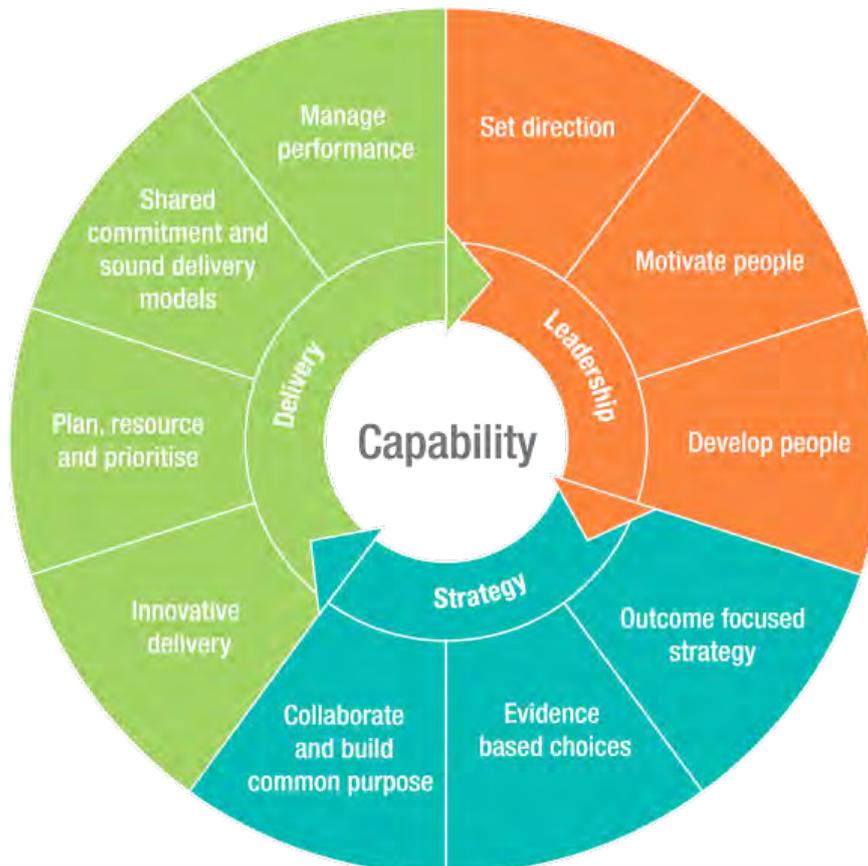


Figure 1—Model of capability

## 2 About the agency

IP Australia's Portfolio Budget Statement outcome is:

Increased innovation, investment and trade in Australia, and by Australians overseas, through the administration of the registrable intellectual property rights system, promoting public awareness and industry engagement, and advising government.

To deliver this outcome, IP Australia administers Australia's intellectual property (IP) rights system, specifically trade marks, patents, designs and plant breeder's rights. The agency's remit also includes providing advice to the Commonwealth Government on IP policy, promotion and awareness of IP, and contributing to bilateral and multilateral negotiations and development cooperation programs to support the global IP system for the benefit of the Australian economy and society.

The agency's regulatory role includes granting exclusive IP rights for a period of time. This encourages innovation, investment and international competitiveness by:

- creating a safe and secure environment in which to make the intellectual investment necessary to innovate and thereby encourage research and development
- promoting the disclosure of inventions and follow-on generation of ideas
- enabling firms to build brand value and business reputation which in turn contributes to improved consumer confidence
- providing a legal framework in which to trade ideas.

IP Australia is a prescribed agency under the *Financial Management and Accountability Act 1997* within the Department of Industry. It operates independently of the department on financial matters, and with some degree of autonomy on other matters. It recovers more than 98% of its costs by charging fees for its IP rights services. In 2013–14, IP Australia will manage \$178.7 million in annual resourcing. Approximately 2% of this is appropriated departmental funding; the balance being receipts from IP rights applicants received under these Commonwealth Acts: *Patents Act 1990*, *Trade Marks Act 1995*, *Designs Act 2003* and *Plant Breeder's Rights Act 1994*.

IP Australia's history dates back to the early 1900s. It recently celebrated the 110th anniversary of the opening of the Australian Patent Office in Melbourne in 1904, which began with four patent examiners and a handful of support employees. By 1933, the office had taken on responsibility for trade marks and designs and was situated in Canberra. Responsibility for plant breeder's rights was added in 2005. Today IP Australia has grown to employ 1,181 employees (as at January 2014). It receives many thousands of applications per year for patents, trade marks, designs, and plant breeder's rights. Copyright is administered separately by the Attorney-General's Department.

In addition to IP Australia's main office in Canberra, the agency has a Melbourne Patent Examination Centre (MPEC). This centre opened in 2008 and has approximately 50 employees.

IP Australia is an Australian Public Service (APS) leader in teleworking, providing flexible working arrangements for many employees. Twenty-three per cent of employees have access to telework, 13% of which have an arrangement to work remotely on a regular or permanent basis. Teleworkers are located across Australia with the exception of the Northern Territory.

Approximately 12% of IP Australia employees have a Doctorate qualification, which is eight times higher than the APS average of approximately 1.5%. IP Australia employs more men (53%) than women (47%). Five of the 10 Executive members are female.

Distribution by classification at IP Australia shows that 27% of non-Senior Executive Service (SES) employees are classified as Executive Level (EL) 1 or higher which is similar to the broader APS. IP Australia averages 194 employees per SES Band 1 officer position. This is nearly three times the APS average, though similar to other large operational agencies such as the Department of Human Services and the Australian Taxation Office.

3

IP Australia has two principal delivery groups—Patent and Plant Breeder’s Rights, and Trade Marks and Designs, which are supported by the Customer Operations Group. The agency also has groups responsible for policy and governance, business and information management solutions, strategic programs, people and communication, and finance, reporting and property.

In 2012–13, IP Australia examined more than: 25,000 patent applications, 62,000 trade mark applications, 1,400 designs applications and 268 plant breeder’s rights applications. It also maintained the registration of more than 1,100 individuals through the Professional Standards Board.

IP Australia’s strategic statement and strategic plan set out the agency’s direction, priority areas and strategic activities for 2013–18. Priority areas are:

- Quality and consistency—to continue to strive for the highest possible standard of quality in the agency’s work so granted rights are robust and able to withstand any challenge.
- Stakeholder confidence—to manage operations and stakeholder relationships to ensure IP Australia has an excellent reputation for effectiveness of its services.
- Facilitate the strategic use of IP—to enable Australians to derive maximum value from the IP system through effective education/awareness and information services.
- Speed and efficiency—to offer timely and efficient services which are consistent with the needs of IP applicants and the community as a whole.
- Contribute to improving the IP System—to foster Australian innovation by shaping the development of the IP system both in Australia and abroad.

IP Australia is also a major collaborator on the international stage, working to harmonise the international IP system and reduce duplication of work across countries. These efforts are guided by the multilateral Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and the World Intellectual Property Organization (WIPO) framework.

IP Australia has a newly appointed Director-General, Ms Patricia Kelly, who joined the agency in January 2014 from the Department of Industry. The Director-General is supported by senior executives, the majority of whom have been with IP Australia for a substantial period in leadership or management roles.

## The growing importance of intellectual property to the Australian economy

As background to the agency's work, IP rights provide an incentive to invest in innovation. They provide a right to exclude others from using an innovation in exchange for the full disclosure of the invention, brand name, design or new plant species. A well-functioning IP system can foster innovation and encourage the flow of ideas. It can benefit innovators, investors and consumers alike, as well as the broader community by incentivising investment in innovation while fostering the public dissemination of new ideas.

Investment in IP and the rights that protect this investment is increasingly recognised as important for productivity growth in developed countries. For example:

- Last year Australian firms invested \$38.9 billion in IP products, an increase of 6.8% year-on-year according to the Australian Bureau of Statistics. Investment has been growing continuously for the past decade, although official statistics only include research and development and copyright protectable investment. Still, this investment accounts for 2.6% of gross domestic product.
- The Organisation for Economic Co-operation and Development's broader measure of intangible investment includes the economic value of design, branding and firm-specific human capital in addition to research and development and content. As a percentage of value added by the business sector, Australian intangible investment was 7.9% in 2010.
- Estimates based on Productivity Commission data suggest that 20% of productivity growth between 2003–04 and 2007–08 was caused by this type of investment.

As investment in IP and applications for IP rights continue to grow—with applications for all IP rights rising year-on-year in 2013—so too does the importance of IP policy and management.

IP rights are increasingly embedded in the products and services that make up the daily lives of Australians, ranging from IP standards in mobile telephony to patented medicines, from branded imports to Australian designed goods manufactured abroad. World trade in licences and royalties from IP rights have grown and outpaced world gross domestic product growth over the last two decades. Australia now has a trade deficit of \$3.2 billion in IP trade, which is not necessarily an issue as long as imported technology improves domestic productivity.

Another clear indication of how IP is playing a more important role in the economy and society is that policy makers around the world are dealing with more and more IP issues. In addition to the more general policy issues around pharmaceutical patents and addressing backlogs, the last decade has seen policy initiatives on specific IP issues such as 3D printing, tax relief on patenting, IP rights investment funds, and patent 'trolls' to mention a few.

Investment in IP, and the use of IP rights, becomes more important in the effort to become a more inventive nation, with a focus on exporting and generating high-tech employment. IP rights are granted at the technological frontier, and shaped by an international system of trade agreements and treaties, as well as domestic decisions through the courts and the IP office. As these rights become more important for the economy, so too does the need to have a better understanding of IP, and to embed IP policy thinking across a broader range of Government and social engagement.

### 3 Summary assessment

The review team considers that IP Australia is delivering on its core objectives but has the opportunity to become more strategic, effective, efficient and influential for the benefit of Australia.

To seize this opportunity, the agency will need to:

1. Clarify its purpose and value proposition.
2. Develop greater connection across the APS.
3. Develop a more transparent, consistent and engaging approach to leadership.
4. Make its systems and processes more robust and transparent.

#### Background

IP Australia maintains a dual role—its primary role as an IP rights regulator and its role as an IP policy adviser. As rights regulator, IP Australia over recent years has established a track record of examining IP rights within set timeframes and to defined quality standards. As a policy adviser, IP Australia has helped to deliver key policy outcomes through the revision of IP legislation and the provision of IP advice to inform whole-of-government policy positions, such as during free trade agreement negotiations.

Employees and external stakeholders frequently made positive comments to the review team regarding IP Australia's high level of technical expertise on IP matters. External stakeholders noted that, when IP Australia has a seat at the table, it contributes its expertise in a useful manner both across government and in international forums, such as during WIPO meetings. International and domestic stakeholders acknowledged the contribution of IP Australia, which is seen as a 'constructive multi-lateralist', often able to bridge the gap in perspectives held by other countries.

Employees consistently commented to the review team that they generally enjoy working at IP Australia and appreciate the development opportunities the agency provides. The review team observed significant internal goodwill towards, and support for, the agency's purpose. IP Australia's leadership team has an opportunity to more fully harness employees' intrinsic motivation thereby creating a more unified, cohesive and collaborative culture and unlocking latent innovative talent within the agency.

IP Australia is a leader within the APS in terms of flexible work arrangements. The agency has plans to continue to extend its use of such arrangements to help incentivise and retain high-performing employees, increase examination productivity and reduce accommodation overheads.

It is worth noting that while IP Australia's financial arrangements have insulated it somewhat from the financial pressures experienced by most APS agencies, it has pursued its own internal efficiency agenda to reduce costs. IP Australia's revenue is also exposed to the economic cycle.



In recent years, IP Australia has pursued a necessary change agenda across a broad range of business functions encompassing:

- Streamlining and increasing the rigour of examination systems and processes, such as through implementing the Product Quality Review System, identifying opportunities to consolidate processes across the IP rights areas and planning a new integrated information and communications technology (ICT) system to support IP rights examination.
- Strengthening relationships with customers and modernising service offerings, by increasing engagement with major customers through an Executive Visits program, and transitioning from a paper-based to a digital IP application process.
- Developing greater internal policy capability, including through the establishment of its Office of the Chief Economist and efforts to improve data and reporting capability.

The agency will need to continue to focus on these areas of capability to fully realise its vision and potential.

The review team identified the following priority capability areas to be strengthened.

#### Clarifying IP Australia's purpose and value proposition

IP Australia would benefit from more clearly articulating its value and role to stakeholders and mobilising the agency towards its vision: 'Australia is a leading economy in the region supported by a world-class IP system that fosters innovation and promotes trade, investment and competitiveness.'

IP Australia can also more closely align its strategies to its vision. The agency has started to develop an evidence-based narrative of the role of IP in Australia and abroad. Continuation of this work is pivotal for the agency as it seeks to communicate the importance of IP and its impact on and potential for the Australian economy. This work will help the agency to develop stronger engagement on IP matters across the APS and with other relevant stakeholders, which the review team considers desirable.

Clarifying the value and cohesion of IP Australia's dual roles of regulation and policy advice, how they complement each other, and allaying concerns over potential conflicts in these functions, will help to increase trust, transparency and understanding of the agency's operations internally and externally.

Employees and external stakeholders had different perspectives on the composition of IP Australia's customer base, with attorney firms, IP rights holders and the broader community all in the mix. The review team considers that IP Australia could legitimately regard all these stakeholders as customers. Developing a clear enterprise message of who are IP Australia's customers, and how the agency serves them, will help maintain a consistent customer-focused culture.

#### Greater connection across the APS

IP Australia works closely with the Department of Industry and the Department of Foreign Affairs and Trade and plays a technical, supporting role in policy discussions, particularly those involving trade matters. As with the Department of Industry's desire, the review team considers that IP Australia could play a stronger policy role, notwithstanding its role as regulator, because of the very technical nature of IP rights work. This will require the agency to better develop connections across the APS and become more centrally involved in policy, as opposed to purely technical, discussions.

As IP Australia continues to grow in domestic and international importance, the agency will need to develop its connections across the APS so it can effectively contribute to and lead policy work in the specialist field of IP.

This will enable IP Australia to become a higher performing agency, with better connections within the Commonwealth Government and with its other stakeholders, in support of a national agenda to improve productivity. A challenge for IP Australia will be to further inform and engage the broader APS regarding the important role IP plays as a mechanism to control and commercialise knowledge, innovation and brand equity to support economic growth and productivity.

There are a number of benefits for IP Australia from developing greater connection across the APS. These include:

- broadening employees' experience through greater exposure to the broader public service environment
- supporting employees' movement between IP Australia and other APS agencies both as a career path and to share expertise
- increasing IP Australia's access to external policy and corporate expertise
- gaining access to existing communication channels to deliver key messages about IP to relevant stakeholder and community groups.

### More transparent, consistent and engaging leadership

IP Australia faces a significant challenge to unite the agency under the leadership of its SES and EL groups. At present, senior leadership groups do not have a shared and aligned commitment to lead the agency. Trust is missing between the leaders and the people they lead.

The agency has vertical siloes due to employees' divergent perspectives regarding IP Australia's purpose and strategy, and horizontal siloes between management levels. This has contributed to a lack of internal cohesion.

IP Australia's challenge in this area is not unique. The review team heard that most IP regulators face a similar situation due to the technical and solitary nature of some examinations work. Many organisations face these challenges, especially those employing highly qualified employees who are well equipped to question leadership decisions. IP Australia needs to address these internal issues to increase its own cohesion and effectiveness and better achieve its strategic potential.

While IP Australia has effective recruitment and development programs in place, the agency would benefit from greater focus on strategic people leadership through an holistic people strategy. The development of such a strategy would assist the SES to refocus on the areas of people leadership that would provide the greatest value to the agency into the future. This includes addressing cultural challenges, strengthening leadership capability, assisting in the development of a more robust internal talent pipeline and improving the focus on performance and accountability, particularly differentiating performance and managing underperformance.

To free up leadership time to focus on addressing these challenges, the SES will need to refocus on strategic and people leadership while developing and empowering EL2 employees



to take over much of the detailed management of the business, with appropriate exception reporting to manage risk.

Greater SES visibility, communication and engagement with employees will also help to develop more positive perceptions of a unified, open and supportive leadership cohort. In addition, the responsibility for leaders at all levels (SES, EL and APS) to drive organisational change and take responsibility for supporting enterprise matters needs to be strongly reinforced. This will help to ensure that leaders, especially at EL and APS levels, own and cascade important messages to their employees, take accountability for enterprise objectives and lead their people consistently.

### More robust and transparent systems and processes

Feedback to the review team highlighted a number of productivity challenges and demotivating factors. These include the way the agency has managed change, particularly in implementing the quality review system. Further efforts by IP Australia to refine systems and processes in the short term (one to two years) may yield significant organisational benefits that increase employees' motivation and help ensure broader support and acceptance for quality and productivity systems.

Greater communication of the rationale for setting examiner's minimum performance expectations may help develop greater employee trust, understanding and ownership of this process. The agency may also wish to consider if individual minimum performance expectations are the best way to achieve optimal productivity, as opposed to team-based outputs.

While all employees believe a quality system is essential, there is a divergence of views around its practical operation. Many employees question whether the current system measures the most important aspects of quality or if, in some instances, it simply focuses on aspects that are easiest to measure. There is an opportunity to enhance the existing system to maximise its potential to serve the needs of the agency for high-quality decision making in support of robust IP rights, while building stronger employee understanding and commitment.

IP Australia's governance arrangements, particularly those in the ICT area, appear complex and, in some cases, obscure accountability and impede effective decision making. A review of governance arrangements, with a view to ensuring that accountabilities and responsibilities are aligned, streamlined and performed at the most appropriate level, may increase productivity and free up SES time.

The review team also identified ICT challenges that IP Australia could be addressing:

- ensuring work is adequately scoped
- ensuring benefits are adequately defined, maintained and realised
- balancing ICT resources between development and maintenance to support short and medium-term productivity and return on investment.

In addressing these challenges, the agency should continue to explore ways to reduce the implementation timeframe for its essential Case Management program, currently scheduled for completion in five years. This will help deliver benefits earlier for this major program and reduce delivery risks posed by such a long implementation timeframe.

## 4 More detailed assessment of agency capability

This section provides an assessment framed by the leadership–strategy–delivery structure of the capability review model.

Assessments were made according to the rating assessment set out in Figure 2.

	<b>Strong</b>	<ul style="list-style-type: none"> <li>• Outstanding capability for future delivery in line with the model of capability.</li> <li>• Clear approach to monitoring and sustaining future capability with supporting evidence and metrics.</li> <li>• Evidence of learning and benchmarking against peers and other comparators.</li> </ul>
	<b>Well placed</b>	<ul style="list-style-type: none"> <li>• Capability gaps are identified and defined.</li> <li>• Is already making improvements in capability for current and future delivery, and is well placed to do so.</li> <li>• Is expected to improve further in the short term through practical actions that are planned or already underway.</li> </ul>
	<b>Development area</b>	<ul style="list-style-type: none"> <li>• Has weaknesses in capability for current and future delivery and/or has not identified all weaknesses and has no clear mechanism for doing so.</li> <li>• More action is required to close current capability gaps and deliver improvement over the medium term.</li> </ul>
	<b>Serious concerns</b>	<ul style="list-style-type: none"> <li>• Significant weaknesses in capability for current and future delivery that require urgent action.</li> <li>• Not well placed to address weaknesses in the short or medium term and needs additional action and support to secure effective delivery.</li> </ul>

Figure 2—Rating descriptions



The review team’s assessment of IP Australia’s capability is outlined in the tables below.

### Leadership

Set direction		Development area
Motivate people		Development area
Develop people		Development area

### Strategy

Outcome-focused strategy		Development area
Evidence-based choices		Well placed
Collaborate and build common purpose		Well placed

### Delivery

Innovative delivery		Well placed
Plan, resource and prioritise		Well placed
Shared commitment and sound delivery models		Development area
Manage performance		Well placed

## 4.1 Leadership summary

### Set direction

- IP Australia has an opportunity, through more effective communication of the agency's vision, to achieve greater motivation and alignment among its employees.
- While the SES are committed and hard working, they are not operating as a team to drive the agency's overall strategic agenda or operationalising this through its performance and culture.
- Change has not been consistently well managed and there remains significant concern over the necessary implementation of the agency's quality system and the operation of minimum performance expectations for examiner output.

### Motivate people

- IP Australia is an APS leader in flexible and family friendly work practices, including home-based workers. This is a considerable motivator for employees.
- IP Australia also has a strong and demonstrable commitment to diversity and inclusion, and a high level of social interaction and peer-to-peer support.
- The senior leadership group of SES and EL2s does not appear to have a shared and aligned commitment to lead the agency. This results in variable outcomes for engagement, productivity, external orientation, change management and communications. Trust is missing between leaders and the people they lead.
- There is also a lack of empowerment by SES of their EL2s, which is then replicated at the next layer and so on, leading to a situation where SES are in essence managing deep into the agency.

### Develop people

- IP Australia has a high level of technical expertise and invests in maintaining and building that capability with a strong learning and development focus.
- While the mechanics of the agency's performance management system are in place, the review team found inconsistent alignment of individual performance objectives to strategic priorities, a lack of commitment to authentic conversations around performance, insufficient performance differentiation and a lack of commitment to managing underperformance.
- A greater focus on strategic people leadership with the development of an holistic people strategy may assist the SES to refocus on people management areas that will drive the greatest value across the agency.

Comments and ratings against the components of the 'leadership' dimension follow.

## Set direction

Guidance Questions		<ol style="list-style-type: none"> <li>1 Is there a clear, compelling and coherent vision for the future of the organisation? Is this communicated to the whole organisation on a regular basis?</li> <li>2 Does the leadership work effectively in a culture of teamwork, including working across internal boundaries, seeking out internal expertise, skills and experience?</li> <li>3 Does the leadership take tough decisions, see these through and show commitment to continuous improvement of delivery outcomes?</li> <li>4 Does the leadership lead and manage change effectively, addressing and overcoming resistance when it occurs?</li> </ol>
Rating		Development area

### *Vision—an opportunity to be realised*

The agency's vision, set two years ago, recognises and responds to the growing importance of IP in the economy: 'Australia is a leading economy in the region supported by a world class IP system that fosters innovation and promotes trade, investment and competitiveness'.

However, this vision is not well known by employees. This presents an opportunity to better guide decisions and actions, and act as a higher purpose for day-to-day work. This is particularly pertinent given the intrinsic motivation of scientists, technologists and engineers to work towards a higher aim. What employees relate to is the previous vision: 'Robust IP rights delivered efficiently'. This is understandable given IP Australia's focus in recent years on bedding down systems and processes to ensure efficient and effective delivery of IP rights.

The agency has an opportunity to bring its more expansive vision to life, creating the potential for a more inspired and high-performing workforce.

### *Leaders driving both performance and culture*

The SES are committed and hard working and have driven a strong change program over the last three to four years, including the implementation of the Product Quality Review System and eServices, both essential for driving efficiency and quality to an international standard. These tough decisions required extensive effort to implement.

Considerable effort has also gone into communication channels such as intranet updates and team bulletins with remote workers, including MPEC employees. The review team acknowledges this good communication within the agency. The weekly message from the new Director-General has been well received as have recent regular messages from the Secretary of the Department of Industry.

However, while the SES group sees itself as an aligned and supportive team, this is not the view held by all employees. The review team's view is that the SES are not working as a team to drive the agency's overall strategic agenda—both performance and culture.

It is essential that the SES refocus their time and energy to operate at a more strategic level, externally and internally. The opportunity is to step back from the tight operational control

they have over the agency and empower their leaders to take on the role of leading. This includes dedicating time to ensuring that EL2s are skilled and have the right attitude to perform this work and, where not, taking action to address gaps. It will also allow SES time to better engage employees around the agency's vision and aspirations, drive a more strategic approach to change management, spend time nurturing key talent and be stronger leadership role models.

The opportunity also exists to explore new ways to engage and communicate. This includes rethinking the purpose and process of the Senior Leaders Team forum for EL2s, improving communication and coaching skills of EL1s and EL2s, exploring different ways to deliver messages to the workforce and engaging employees more in problem solving around how to get things done.

#### *Opportunities to enhance change management*

Some changes in IP Australia have been well managed, as a function of being open, transparent and consultative. These include outsourcing the call centre in the Customer Operations Group over the last 12 to 18 months and implementing the Raising the Bar legislation.

Despite these successes, the review team believes that the effectiveness of agency change has been variable, as illustrated by the quality system and eServices implementation.

For example, the decision to implement the quality system in 2011 was a good one. But three years on, and despite several refinements, this system, along with the method of setting minimum performance expectations, is cited as the greatest concern employees have and a significant impediment to building trust. This is even though employees believe a quality system is essential. It should be possible for senior leaders to acknowledge the past implementation and create a compact to move forward on a more positive footing.

With more significant change to come in the form of Case Management, IP Australia has an opportunity to learn from the past—successes and challenges—and apply a strategic, coordinated approach to change management. This looks like it is underway, but needs to be further strengthened by engaging end-users in design and implementation and ensuring that all parties work together to achieve the outcomes required. IP Australia also needs to ensure that communication and change management resources across the agency are coordinated to maximise chances of success from significant change activities.

## Motivate people

Guidance Questions		<ol style="list-style-type: none"> <li>1 Does the leadership create and sustain a unifying culture and set of values and behaviours which promote energy, enthusiasm and pride in the organisation and its vision?</li> <li>2 Are the leadership visible, outward-looking role models communicating effectively and inspiring the respect, trust, loyalty and confidence of staff and stakeholders?</li> <li>3 Does the leadership display integrity, confidence and self-awareness in its engagement with staff and stakeholders, actively encouraging, listening to and acting on feedback?</li> <li>4 Does the leadership display a desire for achieving ambitious results for customers, focusing on impact and outcomes, celebrating achievement and challenging the organisation to improve?</li> </ol>
Rating		Development area

### *Leader in flexible work practices*

Overwhelmingly employees agree that IP Australia provides good work – life balance and is an exemplar for flexible work practices in the APS.

Some 14% of IP Australia employees were regular teleworkers as at 1 June 2013, and up to one-quarter have some form of access to teleworking arrangements. The majority of these employees come from the IP Rights division. This model provides many benefits to the agency and employees, and there appear to be opportunities to enhance this delivery model further, such as leveraging the MPEC for enhanced customer engagement and outreach activities.

### *Alignment of leadership*

The senior leadership group of SES and EL2s does not appear to have a shared and aligned commitment to lead the agency. This results in variable outcomes for engagement, productivity, external orientation, change management and communication. Trust is missing between leaders and the people they lead.

The review team noted:

- A consistent lack of visibility of the SES, compounded by their location on a separate floor, one-way communication style at Senior Leader Team events and lack of visibility at corporate events. Only 38% of employees agree senior leaders are sufficiently visible, 9% lower than the APS average.
- A perception that the SES micro-manages the business, rather than empowers EL2s to manage. Many middle managers (EL2s and EL1s) are keen to take on responsibility for leading their people.

- The perception of a blame culture with reluctance by some leaders to take responsibility for issues within the agency and long corporate memories when things do go awry. Some employees indicated a trust issue between SES and EL employees with perceptions that the SES fail to adequately consider advice. The SES are perceived by some as resistant to hearing the reality of some issues.
- A subset of middle managers who are not role modelling strong leadership and change, and are not taking ownership for minimum performance expectations and decisions. This cohort presents to their peers as disengaged and being 'blockers' to change or just not caring. Some EL1s are not providing leadership and coaching support to their APS5s and 6s, particularly in matters of people management.
- Variability in coaching and communication skills of leaders within IP Australia, potentially a function of high-performing technical people taking on leadership roles, without sufficient skilling. In addition, State of the Service Report (SoSR) results show only 31% agree that communication between senior leaders and other employees is effective, 7% less than the APS average. This is particularly supported by EL1 SoSR results with only 19% agreeing there is effective communication from senior leaders.
- Sub cultures, both vertically (SES and EL2s) and horizontally (examiners, enabling areas, patents and trade marks).
- Sustained 'noise' about the quality system and minimum performance expectations, both of which leave employees feeling under-valued and 'controlled'.
- A feeling that employees are not being listened to and heard. IP Australia has a highly educated workforce (67.4% with tertiary qualifications compared with 51% across the APS, and approximately 12% of employees hold a PhD).

The SES and EL2 groups need to be the guiding force to address these challenges through role modelling collaborative, cohesive behaviours and setting an example of positive relationships and trust. Delegation is important as is ensuring employees have the right skills and attitude to lead, addressing poor performance and drawing together the agency into a holistic group.

## Develop people

Guidance Questions		<ol style="list-style-type: none"> <li>1 Are there people with the right skills and leadership across the organisation to deliver your vision and strategy? Does the organisation demonstrate commitment to diversity and equality?</li> <li>2 Is individuals' performance managed transparently and consistently, rewarding good performance and tackling poor performance? Are individuals' performance objectives aligned with the strategic priorities of the organisation?</li> <li>3 Does the organisation identify and nurture leadership and management talent in individuals and teams to get the best from everyone? How do you plan effectively for succession in key positions?</li> <li>4 How do you plan to fill key capability gaps in the organisation and in the delivery system?</li> </ol>
Rating		Development area

### *Strategic approach to people management*

IP Australia has successfully sourced specialised talent internationally, optimised training delivery for new recruits, opened the MPEC and started a more systematic approach to workforce planning.

Some branches, such as IP Rights, have sound workforce plans in place. However workforce planning is not consistent across the agency and some smaller areas are more vulnerable to the effects of an ageing workforce and limited succession planning. The review team considers that an agency-wide workforce plan is an important tool in achieving the agency's vision and one is currently being developed.

IP Australia's talent management program offers rotational positions for between six weeks and 12 months. These are highly regarded. Some positive examples of rotational positions include the internship program, and the oppositions and hearings teams.

However, employees note a lack of promotional opportunities and the SES acknowledges the difficulties in releasing employees from production time to invest in their development. The technical nature of much of the IP work in the examination areas creates a 'career ceiling' that can only be overcome by the development of managerial and leadership skills. This is an ongoing challenge for management. There is an opportunity to think more broadly about development of employees, beyond the talent and development programs underway.

Notwithstanding these good human resources initiatives and programs, the review team considers that the lack of an agency-wide people strategy is a capability gap. While operational plans exist on number of fronts, as outlined earlier, the strategic approach to people leadership and culture is missing, as are key measures of success. A well designed, whole of agency people strategy (including workforce planning, sourcing talent, leadership, learning and development, performance management, talent, succession management and culture change) could guide and direct the focus of the SES on the areas of people management that will drive the greatest value across the agency.

A people strategy could also address closer integration of IP Australia employees with the broader APS, and further enhance critical skills such as policy, project management, change management and ICT expertise.

### *Learning and development*

IP Australia has a high level of technical expertise and invests in maintaining and building that capability with a strong learning and development focus. Seventy-six per cent of employees agree that IP Australia provides access to effective learning and development (for example, formal training, learning on the job, e-learning and secondments), which is 15% higher than the APS average.

Employees are offered technical and soft skill programs, including face-to-face and e-learning programs. Three leadership programs were developed after a people management skill gap was identified, to support the successful transition of employees into leadership roles. An evaluation of these programs in August 2013 confirmed they are well received—86% of participants in the pilot phase have been promoted, taken on higher duty roles or been able to undertake new opportunities at level.

IP Australia has made positive steps towards delivering more online training with its Domestic Patent Examiner Training. This program aims to deliver remote training to examiners, removing the need for employees to be based in Canberra for the lengthy training period. The review team encourages IP Australia to continue its efforts in this area.

IP Australia also has a strong and demonstrable commitment to diversity and inclusion, and a high level of social interaction and peer-to-peer support.

### *Engaging in authentic conversations on performance and potential*

While the mechanics of the performance management system are in place, alignment of individual performance objectives to the strategic agenda, and a commitment to authentic conversations around performance, differentiating performance and managing underperformance are not evident.

IP Australia's recognition and rewards program acknowledges achievement across seven categories for APS1 to EL1 employees through formal and informal recognition. Some employees are also able to receive overtime and Individual Flexibility Agreement payments. EL2 employees are eligible for a bonus of up to 10% of their base salary with a 'Superior' performance rating, as noted in the EL2 Performance Management Guidelines that are in the process of being reviewed. It is unclear the extent to which these monetary offers are having a positive effect on performance or morale.

In 2012–13, 81% of eligible EL2 employees were rated superior and eligible for bonuses. The review team was unsure if such payments were used more for retention purposes than performance drivers, which may lead to perceptions of entitlement. Such performance ratings, however, indicate a lack of differentiation of performance and make it extremely difficult to manage performance issues. The review team notes that the existing performance management framework would support a focus on effective leadership behaviours as well as achievement of business outcomes.

Notwithstanding that 66% of employees are confident that performance processes support them to manage employees (11% higher than the APS), IP Australia has an opportunity to

improve performance management implementation. Managing poor performance requires dedicated effort and courage to ensure everyone pulls their weight and that parts of the agency are not left without effective leadership. Only 28% of employees agree the agency deals with underperformance effectively.

IP Australia does not have a systemic 360-degree process in place to improve leadership capability. This could be readily addressed to substantially contribute to increased self-awareness and therefore performance and development, particularly with soft leadership skills.

The review team considers that increased attention and focus on leadership and values modelling is needed to improve agency performance on a number of dimensions, including patchy levels of unscheduled leave.

The review team also supports the current review of the rewards and recognition system and IP Australia should align these systems to encourage positive behaviours and reward exceptional performance.

## 4.2 Strategy summary



### Outcome-focused strategy

- There has been a focus in the last three to four years on improving the IP system. This began with the Raising the Bar legislative changes and has been supplemented with additional value-adding capability such as the engagement of a Chief Economist and the establishment of the Patent Analytics Hub. In addition, IP Australia has made a valuable technical contribution in trade negotiations.
- The vision of enhancing IP Australia's role in driving Australia's innovation, trade, investment and competitiveness agenda does not appear to be well linked to the strategic plan.
- For IP Australia to fully achieve its strategic vision, it needs to deliver on its core activities and expand its external focus, engage more broadly with other agencies, take a stronger leadership role in policy development within the Commonwealth Government in support of a national productivity agenda and extend its reach into the community.

### Evidence-based choices

- Evidence-based decision making is central to IP Australia's regulatory role of examining IP rights. The agency increasingly brings evidence and analysis to bear to inform external decision making, such as in support of trade negotiations. There is an opportunity for IP Australia to increase its use of information and analysis in internal decision making.
- There are varying internal views over who IP Australia's customer base is, ranging from traditional patent attorney customers, to IP rights holders to the broader community. While some good work has been done by the Case Management Program to articulate IP rights stakeholders, there is an opportunity to achieve a broader agency understanding of the 'customer' and more clearly articulate their needs. This would help with the design of policies, processes and services to balance the many needs of the agency's customer base.
- Many highly qualified, committed and capable employees within IP Australia are keen to contribute ideas to assist in meeting future challenges.

### Collaborate and build common purpose

- IP Australia engages well with its traditional stakeholders. This includes patent and trade mark attorneys, representative bodies, international counterparts and other government agencies.
- The agency is well regarded internationally for its technical expertise and contribution to international forums and negotiations.
- Given the growing importance of IP, the agency could consider taking a greater role in outreach and engagement in partnership with stakeholders and other government agencies.

Comments and ratings against the components of the 'strategy' dimension follow.

### Outcome-focused strategy

Guidance Questions		<ol style="list-style-type: none"> <li>1 Does the organisation have a clear, coherent and achievable strategy with a single, overarching set of challenging outcomes, aims, objectives and measures of success?</li> <li>2 Is the strategy clear about what success looks like and focused on improving the overall quality of life for customers and benefiting the nation?</li> <li>3 Is the strategy kept up to date, seizing opportunities when circumstances change?</li> <li>4 Does the organisation work with political leadership to develop strategy and ensure appropriate trade-offs between priority outcomes?</li> </ol>
Rating		Development area

#### *Aligning the vision and strategy*

Over the last three to four years the SES has focused on improving the IP system. This began with the Raising the Bar legislative changes and has been supplemented with value adding capability such as the engagement of a Chief Economist and the establishment of the Patents Analytics Hub. In addition, IP Australia has made a valuable technical contribution in trade negotiations and in its agenda setting around international harmonisation which has required sustained effort and resources.

However, the vision of enhancing IP Australia's role in driving Australia's innovation, trade, investment and competitiveness agenda does not yet resonate within the agency. Such a vision is ambitious, stretching the agency beyond its previous vision of 'Robust IP rights delivered efficiently': an historic vision that appeals strongly to many IP Australia employees and to which they can relate in a practical sense.

Given that employees do not know or relate to the current vision, there is little evidence that it guides action or decision making for people deeper in the agency. This is an opportunity to be seized, particularly for a workforce that gains intrinsic motivation from the pursuit of science and 'making a difference in the world'. Bringing this vision to life would help link what employees do every day to the higher purpose of enhancing Australia's competitiveness, investment and productivity.

The new 2013–2018 Strategic Plan has not yet translated into actual business and operational plans and systems of IP Australia which remain fixed on regulating industry and maintaining the various registries. While a thread can be seen linking specific actions in branch business plans back to the higher-level strategy documents, the ties are somewhat tenuous. Nor are the links readily apparent when looking at individual performance plans.

The review team examined recent agendas of the IP Australia Executive Committee, but remains unclear on when and how the SES is carrying forward the agency's strategic direction. The main focus of the meetings is on performance and reporting. Furthermore, where there is genuine 'future state' thinking—as with the design work for Case Management—this is treated as a one-off and appears not to be fed back into strategy setting across the agency.

Employees are also missing the links of the vision to the strategy. Through capability review workshops, employees expressed uncertainty over where strategic thinking occurs within IP Australia.

A number of stakeholders and other government agencies suggested that IP Australia should harness its technical expertise to take a stronger lead in IP policy development in the interest of national productivity. One stakeholder, for example, while praising IP Australia's efficient management of patents, trade marks, designs and plant breeder's rights, concluded that IP as a force in the Australian economy was not being fully leveraged. Another spoke of how IP could be considered as an export industry, one where Australia is doing badly. This latter observation has been corroborated by data which shows a widening gap between IP imports and exports which stood at \$2,656 million in 2008 but at a deficit of \$3,183 million in 2013.

#### *'Looking up' and 'looking out'*

In considering who should 'step up' to manage the IP system in the interests of the Australian economy, there was a consensus among interviewees inside the agency and among external stakeholders that IP Australia has been doing a good job at IP rights administration, but is very internally focused.

IP Australia has an opportunity to expand its emerging external focus and engage more broadly with other agencies, taking a stronger leadership role in IP policy development in support of a national productivity agenda, and extending its reach into the community—all while continuing to deliver on its core business.

Some IP policy challenges include the growing importance of knowledge-based capital and the challenge of distinguishing between what is innovation (and, as such, potentially appropriate for exploitation as a 'private good') and what is discovery (which, by principle, should be viewed as a 'public good' and open to all). Other challenges include balancing competition and free trade objectives, ensuring national and commercial security, and developments such as cloud-sourcing, geo-political shifts and the growing influence on the IP system of major multi-national corporations. Within its policy area, IP Australia is aware of these challenges and is well positioned to contribute to the IP policy debate externally.

The establishment of the Chief Economist Unit in 2012 is the most obvious sign that the agency is starting to respond in a practical sense to these emerging challenges and trying to shape its environment to respond strategically. In extending this effort it would be beneficial if the opportunities for collaboration on strategic intent and 'over the horizon' discussions in IP Australia included mainstream business operations, as appropriate.

#### *Working across government*

Just as IP Australia would benefit from looking externally, the review team heard that greater focus on policy engagement and effectiveness would be welcomed by a number of other government agencies, including the Department of Industry.

The relationship between IP Australia and the Department of Industry is solid and likely to flourish given the understanding of the department which the new Director-General brings and her continuing role on the Department of Industry Executive Board. It is encouraging also that IP Australia and the Department of Industry have mapped out a forward agenda and allocated responsibility for carriage of that agenda on the basis of each other's strengths and competitive advantage.

In taking this broader role, IP Australia needs to be engaged, confident, capable, agile and alert. It also needs to exercise policy nous. In time, it will be seen to be an important player in the Commonwealth Government policy scene, although it will take time to assert this role. Through these actions and greater communications, knowledge that IP Australia is taking a wider, more outward looking stance, in time will permeate to employees.

### Evidence-based choices

Guidance Questions		<ol style="list-style-type: none"> <li>1 Are policies and programs customer focused and developed with customer involvement and insight from the earliest stages? Does the organisation understand and respond to customers' needs and opinions?</li> <li>2 Does the organisation ensure that vision and strategy are informed by sound use of timely evidence and analysis?</li> <li>3 Does the organisation identify future trends, plan for them and choose among the range of options available?</li> <li>4 Does the organisation evaluate and measure outcomes and ensure that lessons learned are fed back through the strategy process?</li> </ol>
Rating		Well placed

#### *Embedding a culture that supports evidence based decision-making*

The review team noted a strong commitment to the principles of evidence-based decision making within IP Australia. This is not surprising given the volume of employees with engineering, technical or scientific backgrounds.

IP Australia's stakeholders agree, viewing the agency as impartial and as operating without agenda or bias. By their account, IP Australia is increasingly bringing data to bear in influencing government policy, particularly in respect of trade negotiations.

An area that IP Australia should be vigilant about is ensuring it consistently uses evidence to make decisions about and changes to management and employee practices.

#### *Understanding and focusing on the customer*

IP Australia serves the interests of individuals who apply for a patent, trade mark, design or plant breeder's right. In many cases, this is done on behalf of the customer by a third party, typically a patent or trade mark attorney. IP Australia's role in administering the IP rights system also means it serves the interests of those who are, or may be, competitors to the applicant. The agency also has responsibilities to the broader Australian community who gain from a well-regulated system that supports economic activity.

Day-to-day, the majority of IP Australia employees interact with applicants or their representatives. A Customer Charter establishes standards and measures to support customer satisfaction, which is also a pivotal performance measure in the Portfolio Budget Statement.

There are several areas for consideration in IP Australia's approach to customer management:

- There is a risk of neglecting broader responsibilities to those other customer groups mentioned above. While the review team did see an appreciation among IP Australia employees of direct and indirect customer and client groups, this understanding is not broadly communicated and the Customer Charter is concerned with standards to be met for applicants and their agents alone.
- The Customer Charter, which focuses on measures of quality and timeliness, is not necessarily consistent with the interests of applicant groups who reported to the review team that their priority concerns are consistency and quality.
- Current customer surveying is not leading to high levels of insight into what is and is not working for customer groups. At present IP Australia undertakes quarterly customer satisfaction surveys ('temperature checks'). This is performed in-house through electronic invitations to participate in IP Australia's online survey based upon the Customer Operation Group's record of customer emails. While a cost-effective approach, response rates are low (9.8% in September 2013 and 7.1% in June 2013) bringing into question the validity of responses. Also, the agency only surveys the IP rights applicants, not the full suite of its customers.
- Individual customer feedback is provided directly in raw form to all SES rather than to the EL2 who should be managing such feedback and responses. The current practice predisposes the SES to micro-manage individual customer responses as opposed to taking a higher perspective across the full range of feedback. For IP Australia the volume of recorded feedback was 113 and 91 in the last two quarters of 2013.
- Currently hard data is complemented in some instances by soft or experiential data. For example, there is obvious benefit in checking the 'lie of the land' with employees working in the area of Oppositions and Hearings to try and ascertain what issues are emerging. The review team understands this happens regularly. Yet there is equally an untapped source of intelligence around customer sentiment to be found among the full examiner cohort, which interacts regularly with applicants and their agents.
- In the interests of delivering timely, high-quality outcomes, examiners at times lack understanding of the impact of their decisions on the lives of individuals and businesses. This finding is corroborated by SoSR census results which showed that the number of IP Australia respondents who believe their job has a large impact on people outside their agency is 5% below the APS average of 67%.

Ways to address these risks include:

- Articulating IP Australia's service offering as it relates to all customers, direct and indirect, and using this as an opportunity to engage all employees in the agency's vision and strategy.
- Improving the level of formal surveying and informal assessment of customer satisfaction across all customer groups.
- Increasing the aggregation and analysis of customer data by the IP Australia Quality Committee so SES can take a more strategic response.

- Engaging more consistently with examiners from across the agency to complement hard data with soft data, which will provide insights from the coal-face to support and/or inform strategic discussion.
- Engaging more effectively with external parties and embedding an external orientation throughout the agency.

#### *Using resources and evaluating outcomes*

As noted, IP Australia has done much with the employment of a Chief Economist and also the creation of the Performance Analysis and Program Reporting Group to improve its evidence base. The former focuses on increasing the traction of IP Australia externally, while the latter focuses on internal operations and business efficiency.

The establishment of the Patents Analytics Hub has been welcomed by stakeholders, within and outside of government. IP Australia is increasingly putting information out into the public realm, such as its 2013 Australia IP Report, in the interests of better informing the community and shaping the landscape for future discussions.

The review team also saw strong alignment of the agency's research agenda with its medium and long-term policy challenges. WIPO and other international benchmark data is being considered by parts of the agency and the Performance Analysis and Program Reporting Group is working to ensure there can be confidence in performance data. In collaboration with the Chief Economist, this Group is also looking for measurements of outcomes over outputs.

#### **Collaborate and build common purpose**

Guidance Questions		<ol style="list-style-type: none"> <li>1 Does the organisation work with others in government and beyond to develop strategy and policy collectively to address cross-cutting issues?</li> <li>2 Does the organisation involve partners and stakeholders from the earliest stages of policy development and learn from their experience?</li> <li>3 Does the organisation ensure the agency's strategies and policies are consistent with those of other agencies?</li> <li>4 Does the organisation develop and generate common ownership of the strategy with political leadership, delivery partners and citizens?</li> </ol>
Rating		Well placed

#### *Nurturing existing relationships*

IP Australia has a very structured consultative framework involving biannual meetings of the IP Professional Forum, a representative body of major players and consultative groups related to the specific rights administered by IP Australia. There is a related schedule of 50 or more visits conducted during each year by the SES to large, medium and small businesses, as well as industry associations.

The review team heard very strong, positive feedback from these traditional domestic stakeholder groups almost across the board about IP Australia's performance.

This positive feedback is matched on the international stage. The WIPO, the Vancouver Group, and a number of regional IP offices had much to say in support of IP Australia. These good relations are backed by regular exchanges and international visits from formal and informal delegations. The review team was impressed, for example, by the strength of IP Australia's engagement and commitment in the region, most evident in the Regional Examiner Training Program it runs in cooperation with the Department of Foreign Affairs and Trade (formerly managed with the Australian Agency for International Development). In a similar vein the review team heard of the efforts under the Single Economic Market agenda to establish harmonised IP examination processes between Australia and New Zealand.

The review team equally noted IP Australia's use of 'message multipliers', that is, the use of established organisations like CPA Australia, with pre-existing networks to spread knowledge about the value of IP and understanding of the IP rights system.

It is clear that some stakeholders, such as patent and trade mark attorneys, may not always fully sympathise with IP Australia's reform program. Some concerns have been voiced over the introduction of eServices and the progressive closure of old, low-volume application channels. However on the whole, interactions are good and IP Australia is looking—through such avenues as its exchange program with attorneys, which provide for the occasional placement of IP Australia examiners with major and minor firms—to nurture and build its existing relationships even further.

As positive as IP Australia's relations with other departments may be there has been less engagement with stakeholders and other departments around the agency's strategic vision, particularly with the central agencies.

#### *Maximising outreach efforts*

IP Australia is almost universally well regarded among its traditional stakeholders but many interviewees mentioned to the review team that IP is not well understood by the broader Australian and international community. The practical impact of this is that potential holders of IP rights may not apply for those rights due to a lack of awareness, or may apply not realising that their application has little or no chance of success.

Public debate over the patenting of gene sequences, for example, has been generally represented in the media as challenges to individual human rights or the seizure by corporate interests of 'public goods' for private exploitation. Anti-IP discussion in the community is recognised by the agency which has undertaken creative steps to better inform the public about the benefits and role of IP in their daily lives, including through its sponsored series of the Wallace and Gromit exhibitions held in Sydney and Melbourne.

In addition to the agency's annual IP report, the Patent Analytics Hub, message multipliers and case studies, the review team encourages the agency to do more. Ideas for possible consideration include:

- provision of plain-English material on the impacts, benefits and processes of IP, for example to schools and banks/lenders
- wider use of social media to promote IP

- furthering relationships with academia, research entities and others to better inform the scientific community
- leveraging existing business and industry event programs such as National Manufacturing Week and trade shows to raise levels of awareness around IP rights.

Such action would greatly complement IP Australia's efforts to more actively manage the IP rights system in the interests of productivity and facilitate bringing together the disparate players across the system in the interests of innovation, trade, investment and competition, at marginal cost.

## 4.3 Delivery summary

### Innovative delivery

- There is a natural innovative spirit within IP Australia because of the nature of its work, and the qualifications of its employees. This could be further leveraged to support innovation and continuous improvement across the agency.
- IP Australia's history of innovation is not always internally acknowledged. This has historically been driven by the Executive, though recent initiatives aim to capture innovation from across the agency.
- The Business Process Improvement function could be better leveraged by the entire agency to provide enhanced process re-engineering and continuous improvement.

### Plan, resource and prioritise

- IP Australia has clear operational planning processes supporting it to meet its performance outcomes (ICT planning is covered in the next section).
- The current application of minimum performance expectations at individual level may be inhibiting productivity. A team-based approach may lead to a more cohesive culture.
- IP Australia operates an effective cost-recovery model, although the agency could explore other avenues for multi-year capital funding. This could provide greater flexibility to progress initiatives and projects.

### Shared commitment and sound delivery models

- IP Australia would benefit from streamlining its complex, and at times excessive, governance structures.
- There appears to be a lack of process discipline and transparency around the agency's ICT Roadmap and it is perceived as too ambitious.
- The new Case Management program appears to be well managed, however the agency should avoid compromising effective delivery through over-governance and ensure effective input of end-users into design and implementation.

### Manage performance

- IP Australia's audit and risk program is well established.
- While the agency's use of data and reporting is maturing, the provision of data needs to be complemented by robust analysis.
- The implementation of a quality system in the IP Rights division has done much to improve the quality of examination and processing. There is an opportunity in due course to consider further enhancements to ensure the division delivers the best value to the agency.

## Innovative delivery

Guidance Questions		<ol style="list-style-type: none"> <li>1 Does the organisation have the structures, people capacity and enabling systems required to support appropriate innovation and manage it effectively?</li> <li>2 Does the leadership empower and incentivise the organisation and its partners to innovate and learn from each other, and the front line, to improve delivery?</li> <li>3 Is innovation explicitly linked to core business, underpinned by a coherent innovation strategy and an effective approach towards risk management?</li> <li>4 Does the organisation evaluate the success and added value of innovation, using the results to make resource prioritisation decisions and inform future innovation?</li> </ol>
Rating		Well placed

### *The existence of an innovative culture*

The review team recognises that there is a strong innovative spirit at IP Australia which should be more widely acknowledged. The review team came across many examples of innovation in the agency:

- Regional Patent Examiner Training, which provides comprehensive competency-based patent examination training for overseas examiners (for example, in African and Asia Pacific countries) with the objective of developing patent examination capabilities.
- National Patent Analytic Hub, which provides analysis, visualisation and interpretation of data included in patent documents to Commonwealth Government agencies and publicly funded research organisations.
- TM BriefCase, which enables trade mark examiners to search a database of precedential trade mark case law.
- TM Check, which offers business name applicants a search facility to check if their proposed name may infringe an existing trade mark. IP Australia has a link on the Australian Securities and Investments Commission's web site directing users to IP Australia's TM Check.
- Virtual examination team trial, which offers out-posted examiners the benefits of a team-based environment with other teleworkers.

IP Australia's innovative capability could be enhanced by recognising and celebrating its initiatives as innovative.

### *Top-down and bottom-up innovation*

Innovation in relation to business improvements has historically been driven top-down by the Executive. Greater bottom-up involvement from employees in the innovation process will bring access to a wider set of ideas and enhanced adoption of resulting changes. Innovation

may be further encouraged by providing employees with feedback on their ideas, whether actioned or not, by providing a pool of funding to foster innovative proposals and by the leadership cohort being more accepting of risk associated with some ideas.

The review team acknowledges that the Executive recognised the need for innovation and mechanisms for employees to raise new ideas are being implemented, such as 'Every Day Genius' workshops. IP Australia ran the first of these workshops in September 2013 with 25 participants. The workshop generated approximately 50 ideas and a follow-up workshop determined the top five key ideas which the agency is progressing.

The SoSR 2013 points to an EL2 cohort that is encouraged by their supervisors to be innovative, with 70% of responders rating the agency favourably. This proportion is lower at EL1 and APS cohorts where between 55% and 58% of employees rated their supervisor as encouraging of innovation. With examination employees in the IP Rights division working towards minimum performance expectations there is little time for them to think of new ideas and this may go some way in explaining the comparatively poorer results for EL1 and APS6 employees.

IP Australia has an opportunity to capture ideas for business improvement from across the agency through a more systematic innovation framework, embedding intelligent innovation principles such as senior management commitment to innovation, knowledge sharing, cross-functional teaming, freedom to pursue ideas, and incentives for innovation.

This framework should ensure that innovation is not tied to an individual or select group and it should support the implementation of new ideas. With the alignment of the agency's innovation strategy and overall business strategy, development of a consistent set of innovation metrics could create transparency and drive ownership and accountability.

Opportunities for greater process re-engineering and continuous improvement outcomes may be achieved by better integrating the Business Process Improvement section within the agency as a whole. It is clear from interviews undertaken by the review team that this section, currently in the Trade Marks and Designs Group, has limited traction across the agency.

To further enhance IP Australia's innovation capability and bring innovation to life for all employees, the agency may consider greater sharing of new ideas raised in one area with other areas, ensuring that ideas link to the strategic plan and business outcomes and then communicating the benefits of innovations more clearly. This will help build a stronger sense among employees that they belong to an agency that truly values innovation.

## Plan, resource and prioritise

Guidance Questions		<ol style="list-style-type: none"> <li>1 Do business planning processes effectively prioritise and sequence deliverables to focus on delivery of strategic outcomes? Are tough decisions made on trade-offs between priority outcomes when appropriate?</li> <li>2 Are delivery plans robust, consistent and aligned with the strategy? Taken together will they effectively deliver all of the strategic outcomes?</li> <li>3 Is effective control of the organisation's resources maintained? Do delivery plans include key drivers of cost, with financial implications clearly considered and suitable levels of financial flexibility within the organisation?</li> <li>4 Are delivery plans and programs effectively managed and regularly reviewed?</li> </ol>
Rating		Well placed

### *Agency planning*

IP Australia's clear operational planning process supports it to meet its outcomes. As a core enabling function for the agency, ICT planning is covered in the next section under 'Shared commitment and sound delivery models'.

The agency's strategic plan is supported by the operational plans developed annually at section and group/division levels. IP Australia's current operational planning process typically begins with group and section planning days during which issues, trends, initiatives and priorities for the year ahead are discussed. Initial group budgets, derived in consultation with each Group Manager, are provided by the finance area and group operational plans are then developed. These operational plans link priorities, risks, and strategic and ongoing initiatives to the strategic plan. On occasion, however, these links appear to be forced.

Group operational plans are reviewed by the Director-General, relevant General Manager and the Chief Financial Officer before being discussed and finalised at an executive meeting in June each year. These plans form the basis of section plans, which in turn inform individual performance plans. These performance plans provide employees with a clear understanding of their specific roles and responsibilities.

Increased communication around decisions made during planning may be beneficial in developing improved understanding of the operation and strategy of the agency as a whole, for example, the reasons behind adjustments to staffing in one area to prioritise work in another.

The agency appears to manage resourcing effectively in response to changing priorities. Reviews of the operational plans enable re-prioritisation during the year. Progress against strategic initiatives is monitored three times a year, before and after the mid-year budget review and at the end of the financial year, and review reports tabled at Executive Committee meetings.

IP Australia could consider if it could gain efficiencies by managing the inventory of IP rights applications from a workforce viewpoint rather than historical reliance on overtime. The review team also suggests that senior management assess periodically whether the current arrangements for managing workloads and overtime represent the best use of public monies or whether alternative flexibility arrangements may be more appropriate.

As outlined in IP Australia's annual report, the business planning processes for the IP Rights division are generally effective, allowing the agency to meet its performance objectives in this area. For example, challenges around resource planning in the examination areas due to the long lead time for training new examiners are managed through a recruitment strategy, in conjunction with monitoring work flows and attrition rates.

There are challenges in the IP Rights area when setting minimum performance expectations for examiners due to an inherent tension between balancing quality of examination results with output requirements to support revenue. IP Australia's focus on quality seeks to provide better practice, internationally comparable, rights to assist applicants develop their inventions domestically and/or overseas, while setting fees at a level that will not discourage applicants. Feedback from workshops indicated that this tension is well understood by examiners, who take pride in the quality of their work. To further improve this understanding, the agency could consider increased transparency around the decision making behind minimum performance expectations.

It is noted that the IP Rights division has recently moved to a four-year aggregated operational plan, a positive move towards removing boundaries between various IP rights. The planning and metrics behind this plan remain based on individual minimum performance expectations which do not appear to be conducive to a strong team-based culture. A shift to a team-based approach, giving the EL officers managing examination sections greater scope and flexibility to manage their teams, could lead to increased morale and two-way trust between examiners and the Executive. The review team notes that any such moves to team-based performance would also imply that EL1 and EL2 managers would be held accountable for achievement of those performance expectations.

#### *Financial opportunities*

IP Australia operates on a cost-recovery basis, funding its operations almost entirely from revenues raised from charges for IP services. A Special Account established under the *Financial Management and Accountability (FMA) Act 1997* is used, from which IP Australia also receives appropriation in relation to notional interest paid against the balance. IP Australia uses sophisticated modelling to ensure it complies with the cost-recovery requirements and that it manages this funding model well.

As an agency required to cost recover for its services, IP Australia maintains strong financial discipline over core and support activities and is regarded as a better practice example of how such an agency should operate. The review team also notes that while the agency is effectively removed from the broader public sector financial constraints and efficiency by its cost-recovery arrangements, they nevertheless bring their own risks with exposure to the broader economic cycle, as evidenced by the agency's experience during the Global Financial Crisis.

It is clear that IP Australia believes it is limited to some degree by its cost-recovery arrangements and it legitimately questions how far it can appropriately use customer fees for its non-regulatory activities. IP Australia should look to alternative revenue streams with its partner agencies, both public and private, in consultation with central agencies.

Feedback from some areas of the agency suggests that the important impact of IP Australia's non-regulatory work on the wider community is not well understood by some employees. Broader internal conversation about the contribution that IP rights fees make to this work may help achieve a greater sense of united purpose across the agency.

The review team also notes that the current cost recovery arrangements require annual capital management plans consistent with a cash flow positive outcome. The review team considers that more flexible options for financial management, including capital planning over the four-year pricing cycle, would give management more capacity to invest in business improvements that raise the efficiency of the agency within the pricing-cycle period.

#### Shared commitment and sound delivery models

Guidance Questions		<ol style="list-style-type: none"> <li>1 Does the organisation have clear and well understood delivery models which will deliver the agency's strategic outcomes across boundaries?</li> <li>2 Does the organisation identify and agree roles, responsibilities and accountabilities for delivery within those models including with third parties? Are they well understood and supported by appropriate rewards, incentives and governance arrangements?</li> <li>3 Does the organisation engage, align and enthuse partners in other agencies and across the delivery model to work together to deliver? Is there shared commitment among them to remove obstacles to effective joint working?</li> <li>4 Does the organisation ensure the effectiveness of delivery agents?</li> </ol>
Rating		Development area

#### *Delivery models*

IP Australia successfully adapts its clear external delivery models to its evolving business needs. One example of this is the agency's move from maintaining state offices to using Australia Post as a delivery agent for IP Australia's lodgement services. Another is its more recent online filings. Another is the recent outsourcing of IP Australia's call-centre which was initiated after evaluation of enquiries showed that customer needs could be met through this model, while providing efficiencies to the agency.

There are also a number of sound international delivery models, such as IP Australia's active engagement with the WIPO, the Patent Cooperation Treaty system and the Global Patent Prosecution Highway initiative.

An electronic delivery model for all incoming transactions was implemented in July 2012. The uptake of electronic transactions has exceeded IP Australia's expectations, with 74% of all in-coming transactions performed electronically (as of February 2014).

The upgrade of IP Australia's website in 2011 has received favourable feedback from external stakeholders who believe the site is now a useful tool for customers, providing information on many aspects of IP. This could be further enhanced to support outreach and education activities.

#### *ICT overview*

IP Australia has more than 60 ICT systems, many of which are legacy systems with a small number now unsupported by vendors. Some parts of the agency do not have access to contemporary technologies which impedes their effectiveness, for example a heavy reliance by Trade Marks on the mainframe computer system, which is being addressed through the eventual transition to the new Case Management System. IP Australia has started developing a new business and ICT program—Case Management (Case)—which aims to transform its ICT systems and significantly de-commission its legacy systems.

Over the past decade, before Case started, the agency undertook a number of large ICT programs, such as the Patent Administration and Management System, which provided an electronic examination system for patent examiners, and eServices which allowed for incoming electronic transactions for IP rights applicants. Historically these programs have gone over budget and not delivered the full functionality originally specified. This has required post-release stabilisation, user work-arounds and, in the case of eServices, needs further work.

The incomplete delivery of ICT programs has also led to an inability to de-commission legacy systems, resulting in an increase in complexity, rather than simplification, of IP Australia's ICT systems. Internal and external stakeholders perceive that earlier consultation and engagement with end users may have assisted in achieving improved outcomes in relation to these programs.

Conversely, the agency appears good at implementing small-to-medium ICT projects and has had many successes, such as AusPat, an online search system for Australian patents, and the Regional Patent Examination Training project.

The review team found there is a lack of confidence across the agency, including in the ICT area, in its ability to deliver complex ICT programs.

To assist in addressing some issues around ICT planning and delivery, IP Australia has established Enterprise Architecture and Service Orientated Architecture capability. This capability is still maturing, but the area has now developed an Enterprise Architecture map, linked to the agency's overall business strategy, a five-year ICT work plan, and is undertaking a gap analysis. Feedback from employees, particularly those involved in ICT development, indicates an understanding of the value this capability can bring to the agency, however, there is a perception that processes may be slowing progress of initiatives through extra documentation requirements and additional decision points. IP Australia may wish to consider reviewing and streamlining the processes around Enterprise Architecture.

#### *Case Management*

IP Australia has started another business transformative program, Case Management, which accounts for approximately 70% of the agency's five-year ICT plan. Case aims to provide an agile ICT system which will streamline all four IP rights and allow for significant de-commissioning of legacy systems. The agency has significant financial and emotional capital invested in the success of this program.

For Case to succeed, lessons from past ICT programs need to be applied diligently and indicators point to Case being generally well managed to date. Case successfully passed the Commonwealth Government Information Management Office business case gate and the program appears to focus on benefit realisation. If the program requires re-scoping at any point, careful monitoring of its benefits profile will be essential, noting that benefits are heavily loaded towards the later years of the program.

The importance of effective internal and external change management around this transformative program has been recognised and is being acted upon, such as the number of dedicated change management employees working with the program. In particular, the move from a traditional ICT development approach to an agile methodology will require careful change management.

For Case to realise its full benefits, business rules should be aligned across the four IP rights, where possible. Legislative changes are being developed to streamline regulation. There is evidence of good connections and discussion between program and policy areas, as well as plans for early and continued engagement with external stakeholders regarding proposed changes.

While noting the complexity of integrating the legacy systems into Case, the review team formed the view that the planned five-year implementation presents a number of risks such as loss of critical employees, delay in benefits realisation and the agency experiencing 'Case fatigue'. While some risks may be mitigated through proposed staged implementation (that is, rolling Case out to one business line at a time), IP Australia may wish to explore other funding avenues, which could provide the necessary flexibility to enable earlier implementation. The agency may also wish to continue to look at ways to speed implementation.

The review team observed an additional risk around Case governance which may be slowing decision making, including a perceived focus on detail by the Executive, and extra oversight such as external audits in addition to the independent adviser who sits on the Program Board. An additional risk raised lies around the need to ensure that adequate resources to build the necessary in-house capability are provided to the ICT area, noting that work on the inter-connections between Case and current system capabilities has started.

#### *ICT roadmap*

IP Australia's ICT planning centres around a roadmap governed by an ICT Strategy Committee. There is a wide-spread view across the agency that items on the roadmap often have unrealistic timeframes, that prioritisation of items is not always clear and that there is a lack of discipline around the roadmap process. Commitment by employees to the roadmap may benefit from greater explanation around reasons for changes in prioritisation and the addition of new items.

Employees have indicated that the balance between business-as-usual and new builds in the ICT roadmap does not fully meet operational needs, with 51% of the 2013 ICT budget being spent on new programs, compared to an APS average of 46%. By way of example, a Citrix upgrade to significantly improve the working environment for teleworkers did not appear to be a priority given its minimal resourcing, and was additionally delayed for a number of months, when earlier implementation could have benefited productivity. The agency may wish to reconsider this balance, particularly if it could create greater flexibility in its funding model.

Discussions with employees involved in proposing new projects for the roadmap indicate low confidence in the quality of time and cost estimates provided to the ICT Strategy Committee, which may arise from too little time being provided to the ICT and Program Assurance areas to undertake accurate estimation. The agency might consider providing specific funding for ICT project and program development—that is, a ‘two-pass process’—to assist with this issue.

It was further noted that no contingency appears to be built into ICT budgeting, which means that cost pressures inevitably result in de-scoping of projects and programs. In addition, not allowing for contingency may lead program owners to overinflate initial bids as they seek to manage the risk of cost and scope overruns. Other issues employees raised around the ICT roadmap were that the process and templates for proposing new projects appear to regularly change and they have difficulty in knowing what is expected from year to year and ‘just-in-time resourcing’ causes issues, particularly for recruiting business analysts and testers.

### *Governance*

Governance across IP Australia appears complex and at times excessive. While the current structures appear to operate, efficiencies and effectiveness are likely to be realised if the agency were to consolidate existing committees, for example, those around quality, learning and development. The review team also heard that the current governance structure may be contributing to a perception of excessive internal consultation around some decisions.

There is a widespread view from employees that the current ICT governance structure is impeding effective ICT planning, development and implementation, despite clarification of the agency’s ICT governance in 2013 which aimed to assist in holistic program and project management. Accountability is also unclear at times due to the complex structures in place.

By way of example, Case reports through multiple layers, with projects within Case reporting to the Corporate Projects Board, and the program as a whole reporting to the Program Board, and subsequently to the ICT Strategy Committee. Membership of the various committees is thought to be confusing with, for example, the General Manager for Case sitting on the Program Board, but not on the ICT Strategy Committee. Disparity in the roles and responsibilities across the boards remains an issue for employees and, in addition, the lines of reporting are potentially conflicting, with the Chief Information Officer reporting to the Director-General but the General Manager of Case reporting to the Deputy Director-General.

ICT governance at IP Australia appears to be a one-size-fits-all, with a focus on standard processes, papers, templates and sign-offs. This lack of agility and flexibility leads to frustrations, for example, a request for a relatively cheap software purchase generally takes months to approve through the standard process, when a simpler process may be more appropriate.

The Program Management Assurance office is an integral part of the agency’s ICT governance, but its effectiveness may be further improved by streamlining the documentation it requires to ensure that capability is not creating additional barriers to ICT progress.

There appears to be an opportunity for the agency to review many of its governance structures, particularly those around ICT. The review team is aware of plans to rebalance governance but at the time of reporting, this work was not complete.

## Manage performance

Guidance Questions		<ol style="list-style-type: none"> <li>1 Is the organisation delivering against performance targets to ensure achievement of outcomes set out in the strategy and business plans?</li> <li>2 Does the organisation drive performance and strive for excellence across the organisation and delivery system in pursuit of strategic outcomes?</li> <li>3 Does the organisation have high-quality, timely and well-understood performance information, supported by analytical capability, which allows you to track and manage performance and risk across the delivery system?</li> <li>4 Does the organisation take action when not meeting (or not on target to meet) all of its key delivery objectives?</li> </ol>
Rating		Well placed

### *Well-established audit and risk programs*

IP Australia delivers well on its core business of examining and determining IP rights as they relate to patents, trade marks, designs and plant breeder's rights. The agency focuses on achieving the throughput required to meet revenue targets and delivering assessments with a level of quality that compares well on international benchmarks.

The risk and audit programs across IP Australia are well articulated. The Executive Committee is responsible for setting the agency's risk appetite at enterprise level, while planning processes at branch level include the identification of operational risks and the institution of appropriate treatments. The Audit and Evaluation Committee is charged with reviewing the adequacy of internal controls. Consideration needs to be given to the composition of the Committee and specifically the appointment of an independent Chair, consistent with Australian National Audit Office Better Practice recommendations and emerging guidance under the forthcoming *Public Governance, Performance and Accountability Act*.

Comcover's annual benchmarking report has given IP Australia a favourable report, commenting particularly on the agency's strengths in respect of business continuity, evaluation and integration into the governance framework. The agency was also awarded the 2012 Comcover business continuity framework award for its efforts in this area.

The appointment of risk champions across IP Australia, combined with the support of the Audit, Assurance, and Patent Attorney Registration section, which has documented frameworks, guidelines, and templates, has facilitated a consistent, enterprise-wide approach to risk management. Greater awareness of the risk champions across the agency and a greater willingness to take a risk-based approach to operational activities may promote a stronger risk management focus. For example, it may not be necessary for all credit card statements to be checked by the Finance section when a sampling approach could prove more efficient but equally effective.

Broadening the understanding of risk and a willingness on the part of the agency's leadership to openly discuss risk would equally promote a culture that makes it possible for employees to raise concerns and seek support when necessary.

#### *Effective measurement and management reporting*

IP Australia has a well-documented approach to its planning, budgeting and reporting cycles.

The agency's approach in establishing the Planning and Reporting section has been sound. Its efforts in standardising the reporting functions across the groups and in contributing to the accuracy and understanding of the data extracted from the data warehouse shows promise, noting, however, that work remains to be done.

At present though, the Executive is too focused on the detail, as evidenced by the 60-plus page performance report that is produced quarterly and examined at a raw data level, and the monthly performance reports produced by each section which drill down to individual examiner level.

The review team and many interviewees consider that the number of performance reports produced and the level of detail provided within these reports could be reduced and improved with more performance analysis to support Executive decision making with appropriate exception reporting.

In respect of IP Australia's key performance indicators, these are clearly identified in the agency's Portfolio Budget Statement. They are, however, comparatively limited and do not necessarily provide a fulsome perspective on how the agency is operating and whether it is fulfilling its strategic vision. Greater attention to designing measures that reflect outcomes over outputs would be useful, noting that the Australian National Audit Office concluded in a recent report that this represents a challenge for most agencies.

#### *The quality review system*

It is well recognised and accepted across IP Australia that a process for ensuring quality is essential to enable examinations to achieve a suitable international standard.

Concerns were expressed by many employees that the current system leads to unintended outcomes and it is generally agreed that the introduction of the system in 2011 could have been better managed and its rationale better communicated.

An external evaluation of the system in 2012 led to a number of fundamental enhancements. However, there is an opportunity in due course to further enhance the existing system so it maximises its potential to serve the needs of the agency for productivity and high-quality decision making in support of robust IP rights, while building stronger employee understanding and commitment.

Equally, there is scope to consider how quality and commitment can be improved across the agency by considering team-based and individual performance expectations which may better support a cohesive and collaborative culture. The review team notes that the United Kingdom's Intellectual Property Office has attributed its recent increases in productivity to the abolition of long-standing numerical targets in 2009–10. Further, the Canadian Intellectual Property Office is looking to improve its performance through the application of LEAN business improvement principles, including removing quotas on individual examiners.

## 5 The agency's response

IP Australia welcomes the report of our Agency Capability Review and is appreciative of the considerable consultation, information gathering and analysis that has gone into preparing it. The insight and experience provided by Dale Boucher, Heather Miles and Geoff Leeper in shaping the review and the diligence and skill of the APSC support team have created a constructive and useful report. We believe it provides a good platform to build on and extend the capabilities of our agency.

The capability review program is designed to provide an independent, high-level, forward-looking review of the leadership, strategy and delivery capability of public sector agencies. IP Australia was not included in the list of agencies mandated for a review, but rather is the first agency to volunteer for such a review. We are an organisation with a 110 year history, operating in a dynamic and global environment which has seen strong recent growth in demand for IP rights and an increased focus on intellectual property as a driver of trade, business and economic growth.

We therefore saw value in the opportunity of an external perspective on our organisational health and how well positioned we are to meet future challenges. The review provides us with a roadmap for building on our strengths and addressing capability gaps. We see it as an opportunity for renewal, a chance to refresh our approach and enhance our effectiveness as our business continues to grow.

The report reflects many positive features of the agency, notably that we are delivering well on our core business of IP rights management, are effectively managing our resources, have a capable and committed workforce and offer a flexible, family-friendly workplace. The report highlights our opportunity to build on these fundamental strengths so that we also become recognised for strong strategic leadership, a vibrant and productive engagement with our workforce, effective external focus and engagement and a broader economic and policy contribution in partnership with the wider APS. IP Australia is keen to capitalise on these opportunities, while not losing sight of the importance and centrality of our core function of effective and customer-focused management of IP rights.

The Review also highlighted the importance of IP Australia clarifying our purpose and our value proposition, to mobilise support from both staff and stakeholders. We are reviewing our vision to achieve a statement which clearly defines our public value and unifies our workforce in support of that vision.

Our key area of opportunity to achieve better performance, relates to leadership and people management. We recognise the need to modify our approach and increase our focus in this area. Our aim moving forward is to ensure that the Executive team is more visible to the wider organisation and works as (and is perceived as) a coherent, high performing team working collaboratively to provide strategic leadership to the organisation. We will seek to build greater trust, confidence and respect among our workforce and to model these behaviours.

The characteristics and dimensions of our agency mean that the EL2 cohort plays a critical role in the leadership and management of the organisation. To achieve strong staff engagement and cultural change our EL2s need to play an effective leadership role in the process. To engender greater trust and work satisfaction we will devolve responsibility and listen and respond to their views and ideas. Overall our aim is to communicate better with our staff, more effectively utilise their skills and better manage their performance.

The establishment of a new *People and Communications* branch is indicative of a stronger focus and a new approach.

Governance of the agency, particularly around our ICT functions, is too complex and cumbersome. There is significant scope for streamlining to improve transparency and efficiency and achieve more strategic and effective decision-making.

The review also emphasises a need for the organisation to be more externally focussed: To engage more broadly with our stakeholders on the one hand, and to play a stronger role in policy development and advice through collaboration with other APS agencies, on the other.

The Capability Review found that IP Australia is regarded positively by its stakeholders and is well regarded internationally. We are therefore well placed to seek to build on that stakeholder goodwill to more effectively engage, collaborate and utilise their ideas and experience in our work going forward. We have a significant opportunity to enhance our capacity to capture and use broader knowledge and expertise

Recent initiatives to employ a Chief Economist and establish an economics capability, to enhance our research agenda and to upgrade our capacity for data collection and analysis, position us well to both provide a stronger contribution to policy and to better manage our performance.

Information and Communications Technology plays a pivotal role in our ability to efficiently carry out our core functions and serve and interact with our customers. We are embarked on a large and long-term program of change and renewal of our critical ICT systems. Managing this so that we capture benefits as early as possible and achieve the best balance between investment in the new system and investment to maintain the effectiveness of existing systems in the medium term will continue to be a key challenge over coming years.

All this adds up to an exciting program to build our capabilities and strengths, and one which will require us to lift our ability to successfully manage change. In many areas work is already underway to act on the findings and recommendations of the Review.

Overall I think the organisation that I lead has fundamental strengths and is well placed to capitalise on the opportunities highlighted by the Capability Review. I am looking forward to working with the IP Australia leadership team and all IP Australia staff in delivering on those opportunities and creating a truly effective and high performing organisation.

Patricia Kelly



Director-General  
IP Australia

## 6 Abbreviations and acronyms

Abbreviation or acronym	Description
APS	Australian Public Service
APSC	Australian Public Service Commission
Executive	Director-General, Deputy Director-General, General Managers
IP	intellectual property
MPEC	Melbourne Patent Examination Centre
SES	Senior Executive Service
SoSR	State of the Service Report
WIPO	World Intellectual Property Organization







