20\textsuperscript{th} February 2015

Australian Government
Department of Industry

via email: IPToolkit@industry.gov.au

To whom it may concern

Re: UNSW submission – draft IP Toolkit

UNSW Australia (UNSW) thanks the Department of Industry and Science and IP Australia for the opportunity to provide comment on the draft IP Toolkit.

An opportunity missed

While UNSW Australia acknowledges the work undertaken by the Department of Industry and Science and IP Australia to create the draft IP Toolkit, Model Contract and preparatory materials including the 2014 Discussion Paper, UNSW considers that the Australian Government has missed a significant opportunity to improve pipeline activities, interactions, relationships and outcomes which inform and actually facilitate research commercialisation and technology transfer in Australia.

UNSW recognises the usefulness of education and explanatory material in relation to research commercialisation and technology transfer. UNSW Australia considers that in developing such materials, it is important to involve stakeholders extensively. In relation to the draft IP Toolkit specifically, UNSW Australia was only involved in a short, limited consultation by the government departments and agencies, the usefulness of which is questionable.

Learning from international counterparts

An environment scan of endeavours undertaken by analogous nations in the area of IP and related policy would have revealed the Lambert process in the UK (see http://www.ncub.co.uk/reports/lambert-review.html). Richard Lambert, a former editor of the Financial Times and credible business figure, was enlisted by the UK government to undertake high-level and extensive engagement between senior industry leaders, industry associations, senior University management, senior tech transfer professionals and senior civil servants. The interactions between these groups over a two-year period created a shared understanding and agenda which helped drive the university/industry engagement agenda. Ultimately, the process was recognised as being more important than the outcomes in terms of what was achieved. The process around development of the draft IP Toolkit should have been more directly engaged with the industries and Universities, which should be the focus of the initiative (along the lines used by the UK’s Lambert review).

Potential audience: those with very rudimentary IP knowledge

UNSW considers that the draft IP Toolkit is extremely basic and the audience is limited only to those organisations or industries with very rudimentary knowledge and experience of IP; for example, it may be useful as a resource for UNSW’s undergraduate student entrepreneurs or for small-medium enterprises with no experience of engaging with research organisations. The question of who is (or should be) the target audience for the IP Toolkit has to be asked and also whether the IP Toolkit will have any significant impact on improving University/Industry engagement or prove to be an improvement in the culture of protecting IP.
Summary comments

The assessment of IP and the decision about what IP should (or should not) be protected is not a trivial exercise and not something that should be undertaken by those without experience. UNSW considers that one needs a fairly sophisticated machinery (experienced staff who are skilled in the art) to evaluate technology for commercial potential. Smaller players should be encouraged not to manage IP themselves but to join forces with organisations with the requisite skill base and critical mass to properly deal with IP.

At UNSW, we recognise that not all IP should be (or needs to be) protected in order for it to benefit industry or other end users. IP protection can be cumbersome, costly and time consuming and in most instances, doesn’t add value to the technology one is trying to commercialise. In some cases, protecting IP effectively locks it away and makes it more difficult to translate it into new processes or products.

UNSW is a strong advocate of Easy Access IP which is a protocol whereby much of our IP is not protected but licenced (royalty free) to industries or end-users who will actually use the technology. This approach ensures that the technologies we generate at the University find their way into existing industries, or generate new industries where it can have an impact. In many instances, this approach also encourages much better engagement with industry since our discussions are not encumbered by unnecessary lawyer-heavy considerations of IP ownership.

The University of New South Wales would welcome the opportunity to discuss this submission further. UNSW consents to the publication of this submission, in whole or part.

Yours faithfully

[Signature]

Professor Lex Field
Vice-President & Deputy Vice-Chancellor (Research)