# Pre-assessment: IP Commercialisation Opportunity

**About this checklist:**

* This checklist may assist agencies considering the commercialisation of an IP asset[[1]](#footnote-1).
* It is not recommended that the agency proceed to developing a commercialisation proposal until the answer to every question is “Yes”.

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| **Requirement** | | **Assessment** | | | **Notes** |
| 1 | The agency is the owner of the IP or has a legal right to exploit the IP under a licence from owner. | Yes | No | Unsure | No: Agency does not have the right to commercialise IP.  Unsure: Check all relevant contracts related to IP to avoid breach of contractual obligations or restrictions. |
| 2 | The commercialisation of the IP:   * aligns with the agencies functions, strategic goals, policies; and * is permitted under agency’s enabling legislation or the *State Trading Concerns Act 1916* (WA). | Yes | No | Unsure | If No or Unsure: Seek advice before proceeding with any commercialisation plan. |
| 3 | The IP is suitable for commercialisation. | Yes | No |  | For example:   * Does the IP include personal information that could be protected under the *Privacy Act 1988* (Cth)? * Would the commercialisation of IP breach any legislation or adversely impact agency security? |
| 4 | The IP is ready for commercialisation or there is a development plan in place. | Yes | No |  | If No: Consider what resources will be required to develop the IP to a stage where it is suitable for commercialisation. |
| 5 | Are the IP rights protected?  i.e., valid patent, trademark, plant breeder rights | Yes | No |  | Legal protections provide competitive advantages and prevent others from using the IP in manufacturing. |
| 6 | The agency is prepared to invest resources to commercialise IP and enforce IP rights i.e. act in the event of infringement. | Yes | No |  | Successful commercialisation will require the agency to invest human and financial resources. |
| 7 | The potential benefits to the State and community of commercialisation outweigh the benefit of public access. | Yes | No |  | Providing open access to IP can generate public value, encourage the transfer of knowledge and foster innovation.  When considering this issue, the agency should consider the nature and operational or commercial value of the IP. |

1. Checklist adapted from Commonwealth of Australia (2012) *Australian Government Intellectual Property Manual,* chapter 10 [↑](#footnote-ref-1)