

1. Purpose

This policy covers the management (including disclosure and declaration) of all of AgResearch's Intellectual Property Rights and the Intellectual Property Rights of third parties to which AgResearch has access.

2. Introduction

2.1 Preamble

AgResearch's mission as defined in our Statement of Core Purpose, is *"to enhance the value, productivity and profitability of New Zealand's pastoral, agri-food and agri-technology sector value chains to contribute to economic growth and beneficial environmental and social outcomes for New Zealand."*

Furthermore, as a Crown-owned company, it is expected that AgResearch will operate as a sustainable business. In order to achieve this AgResearch must appropriately manage and transfer the intellectual assets it creates in ways that ensure optimal benefit to New Zealand as well as benefit and impact for its stakeholders and maintaining its global standing and leadership position in its research.

2.2 AgResearch Mission and Obligations

AgResearch will fulfil its purpose through the provision of research, technology and knowledge in partnership with key stakeholders, including industry.

In order to accelerate adoption of innovation, AgResearch uses a range of technology transfer pathways. These include a mix of partnering, providing contract research and development services, executing licensing deals with industry, or (if necessary) forming new ventures to deliver impacts. Refer to the Appendix to this policy for examples as to how AgResearch manages Intellectual Property Rights in practice.

AgResearch's approach to Intellectual Property Rights' commercialisation is to select commercialisation pathways that:

- Are easy for end-users to work with;
- Transfer knowledge into the 'best hands' as quickly as possible; and
- Comply with AgResearch's legal obligations.

The approach to commercialisation and dissemination of knowledge varies given the many and varied types of Intellectual Property Rights which are generated, accessed and used across AgResearch. The most effective method of managing them to achieve maximum impact will vary on a case-by-case basis. In some instances the best impact may be through widespread public release via publication or in conjunction with an industry body (e.g. Beef and Lamb New Zealand or DairyNZ). In other instances considerable investment (after the research and development

phase is complete) is required to commercialise a new technology. Commercialising companies will require a return to justify that investment and therefore find it essential that the core technology be protected through patents or other Intellectual Property Rights, and that commercialisation companies have rights to for some period to enable them to make a commercial return on their investment. AgResearch will therefore on a case-by-case basis protect Intellectual Property Rights appropriately to ensure that commercialisation is attractive to its partners.

AgResearch will consider each case (technology or Intellectual Property Right) on its merits and select the most appropriate method of technology transfer to achieve optimum impact. The Intellectual Property Rights may be packaged and protected as required (such as know-how, trade secret, copyright, patent, plant variety rights or defensive publication to prevent others from patenting) and delivered through a variety of methods which may include combinations of conference papers, publications, farmer field days, forums, people exchanges and collaborations, media communications as well as through licensing, spin-outs and the sale or exchange of rights.

AgResearch seeks to manage its Intellectual Property Rights strategically and protecting them in the first instance preserves all future options including making them freely or widely available. Protection of these Intellectual Property Rights also supports the achievement of impact and benefit. This may include protecting Intellectual Property Rights to facilitate follow-on investment in development and adoption, or protecting Intellectual Property Rights that may be used as a platform to encourage collaboration or to obtain access to other peoples' important Intellectual Property Rights.

While achieving impact through knowledge transfer is a key goal, where the knowledge and technology has a market application and is expected to generate commercial returns, an equitable return from the commercial exploitation of Intellectual Property Rights should be expected. This is important in enabling AgResearch to operate as a sustainable business and to continue to provide capability and expertise to support the pastoral sector.

AgResearch will maintain its Intellectual Property Rights portfolio through active management according to international best practice. AgResearch will retain the services of reputable patent attorneys as required to create a portfolio of beneficial and valuable Intellectual Property Rights.

In structuring Intellectual Property Rights ownership and access arrangements as part of such collaborations and relationships, there is a need to be conscious that in some circumstances legal protection may be obtained for an Invention that has potential applications in a wide range of fields and industries, often significantly beyond the scope of the particular field, problem or application area of the research itself. In structuring these arrangements it will generally seek to ensure that AgResearch and our partners can harness the value of such broad or platform technologies in other application areas.

3. Definitions

- **Commercialisation Group** *includes:*
Commercialisation Manager;
Intellectual Property and Investments Advisor;
Business Analyst; and
Project Analyst.
- **Intellectual property Rights** means the outcomes of intellectual activity and effort for which various rights and protections may be conferred by statute, contract or common law. It includes any invention, discovery, or creation, which may be protected by way of trademark, patent, design, copyright, trade secret, permit, and plant variety right (whether registrable or unregistrable) and all applications, drafts and workings relating to these rights.
- **Invention** means any invention, improvement, modification, process, formula, model, prototype, sketch, design, drawing, plan, software or other work or material that any person, alone or with others, may make, devise, develop, contribute to or discover.
- **Matauranga Maori** means a body of knowledge, innovations and practises generated within Maori communities which can be disseminated in various forms, including but not limited to, oral, written, and electronic.

4. References

This policy should be read in conjunction with the following:

- Delegations Policy
- Intellectual Property Best Practice
- Intellectual Property Process for Patenting
- Licensing Discussion Checklist
- Licensing Terms Sheet
- Patenting Checklist
- Patenting Guide to Inventorship
- Security Policy
- Strategic Plan
- Trade Mark Guide to Use
- AgResearch's Branding Strategy
- Royalty Incentive Scheme Policy
- Trade Secret Best Practice

5. Statement of Policy

5.1 Responsibility

All directors, officers, employees, contractors, students and visiting researchers shall comply with this policy.

Administration of this policy shall be the responsibility of the Partnerships & Programmes Director.

5.2 Delegations

Please refer to the Delegations Policy for information on decision-making in relation to Intellectual Property Rights.

6. Statement of Principles

This section sets out the principles of this policy and clarification and application designed to assist with the application of these principles.

Principle	Clarification and Application
<p>AgResearch aims to strategically manage its Intellectual Property Rights to achieve maximum benefit for New Zealand and optimal impact for its partners and industries, and will strive to select the most appropriate method of management of Intellectual Property Rights to achieve this on a case by case basis.</p>	<p>A key driver for creating protectable Intellectual Property Rights will be to enhance the transfer of the underlying technology to our partners in a way that maximises the outcomes for AgResearch's identified impact areas and complies with AgResearch's legal obligations.</p> <p>The AgResearch Intellectual Property Rights portfolio will be managed by the Commercialisation Group, specifically the Commercialisation Manager and Intellectual Property and Investments Advisor, in accordance with the Intellectual Property Best Practice and other related documents (see the references section above).</p> <p>A central database will be used to record and manage all Intellectual Property Rights owned by AgResearch. The database shall be administered by the Intellectual Property and Investments Advisor.</p> <p>An audit of practices required by this Policy will be undertaken as required.</p>
<p>AgResearch aims to obtain statutory protection for its Intellectual Property Rights.</p>	<p>AgResearch shall allocate an annual Intellectual Property Rights portfolio budget.</p> <p>AgResearch will invest in the application for, and prosecution and maintenance of, statutory protection for Intellectual Property Rights that meet its investment criteria or where it is contractually obliged to do so, in accordance with Intellectual Property Best Practice and Patenting Process Best Practice.</p> <p>A key component of investment criteria in to the protection of IP, is that prior to completion, entry into Patent Cooperation Treaty (PCT) or National Phase stage, the relevant Intellectual Property Rights must have technology transfer arrangements documented or have external funding linked to the technology subject to protection.</p>

Principle	Clarification and Application
	<p>All final applications for statutory protection of any Intellectual Property Rights owned by AgResearch will be approved in line with the Delegations Policy, the Intellectual Property Best Practice and Patenting Process Best Practice.</p> <p>Reputable intellectual property lawyers with requisite experience shall be used for all applications for protection of Intellectual Property Rights.</p>
<p>AgResearch intends to make informed and principled decisions around the disclosure of confidential information.</p>	<p>All confidential information of AgResearch or third parties shall be retained confidential, unless release is approved in accordance with the Intellectual Property Best Practice and Trade Secret Best Practice.</p> <p>Public disclosures of information pertaining to research, technology development and associated Intellectual Property Rights, including publications in refereed journals, series or books, conference papers or abstracts, research monographs or books, media releases, scientific or technical reports, or other forms of information disclosure, shall require approval in accordance with the Intellectual Property Best Practice and Trade Secret Best Practice.</p>
<p>AgResearch aims to respect the Treaty of Waitangi and all relevant government policies and international protocols, including respecting the IP rights of others, in managing its intellectual assets.</p>	<p>AgResearch will have regard to the Treaty of Waitangi and relevant government policies and international protocols in making decisions about Intellectual Property Rights in accordance with this Policy.</p> <p>When dealing with intellectual property that includes matauranga Maori, and in the context of the WAI262 claim report, the principles of the Treaty of Waitangi will be applied.</p> <p>Any intellectual property based wholly or partly on matauranga Maori must be assessed by AgResearch's Kaiurungi Ahuwhenua Maori or his or her nominee, who will advise the Commercialisation Group on the ownership, appropriate use and protection of matauranga Maori, and any benefit sharing arrangement that is justified.</p>
<p>AgResearch acknowledges the international movement towards publication in open access journals and forums and where practicable will support the stance of our funding bodies in relation to this.</p>	<p>AgResearch supports the aims of NZGOAL (New Zealand Government Open Access and Licensing) framework and will have regard to the possibility of making copyright and non-copyright works available on open terms when making decisions related to Intellectual Property Rights.</p>

Principle	Clarification and Application
<p>AgResearch supports a collaborative approach to research, development and commercialisation to create greater impact and to meet AgResearch's goals.</p>	<p>When developing Intellectual Property Rights in collaboration with others, AgResearch will work with these partners to identify the party that is best placed to manage the Intellectual Property Rights and develop the full scope of the technology and its potential utilization.</p> <p>AgResearch will be aware of the needs of its clients in relation to the ownership of Intellectual Property Rights.</p>
<p>AgResearch seeks to ensure that dealings and agreements with other parties appropriately preserve and protect Intellectual Property Rights, and provide a sound governance framework for decision-making around Intellectual Property Rights.</p>	<p>Agreements that involve the development of Intellectual Property Rights with others will contain clear processes around the protection and management of Intellectual Property Rights.</p>
<p>Where appropriate AgResearch will maintain freedom to operate/research by retaining sufficient access to Intellectual Property Rights to enable the conduct of further research in accordance with our Core Purpose.</p>	<p>Agreements that involve the development of Intellectual Property Rights with other parties will contain terms allowing AgResearch the appropriate freedom to operate and research.</p>
<p>Where Intellectual Property Rights are anticipated to generate commercial returns, an equitable return from the commercial exploitation of those Intellectual Property Rights should be expected.</p>	<p>AgResearch will defend its Intellectual Property Rights where it is commercially appropriate to do so in accordance with the Intellectual Property Best Practice.</p> <p>Collection of fees and royalties arising from the transfer or licensing of AgResearch Intellectual Property Rights shall be managed by the Commercialisation Group, specifically the Intellectual Property and Investments Advisor.</p> <p>Performance assessment procedures for staff will recognise that, in certain cases, scientific publication may not be possible or may be delayed in order to protect Intellectual Property Rights.</p> <p>Any transfer of Intellectual Property Rights shall be on a fair and reasonable commercial basis. Commercial return to AgResearch is important but secondary to the primary impact objectives as detailed in the AgResearch Statement of Corporate Intent.</p>
<p>AgResearch will enforce its Intellectual Property Rights and contractual rights in a manner consistent with our Core</p>	<p>In the event that it becomes apparent that AgResearch Intellectual Property Rights are being infringed a</p>

Principle	Clarification and Application
<p>Purpose and roles within the innovation system.</p>	<p>notification should be made immediately to the Commercialisation Manager.</p> <p>On a case by case basis, AgResearch will then enforce its Intellectual Property Rights in a manner consistent with its position as a CRI and the Intellectual Property Best Practice.</p>
<p>Intellectual Property Rights developed by employees, contractors, students or visiting researchers as a result of their engagement with AgResearch will be owned by AgResearch.</p>	<p>All agreements with employees, contractors, students or visiting researchers (Staff) will state that all Intellectual Property Rights will be the property of AgResearch unless otherwise agreed in writing by the AgResearch Chief Executive, and contain an obligation to assign such Intellectual Property Rights to AgResearch on request.</p> <p>A staff member who has identified that an invention, or any other intellectual property, created in the course of his or her normal duties, whether new or pre-existing, may have the potential for commercialisation, must notify this to a Science Group Leader, Sector Manager or the Commercialisation Manager. The potential for commercialisation may be identified by a person other than the creator, whom will notify one or more of the aforementioned people. The commercialisation manager, will be responsible for the commercialisation process.</p> <p>AgResearch science staff must keep approved logbooks and records to record activities.</p> <p>AgResearch will negotiate agreements with visiting researchers conducting research at AgResearch and for AgResearch researchers conducting research at other institutions. The principle of such agreements should be that Intellectual Property is owned by the parties in proportion to the relative value of each party's contribution to the development of the Intellectual Property including consideration of pre-existing or background Intellectual Property contributed, the quantum of the inputs contributed, and the value or importance of that intellectual property and those inputs to the development of any new intellectual property.</p> <p>An exit process and interview for Staff who leave AgResearch will be held to ensure:</p> <p>(a) All Inventions or discoveries and Intellectual Property Rights are fully recorded and transferred to</p>

Policy

Intellectual Property

Principle	Clarification and Application
	<p>AgResearch such that further activities can be undertaken by AgResearch.</p> <p>(b) The Staff member is aware of Intellectual Property Rights ownership and use, and confidentiality obligations.</p>