

# Intellectual Property - Governing Policy

## 1. Purpose

1.1 This policy outlines the principles and practices for the ownership and management of Intellectual Property (IP) at the University.

1.2 This policy must be read in conjunction with the linked Intellectual Property – Procedures, Intellectual Property: Commercialisation of Research Outcomes – Procedures, Intellectual Property: Commercialisation Revenue – Procedures, Intellectual Property: Student IP – Procedures, and Intellectual Property: Transfer of Rights to Creators – Procedures

## 2. Scope and application

2.1 The policy applies to all staff, students and invited scholars of the University.

## 3. Definitions

3.1 Refer to the University's Glossary of Terms for definitions of terms as they relate to this policy.

## 4. IP ownership

### 4.1 IP created by staff

4.1.1 The University owns IP created by staff in the course of their employment, including teaching materials created, developed and presented by University staff (subject to the provisions regarding the right to publish scholarly works below in section 7).

4.1.2 IP created in pursuance of or incidental to the performance of a staff member's employment contract are considered to have been created in the course of employment whether or not a staff member's express duties include the development of IP. The University does not own IP created by staff outside the course of their employment in accordance with the Outside Work and Private Practice – Operational Policy and Procedures.

4.1.3 The University consents to the use of teaching materials by staff to fulfil their teaching, research and training responsibilities at the University. This right does not include any use for commercial purposes, nor does it involve a transfer of ownership of the University's IP. In the absence of an obligation of confidentiality or separate legal constraint, the University recognises that staff can personally use knowledge they have developed in the course of their employment once that employment ceases. Upon request, the University agrees to grant to the creator a perpetual, personal, royalty free, non-exclusive, non-transferable licence to modify and adopt teaching materials generated by that creator for teaching, educational and research purposes at other educational institutions. The creator cannot sublicense the teaching materials to others to generate royalties, license fees or other pecuniary benefits.

4.1.4 All commercialisation of the University's teaching materials are managed through the Office of the Deputy Vice-Chancellor (Academic) and the relevant Dean of School.

4.1.5 All commercialisation of the University's IP derived from research and non-teaching activities are conducted by the University through the Office of Research in accordance with the Intellectual Property: Commercialisation of Research Outcomes – Procedures and Intellectual Property: Commercialisation Revenue – Procedures.

### 4.2 IP created by students

4.2.1 The University owns IP created by Higher Degree by Research (HDR) students during their studies as a condition of their enrolment.

4.2.2 The assignment of IP to the University by HDR students is required upon enrolment. HDR students are required to assign all rights, titles and interests in IP that they develop or discover during their HDR studies, unless an exemption is approved by the Deputy Vice-Chancellor (Research and Innovation) in accordance with the Intellectual Property: Student IP – Procedures.

### APPROVAL AUTHORITY

Council

### RESPONSIBLE EXECUTIVE MEMBER

Deputy Vice-Chancellor (Research and Innovation)

### DESIGNATED OFFICER

Director, Office of Research

### FIRST APPROVED

25 November 1997

### LAST AMENDED

28 June 2024

### REVIEW DATE

28 June 2026

### STATUS

Active

4.2.3 HDR students retain the copyright of their scholarly and creative works, including in their thesis, unless subject to a third-party agreement.

4.2.4 When a student is also a staff member, section 4.1 (IP created by staff) takes precedence when the subject matter of the student's study is similar to the subject matter of the work for which the person is employed.

4.2.5 The University does not assert ownership of IP created by students other than HDR candidates, except when students enrol in programs with a research component. When students undertake research projects, they must assign their IP to the University in accordance with the Intellectual Property: Student IP – Procedures.

4.2.6 Any discussions involving third-party ownership of IP created by HDR students does not remove the requirement to assign IP to the University. In these instances, the University negotiates ownership with any third parties.

#### 4.3 IP created by invited scholars

4.3.1 Ownership and rights relating to IP brought to the University by an invited scholar must be resolved before any activity commences at the University. This can necessitate negotiation between the University and the owner of the IP, in accordance with the Adjunct and Visiting Appointments – Operational Policy.

#### 5. Pre-existing IP

5.1 The University does not assert ownership over pre-existing IP, including pre-existing student IP.

5.2 Individuals who bring pre-existing IP to the University to be used in the course of their duties or studies must comply with the arrangements in accordance with Intellectual Property – Procedures.

### 6. The knowledge rights of Aboriginal and Torres Strait Islander peoples

6.1 The University does not assert ownership over Aboriginal and Torres Strait Islander knowledges.

6.2 When the creation of IP involves the assets of Aboriginal and Torres Strait Islander peoples or the use of their knowledges, the University must take all reasonable steps to consult with the relevant Aboriginal and Torres Strait Islander peoples and groups to ensure that any decisions taken on the protection, development and commercialisation of that IP conforms with the relevant protocols and ethical guidelines.

6.3 The University is particularly sensitive to the images and voices of deceased staff and those who are no longer employed by the University.

### 7. Copyright in scholarly works

7.1 The University does not assert ownership of the IP in scholarly or creative works, except where the work is specially commissioned by the University or pursuant to another agreement. In this case, the other agreement can specify IP provisions relating to scholarly works that are inconsistent with staff members having an ownership interest.

7.2 When the right to publish scholarly works does not fall within the above exemption, an individual owns the right to publish scholarly works. In this case, they must grant a perpetual, irrevocable, worldwide, royalty-free, non-exclusive licence to the right to publish scholarly works in favour of the University for teaching, research and commercialisation purposes and to reproduce, publish and communicate that work in library and online.

7.3 When requested, the University records the individual's ownership of the copyright in a scholarly or creative work in accordance with the Intellectual Property – Procedures.

### 8. Transfer of rights to creators

8.1 When the University decides to no longer pursue commercialisation of IP, the University can license or assign the IP to creators when it does not infringe on legal commitments to other parties and in accordance with the Intellectual Property: Transfer of Rights to Creators – Procedures.

8.2 The University can impose a condition requiring the payment of a royalty to the University by the creators in the event of future successful commercialisation outcomes.

### 9. Distribution of net commercialisation revenue

9.1 Net commercialisation revenues is distributed to creators in accordance with the Intellectual Property: Commercialisation Revenue – Procedures.

9.2 Subject to any existing agreements regarding revenue distributions, this policy applies to all net commercialisation revenue received by the University after this policy comes into effect.

9.3 Distribution to a creator under this policy is not affected by the death, resignation or retirement of the creator.

## 10. Moral rights

10.1 The University recognises creators' moral rights in accordance with the *Copyright Act 1968 (Cth)*.

10.2 The University uses all reasonable efforts to respect the moral rights of creators in accordance with the Intellectual Property – Procedures.

## 11. Dispute resolution

11.1 Determinations on matters relating to this policy and associated procedures are made by the Deputy Vice-Chancellor (Research and Innovation) in accordance with the Intellectual Property – Procedures.

11.2 To the extent of any inconsistency between any associated procedures and this policy, this policy will prevail.

## 12. Breaches of the policy

12.1 Any breach of this policy or associated procedures by a staff member can be considered a breach of the Staff Code of Conduct – Governing Policy or Responsible Research Conduct – Governing Policy and subject to disciplinary action as set out under those policies and the University's Enterprise Agreement.

12.2 Any breach of the policy or associated procedures by a student can be considered a breach of the Student Conduct – Governing Policy and subject to disciplinary action under this policy.

## 13. Authority and responsibilities

13.1 The Council make this policy in accordance with the *University of the Sunshine Coast Act 1998 (Qld)*.

13.2 The Deputy Vice-Chancellor (Research and Innovation) is authorised to make procedures and guidelines for the operation of this policy. The procedures and guidelines must be compatible with the provisions of this policy.

13.3 The Director, Office of Research is authorised to make associated documents to support the application of policy documents. These must be compatible with the provisions of the respective policy document.

13.4 This policy does not replace or intend to replace any existing legally binding contracts, deeds and agreements entered into by the University.

13.5 This policy operates from the Last Amended date, will all previous policies related to IP are replaced and have no further operation from this date.

13.6 Actual, perceived or potential conflicts of interest in relation to IP must be managed in accordance with the Conflicts of Interest – Governing Policy.

13.7 All records relating to IP must be stored and managed in accordance with the Information Management – Governing Policy.

13.8 Any exception to this policy to enable a more appropriate result must be approved in accordance with the Policy Framework – Procedures prior to the deviation of the policy document.

13.9 Refer to Schedule C of the Delegations Manual for operational and administrative authorisations set out in this policy.

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## RELATED DOCUMENTS

- Academic Position Classification - Guidelines
- Academic Titles - Guidelines
- Adjunct and Visiting Appointments - Operational Policy
- Authorship and Dissemination of Research Findings - Procedures
- Conflict of Interest - Governing Policy
- Copyright - Governing Policy
- Copyright - Procedures
- Intellectual Property: Commercialisation of Research Outcomes - Procedures
- Intellectual Property: Commercialisation Revenue - Procedures
- Intellectual Property: Student IP - Procedures
- Intellectual Property: Transfer of Rights to Creators - Procedures
- Job Evaluation of Professional Positions - Guidelines
- Managing and Investigating Breaches of Responsible Research Conduct - Procedures
- Outside Work and Private Practice - Operational Policy
- Outside Work and Private Practice - Procedures
- Professional Position Descriptors - Guidelines
- Research Data Management - Procedures
- Resolution of Complaints (Staff) - Guidelines
- Responsible Research Conduct - Governing Policy
- Risk Management - Governing Policy
- Staff Code of Conduct - Governing Policy
- Student Conduct - Governing Policy
- University Consultancy Work - Operational Policy
- University Consultancy Work - Procedures

## LINKED DOCUMENTS

- Intellectual Property - Procedures
- Intellectual Property: Commercialisation of Research Outcomes - Procedures
- Intellectual Property: Commercialisation Revenue - Procedures
- Intellectual Property: Student IP - Procedures
- Intellectual Property: Transfer of Rights to Creators - Procedures

## RELATED LEGISLATION / STANDARDS

- Copyright Act 1968 (Cth)
- Australian Code for the Responsible Conduct of Research (2018)
- Circuit Layouts Act 1989 (Cth)
- Designs Act 2003 (Cth)
- Patents Act 1990 (Cth)
- Plant Breeder's Rights Act 1994 (Cth)
- Trade Marks Act 1995 (Cth)
- National Principles of IP Management for Publicly Funded Research