

Intellectual Property Procedures

1. STRATEGIC PLAN THEME AND COMPLIANCE OBLIGATION SUPPORTED

[Intellectual Property Policy](#)

Strategic Plan Theme: [Research and Innovation](#)

2. PROCEDURAL DETAILS

To facilitate good practice in the identification, protection, management and commercialisation of Intellectual Property (IP).

2.1 Ownership of IP created in the course of duties

- 2.1.1 Subject to the terms set out in these Procedures and the IP Policy, ownership of all IP created by a member of staff in their course of duties will vest in the University unless specifically excluded. For the purpose of this clause, the University will own all IP created by a member of staff regardless of whether or not:
- (a) the IP was created inside and/or outside working hours and on and/or off University premises; and
 - (b) University resources were used in the creation of the IP.
- 2.1.2 If a member of staff has created any IP that is not related in any way to the work in their course of duties, and he or she has not used any University resources in creating that IP, then ownership of such IP will vest in the member of staff, unless otherwise specified in the IP Policy or agreed in writing between the parties.
- 2.1.3 If there is any dispute about whether or not IP was created in accordance with clauses 2.1.1 or 2.1.2, the member of staff will in the first instance seek the advice of the relevant Head of School or equivalent line manager who may then refer it to the Deputy Vice-Chancellor, Research. If no agreement can be reached between the parties at this stage then the matter will be resolved in accordance with the Dispute Resolution Process outlined in clause 2.32.

2.2 Ownership of copyright in artistic works, indigenous works or scholarly works

- 2.2.1 The University recognises:
- (a) the emotional and spiritual link which may exist between the creator of an artistic work or indigenous work and the work itself; and
 - (b) the importance of the scholarly contribution to knowledge as a significant aspect of the duties of a member of academic staff.
- 2.2.2 For the reasons given in clause 2.2.1, a member of staff who is the originator of artistic works, indigenous works or scholarly works will own copyright in such works except where:
- (a) the artistic work has been commissioned by the University, in which event the University will own the copyright in the artistic works;
 - (b) the University and the member of staff, agree in writing that the copyright in the artistic works, indigenous works or scholarly works is owned by the University.
- 2.2.3 For the purpose of these Procedures, if there is any doubt or dispute as to what works constitute artistic works, indigenous works or scholarly works, the matter will in the first instance be referred to the Deputy Vice-Chancellor, Research, who will consult with relevant groups within the University in an attempt to resolve the issue. If no agreement can be reached between the parties at this stage then the matter will be resolved in accordance with the Dispute Resolution Process outlined in clause 2.32.

2.3 Ownership of copyright in course materials

- 2.3.1 The University will own the copyright in course materials unless:

- (a) a member of staff creates the course materials by incorporating a copyright work that already exists and the member of staff is the owner of the copyright in that copyright work; or
 - (b) the University and the member of staff agree in writing that the copyright in the course materials will be owned by the member of staff.
- 2.3.2 If copyright works are created in accordance with 2.3.1(a) and the University wishes to use such copyright works, the member of staff will grant the University a licence to use the copyright work in those course materials upon the terms set forth in clause 2.6.
- 2.3.3 Course materials may only be published on a University controlled website or any other website with the prior written permission of the relevant Head of School or equivalent line manager.
- 2.3.4 For the purpose of these Procedures, if there is any doubt or dispute as to what works constitute course materials, the matter will in the first instance be referred to the Deputy Vice-Chancellor, Academic, who will consult with relevant groups within the University in an attempt to resolve the issue. If no agreement can be reached between the parties at this stage then the matter will be resolved in accordance with the Dispute Resolution Process outlined in clause 2.32.

2.4 Ownership of works commissioned by the University

- 2.4.1 If a member of staff is the originator of a commissioned work and there is no applicable provision for ownership of that commissioned work in these Procedures, the IP Policy or any other agreement, then the University will own the copyright in the commissioned work.

2.5 Ownership of copyright works created in the course of a University project

- 2.5.1 If a member of staff is the originator of a copyright work and there is no applicable provision for ownership of that copyright work in these Procedures, the IP Policy or any other agreement, then the University will own the copyright work, if the copyright work was created as a result of the member of staff's participation (whether significant or not) in a University project.

2.6 Licence to University

- 2.6.1 With respect to a copyright work created by a member of staff during the course of his or her employment with the University and if the member of staff is the owner of the copyright in that copyright work pursuant to the IP Policy or these Procedures, the following will apply:
- (a) The member of staff will grant the University a non-exclusive, royalty-free and irrevocable licence to publish and use the copyright work for its educational and research purposes or those of any joint venture "partner" where the joint venture is specifically established for educational or research purposes, or, in relation to any contract collaborative teaching arrangements entered into by the University with external partners.
 - (b) The University's licence under clause 2.6.1(a) is terminated within fourteen days of receipt of the notice as provided for in clause 2.6.1(c).
 - (c) The member of staff is required to notify the University immediately in writing of the date of the assignment of copyright ownership in the copyright work to a commercial enterprise.
 - (d) The University is entitled to access that copyright work in order to enable the University to freely exercise the licence granted to it under clause 2.6.1(a)
 - (e) The member of staff may be required and will be actively encouraged to lodge a copy of the copyright work with the appropriate library. The costs of such lodgement will be the responsibility of the originator of the copyright work.
- 2.6.2 The University will endeavour to exercise its rights under clause 2.6.1(a) in a manner consistent with its recognition of the matters set out in clause 2.2.1.
- 2.6.3 The University will consult with the originator of an artistic work, indigenous work or scholarly work before making any use of the work under clause 2.6.1(a).

2.7 Moral Rights

- 2.7.1 The University will observe any obligations which it may have in relation to moral rights as may be provided in the copyright Act 1968 from time to time. In any case, the University will seek to protect the rights of attribution and integrity in relation to copyright works which it seeks to commercialise.

2.8 Ownership of IP created by Students

- 2.8.1 Subject to the terms set out in the IP Policy, a student will own IP created by the student in the course of his or her enrolment, except where such IP:
- (a) arises from participation in a University project; or
 - (b) incorporates University IP,
- in which event the University will own the IP unless otherwise agreed.
- 2.8.2 If there is any dispute about the University's claim of ownership of the IP in accordance with clauses 2.8.1(a) or (b), the student will in the first instance seek the advice of the relevant Head of School who may then refer the matter to the Deputy Vice-Chancellor, Research. If no agreement can be reached between the parties at this stage then the matter will be resolved in accordance with the Dispute Resolution Process outlined in clause 2.32.

2.9 Ownership of copyright in thesis

- 2.9.1 Notwithstanding any other provision in these Procedures or the IP Policy, students will own the copyright in their thesis, unless the student and the University otherwise agree in writing.
- 2.9.2 The University and the student may, in certain circumstances, be required to determine the extent and the term to which confidentiality requirements are to be attached to the thesis pursuant to the University's Higher Degree by Research Regulations or other University regulations as they may apply from time to time.

2.10 University ownership of IP created by Students

- 2.10.1 As soon as practicable, the student and the University will enter into an agreement contemplated under clause 2.28.1 prior to the commencement of any student participation in a University project, which has potential to generate valuable IP.
- 2.10.2 Where the ownership of IP created by a student vests in the University pursuant to the IP Policy and clauses 2.8.1(a) or 2.8.1(b) or 2.10.1, then the student will be accorded the same rights and obligations as a member of staff for the purposes of the IP Policy and these Procedures.
- 2.10.3 Where clause 2.10.2 applies the student may be entitled to receive payments from the net revenue of commercialisation of the IP received by the University in accordance with clause 2.26 and 2.27.
- 2.10.4 Where clause 2.10.2 applies:
- (a) the University will enter into a separate agreement with the student which will set out appropriate entitlements;
 - (b) the University will ensure that the academic progress of a student affected by these Procedures or the IP Policy is not hindered by the provisions of this Policy;
 - (c) the University will ensure that the examination of a thesis is not affected by these Procedures or the IP Policy without the consent of the student.

2.11 Requirement to consult on Ownership of IP

- 2.11.1 The student will consult the supervisor regarding the ownership of IP which the student has created.
- 2.11.2 The student and the supervisor will be required to attest to an appropriate arrangement for the ownership of any IP developed by the student and which is related to the work done by the student in the course of their studies. This is necessary in cases in which the University or the supervisor has contributed significantly to the generation of the IP.

2.11.3 The student, in consultation with the supervisor, will also be required to register the IP in accordance with the provisions of clause 2.15.

2.12 Higher Degree by Research Students and Candidacy

2.12.1 A higher degree by research student, as part of the process of applying for candidacy, will as soon as practicable register any IP which is or may be developed, in accordance with the provisions of clause 2.15.

2.13 Visitors and Adjunct Appointments to the University

2.13.1 A Visitor or an Adjunct Appointee to the University or persons with an adjunct appointment to the University will not be affected by the terms of the IP Policy and these Procedures otherwise than specified in this clause 2.13.

2.13.2 Where the Adjunct Appointee or visitor will be engaged in a University Project, or in other instances at the discretion of the University, the University will require Adjunct Appointees and Visitors to enter into a written agreement with the University regarding the ownership and use of IP and related matters before the commencement of the engagement. The ownership of any IP created by a Visitor or an Adjunct Appointee during the course of any visit or adjunct appointment at the University will be set out in the written agreement between the University and the Visitor or the Adjunct Appointee.

2.13.3 If a visitor or an adjunct appointee uses University IP or participates in a University project:

- (a) the visitor or adjunct appointee will at the request of University sign a confidentiality agreement; and
- (b) the obligations under the confidentiality agreement will continue to apply for a period of time as determined under the terms of the agreement and may extend beyond the term or the termination of the visit, adjunct appointment or involvement with the University.

2.13.4 An adjunct appointee will consult with the relevant Head of School at the time of appointment regarding access to and use of University IP under the IP Policy and these Procedures.

2.13.5 If IP with the potential for commercialisation is created or developed during the course of an adjunct appointment or visit to the University, and no consultation has occurred under this clause 2.13, the visitor or an adjunct appointee will report such development to the Deputy Vice-Chancellor, Research as soon as practicable and consult as to the ownership rights and use of such IP. The University may require such persons to enter into an agreement with the University regarding the ownership and use of the IP and related matters.

2.13.6 Upon termination of any visit, appointment or involvement with the University project, a visitor or an adjunct appointee will consult with the Deputy Vice-Chancellor, Research if they wish to continue to use or have access to any University IP.

2.14 Bringing prior IP to the University

2.14.1 Where a member of staff or student brings, or intends to bring, IP to the University which was created:

- (a) prior to enrolment in a course of study; or
- (b) prior to the commencement of employment with the University; or
- (c) outside their course of duties

to be used in their course of duties or course of studies or otherwise, the member of staff or student may be required to assist the University in determining whether that IP is entirely owned by the member of staff or student by providing the University with:

- (a) an inventory of that IP;
- (b) all documents relating to the ownership of such IP, including without limitation any contract, agreement, licensing agreement, or another institution's intellectual property policy;

- (c) written warranties that the use of such IP to the best of their knowledge does not infringe the rights of any third parties.
- 2.14.2 The University recognises that IP brought into the University in accordance with clause 2.14.1 is owned by the originator or a third party as applicable. However, subsequent incremental IP created by a member of staff during his or her course of duties or a student during his or her course of enrolment, will be owned by the University in accordance with the terms set out in the IP Policy and these Procedures.
- 2.14.3 If the originator wishes the University to commercialise the IP brought into the University in accordance with clause 2.14.1, the originator will assign or licence the IP to the University as required by the University or obtain such assignments or licences from third parties as applicable.
- 2.14.4 If clause 2.14.3 applies, the University and the originator may negotiate a Net Revenue sharing arrangement and enter into an appropriate agreement to give effect to the assignment or licence as the case may be.

2.15 Registration of the Creation or Development of IP

- 2.15.1 Where a member of staff or student creates or develops University IP and that University IP may be capable of commercialisation, the member of staff or student will register the existence of that University IP by written disclosure to the Director, IP Commercialisation or equivalent containing information outlined in Schedule 1.
- 2.15.2 The Director, IP Commercialisation or representative will respond to the written disclosure in accordance with Schedule 2.

2.16 Use of University IP prior to Registration

- 2.16.1 In order to ensure that University IP is protected, before the University IP is registered, members of staff and students will:
 - (a) keep confidential and not hold any discussions with any person external to the University concerning the University IP and any work that may result in IP being created, which upon creation would belong to the University pursuant to the IP Policy and these Procedures or any other agreement; and
 - (b) not disseminate nor publish any information about any University IP, including but not limited to presenting information about the University IP at a conference or submitting it for publication in a journal article or thesis, unless:
 - (c) prior written consent of the University has been obtained;
 - (d) required by any funding or University project agreement;
 - (e) required by law;
 - (f) required for the purpose of obtaining legal advice; or
 - (g) in the case of publication in a thesis, appropriate confidentiality obligations apply in accordance with clause 2.9.2.

2.17 Notification of Intention to Commercialise IP

- 2.17.1 If the University wishes to commercialise any University IP, the Director, IP Commercialisation will formulate a plan of action in consultation with the originator of that University IP as soon as practicable after the originator has been notified of the decision.
- 2.17.2 The plan of action may necessitate the protection of the University IP by (without limitation) applying for patents as appropriate and entering commercialisation agreements with third parties.
- 2.17.3 Prior to making application for patent protection, a written assignment will be entered into between the originator and the University and, where appropriate, any third party that has contributed to the creation of the University IP.
- 2.17.4 The Director, IP Commercialisation will be responsible for the implementation of the plan of action as outlined in clause 2.17.1

2.18 Assessment of University IP

- 2.18.1 Where the Director, IP Commercialisation is required to make an assessment of University IP, the Director, IP Commercialisation will make reasonable efforts to consult, on a confidential basis, an appropriate expert in the relevant field in order to obtain an independent evaluation of the University IP in relation to its commercialisation.

2.19 Duty to Assist

- 2.19.1 Where the University decides to commercialise University IP, the originator of that University IP will provide the University with reasonable assistance in the process of commercialisation including, but not limited to, making reasonable efforts to provide information promptly, attending meetings with potential licensees and commercial partners, and providing advice on further developments.

2.20 Conflict of Interest

- 2.20.1 If a member of staff or student has or may have a conflict of interest, or believes that such a conflict may arise, the member of staff or student will refer to the University *Conflict of Interest Procedures*. (An example of such a conflict of interest is a personal interest in a transaction or potential transaction in relation to which the persons concerned are advising the University.)

2.21 Reporting Infringements of University IP

- 2.21.1 Any member of staff or student who becomes aware of the unauthorised use of University IP will promptly inform the Deputy Vice-Chancellor, Research in writing of the relevant details.

2.22 Duty not to act Contrary to the University's Rights

- 2.22.1 A member of staff or student who does not own the IP vested in a particular work will not:
- (a) apply for any form of protection for that IP; or
 - (b) commercialise or otherwise deal with that IP; or
 - (c) do any act or thing in a manner inconsistent with the University's rights under the IP Policy and these Procedures.

2.23 Distribution of revenue received from Commercialisation of University IP

- 2.23.1 Revenue received from a third party as result of commercialisation of University IP
- (a) Where revenue is received from a third party as a result of the commercialisation of University IP, the originators will receive 50 per cent of the Net Revenue;
 - (b) Where there is more than one originator involved in the creation or development of the relevant University IP, each member of the group of originators is entitled to receive an equal share of any payment made under this clause, unless an agreement entered into between the group of originators and made available to the University states otherwise. If the members of the group are unable to agree on the apportionment of net revenue, the matter will be referred, in the first instance, to the Deputy Vice-Chancellor, Research. If no agreement can be reached between the parties at this stage then the matter will be resolved in accordance with the Dispute Resolution Process outlined in clause 2.32.
 - (c) The distribution of revenue described in this clause 2.23.1 will apply to all Revenue generating arrangements, including but not limited to; licensing, sales and leasing, unless a separate agreement has been entered into between the University and the originator(s) or a spin-out company has been established in accordance with clause 2.24

2.24 Spin-Out Companies

- 2.24.1 In some instances the University may decide that the most appropriate avenue for commercialisation is through establishment of a spin-out company. In such cases, the contribution of originators may be recognised through the issue of shares in the spin-out company. All proposals to establish a Spin-Out Company for the purpose of

commercialisation will conform with the University's Governance Requirements - Interests in Entities Procedures.

2.25 Assignment of IP to the University

- 2.25.1 If requested by the University, members of staff and students will execute, in a timely fashion, all assignments of IP or such deed of acknowledgement of ownership of IP, necessary to give effect to the University's ownership of IP as set out in the IP Policy and these Procedures or any other agreement.

2.26 Special Conditions applying to assignment of copyright in computer works and course materials

- 2.26.1 When considering a request to assign ownership of copyright in computer works or course materials, the University will have due regard to its commercial and educational interests in determining if such a request will be granted. The Deputy Vice-Chancellor, Research will seek advice from the Head of School and other senior staff as required in making such a determination.
- 2.26.2 If the University assigns to a member of staff the copyright in any computer works or course materials, the University retains a royalty-free licence to produce, publish or use for its purposes those course materials or computer works until such time as the member of staff has the work published by a commercial enterprise.
- 2.26.3 When such copyright works become available for sale to students, the licence granted to the University under clause 2.26.2 will cease.
- 2.26.4 If the above work is recommended for use by students at the University in connection with any course of study, the work will be purchased and sold in the same manner as prescribed texts, as appropriate. However, the University does not guarantee that a text produced and published by a member of staff will be prescribed or continue to be prescribed as a text for students at the University.

2.27 Procedure for Assignment of Ownership of IP

- 2.27.1 A member of staff or student who wishes to be assigned the ownership of IP referred to in 2.26 created by them, will submit a request in writing to the Deputy Vice-Chancellor, Research, through the relevant Head of School or equivalent line manager stating:
- (a) that the IP is original and solely the work of the member of staff or student concerned or, if produced jointly, the names of other persons involved; and
 - (b) the purpose for and the conditions under which the IP was created, if appropriate.

2.28 Conditions, Fees and Royalties applying to the Assignment of University IP

- 2.28.1 The University reserves the right to impose any conditions it may determine on the assignment of ownership of University IP to a student or member of staff, including but not limited to, payment of a royalty or fee determined by the Deputy Vice-Chancellor, Research in the event that the student or member of staff commercialises the IP.
- 2.28.2 Any royalty or fee imposed under clause 2.28.1 will not be unreasonable and reflect as far as practicable;
- (a) resources spent by the University to develop the University IP;
 - (b) funds spent by the University on development and protection of IP and/or commercialisation of the University IP.
- 2.28.3 The University recognises that IP assigned in accordance with 2.25 to 2.28 is owned by the assignee/s. However, subsequent incremental IP generated by a member of staff during his or her course of duties will be owned by the University in accordance with the IP Policy and these Procedures, unless otherwise agreed between the University and the assignee/s.
- 2.28.4 After assignment of the University IP in accordance with 2.25 to 2.28, a member of staff may continue using such IP for further research provided that this is aligned with the member of staff's and the University's research interests.
- 2.28.5 Notwithstanding 2.28.4, the originator may not use the University's resources for commercialisation purposes.

2.29 Ownership of IP and Other Agreements

- 2.29.1 Where a member of staff or student at the University participates in a University project that is fully or partly funded by an external party, and a written agreement has been entered into between the external party and the University which governs the IP, ownership of IP produced during the course of that University project will be governed by that agreement and such arrangements will override the IP Policy and these Procedures.
- 2.29.2 Where a member of staff or student of the University participates in an activity which is funded by the University and a written agreement has been entered into between the member of staff or student and the University, then the ownership of IP produced in the course of that activity will be determined by that agreement.
- 2.29.3 Any written agreement between an external party, student or member of staff and the University which makes provision for the ownership of IP produced in the course of research or any other work funded by that external party will override the provisions of the IP Policy and these Procedures.

2.30 University to consult where practicable

- 2.30.1 If the University wishes to enter into an agreement with an external party concerning the funding and ownership of IP produced in the course of a University project, the University will as far as practicable:
- (a) consult with the members of staff and students who will be affected by that agreement; and
 - (b) ensure that the agreement reflects the terms of the IP Policy and these Procedures unless otherwise agreed by the member of staff or student as the case may be.

2.31 Assignments and Confidentiality Undertakings

- 2.31.1 Where the University enters into an agreement with an external party as contemplated in clause 2.29.1 or otherwise, and:
- (a) the agreement contains obligations concerning the ownership of IP or the authorised use or access to confidential information; and
 - (b) members of staff, students or other persons are involved in activities or have obligations on behalf of the University under that agreement; and
 - (c) as a result of those activities or obligations, IP or confidential information is or may be created or disclosed,
- then each member of staff, student or other person will complete such agreements as are required to give effect to the obligations as the University may determine.

2.32 Dispute Resolution Process

- 2.32.1 If a dispute arises under the IP Policy and these Procedures, the parties will use their best endeavours to resolve the dispute amicably between themselves.
- 2.32.2 If the dispute cannot be resolved in this way, the Deputy Vice-Chancellor, Research may, after consultation with the University Integrity and Standards Unit, appoint a mediator who can assist the parties in resolving their dispute.
- 2.32.3 If such a dispute cannot be resolved through the assistance of a mediator, the Deputy Vice-Chancellor, Research may, after consultation with the University Integrity and Standards Unit, appoint an arbitrator to investigate and decide the matters in dispute. The arbitrator may adopt whatever procedure he or she sees fit, provided each party is given a fair hearing.
- 2.32.4 A mediator appointed under these Procedures who facilitates an agreement between the parties will record the terms of the agreement in writing. An arbitrator who makes a decision in a dispute under the IP Policy and these Procedures will provide the parties with written reasons for the decision.
- 2.32.5 In selecting a mediator or arbitrator, the Deputy Vice-Chancellor, Research will, as far as is reasonably practicable, choose a person who has appropriate expertise to mediate or arbitrate on the matter.

2.32.6 The decision of the arbitrator will be final and binding on the parties.

3. RESPONSIBILITIES

Responsibilities are as set out in section 2.

4. SCOPE OF PROCEDURES

These procedures apply to all staff, students and University associates and all persons participating in a University project whether as member of staff, student, University associate, visitor, or adjunct appointee.

5. DEFINITIONS

(Note: Commonly defined terms are located in the [Curtin Common Definitions](#). Any defined terms below are specific to this document)

Adjunct Appointee

An individual who makes a regular and significant contribution to the teaching, research or other activities of the University.

Artistic Works

A painting, sculpture, drawing, engraving, photograph or any other work of artistic craftsmanship created or made for the sole purpose of aesthetic or artistic merit.

Commercial Enterprise

A company, organisation or institution whose business interests or substantial part business interests include the publication, marketing and/or commercialisation of IP.

Commercialisation or Commercialise

In relation to IP means to make, sell, copy, adapt, apply, publish, develop, use, assign, license or otherwise utilise the IP for the purpose of generating financial or other commercial gains. For the purposes of these Procedures, this definition will exclude fees paid by students enrolled in courses leading to the award of a Curtin degree or diploma.

Commissioned Work

Means any work specifically commissioned by the University to improve its operations or other specific purpose as outlined in this procedure.

Computer works

Includes:

- computer software in any form and on any medium;
- multi-media works in any form which are accessible wholly or partly by means of a computer;
- web pages and web sites; and
- copyright works created with the intention of accessing them primarily by computer.

Copyright work

Any work as defined in the *Copyright Act 1968* (Cth) including but not limited to artistic, literary, dramatic, or musical work, sound recording, cinematograph film, television broadcast, sound broadcast, published edition of a work, photograph, video recording, CD ROM or Computer works. For the purpose of these Procedures, copyright work will also include course materials, monographs and scholarly works.

Course of Duties

For a member of staff, means the scope of duties as a member of staff as set out in the terms and conditions of any relevant enterprise bargaining agreement, contract of employment, duty statement or any other agreement between the member of staff and the University in effect at the time at which University IP or other IP was generated.

Course materials

Either:

- (a) any copyright work whether in electronic, written or any other form of media created by a member of staff specifically for use in, or in connection with a course, subject or unit offered or to be offered by or on behalf of the University or by an affiliated open learning or distance education agency; or
- (b) any materials commissioned by the University specifically for use in, or in connection with a course, subject or unit offered or to be offered by or on behalf of the University or by an affiliated open learning or distance education agency.

Faculty Graduate Studies Committee

The faculty committee responsible for the admission, enrolment, candidature and examination of Higher Degree by Research candidates and which makes recommendations to the University Graduate Studies Committee during the period of the candidate's enrolment.

Indigenous Work

A work created predominantly by people of Aboriginal and Torres Strait Islander descent having spiritual, cultural or traditional value.

Intellectual Property (IP)

Includes any rights in relation to:

- a patent, application for a patent, invention, manner, method or process of manufacture, or method or principle of construction as defined in the Patents Act 1990 (Cth);
- a copyright work as defined in the copyright Act 1968 (Cth);
- a design as defined in the Designs Act 1906 (Cth);
- a plant variety as defined in the Plant Breeders' Rights Act 1994 (Cth);
- a circuit layout or semi-conductor chip layout or design or eligible layout as defined in the Circuit Layouts Act 1989 (Cth);
- a trade mark as defined in the Trade Marks Act 1995 (Cth);
and including related rights and confidential information and know-how in relation to the above rights, or as otherwise determined by the University.

Net Revenue

In relation to a particular item or related items of IP, the revenue remaining after the deduction by the University of its reasonable costs incurred in the protection and commercialisation of University IP, including but not limited to an appropriate allowance for risk, in that particular item or related items of IP.

Originator

Any person who authors, creates, develops or makes, whether or not in conjunction with another person, any IP.

Revenue

The gross proceeds received by the University as a result of commercialisation of University IP. This will include but not be limited to any amount in the form of upfront fees, milestone payments, royalties, dividends and the proceeds from sale of shares in cases where shares have not been issued directly to originator(s) in consideration for their contribution. However, revenue will specifically exclude R&D funds, grants and direct investments or donations from the University, Sponsors or other third parties and gross proceeds received by the University as a result of commercialisation of course materials and commissioned works.

Scholarly Works

Any article, book, manual, monographs, manuscripts, lecture notes and other materials prepared or created by member of staff, for educational or scholarly purposes, in the course of their duties but does not include course materials or computer works.

Spin-Out Company

A company which is established or exists to commercialise University IP.

Sponsor

A third party, external agency or industry partner which has entered into an agreement with the University to undertake research or other services which are likely to generate IP.

Supervisor

The supervisor of a Higher Degree by Research student or person acting with the authority of the University in such a capacity or the member of staff (normally the Head of School or nominee) supervising an undergraduate student or postgraduate coursework student in a course of studies.

University IP

IP which is owned by the University according to the terms of the IP Policy, these Procedures or otherwise as a matter of law.

University project

A self-contained program of work or research administered by or on behalf of the University which:

- (a) is funded wholly or in part by a sponsor;

- (b) is funded wholly or in part by a specific contribution (in relation to the creation of IP means funding or resources which are contributed by the University, but excludes a scholarship awarded by the University as a contribution to a specific University project); or
- (c) is a collaborative project, which is either:
 - (i.) a program of work conducted by more than one originator, where each originator's contribution to the IP cannot be separated from that of the other originators'; or
 - (ii.) a program of work that originates from, or is an improvement to, University IP, whether registered or not.

Visitor

An individual who is a member of another educational or research institution, and is engaged in teaching, research or other activities of the University.

6. SCHEDULES

Schedule 1 - Contents of Report registering the Creation of University IP

Schedule 2 - Time Limit for Director, IP Commercialisation to respond to Registration

7. RELATED DOCUMENTS/LINKS/FORMS

[Intellectual Property Policy](#)

[Research Management Policy](#)

[Research Data and Primary Materials Policy](#)

[Governance Requirements - Interests in Entities Procedures](#)

[Conflict of Interest Procedures](#)

[National Principles of IP Management for Publicly Funded Research](#)

Policy Compliance Officer	<u>Rohan McDougall</u> , Director, IP Commercialisation
Policy Manager	Deputy-Vice Chancellor, Research
Approval Authority	Deputy-Vice Chancellor, Research
Review Date	1 st April 2021

REVISION HISTORY

Version	Approved/ Amended/ Rescinded	Date	Committee / Board / Executive Manager	Approval / Resolution Number	Key Changes and Notes
	Approved	26/06/2017	Deputy-Vice Chancellor, Research	EM1714	Unconditional (previously a combined policy and procedure)
	Amended	16/05/2019	Deputy-Vice Chancellor, Research	EM1907	Unconditional

Schedule 1

Contents of Report registering the Creation of University IP

1. A written disclosure registering the creation of University IP under clause 2.15 will contain the following details.
 - a) A brief description of the IP and its potential for commercial application including;
 - i) the technical advantages of the IP compared to current or existing technologies
 - ii) the developmental stage of the IP
 - iii) known competitors and potential partners of the IP
 - b) The date upon which the IP was created.
 - c) The identity of any person or persons who contributed to the creation of the IP.
 - d) The identity of any students involved and details of their involvement.
 - e) The Details of any pre-existing and/or previously registered IP which was used in creating the IP.
 - f) Details of any person other than the originator/creator who claims any entitlement or interest in the IP.
 - g) Details of any University facilities and/or external resources used to create the IP, especially grant monies or other research funding.
 - h) Details of any known or existing or partial use or commercialisation of the IP.
 - i) Information on any written and/or oral disclosure of the IP.
 - j) Any information which would assist in evaluating, protecting or commercialising the IP.

2. The Director, IP Commercialisation may ask the originator to provide such additional information as is reasonably required and the originator has a duty to assist and will not withhold any information reasonably required and the originator has a duty to assist and will not withhold any information.

Schedule 2

Time Limit for Director, IP Commercialisation to respond to Registration

1. Within 12 weeks of the receipt of any registration of University IP in accordance with clause 2.15, the Director, IP Commercialisation or equivalent, will respond in writing to the originator on:
 - a) whether or not the IP is considered to be owned by the University; and
 - b) whether or not the University intends to evaluate such IP for the purposes of possible commercialisation.
2. If the Director, IP Commercialisation or equivalent decides under clause 1(b) that such IP will be evaluated, then that evaluation will be made and reported to the originator within 12 weeks of that decision.
3. In relation to clauses 1(a) and 1(b), the Director, IP Commercialisation, as far as is practicable, will respond expeditiously to the registration of, and following evaluation of, University IP.