

# Intellectual Property Policy

## 1. Purpose

- 1.1 The Intellectual Property Policy (the policy) outlines the university's position on intellectual property ownership and the rights and responsibilities of the university, its staff, its students and others in relation to the creation and management of intellectual property. The policy also encourages the use of university owned intellectual property to create positive impacts.

## 2. Scope

- 2.1 This policy applies to university staff, students and affiliates.
- 2.2 This policy does not apply to:
- intellectual property created while undertaking any outside work (see the [Outside Work Policy](#))
  - certain commercial activities that are subject to separate written intellectual property arrangements approved by the appropriate university delegate in line with the [Commercial Activities Policy](#).

## 3. Principles

- 3.1 The university owns and manages intellectual property in order to encourage and facilitate its use for the benefit of the university and society. In order to implement this principle, the university may invest in, and actively pursues the registration of, its intellectual property and may enter into commercial agreements, including licences and assignments, that authorise others to use that intellectual property.
- 3.2 Normally, the university encourages broad dissemination of its intellectual property through the UTS digital repository, publication and teaching. Exceptions to this principle are outlined in this policy.
- 3.3 The university supports the [National Principles of Intellectual Property Management for Publicly Funded Research](#) and the [National IP Principles of the Australian Technology Network of Universities](#).
- 3.4 UTS is sector leading in its approach to acknowledging and managing traditional knowledge of Indigenous people and, in line with the [Indigenous Policy](#), will actively consult on matters involving traditional knowledge. The university acknowledges that the intellectual and cultural property rights of Aboriginal and Torres Strait Islander peoples or Indigenous peoples should be respected and preserved.

## 4. Policy statements

### Intellectual property created by staff

- 4.1 The university owns all intellectual property created or generated by staff in the course of, or in connection with, their employment with the university. This enables the university to:
- ensure greater internal and external connectedness and reach for our research in line with the [UTS 2027 strategy](#)
  - support the principles outlined in the [Open Access Policy](#), and
  - enable the ongoing development of teaching materials to meet the university's evolving educational needs.
- 4.2 Staff must manage and report on intellectual property created during their employment with UTS in line with this policy, its associated [procedures](#) and guidelines or directions developed by the university from time to time.
- 4.3 Research and scholarly works will be collected and stored in the UTS digital repository in line with the [Open Access Policy](#). As part of UTS's commitment to supporting the principles of an international open access community, UTS waives ownership of the copyright for scholarly works authored by a staff member ('author' for the remainder of this statement), subject to the following limitations:
- this waiving of copyright ownership by UTS does not grant the right to disclose confidential information, or to publish the manuscript or scholarly work in contravention of a prior agreement between the university and a third party
  - this waiving of copyright ownership by UTS does not grant any author the right to disclose any details of intellectual property that may be the subject of any existing or potential application for registration of that intellectual property, such as an invention
  - the author must provide to the university a copy of the scholarly work in a timely manner in accordance with the requirements detailed in relevant university's [procedures](#), and
  - this waiving of copyright ownership by UTS is subject to a perpetual, irrevocable, royalty-free, non-exclusive licence in favour of the university to use that scholarly work for education and research purposes and to make the scholarly work available through an institutional repository.

### Intellectual property created by students

- 4.4 Normally, UTS students own the intellectual property they create through their studies, coursework and research at UTS. Exceptions to this include where the intellectual property:
- is created by the student as part of their responsibilities as an employee of the university
  - is a scholarly work of joint authorship by one or more students and one or more staff or affiliates in which case the provisions of statement 4.3 of this policy will apply, or
  - is assigned to the university by the student under an agreement or contract.

- 4.5 UTS students always own the copyright in their graduate research thesis.
- 4.6 In accordance with [rule 3.9, Student Rules](#), as a condition of candidature, the university has specific rights to the work of students and that endure even while the student owns the intellectual property.

### **Intellectual property created by affiliates**

- 4.7 The university expects to own all intellectual property created or generated by affiliates in the course of, or in connection with, their services or contract with the university and any contracts or agreements must reflect this expectation. Any exceptions or alternate arrangements in relation to intellectual property created by affiliates must be explicitly set out in writing and approved by the responsible delegate.

### **Commissioned works**

- 4.8 UTS expects to own all its commissioned works and all intellectual property and other rights in its commissioned works and any contracts, agreements or instructions must reflect this expectation. Any exceptions or alternate arrangements in relation to a particular commissioned work must be explicitly set out in writing and approved by the responsible delegate.

### **Course and educational material**

- 4.9 In line with [statement 4.1](#), UTS owns the intellectual property (and other rights) for all course and educational materials that staff create as part of their employment. This allows the university the necessary access to further develop, update or adapt these materials to suit different educational or delivery needs.
- 4.10 UTS does however, grant staff who create course and education material full access (via a free, perpetual and irrevocable licence) to use their own teaching and educational material for their own academic use.
- 4.11 Staff and affiliates who create course and education material must provide these to the university in accordance with the guidelines issued by the [UTS Library](#) for depositing a copy in the university's digital repository.
- 4.12 To enable the ongoing development of teaching and research by the university, staff who are authors of any course and educational material will be required to consent to waive their moral rights in that course and educational material when depositing a copy in the university's digital repository.

### **Management of intellectual property at UTS**

- 4.13 UTS has processes and systems for the management of the university's intellectual property in order to facilitate its potential use, connectedness and overall impact. The university relies on staff and students acting in compliance with this policy to ensure appropriate management of our intellectual property.
- 4.14 UTS will evaluate, determine and pursue the broadest range of options in the management of university owned intellectual property. This may require limiting disclosure of confidential information and deferring publication of research outcomes and the preparation and filing of applications to register intellectual property rights.

- 4.15 Creators of university owned intellectual property have an enduring obligation to assist the university in managing intellectual property right registration including, but not limited to, signing documents enabling the university to pursue any application or maintain a patent registration.

### **Reporting of research generated intellectual property**

- 4.16 Creators of UTS owned intellectual property resulting from research activities must report the details of that intellectual property in a timely manner, prior to the disclosure of any intellectual property to a third party as directed by the provisions outlined in the research related [intellectual property procedures](#).

### **Intellectual property and Indigenous knowledge**

- 4.17 The [Indigenous Policy](#) outlines the university's commitment to UN Declaration of the Rights of Indigenous People. Creation of intellectual property that involves the traditional interests or property of Indigenous peoples and/or the use of traditional knowledge must be managed in line with these principles.
- 4.18 The Deputy Vice-Chancellor (Research), the Deputy Vice-Chancellor (Education and Students) and the Pro Vice-Chancellor (Indigenous Leadership and Engagement) will work with relevant Indigenous groups (where possible and reasonable and prior to any undertakings) to ensure rights to traditional knowledge conforms with the UN Declaration and the [Indigenous Policy](#).

### **Distribution of financial benefit**

- 4.19 Any financial benefit that the university may receive as a consequence of the university's ownership and management of its course and education material will be solely for the benefit of the university.
- 4.20 Financial benefit from the management of specific university owned intellectual property resulting from research will be used as follows:
- a. Firstly, the university will seek to recover all costs incurred by the university in relation to the management of that intellectual property.
  - b. Secondly, where the costs incurred by the university in managing the intellectual property are fully recovered, the nett financial benefit will be shared in line with the provisions outlined in the research related intellectual property [procedures](#).

### **Complaints, policy exceptions and policy breaches**

- 4.21 Where complaints or disputes arise in relation to the management of intellectual property under this policy, students, staff or affiliates may make their complaint in writing as soon as possible (normally within 14 days of the dispute occurring) to the:
- Director of the Research Office in relation to research generated intellectual property created by staff and affiliates
  - Dean, Graduate Research School in relation to graduate research related intellectual property
  - Pro Vice-Chancellor (Education) in relation to teaching and learning intellectual property, or

- relevant director or equivalent of the unit responsible for any activities that are not research or teaching and learning.
- 4.22 Disputes or complaints in relation to the operation of this policy should be resolved in line with the [Handling Staff Grievances Vice-Chancellor's Directive](#) or the [Student Complaints Policy](#) as appropriate.
- 4.23 Exceptions to this policy may be requested where appropriate justification can be made. Requests for exceptions must be made in writing to the delegate responsible for managing the activity (see [UTS Delegations](#) and below). Approvals must be documented in a written contract or agreement. Exceptions shall generally be the responsibility of:
- the Director, Research Office for research matters
  - the Pro Vice-Chancellor (Education) for teaching and learning and student matters
  - the Deputy Vice-Chancellor (Corporate Services) for employment matters
  - the Deputy Vice-Chancellor (Innovation and Enterprise) for UTS Startups, and
  - the Dean, Graduate Research School for graduate research related matters.
- 4.24 The university may take action against those who are found to have been in breach of this policy, under the applicable enterprise agreement and/or the [Code of Conduct](#) or [section 16, Student Rules](#), as appropriate.

## 5. Policy ownership and support

### 5.1 Policy owners

The **Deputy Vice-Chancellor (Research)**, **Deputy Vice-Chancellor (Education and Students)** and the **Deputy Vice-Chancellor (Corporate Services)** are jointly responsible for enforcement and compliance of this policy, ensuring that its principles and statements are observed.

The Deputy Vice-Chancellor (Research) has specific responsibility:

- for research and research generated intellectual property (including graduate research) in line with this policy and the [Research Management Policy](#)
- for the approval of the research related [intellectual property procedures](#), and
- for issues relating to open access, in line with the [Open Access Policy](#).

The Deputy Vice-Chancellor (Education and Students) has specific responsibility for:

- intellectual property developed as part of course and educational material in line with the [Award Course Approval Policy and Procedures](#), and
- the approval of the teaching and learning related [intellectual property procedures](#).

The Deputy Vice-Chancellor (Corporate Services) has particular responsibility for staffing, employment contracts and appointments.

**Deans and other members of the Senior Executive** are responsible for managing the provisions of this policy in their specific areas of responsibility.

## 5.2 Policy contacts

**Director, Research Office** is the primary point of contact for advice on implementing and administering issues in relation to research generated intellectual property.

**Pro Vice-Chancellor (Education)** is the primary point of contact for advice on implementing and administering issues in relation to teaching and learning generated intellectual property.

**University Librarian** is the primary point of contact for advice on open access.

**Dean, Graduate Research School** is the primary point of contact for advice on graduate research students' intellectual property.

## 6. Definitions

The following definitions apply for this policy and all associated procedures.

**Affiliates** for the purposes of this policy includes consultants, contractors and other persons generating intellectual property in collaboration with university staff or students, or engaged by the university to undertake a specific activity, anyone conducting or managing research or creating new knowledge or new works including coursework or teaching materials for or in association with the university, including all within scope of the [Research Management Policy](#) and to other persons by agreement. The provisions outlined in the [Code of Conduct](#) apply to affiliates.

**Commissioned work** means a specific work that the university has directed or requested a staff member, affiliate or third party to create by means of a contract, agreement or arrangement approved by the relevant delegate responsible for the activity. Commissioned works include a any work (written or otherwise) created where the staff member or affiliate is remunerated over and above their usual salary. It also means specific work the university has contracted a third party to produce by means of an agreement in line with the [Procurement Policy](#).

**Course and educational material** includes, but is not limited to:

- materials used in, or in connection with, the provision of lectures, tutorials, seminars, workshops, field or laboratory classes, assessments, practicum and other teaching activities conducted by the university
- presentations, overhead transparencies, slides, photographs, maps, diagrams, books and handbooks, manuals, teaching aids, course outlines, exercises, computer code, computer programs and multimedia works and online courses that serve a teaching or assessment function, and
- all subject and course design and all related documentation.

**Creators** means staff, affiliates and where relevant, students, responsible for the creation, authorship or originators of university owned intellectual property.

**Financial benefit** means income received by the university in relation to the management of its intellectual property. This includes, but is not limited to, royalties, licence fees; milestone and lump sum payments; and, proceeds from the sale of shares. Financial benefit excludes

income received by the university for the purpose of conducting research on or in relation to its intellectual property.

**Intellectual property** (also called **IP**) means any proprietary right which arises under, or is capable of being obtained under, legislation relating to copyright, patents, designs, trademarks, circuit layouts or plant varieties; and any common law intellectual property, including know-how, trade secrets and confidential information.

Intellectual property statutory rights are protected by Australian laws (listed below) together with other legislation, international treaties and conventions including as defined in Article 2 of the World Intellectual Property Organization Convention of July 1967:

- [Copyright Act 1968 \(Cwlth\)](#)
- [Circuit Layouts Act 1989 \(Cwlth\)](#)
- [Designs Act 2003 \(Cwlth\)](#)
- [Patents Act 1990 \(Cwlth\)](#)
- [Plant Breeders Rights Act 1994 \(Cwlth\)](#), and
- [Trade Marks Act 1995 \(Cwlth\)](#).

**Management** (or **manage**) for the purposes of this policy, means all rights to use or apply intellectual property, including, but not limited to:

- the right to disclose intellectual property to any party
- the right to apply for, prosecute, or terminate any registration, such as a patent, in any jurisdiction
- the right to license intellectual property
- the right to assign ownership of intellectual property to another party, and
- the right not to perform any action in relation to specific intellectual property.

**Moral right** has the meaning given in the [Copyright Act 1968 \(Cwlth\)](#) and includes:

- the right of attribution
- the right against false attribution, and
- the right of integrity.

**Nett financial benefit** means the financial benefit less any costs paid or payable by the university to a third party in relation to the management of the specific intellectual property. Those costs include, but are not limited to: costs incurred in seeking, obtaining, and maintaining any registration for some or all of the specific intellectual property, especially patent application fees; patent attorney fees; proof of concept funding; other legal and financial advice and services; business establishment or registration costs; any filing costs for related intellectual property; design, prototype and testing; travel and accommodation; and marketing.

**Scholarly work** means an original work in any format that is protected as copyright material and intended for academic publication. Examples of scholarly works include journal articles, books, book chapters, and presentations for an academic or professional audience.

**Staff or staff member**, for the purposes of this policy means employees, whether fixed-term, continuing, permanent or casual, and other appointees, whether paid or not, including emeritus professors, conjoint, adjunct and visiting appointees.



## Approval information

Policy contact	Deputy Vice-Chancellor (Research) and Deputy Vice-Chancellor (Education & Students)
Approval authority	Academic Board
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## Version history

Version	Approved by	Approval date	Effective date	Sections modified
1.0	Academic Board (AB/20-2/31)	27/05/2020	01/07/2020	New policy

## Web version

[Intellectual Property Policy](#)

## References

### Procedural information

**Research related IP** enquires should be directed to: [research.engagement@uts.edu.au](mailto:research.engagement@uts.edu.au).

**Teaching and learning IP** enquires should be directed to: [intellectualproperty@uts.edu.au](mailto:intellectualproperty@uts.edu.au).

### Internal documents

[Award Course Approval Policy and Procedures](#)

[Code of Conduct](#)

[Commercial Activities Policy](#)

[Copyright and UTS: UTS Library](#)

[Enterprise Agreements](#)

[Handling Staff Grievances Vice-Chancellor's Directive](#)

[Open Access Policy](#)

[Outside Work Policy](#)

[Procurement Policy](#)



[Student Complaints Policy](#)

[Student Rights and Responsibilities Policy](#)

[Student Rules: rule 3.9, section 16](#)

### **External documents**

[ATN National IP principles](#)

[Circuit Layouts Act 1989 \(Cwlth\)](#)

[Copyright Act 1968 \(Cwlth\)](#)

[Copyright Amendment \(Moral Rights\) Act 2000 \(Cwlth\)](#)

[Designs Act 2003 \(Cwlth\)](#)

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

[Patents Act 1990 \(Cwlth\)](#)

[Plant Breeders Rights Act 1994 \(Cwlth\)](#)

[Trade Marks Act 1995 \(Cwlth\)](#)

[United Nations Declaration on the Rights of Indigenous People](#)

[World Intellectual Property Organization Convention of July 1967](#)