Intellectual Property Policy

1 Purpose

To set out principles with respect to the ownership of Intellectual Property, and to establish mechanisms for the management of Intellectual Property.

2 Scope

This Policy applies to all Employees, Students and Visitors.

3 Policy statement

This policy provides direction to Employees, Students and Visitors with respect to the ownership, use, protection and Commercialisation of Intellectual Property.

3.1 Objectives

The University is committed to providing an environment where education, scholarship and innovation can thrive and those participating in the creation of knowledge and associated Intellectual Property can be rewarded for their efforts.

The University encourages Employees, Students and Visitors to generate and share knowledge that will provide social, cultural and economic benefits for the University and for the broader community.

The principles in this policy are intended to promote:

- recognition of Indigenous Knowledges, and the rights of Aboriginal and Torres Strait Islander Peoples to:
    - own, manage and control Indigenous Knowledges;
    - be consulted about use of Indigenous Knowledges;
    - give or withhold consent around use of Indigenous Knowledges; and
    - make self-determined decisions about Indigenous Knowledges.
- development and dissemination of knowledge;

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- maximisation of benefits to Australia arising from publicly funded research;
- an entrepreneurial environment including incentives that encourage the creation, discovery, development, protection, and efficient transfer of new knowledge for public benefit;
- University-industry collaboration; and
- Commercialisation of Intellectual Property to benefit the community, the University, and Creators (and Contributors where applicable).

4 Principles

4.1 Ownership

4.1.1 Intellectual Property created by Employees

The University as an employer owns all Intellectual Property created by Employees in the course of their employment or created using University Resources, including all Teaching Materials, except for Intellectual Property in the following:

- Scholarly Works;
- Indigenous Knowledges; and
- any other Intellectual Property created by an Employee under a written agreement between the Employee and the University that provides that the Employee owns the Intellectual Property.

The University requires Employees who own a Scholarly Work created in the course of their employment or created using University Resources to grant a perpetual, irrevocable, world-wide, royalty and fee-free, non-exclusive licence (including the right to sub-licence) in favour of the University, to allow the University to use that Scholarly Work for education, training, research, and other University purposes and to make it publicly available in the University's library or more generally via Open Access.

4.1.2 Intellectual Property created by Students

The University does not assert ownership of Intellectual Property created by Students except where the Intellectual Property is:

- created by a Student as part of their responsibilities as an Employee; or
- assigned to the University by a Student under a written agreement, for example as a

condition of the Student's participation in a University Project.

The University will ensure that any assignment of Intellectual Property by the Student to the University will not extend to Copyright in the Student's Thesis. However, the University may ask Students to grant licences to their Thesis or other work to the University or third parties in the context of the Students' enrolment, assessment or candidature.

4.1.3 Intellectual Property created by Visitors

The University requires Visitors to enter into a written agreement with the University that addresses the use of Background Intellectual Property made available by a Visitor, the use and protection of the University's Background Intellectual Property, and the creation of new Intellectual Property by a Visitor. This agreement must be entered into before Visitors commence any teaching, research or other activities at the University.

4.1.4 Intellectual Property created by Contractors

Prior to engaging a Contractor for the delivery of goods or services, relevant Employees (e.g. contract owners) will ensure that a written agreement is put in place between the University and the Contractor that outlines the appropriate protection of the University's interests with regard to Intellectual Property.

4.2 Commercialisation

The University will make all decisions regarding the identification, protection, use and Commercialisation of Intellectual Property developed at the University, including the manner in which Net Commercialisation Revenue received by the University may be shared between the University and the relevant Creators (and Contributors if applicable). This will occur in accordance with the *Commercialisation of Intellectual Property Procedure*.

Employees who have developed Intellectual Property over which the University asserts ownership under this Policy or the *Intellectual Property Procedure* and Students or Visitors who have assigned Intellectual Property rights to the University are eligible to receive a share of Net Commercialisation Revenue in accordance with the University's *Commercialisation of Intellectual Property Procedure* if they are determined to be a Creator or Contributor under that Procedure.

4.3 Indigenous Knowledges

The use of any Indigenous Knowledges in the course of creating Intellectual Property at the University will be managed in accordance with relevant legislation, codes and guidelines, recognising:

- the significance and importance of Indigenous Knowledges;

- that Indigenous Knowledges are living, vibrant and dynamic; and
- that Indigenous Knowledges include existing and emerging items and knowledge.

4.4 Copyright compliance

The University requires Employees, Students and Visitors to comply with the *Copyright Act 1968 (*Cth). Copyright compliance is managed by the University in accordance with the University's *Copyright Procedure (under development)*.

5 References

Nil.

6 Schedules

This policy must be read in conjunction with its subordinate schedules as provided in the table below.

7 Policy Information

Accountable Officer	Vice-Chancellor
Responsible Officer	Deputy Vice-Chancellor (Academic and Research)
Policy Type	Governance Policy
Policy Suite	Intellectual Property Procedure Commercialisation of Intellectual Property Procedure
Subordinate Schedules	
Approved Date	13/12/2023
Effective Date	13/12/2023
Review Date	13/12/2028
Relevant Legislation	*Copyright Act 1968* *Designs Act 2003* *Financial Accountability Act 2009*

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	Information Privacy Act 2009 *Patents Act 1990* *Plant Breeder's Rights Act 1994* *Public Records Act 2023* *Public Sector Ethics Act 1994* *Right to Information Act 2009* *Trade Marks Act 1995*
Policy Exceptions	Policy Exceptions Register
Related Policies	Code of Conduct Policy Complaints Management Policy Conflict of Interest Policy Costing and Pricing Policy Fraud and Corruption Risk Management Policy ICT Information Management and Security Policy Research Code of Conduct Policy
Related Procedures	Costing and Pricing (Research) Procedure Conflict of Interest Procedure Research Data and Primary Materials Management Procedure Research Management Procedure
Related forms, publications and websites	AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research Access to biological resources in States and Territories Australian Code for the Responsible Conduct of Research Australian IP Toolkit for Collaboration Ethical guidelines for research with Aboriginal and Torres Strait Islander peoples

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	How to protect Indigenous Knowledge Indigenous Knowledge: Issues for protection and management Keeping research on track II (toolkit for applying the Ethical guidelines for research with Aboriginal and Torres Strait Islander peoples) National Statement on Ethical Conduct in Human Research Open Access and Creative Commons (UniSQ Library resources) FAIR Principles What is Open Access?
Definitions	**Terms defined in the Definitions Dictionary**
	Commercialisation The application, publication, development, use, assignment, licensing, sub-licensing, franchising, exploitation, sale or other utilisation of Intellectual Property for the purpose of directly or indirectly generating financial or other social or cultural gains. Commercialise and Commercialising have corresponding meanings. Intellectual Property The result of an individual's intellectual endeavours that is capable of being protected by legal rights. Examples include, but are not limited to: inventions and discoveries in relation to new products and processes that can be protected by a patent; Copyright in Teaching Materials; other works in which Copyright subsists including literary works (including computer programs), dramatic works, musical works, artistic works, films, sound recordings, broadcasts, published editions and certain types of performances; industrial designs, which protect the shape, configuration, pattern or ornamentation of a product, that is, what gives a product a unique appearance; plant breeders' rights, which protect varieties of plants and trees; trademarks, which protect the branding, reputation and goodwill of products and services; circuit layout rights, which protect the layout plans or designs of electronic components in integrated circuits, computer chips, or semi-conductors used in personal computers and computer-reliant equipment; and trade secrets and know-how, that is, knowledge about products, processes, and inventions and discoveries: prior to the time they are incorporated into a publication or become the subject of a patent or design application; or which are never made the subject of an application for Intellectual Property registration. University Members

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	Persons who include: Employees of the University whose conditions of employment are covered by the UniSQ Enterprise Agreement whether full time or fractional, continuing, fixed-term or casual, including senior Employees whose conditions of employment are covered by a written agreement or contract with the University; members of the University Council and University Committees; visiting, honorary and adjunct appointees; volunteers who contribute to University activities or who act on behalf of the University; and individuals who are granted access to University facilities or who are engaged in providing services to the University, such as contractors or consultants, where applicable.
	Definitions that relate to this policy only
	Aboriginal and Torres Strait Islander Any person who: • is of Aboriginal and Torres Strait Islander descent; • identifies as an Aboriginal and Torres Strait Islander, and; • is recognised by the Indigenous community in which they live as an Aboriginal and Torres Strait Islander. **Background Intellectual Property** Intellectual Property that existed prior to, or that is created contemporaneously with but separately from and independently of, a research, teaching or other activity for which it is made available. **Contractor** A third-party person or entity who enters into a contractual relationship with the University through which they supply goods or services (including consulting services) to the University. **Contributor** Any Employee, Student or Visitor other than a Creator who the Deputy Vice-Chancellor (Research & Innovation) has identified as a person who has substantially assisted with the development or Commercialisation of Intellectual Property that the University owns and Commercialises under the Commercialisation of Intellectual Property Procedure. **Copyright**

A right of protection in relation to literary, dramatic, musical or artistic works, and other works including, but not limited to, films, broadcasts, multimedia and computer programs. Copyright law in Australia is governed by the *Copyright Act 1968* (Cth).

Creator

An Employee, Student or Visitor who creates Intellectual Property that the University owns and Commercialises under the Commercialisation of Intellectual Property Procedure, and includes inventors of patentable subject matter, designers of industrial designs and authors of works and makers of other subject matter that is subject to Copyright.

Indigenous Knowledges

Indigenous Knowledges consist of:

- traditional knowledge - a living body of knowledge resulting from intellectual activity in a traditional context, which includes know-how, practices, skills, and innovations, and is not limited to any specific technical field, and may include agricultural, environmental, medicinal knowledge and cultural laws; and
- traditional cultural expressions - tangible and intangible forms in which traditional knowledge and culture are expressed, including music, dance, art, ceremonies, and which are typically transmitted from generation to generation, often forming part of the identity and heritage of an indigenous community.

Moral Rights

Has the meaning ascribed to it in the Copyright Act 1968 (Cth) and includes:

1. the right of attribution
2. the right against false attribution
3. the right of integrity.

Scholarly Work

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A Scholarly Work is:

- a work intended for academic publication, including but not limited to an article, book, essay, manuscript or manual; and
- a creative work, including but not limited to artistic works, literary works, dramatic works, musical works, films, photographs, sound recordings, broadcasts, published editions, performances and phonograms.

It does not include Teaching Materials, University administrative or operational material, or material expressly created by an Employee for the purposes of the University satisfying a contractual obligation to a third party, or which the University has directed or requested an Employee to create (for example materials required for the protection and Commercialisation of Intellectual Property).

Any Scholarly Work which may be considered to be both Teaching Materials and Scholarly Work will be treated as Teaching Materials for the purposes of this Policy.

Teaching Materials

Any material whether in electronic, written or any other form of media created by an Employee in the course of their employment for use in, or in connection with, a program, Course, pathway, short course, microcredential or professional development program offered or to be offered by the University or on behalf of the University (i.e., by an affiliated open learning or education agency).

University Intellectual Property

Intellectual Property owned by the University under the terms of this Policy, the Intellectual Property Procedure or otherwise by operation of law.

University Project

Any program of research administered by the University that has the potential to generate Intellectual Property and which may include a program:

- funded by an external organisation;
- funded by a specific allocation of University funds or resources

in excess of that which is ordinarily provided to the relevant University organisational unit;

- conducted by a team involving a Student or Visitor and at least one University Employee;
- where University Employees (including supervisors) contribute to the creation of the Intellectual Property;
- utilising or incorporating University Intellectual Property; or
- that is the subject of an agreement between the University and a third party.

University Resources

University Resources include, but are not limited to, University:

- Background Intellectual Property;
- premises;
- facilities;
- funds;
- services;
- equipment;
- paid leave;
- staff time; and
- support staff.

Visitor

A University Member who is:

- a visiting, honorary and adjunct appointees;
- a volunteer who contributes to University activities or who acts on behalf of the University; and

	• an individual who is granted access to University facilities.
Keywords	Intellectual property, ownership, Moral Rights, Copyright, patents, trademarks, Commercialisation
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