# Intellectual Property Procedure

## 1 Purpose

To provide clear direction in relation to the ownership, use and management of Intellectual Property and associated rights developed at or through the University and owned in accordance with the University's Intellectual Property Policy.

## 2 Scope

This Procedure applies to Employees, Students and Visitors.

## 3 Procedure Overview

This Procedure outlines the University's processes relating to:

- ownership of Intellectual Property (in conjunction with the University's Intellectual Property Policy);
- Indigenous Knowledges;
- Research Open Access;
- Moral Rights;
- Background Intellectual Property; and
- dispute resolution.

For information relating to the Commercialisation of Intellectual Property, please refer to the University's Commercialisation of Intellectual Property Procedure.

## 4 Procedures

### 4.1 Intellectual Property created by Employees

#### 4.1.1 Ownership

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

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Material, 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 may require an Employee to sign an agreement or a deed of assignment with the University if the University deems it necessary or desirable to formally record or confirm the University's ownership of Intellectual Property, including to enable patent applications to be made or to facilitate a University Project or Commercialisation of Intellectual Property.

### 4.1.2 Licence to Scholarly Work

An Employee who owns a Scholarly Work created in the course of their employment or created using University Resources grants 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.

### 4.1.3 Use of University Intellectual Property outside of employment

Where the University owns Intellectual Property created by an Employee (including Teaching Material) and the Employee wishes to use that Intellectual Property for purposes outside their employment with the University, the University reserves the right to grant the Creator a non-exclusive licence on conditions, or to not grant the Creator a licence, if it considers that the University's interests, including in relation to Commercialisation of the relevant Intellectual Property, would be adversely affected by such a grant. The decision to licence or not to licence such Intellectual Property will be made by the Deputy Vice-Chancellor (Research and Innovation), or by the Provost in the case of Teaching Material.

## 4.2 Intellectual Property created by Students

### 4.2.1 Ownership

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.

An assignment of Intellectual Property rights by a Student must not be made a condition of enrolment in the University.

### 4.2.2 Participation in University Projects

The University may require Students to assign their Intellectual Property rights to the University as a condition of the Student's participation in a University Project.

It is the responsibility of the supervisor of the Student and the person leading the University Project to ensure a Student does not start to contribute to a University Project until the Student has assigned the Intellectual Property to the University or the University (through the Deputy Vice-Chancellor (Research and Innovation)) has informed the supervisor or the person leading the University Project that an assignment is not required.

The University reserves the right to deny a Student participation in a University Project if the University Project requires an assignment of Intellectual Property to the University and the Student does not wish to assign their Intellectual Property or has already assigned their Intellectual Property to another party.

### 4.2.3 Assignment of Intellectual Property

Any assignment of Intellectual Property created by a Student 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.

If a Student assigns Intellectual Property rights, this will not prevent the Student from submitting a Thesis for examination or prevent them from completing the requirements of their award or degree.

The University, as part of any assignment of a Student's Intellectual Property rights, may impose reasonable confidentiality conditions on examination and restrictions on publication of the Student's thesis where required under an agreement with a third party or if necessary in order to allow time to put in place protections for any related Intellectual Property generated from a University Project. The University shall undertake reasonable steps to ensure that restrictions on publication are removed within 24 months of examination, unless the restriction needs to continue to comply with an agreement with a third party or if required in the process of applying for Intellectual Property protection.

### 4.2.4 Students who are Employees

If a Student is also an Employee, who undertakes studies and creates related Intellectual Property in the course of employment with the University, on direction of the University, or using

University Resources, the University, as the employer, will own that Intellectual Property, with the exception of the Copyright in the Student's Thesis.

## 4.3 Intellectual Property created by Visitors

### 4.3.1 Agreement with Visitor

The use of the Background Intellectual Property made available by a Visitor to the University, the use and protection of the University's Background Intellectual Property by the Visitor, and the creation of new Intellectual Property by a Visitor during their visit or appointment, must be addressed in a written agreement between the University and the Visitor (or the Visitor's employer) that is negotiated with the Office of the Deputy Vice-Chancellor (Research and Innovation) - or by the Provost, in the case of Teaching Material - prior to:

- the visit or commencement of appointment of the Visitor at the University;
- the Visitor commencing any teaching activity; or
- any involvement of the Visitor in a University Project.

Employees who are collaborating with or are responsible for supervision of a Visitor must ensure that the Visitor does not commence activities at the University including involvement in a University Project before such an agreement is put in place.

### 4.3.2 Assignment by Visitor

The University will typically require Visitors to assign rights in Intellectual Property created by the Visitor while at the University to the University where:

- the Visitor participates in a University Project;
- University Resources will be used by the Visitor;
- the Visitor's work may be used for developing Teaching Material, or delivering Courses, programs or training at the University;
- work is created by the Visitor in collaboration with University Employees; or
- the Visitor's work will be generated using or incorporating existing material or Background Intellectual Property owned by the University.

## 4.4 Intellectual Property created by Contractors

It is the responsibility of Employees to ensure that prior to engaging a Contractor for the delivery of good or services, an agreement appropriately protecting the University's interests in relation to Intellectual Property, is put in place . University Contract Templates for engaging Contractors are available for research-related goods and services from the Office of Research and for other goods and services from Contract Services. Contract Services and the Office of Research are responsible for negotiating the respective agreements on behalf of the University.

## 4.5 Indigenous Knowledges

The University aims to ensure that appropriate recognition, protection, and respect is given to Indigenous Knowledges and the traditional owners of Indigenous Knowledges.

Where the creation of Intellectual Property involves the use of Indigenous Knowledges, Employees, Students and Visitors need to ensure all reasonable steps are taken to consult with the relevant Aboriginal and Torres Strait Islander peoples and communities prior to the use of the Indigenous Knowledges. Any decisions taken by Employees, Students or Visitors on the use, protection, development, and Commercialisation of that Intellectual Property conforms to the AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research, the NHMRC Guidelines on Ethical conduct in research with Aboriginal and Torres Strait Islander Peoples and communities, and all other relevant legislative and ethical guidelines for Aboriginal and Torres Strait Islander Research.

Where Indigenous Knowledges are used at the University by Employees, Students or Visitors, a written agreement is usually required with the Traditional Owners. Issues addressed in such agreements include (but are not limited to):

- identification of the items of Indigenous Knowledges;
- consent to the use of the items of Indigenous Knowledges;
- who will own Intellectual Property rights in the Indigenous Knowledges (if any are applicable);
- how future decisions about the use of the Intellectual Property and the Indigenous Knowledges will be made; and
- how benefits from the Commercialisation of the Intellectual Property will be shared.

The University supports indigenous data sovereignty and governance principles. Data or information involving Aboriginal and Torres Strait Islander peoples and communities should be used in accordance with the Collective Benefit, Authority to Control, Responsibility, Ethics (CARE) Data Principles. For further information on the CARE Principles, please refer to the University's Research Data Management and Indigenous Data Governance Schedule.

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## 4.6 Research Open Access

The University supports the use and creation of Open Access content. Open Access allows others to revise, redistribute, repurpose, and share material through open licences.

For further information on how the University supports Open Access, please refer to the Research Data and Primary Materials Management Procedure, the Research Data Management and Indigenous Data Governance Schedule and informational material made available through the Library.

## 4.7 Moral Rights

The University acknowledges the Moral Rights of Employees, Students and Visitors. The University will take reasonable steps not to infringe Moral Rights in University Intellectual Property.

The University may require Employees, Students or Visitors to consent to infringements of their Moral Rights to allow the University or third parties to use Intellectual Property in ways that would otherwise infringe on those Moral Rights, including but not limited to circumstances where:

- the University is under a contractual obligation to a third party to do so;
- the University requires the consent to infringe Moral Rights in the course of applying for Intellectual Property protection; or
- it is otherwise necessary to give effect to the University's activities.

## 4.8 Use of Background Intellectual Property

### 4.8.1 Ownership

Nothing in this Procedure is intended to affect Background Intellectual Property owned by an Employee, Student or Visitor.

### 4.8.2 Licence to Background Intellectual Property owned by an Employee, Student or Visitor

Where an Employee, Student or Visitor makes available Background Intellectual Property owned by them or by a third party for a University activity (including a University Project), the Employee, Student or Visitor grants to the University (or must procure such grant from any third-party owner of Background Intellectual Property, as relevant) a perpetual, irrevocable, world-wide, royalty and fee-free, non-exclusive licence to use the required Background Intellectual Property for the activity.

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An Employee, Student or Visitor must not use Background Intellectual Property owned by them or by a third party for a University activity (including a University Project), unless a written licence as required under this section is in place.

### 4.8.3 Licence to Background Intellectual Property owned by the University

Where an activity (including a University Project) undertaken by an Employee, Student or Visitor with a third party requires use of University-owned Background Intellectual Property, this activity must not commence until a licence approved by the Deputy Vice-Chancellor (Research and Innovation) - or the Provost, for Teaching Material - is put in place. This is typically addressed in the agreements governing the funding and conduct of the activity.

## 4.9 Additional obligations

Employees, Students and Visitors dealing with Intellectual Property are expected to:

- maintain confidentiality for the Intellectual Property generated at the University, in the course of their employment, service or study with the University; and
- comply with the specific requirements of the Intellectual Property Policy and its pursuant Procedures, as well as other relevant UniSQ Policies and Procedures including the Code of Conduct Policy and Research Code of Conduct Policy.

All Employees, Students or Visitors who become aware of the unauthorised use of University Intellectual Property must promptly inform the Deputy Vice-Chancellor (Research and Innovation), or the Provost for Teaching Material, in writing and provide relevant details.

## 4.10 Deputy Vice-Chancellor (Research and Innovation) and Provost as attorney

A Creator will, as required by the University, complete all documentation or any other action that the University deems necessary for the use, protection and Commercialisation of Intellectual Property owned by the University, including to perfect any licences granted in favour of the University in this Procedure, the Intellectual Property Policy, or the Commercialisation of Intellectual Property Procedure. If a Creator fails to complete any such documentation or any other action that the University deems necessary, the Deputy Vice-Chancellor (Research and Innovation) - or for Teaching Material, the Provost - has the right to execute all such documents and do all such acts as the Creator's attorney. The Deputy Vice-Chancellor (Research and Innovation) or the Provost may exercise such power of attorney even if the University benefits from this power. However, this power of attorney may not be exercised in instances where failure by the Creator to complete documentation or undertake acts is a result of any genuine conflict as to ownership of the Intellectual Property, or where the relevant Intellectual Property is the subject of an ongoing dispute between the Creator and the University.

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### 4.11 Dispute resolution

An Employee, Student or Visitor who does not agree with a determination or action relating to the operation or subject matter of this Procedure should notify the Director, Research Partnerships in the Office of the Deputy Vice-Chancellor (Research and Innovation) in writing of the dispute. The Director will attempt to resolve the dispute within a period of 2 months from the date of notification. If a resolution is not reached the matter will be referred to the Deputy Vice-Chancellor (Research and Innovation) for resolution. The decision of the Deputy Vice-Chancellor (Research and Innovation) shall be final within the University. The parties to the dispute may not issue formal legal proceedings in respect of the dispute until the dispute resolution process described above is complete.

Nothing in this paragraph 4.11 will prevent any party to a dispute from making an application to a court seeking urgent interlocutory relief at any time before the dispute is resolved.

Any references in this paragraph 4.11 to the Deputy Vice-Chancellor (Research and Innovation) will be read as references to the Provost and any references to the Director, Research Partnerships will be read as references to the Director Library Services in the context of disputes relating to dealing with Teaching Material.

## 5 References

Nil.

## 6 Schedules

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

## 7 Procedure Information

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| **Accountable Officer** | Pro Vice-Chancellor (Research, Development and Commercialisation) |
| **Responsible Officer** | Director (Commercialisation and Partnerships) |
| **Policy Type** | University Procedure |
| **Policy Suite** | Intellectual Property Policy |
| **Subordinate Schedules** | |
| **Approved Date** | 2/1/2026 |
| **Effective Date** | 2/1/2026 |
| **Review Date** | 13/12/2028 |

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| **Relevant Legislation** | *Copyright Act 1968*<br><br>*Designs Act 2003*<br><br>*Financial Accountability Act 2009*<br><br>*Information Privacy Act 2009*<br><br>*Patents Act 1990*<br><br>*Plant Breeder's Rights Act 1994*<br><br>*Public Records Act 2023*<br><br>*Public Sector Ethics Act 1994*<br><br>*Right to Information Act 2009*<br><br>*Trade Marks Act 1995* |
| **Policy Exceptions** | Policy Exceptions Register |
| **Related Policies** | Code of Conduct Policy<br><br>Complaints Management Policy<br><br>Conflict of Interest Policy<br><br>Costing and Pricing Policy<br><br>Fraud and Corruption Risk Management Policy<br><br>ICT Information Management and Security Policy<br><br>Research Code of Conduct Policy |
| **Related Procedures** | Commercialisation of Intellectual Property Procedure<br><br>Conflict of Interest Procedure<br><br>Copyright Procedure (under development)<br><br>Costing and Pricing (Research) Procedure<br><br>Research Data and Primary Materials Management Procedure<br><br>Research Management Procedure |
| **Related forms,** | AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander |

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| **publications and websites** | Research<br><br>Access to biological resources in States and Territories<br><br>Australian Code for the Responsible Conduct of Research<br><br>Australian IP Toolkit for Collaboration<br><br>Ethical guidelines for research with Aboriginal and Torres Strait Islander peoples<br><br>How to protect Indigenous Knowledge<br><br>Indigenous Knowledge: Issues for protection and management<br><br>Keeping research on track II (toolkit for applying the Ethical guidelines for research with Aboriginal and Torres Strait Islander peoples)<br><br>National Statement on Ethical Conduct in Human Research<br><br>Open Access and Creative Commons (UniSQ Library resources)<br><br>FAIR Principles<br><br>What is Open Access? |
| **Definitions** | **Terms defined in the Definitions Dictionary** |
| | Commercialisation<br><br>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.<br><br>Intellectual Property<br><br>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 |

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| | 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.<br><br>University Members<br><br>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 procedure only** |
| | **Aboriginal and Torres Strait Islander**<br><br>Any person who:<br><br>• is of Aboriginal and Torres Strait Islander descent;<br><br>• identifies as an Aboriginal and Torres Strait Islander, and;<br><br>• is recognised by the Indigenous community in which they live as an Aboriginal and Torres Strait Islander.<br><br>**Background Intellectual Property**<br><br>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.<br><br>**Contractor**<br><br>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**

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

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| | • support staff.<br><br>**Visitor**<br><br>A University Member who is:<br><br>• a visiting, honorary and adjunct appointees;<br><br>• a volunteer who contributes to University activities or who acts on behalf of the University; and<br><br>• an individual who is granted access to University facilities. |
| **Keywords** | Intellectual property, ownership, Moral Rights, Copyright, patents, trademarks, Commercialisation |
| **Record No** | 23/212PL |

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