



INTELLECTUAL PROPERTY POLICY

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First Approved by:	University Council		
Custodian title & e-mail address:	Deputy Vice-Chancellor (Research and Innovation) dvcric@uow.edu.au		
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Responsible Division & Unit:	Research and Innovation Division, Innovation and Commercial Research Unit (ICRU)		
Supporting documents, procedures & forms:	Appointment of Visiting and Honorary Academics Policy Code of Practice: Responsible Conduct of Research Collaborative Delivery of a UOW Course Policy Commercial Research Policy Conflict of Interest Policy Copyright Policy Delegations of Authority Policy Fraud and Corruption Prevention Policy Joint and Dual Awards Policy Records Management Policy Secondary Employment Policy Standard on UOW Policy		
Relevant Legislation & External Documents:	AIATSIS Guidelines for Ethical Research 2012 Australia Council Indigenous Cultural Protocols 2007 Biodiversity Conservation Act 2016 (NSW) Convention Establishing the World Intellectual Property Organization 1967 Copyright Act 1968 (Cth) Designs Act 2003 (Cth) Environment Protection and Biodiversity Conservation Act 1999 Environment Protection and Biodiversity Conservation Regulations 2000 Heritage Act 1977 No 136 (NSW)		



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	Kimberley Land Council (KLC) Protocols Local Land Services Act 2013 (NSW) National Parks and Wildlife Act 1974 (NSW) National Principles of Intellectual Property Management for Publicly Funded Research Patents Act 1990 (Cth) Plant Breeders' Rights Act 1994 (Cth) Trade Marks Act 1995 (Cth) University of Wollongong Act 1989 (NSW)
Audience:	Public

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1 Purpose of Policy

1. This policy presented the definitions, principles and practices for the ownership and management of IP by UOW.

2 Definitions

Word/Term	Definition (with examples if required)
Affiliates	Includes people holding University of Wollongong Honorary Awards as conferred by the University Council, including awards of Emeritus Professor, Honorary Doctor and University Fellow; people appointed in accordance with the University's Appointment of Visiting and Honorary Academics Policy; people engaged by the University as agency staff, contractors, volunteers, visiting students, and work experience students.
Administration Material	Includes documentation, materials, processes, software developed for the purposes of UOW administration, including policies, procedures, guidelines, business plans and processes, legal documents, funding applications, reports, promotional and marketing materials, subject outlines, course outlines, course descriptions, and course handbook content.
Assessment Material	Includes assessment task descriptions, test scripts, quizzes, assessment marking criteria, assessment rubrics, student assessment work including exam answer papers that are developed for the purposes of planning, execution and marking of graded activity to foster learning and help Staff and Students to gauge levels of achievement.
Commercial Research	Research conducted under commercial agreements with other organisations such as government departments and agencies, non-government organisations, industry, and as a part of the University's participation in other research centres (e.g. Cooperative Research Centres). It does not include research conducted under Australian and International competitive grants schemes including Australian Research Council, National Health and Medical Research Council, grants registered on the Australian Competitive Grants Register or other grant schemes.
Creative Material IP	Original copyright material that is artistic in character, including paintings, sculptures, manuscripts, prose works (fiction and non-fiction), poetry, music, films, photographs, sound recordings, broadcasts, and dramatic works.
Creators	Persons who produce, invent, design, enhance, generate, discover, make, originate or otherwise bring into existence Intellectual Property.
Indigenous Cultural and Intellectual Property (ICIP)	Indigenous peoples' tangible and intangible cultural heritage as reflected in article 31 of the United Nations Declaration of the Rights of Indigenous Peoples. It includes: Indigenous Cultural Expression; Indigenous Biological Resources; and Indigenous



	Knowledge.
Indigenous Cultural Expression	Tangible and intangible forms in which Indigenous Knowledge and cultures are expressed, communicated or manifested. This includes but is not limited to: languages; art; stories; photographs, paintings, music, oral histories, games and films that express the collective heritage of the Indigenous clan or community from which it comes.
Indigenous Biological Resources	Genetic resources, organisms, flora, fauna, and seeds used and nurtured by Indigenous people throughout the generations.
Indigenous Knowledge	Understandings, beliefs, and traditions that have been transmitted from generation to generation and has cultural connections to the Indigenous community from which it came. Includes knowledge held by Indigenous people about how to cultivate biological resources, control populations, or otherwise engage in environmental management.
Intellectual Property (IP)	The property of the mind or proprietary knowledge, i.e. productive new ideas. This includes know how, registered and unregistered trade marks, copyright, patents, trade/business or company names, registered and registrable design rights, plant breeder's rights, circuit layouts and trade secrets, and all other intellectual property as defined by Article 2 of the Convention Establishing the World Intellectual Property Organisation, July 1967.
Moral Rights	Has the meaning given in the Copyright Act 1968. An author's right to: be identified as the author of a work; act against false attribution; object to derogatory treatment of their work.
Relevant Indigenous Peoples	Australia's Aboriginal and Torres Strait Islander people and in other countries the First Nation people, who are the custodians or who have authority to provide Free, Prior, Informed Consent for the use of ICIP and/or can negotiate IP ownership and benefit sharing arrangements. "Relevant" in this definition requires recognition and identification of the appropriate Indigenous Authority, being the decision-maker or decision-making entity that has cultural authority for the use or treatment of specific ICIP or IP. This may involve consultation with the local Aboriginal Land Council and/or individual Indigenous Knowledge holders, Indigenous organisations, Elders groups, and Traditional Owners groups.
Scholarly Material IP	The copyright in any material intended for academic publication produced by Staff, Students, and Affiliates based on their scholarship, learning or research, but does not include work that is a computer program.
Staff	All persons employed by the University including conjoint appointments, whether on continuing, permanent, fixed term, casual or cadet or traineeship basis.
Student	A person registered for a course at the University of Wollongong.



Teaching Material IP	<p>The IP in all material created by Staff members and Affiliates and used in teaching at UOW, whether the Staff member or Affiliate created such material before, during or outside of their UOW employment or affiliation. Examples include:</p> <p>lecture notes, tutorial and workshop materials;</p> <p>computer-generated or projector presentations: e.g. PowerPoint slides;</p> <p>photographs, images, sound recordings, video recordings, musical scores;</p> <p>related content made available in subject or course websites or learning platforms.</p> <p>Teaching Material IP does not include the IP in:</p> <p>Administration Material and Assessment Material;</p> <p>material created as a result of a research activity; or</p> <p>material created under the terms of any agreement between the University and a third party.</p>
University (UOW)	University of Wollongong
UOW Resources	Includes UOW IP, laboratories, facilities that UOW owns or has right of access to, funds, services, equipment, computer laboratories, media equipment, consumables, chemicals, staff time and other University provided services.

3 Application & Scope

1. This policy applies to all Staff, Students and Affiliates of the University

4 Policy Principles

1. The University operating under the University of Wollongong Act 1989 is committed to identifying, protecting, managing and developing intellectual property for the benefit of Staff, Students, Affiliates, and the community.
2. UOW is committed to engaging in the further development of IP by:
 - a. collaborating internally and externally to generate new knowledge through an outstanding research environment and an innovative teaching curriculum;
 - b. encouraging Staff, Students and Affiliates to develop innovative ideas, works, and inventions with material real-world impact;
 - c. promoting mutually beneficial interactions, exchanges and transfers of knowledge to the external community; and
 - d. encouraging the practical application of IP in the community including commercial uses.
3. In accordance with UOW's commitment, this policy and associated policies aim to facilitate:
 - a. mutual respect and collegiality, ethical practice and accountability;
 - b. fair and equitable distribution of proceeds of successful commercialisation of IP;
 - c. commitment of returns to support further research and teaching;



- d. maximum beneficial impact on industry and the community through effective partnership and the transfer of knowledge;
 - e. respect for confidentiality; and
 - f. efficient and economical administration.
4. This policy and associated policies aim to be consistent with the National Principles of Intellectual Property Management for Publicly Funded Research.

5 IP Created by Staff

1. UOW owns IP created by Staff in the course of or incidental to their employment with UOW, or created using UOW Resources, whether or not the Staff member's express duties include a duty to develop IP, including:
 - a. IP in Administration Material and Assessment Material;
 - b. IP created as a result of any research activity; and
 - c. IP created under agreements between UOW and third parties;

except as otherwise stated in this section or specified in a separate agreement between Staff and the University.

2. Staff own their Scholarly Material IP, Creative Material IP, and Teaching Material IP created in the course of their employment unless the University has specially commissioned the creation of the material, in which case, the University owns the IP.

6 IP Created by Affiliates

1. UOW owns IP created by Affiliates in the course of their affiliation with UOW or created using UOW Resources, including:
 - a. IP in Administration Material and Assessment Material;
 - b. IP created as a result of any research activity; and
 - c. IP created under agreements between UOW and third parties;

except as otherwise stated in this section or specified in a separate agreement between the Affiliate (or the Affiliate's employer) and the University.

2. To give effect to section 6.1, UOW may request as a condition of an Affiliate's participation in any teaching, research, or other activity, that the Affiliate (or the Affiliate's employer) enters into an agreement with UOW addressing IP ownership, licensing and use terms prior to commencement of that Affiliate's participation.
3. Upon request by UOW, Affiliates will execute in a timely manner all agreements and documentation reasonably necessary to give effect to the IP ownership, licensing and use provisions of this Policy.
4. Affiliates own their Scholarly Material IP, Creative Material IP, and Teaching Material IP created in the course of their affiliation with the University unless the University has specially commissioned the creation of the material, in which case, the University owns the IP.

7 Staff and Affiliates Bringing Pre-existing IP to UOW

1. UOW does not assert ownership over pre-existing IP.



2. Staff and Affiliates who bring pre-existing IP to UOW to be used in the course of their duties or otherwise, must comply with the notification and disclosure requirements set out in section 13.

8 IP Created by Students

1. Students own the IP created in their capacity as a Student during the course of their enrolment at UOW except as otherwise provided in this policy or specified in a separate agreement between the Student and the University.
2. UOW owns IP created by Students when they participate in an activity that:
 - a. builds upon pre-existing University IP; or
 - b. is carried out for or in conjunction with third parties who have entered into an agreement with UOW; or
 - c. is intended to be commercialised by or on behalf of UOW; or
 - d. is intended to support University commercial activities.
3. To give effect to section 8.2, UOW will request as a condition of a Student's participation in a relevant activity, or enrolment in a course of study, that the Student assigns their IP rights to UOW or agrees to other restrictions prior to commencement of the Student's participation or enrolment.
4. Where a Student creates IP in their capacity as a Staff member, section 5 of this policy will apply to IP created by the Student, in place of this section 8.
5. Where a Student creates IP in their capacity as an Affiliate, section 6 of this policy will apply to IP created by the Student in place of this section 8.
6. Despite section 8.3 above, a Student will retain ownership of the copyright subsisting in their thesis, and their Scholarly Material IP and Creative Material IP unless otherwise specified in a separate agreement between the Student and the University.
7. Where a Student is requested to enter into legal agreements under section 8.3 above, the Student's supervisor or the person in charge of the activity or course of study will:
 - a. provide the reason for the request and the conditional nature of the participation;
 - b. advise the Student to obtain their own independent legal advice;
 - c. provide a reasonable timeframe to obtain such independent legal advice; and
 - d. ensure the Student does not commence until all required agreements are executed.
8. UOW reserves the right to prevent a Student from participating in an activity or course of study where the Student chooses not to enter into required legal agreements under section 8.3 above. The Student and the Student's supervisor or the person in charge of the relevant activity or course of study will, without prejudice, attempt to develop an alternative activity or course of study for the Student.
9. A Student who does not assign IP to UOW upon request will, subject to section 8.10, not be prejudiced in submitting a thesis for examination, and/or being able to complete the requirements for the award of a degree.
10. Confidentiality requirements may require UOW to:
 - a. embargo some or all of a Student's report, publications, or thesis from public release;
or



- b. require external examiners to enter into a confidentiality agreement prior to accessing a Student's work.

9 IP Licensing and Usage

1. The use, development and licensing of University owned IP for the purposes of consulting, commercial research and commercialisation is governed by the Commercial Research Policy.
2. Staff and Affiliates grant to UOW a non-exclusive, royalty-free, irrevocable, perpetual, worldwide licence to use, reproduce, adapt, communicate, broadcast, perform, disseminate, exploit, sub-license and modify their Teaching Material IP for the purposes of the University. This licence is subject to any restrictions on the use of third-party IP where UOW is notified in accordance with section 13.2.
3. Staff and Affiliates may request a non-exclusive, non-transferrable, revokable, royalty-free licence to use UOW-owned IP for their own research and teaching purposes after their employment or affiliation with the University has ended.
4. The University will make best efforts to grant a licence under section 9.3 subject to any restrictions specified in agreements between UOW and third parties.

10 Indigenous Cultural and Intellectual Property

1. UOW respects and recognises the ICIP rights of Australia's Aboriginal and Torres Strait Islander peoples and those of First Nations people throughout the world.
2. Staff, Students, and Affiliates will comply with ICIP laws, protocols, standards, policies, and guidelines.
3. Staff, Students, and Affiliates will respect Indigenous cultural protocols on sacred and secret knowledge.
4. Staff, Students, and Affiliates will follow consultation protocols and obtain consent from Relevant Indigenous Peoples prior to accessing, sampling, recording, or otherwise using ICIP.
5. UOW will take all reasonable steps to negotiate with Relevant Indigenous Peoples benefit sharing arrangements (monetary and non-monetary), IP ownership, and commercialisation rights for IP developed by the University and derived from ICIP.

11 Rights

1. UOW (without limiting other rights UOW may have) has the right to:
 - a. identify, protect, manage, utilise, commercialise, and otherwise exploit IP to support its strategic direction and aims;
 - b. benefit from a financial interest in IP where it has been developed at UOW or has made use of UOW Resources;
 - c. receive revenue from research commercialisation and distribute an appropriate portion of the returns to Creators;
 - d. request that Creators execute IP assignment and other legal agreements necessary to facilitate research and teaching activities;



- e. restrict the participation of Staff, Students or Affiliates in research, teaching, and educational activities with UOW where the person does not enter into required legal agreements; and
 - f. prevent unauthorised use of UOW Resources or misrepresentations of UOW endorsement.
2. The above rights are subject to UOW's obligations to Staff, Students, Affiliates and other persons set out at law, in an agreement, or under this or any other University policies and procedures.
3. Staff, Students and Affiliates who are Creators of UOW owned IP have the right to:
 - a. receive a portion of the revenue from research commercialisation in accordance with UOW policies and procedures;
 - b. if they are Staff or Affiliates, negotiate for reasonable use of IP owned by UOW in accordance with section 9.3; and
 - c. seek independent legal advice prior to executing, at UOW's request, any agreements relating to IP and be provided with reasonable timeframes to seek such advice.

12 Moral Rights

1. UOW recognises Creators' Moral Rights in accordance with the Copyright Act 1968.
2. UOW will use its reasonable efforts to respect and promote the Moral Rights of Creators.

13 Notification and Protection

1. Staff, Students and Affiliates will notify the University in a timely manner where new IP or improvements to pre-existing IP are created and the University has:
 - a. a claim of ownership in the relevant IP either full or partial; or
 - b. a contractual obligation with a third-party requiring notification of creation of new IP or improvement of pre-existing IP
2. Staff, Students and Affiliates will notify the University in a timely manner where IP sought to be used by the University is owned by third parties, either in full or in part.
3. Staff and Affiliates will notify the University in a timely manner of any pre-existing IP being brought to UOW for use in teaching, research (including commercial research), scholarship, or commercialisation purposes, and in each case, the Staff or Affiliate will be required to provide evidence of the ownership or rights to use such IP.
4. Staff, Students and Affiliates must protect the University's interests in relation to UOW-owned IP and will comply with University requirements for management of IP including:
 - a. ensuring that there is no public disclosure of IP via any means including publication, conference talks, press releases, or social media for such time as is required to adequately protect the IP. This may include delaying publications to allow time to obtain appropriate IP protection;
 - b. disclosing to the University any other IP that may affect protection of the IP;
 - c. assisting, as requested by the University, in the IP protection process;
 - d. assisting the University to identify all possible Creators of the IP; and



- e. not dealing with or acting inconsistently with the University's rights in IP owned by it.
5. Staff developing and improving IP will comply with the Records Management Policy for their record keeping of IP-related activities.

14 Open Access IP

1. UOW may offer its UOW-owned IP under a royalty-free licence to facilitate the usage and further development of the IP by industry and the community for economic and social good and to promote knowledge sharing and transfer, where such licence is permitted under any arrangements with third parties.
2. In providing IP under a royalty-free licence, UOW recognises that:
 - a. IP has inherent value;
 - b. not all IP has a significant strategic or commercialisation value to UOW; and
 - c. UOW has limited resources to pursue protection and commercialisation of IP.
3. In all cases where a royalty-free licence of UOW-owned IP is considered under section 14.1, UOW will seek to negotiate the specific terms of the applicable licence with the expected licensee prior to any IP transfer.

15 Roles and Responsibilities

1. The Deputy Vice Chancellor (Research and Innovation) is responsible for providing direction on the application of this policy in relation to research activities.
2. The Deputy Vice Chancellor (Education) and Deputy Vice Chancellor (Global Strategy) are responsible for providing direction on the application of this policy in relation to teaching activities.
3. Executive Deans, Executive Directors, and Associate Deans are responsible for supporting the application of this policy in relation to the Consulting, Commercial research, and Commercialisation activities within their Faculty or Institute.
4. The Research and Innovation Division communicates, implements, and supports the application of this policy within the University in conjunction with Faculties and other support units.
5. The Innovation and Commercial Research Unit manages all IP arising from research activities that has strategic or commercial value to UOW.
6. Staff, Student, and Affiliates are responsible for understanding and applying this policy to their activities under which IP may be created.

16 Amendment

1. This policy may be amended at any time in accordance with the Standard on UOW Policy. In each case:
 - a. all IP developed on or after an effective date of such amendment shall be governed by the policy as amended; and
 - b. all IP developed prior to the effective date of an amendment shall be governed by the policy prior to such amendment.



17 Disputes

1. Any person who has concerns about the manner in which this policy is interpreted or applied must notify and provide all relevant details to: (a) Innovation and Commercial Research Unit; and (b) the Complaints Management Centre.
2. After notification of a dispute, UOW may retain an appropriate adviser or direct the dispute to appropriate areas of the University to better inform itself about the dispute and its subject matter.
3. The Innovation and Commercial Research Unit or Complaints Management Centre will attempt to resolve the dispute through informal mechanisms or alternative dispute resolution, including but not limited to mediation.
4. If the matter remains unresolved after informal mechanisms or alternative dispute resolution has been attempted, the Senior Manager, Complaints will refer the matter to the Deputy Vice-Chancellor (Research) or Deputy Vice-Chancellor (Education) or Senior Deputy Vice-Chancellor, as appropriate to the context of the dispute.
5. The Deputy Vice-Chancellor (Research) or Deputy Vice-Chancellor (Education) or Senior Deputy Vice-Chancellor, as appropriate, may, by negotiation with the other party or parties in dispute, appoint an appropriate independent expert to determine the dispute. Following receipt of the expert assessment, the Deputy Vice-Chancellor (Research) or Deputy Vice-Chancellor (Education) or Senior Deputy Vice-Chancellor, as appropriate, will communicate the outcome to all affected parties,
6. If any party involved in a dispute is dissatisfied with the outcome, the person may advise the Vice-Chancellor in writing. The final response of the Vice-Chancellor to the written notice of dispute will conclude the matter.

18 Breaches of Policy

1. Any breach of this policy by Staff member may be considered a breach of the University Code of Conduct and may be subject to disciplinary action in accordance with UOW's processes for addressing staff conduct issues, including the relevant Enterprise Agreement.
2. Any breach of the policy by a Student may be considered a breach of the Student Conduct Rules and may be subject to disciplinary action.



19 Version Control and Change History

Version Control	Date Effective	Approved By	Amendment
1	June 2006	University Council	New Policy
2	August 2007	N/A	Minor modification to include Fellow, Visiting Student and Volunteer Assignment of IP Policy in IP Policy Framework; and to change Manager of Innovation and Commercial Development (MICD) to Manager of Innovation and Commercialisation (MIC).
3	6 May 2009	Vice-Principal (Administration)	Migrated to UOW Policy Template as per Policy Directory Refresh
4	9 March 2010	Vice-Principal (Administration)	Future review date identified in accordance with Standard on UOW Policy
5	18 August 2010	N/A	Policy Custodian position title and email address changed to reflect new role
6	1 March 2011	N/A	Policy Custodian position title and email address changed
7	21 June 2011	Vice-Principal (Administration)	Updated to reflect change of name from Wollongong College Australia to UOW College
8	16 January 2012	Deputy Vice-Chancellor (Research)	Updated to reflect name change from Commercial Research Unit to Innovation and Commercial Research.
9	27 January 2012	Vice-Principal (Administration)	Updated definitions of Administration or Course Material and related changes to the Definitions.
10	8 February 2013	Deputy Vice-Chancellor (Research)	Updated supporting documents and references to include new IP Commercialisation procedures and guidelines.
11	6 September 2016	Deputy Vice-Chancellor (Research & Innovation)	Updated policy Custodian and Division responsible to reflect structural change.
12	22 August 2017	Deputy Vice-Chancellor (Research & Innovation)	Updated to reflect UOW Policy Template, UOW definitions, Division titles and supporting documents with links.



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13	16 April 2020	Vice-Chancellor	Substantially updated to clarify IP ownership, use, protection, and notification.