



CONTROLLED ENTITY POLICY

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Audience:	Staff, Controlled entities		

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1 Purpose of Policy

1. This policy sets out the framework for the governance and oversight of University of Wollongong (UOW) controlled entities to ensure compliance with the *University of Wollongong Act 1989* (NSW) (the UOW Act) and other relevant legislation and higher education governance standards.
2. This Policy:
 - a. describes the principles which UOW applies to the establishment, operations and oversight of controlled entities. These principles are derived primarily from the UOW Act and the Voluntary Code of Best Practice for the Governance of Australian Public Universities (2018).
 - b. provides the operational framework in which the principles are given effect.
 - c. assists controlled entities in meeting their stated objectives and operational requirements.
3. The implementation of this Policy will facilitate good governance and assist the University Council (the Council) to meet its responsibilities under the UOW Act in relation to controlled entities. It clarifies the interface between the University and controlled entities, including the requirements attaching to transactions between the University and a controlled entity, the role of controlled entities within the University's legislative compliance framework and risk management framework, and reporting by controlled entities to the University.

2 Definitions

Word/Term	Definition (with examples if required)
Applicable UOW Senior Executive Member	<p>The UOW Senior Executive consists of the following members:</p> <ul style="list-style-type: none"> • Vice-Chancellor • Senior and Deputy Vice-Chancellor (Innovation, Enterprise and External Relations) • Deputy Vice-Chancellor (Academic and Student Life) • Deputy Vice-Chancellor (Research and Sustainable Futures) • Deputy Vice-Chancellor (Strategy and Assurance) • UOW Global Enterprises Group CEO & Managing Director • Chief Operating Officer • Executive Deans <p>The applicable UOW Senior Executive Member is the representative officer designated by the Vice-Chancellor to act as the main channel of communication between the Board of the Controlled Entity and the Vice-Chancellor and UOW Senior Executive.</p>
Commercial Activity	<p>Commercial Activities are defined under the <i>UOW Act</i> (section 21A) as:</p> <ol style="list-style-type: none"> (a) any activity engaged in by or on behalf of the University in the exercise of commercial functions of the University, and (b) any other activity comprising the promotion of, establishment of or participation in any partnership, trust, company or other incorporated body, or joint venture, by or on behalf of the University, that is for the time being declared by the Guidelines to be a University commercial activity. <p>Under the <i>UOW Act</i> (section 6(3)(a)) commercial functions comprise “<i>commercial exploitation or development, for the University’s benefit, of any facility, resource or property of the University or in which the University has a right or interest (including, for example, study, research, knowledge and intellectual property and the practical application of study, research, knowledge and intellectual property), whether alone or with others,</i>”</p>



Controlled Entity	Controlled Entities are those entities over which UOW has control, as defined in section 16A of the <i>University of Wollongong Act 1989</i> (as amended) and section 2.2(1) of the <i>Government Sector Finance Act 2018</i> .
Delegate	Person or group of persons set out in the Delegations of Authority Policy with delegated authority to perform specific functions.
Higher Education Award	A higher education award is defined in section 5 of the <i>Tertiary Education Quality and Standards Agency Act 2011</i> and includes a qualification covered by level 5, 6, 7, 8, 9 or 10 of the Australian Qualifications Framework other than an award offered or conferred for the completion of a vocational education and training course.
Holding Company	Has the meaning given in section 9 of the <i>Corporations Act 2001</i> (Cth).
Independent Director	A director who is free of any interest, position or relationship that might influence, or reasonably be perceived to influence, in a material respect their capacity to bring an independent judgement to bear on issues before the Board. Members of Council or staff or students of the University are not considered to be independent for the purposes of Controlled Entity boards.
Proposer	The staff member putting forward a proposal to establish a Controlled Entity. The Proposer must be at the level of Executive Dean or above.
Subsidiary	Has the meaning given in section 46 of the <i>Corporations Act 2001</i> (Cth).

3 Application & Scope - Exclusions or Special Conditions

1. This Policy covers the lifespan of UOW controlled entities, from their establishment to winding up or disposal, and includes controlled entity reporting, monitoring and transactions.
2. This Policy applies to new controlled entities and existing controlled entities of UOW as at the approval date that meet the definition of a controlled entity (see Definitions above), whether in Australia or overseas.
3. If there is any inconsistency between this policy and any agreement relating to a controlled entity, advice should be sought from the Office of General Counsel or the Governance Unit.
4. Except to the extent that a contrary intention is expressed, this policy binds the University, controlled entities, and their employees.
5. Where a controlled entity is a Subsidiary within a holding company structure, the Subsidiary is taken to have complied with this Policy if its Holding Company has satisfied the requirements of this Policy on behalf of the Subsidiary.

4 Policy Principles

1. UOW may establish controlled entities, both within Australia and offshore, to conduct activities within the scope of UOW's statutory functions, where there are sound business, education or research reasons for doing so.
2. Under the UOW Act, the University Council (Council) is responsible for the monitoring and oversight of the functions, governance and activities of UOW controlled entities.
3. To enable Council to discharge its responsibilities, there must be appropriate governance, financial and operational frameworks in place for controlled entities.



4. UOW will ensure that Council meets its responsibilities relating to controlled entities under:
 - a. the UOW Act;
 - b. other applicable legislation (in the case of offshore entities, this includes applicable foreign legislation); and
 - c. the Voluntary Code of Best Practice for the Governance of Australian Public Universities.
5. As far as possible, and having regard to the size, objects, nature and complexity of the controlled entity in question, UOW will apply a consistent approach to controlled entities, including in relation to:
 - a. the establishment or acquisition, oversight and winding up of controlled entities
 - b. the content to be included in the constitution of a controlled entity
 - c. the governance requirements applicable to controlled entities and the boards of controlled entities
 - d. the powers and responsibilities of controlled entities
 - e. transactions and arrangements between UOW and controlled entities (such as supply of services, transfer of staff or secondments) and
 - f. reporting responsibilities of controlled entities.
6. When considering the establishment of a controlled entity, the University must take into account how decisions will be made, particularly if a majority of the directors on the controlled entity board are University staff.

5 What is a Controlled Entity?

1. Controlled entities are those entities over which UOW has control. UOW has control over an entity when it is exposed, or has rights, to variable returns from its involvement with the entity and has the ability to affect those returns through its power over the entity. Power over the entity exists when UOW has existing rights to direct the relevant activities of the entity. The specific facts and circumstances of each entity must be considered. The following are examples of circumstances in which an entity will be considered to be a controlled entity of the University:
 - 1.1. Where the University owns, either directly or indirectly, more than half of the voting shares in the entity unless it can be clearly demonstrated that such ownership does not constitute control (for example, because of contractual restrictions which UOW has agreed to in regard to the exercise of its voting rights).
 - 1.2. Where, although the University does not own more than half of the voting shares in the entity, it nonetheless has power:
 - a. over the voting rights attaching to more than half of the voting shares in the entity by virtue of an agreement with other shareholders
 - b. to determine the financial and operating policies of the entity
 - c. to appoint or remove the majority of the Board of Directors and control of the entity is by that Board.
2. Other circumstances may be relevant to the issue of control and where there is doubt the Chief Operating Officer shall determine whether the entity is controlled by the University, based on advice from the General Counsel, the Chief Governance Officer and Secretary to Council and Director of



Financial Operations that takes into account relevant matters including the view of the Risk and Assurance Office.

6 Establishing a Controlled Entity

1. The approval of Council is required to establish a controlled entity. The process described in this section must be followed.
2. Staff must not commit the University to any contracts or other legally binding commitments before Council grants approval to establish the controlled entity, except for the engagement of legal and tax advice through the Office of General Counsel or the Financial Services Division (as applicable), in relation to a proposal.
3. When acquiring an interest in an existing entity where the acquisition would give the University a controlling interest in the entity, whether in Australia or overseas, advice regarding the application of this Policy must be sought from the Chief Operating Officer who will consult with the Office of General Counsel for legal advice as necessary.

Reasons for Establishing a Controlled Entity

4. Generally, the reasons for which UOW may wish to establish a controlled entity include the following:
 - a. To commercially make use of a particular facility, resource or research of the University
 - b. To establish an appropriate operational environment for a particular function of the University
 - c. To support the University in managing the risks associated with a particular project or activity
 - d. To comply with regulatory requirements, such as where UOW is undertaking an activity in another jurisdiction and is required to have a legal presence in that jurisdiction.
5. If these or similar reasons are not met, a controlled entity will not be established.

Process for Establishing a Controlled Entity

Preliminary Proposal

6. When a new controlled entity is proposed, the Proposer (see Definitions) will prepare a brief written proposal with a request for in principle approval to proceed with the controlled entity business case. The proposal must address, at a minimum, points a), c), g), h) and n) of Appendix A: Checklist of business case items required to consider the establishment of a controlled entity.
7. If the Vice-Chancellor and the Chief Operating Officer provide in principle approval of the proposal, the proposer will prepare a detailed written business case.

Business Case

8. The proposer must prepare a detailed written business case addressing each point set out in Appendix A and arrange a briefing session for the reviewers. The business case and all supporting documentation (e.g. draft constitution, business plan, initial budget and cashflow forecast) will be reviewed by the following staff, who will provide feedback based on their expertise:
 - a. Director, Financial Operations (or nominee), and
 - b. Chief Risk and Assurance Officer (or nominee), and
 - c. Chief Governance Officer & Council Secretary (or nominee), and
 - d. General Counsel (or nominee)



9. Depending on the core subject matter, the proposal will also be reviewed by one or more appropriate members of the senior executive (e.g., Deputy Vice-Chancellor, Research and Sustainable Futures (or nominee) for research and enterprise proposals).
10. The business case and comments from the reviewers will then be submitted to the Vice-Chancellor
11. Where the Vice-Chancellor supports the establishment of the controlled entity, the business case will be submitted via the Finance and Infrastructure Committee to Council for approval.

7 Joint Venture Agreements

1. Where the controlled entity is a joint venture between the University and one or more other parties, the joint venture agreement should be consistent with the UOW's statutory obligations and the requirements of this Policy. If any departure from these requirements are thought to be necessary for commercial reasons, advice from the Office of General Counsel must be obtained.
2. At all stages of the proposal, evaluation and approval process, UOW staff and Council members must ensure that their decisions and actions are not affected or influenced by actual, perceived or potential conflicts of interest. Conflicts of interest must be disclosed and managed in accordance with the [Conflict of Interest Policy](#).

8 The Constitution of a wholly owned Controlled Entity

1. The constitution of a wholly owned controlled entity established after the effective date of this Policy (new controlled entity) must:
 - a. not authorise the controlled entity to exercise a function or engage in an activity that the University itself cannot exercise or engage in;
 - b. be consistent with the principles set out in this Policy, including a provision which expressly authorises a Director of the controlled entity to act in the best interests of UOW (as permitted by section 187 of the *Corporations Act*), unless departures are specifically approved by the appropriate reviewer (see Section 6); and
 - c. be subject to any applicable legal requirements for offshore controlled entities.
2. Where the entity is an offshore entity, the constitution must be reviewed by a legal practitioner in the relevant jurisdiction to ensure that local legal requirements are satisfied.
3. In the case of wholly owned controlled entities existing at the effective date of this Policy (existing controlled entities), the applicable UOW Senior Executive Member appointed by the Vice Chancellor is responsible for:
 - a. identifying any inconsistencies between the controlled entity's constitution and the principles set out in this Policy
 - b. obtaining advice from the Office of General Counsel on the inconsistencies, and
 - c. deciding, based on the legal advice, whether changes need to be made to the controlled entity's constitution to align with the principles set out in this Policy.

9 The Board of a Controlled Entity

1. The Board of a controlled entity must:
 - a. meet all eligibility requirements for Directors under the *Corporations Act (2001)* (Cth) and any other applicable laws, including, in the case of an offshore Controlled Entity, any applicable foreign law;



- b. normally include one or more Independent Directors (see Definitions).
 - i. Where the proposed composition of the Board of a new controlled entity does not meet this requirement, the rationale for the proposed composition of the Board must be explained in advance as part of the business case (see Appendix A).
 - ii. In the case of existing controlled entities, where the Board does not include one or more independent directors, a rationale for the composition of the Board must be provided by the applicable UOW Senior Executive Member to the Chief Governance Officer & Council Secretary for inclusion in the annual assessment of the University's compliance with the Voluntary Code of Best Practice for the Governance of Australian Public Universities (2018) which is presented to Council. The rationale must address how the existing Board composition aligns to the current and emerging business needs of the controlled entity.
 - iii. Independent Directors should be appointed for a specified term not exceeding 4 years (ideally 3 years), with possibility of reappointment to further specified terms not exceeding 12 years (ideally 9 years) in total.
 - c. possess the expertise and experience necessary to provide proper stewardship, control and good governance of the controlled entity.
 - d. be of an appropriate size relative to the size, nature, strategic objectives and risks of the business carried on by the controlled entity, and with a minimum of three directors.
2. The Vice-Chancellor must be consulted prior to the nomination of any appointed director of a controlled entity.

10 Obligations of a Board of a Controlled Entity

1. The Board of a controlled entity must, or where a controlled entity has subsidiaries, the board of the holding company must for the controlled entity and its subsidiaries:
 - a. adopt and evaluate its own governance principles and practices (for example, UOW Act and the Voluntary Code of Best Practice for the Governance of Australian Public Universities 2018 (as amended from time to time));
 - b. develop and review at appropriate intervals a strategic plan containing strategic priorities consistent with UOW's objects and functions and achievable and measurable performance targets and objectives;
 - c. ensure development of an annual business plan to reflect and align with the strategic plan for the controlled entity;
 - d. regularly assess its own performance and consider the training and development needs of Board members;
 - e. ensure that its decision-making is transparent and ethical, including through adoption of appropriate processes governing disclosure and management of conflicts of interest;
 - f. establish its own Register of Delegations or Delegations Policy;
 - g. properly manage the resources and assets of the controlled entity, manage expenditure within budget, ensure that the controlled entity can meet ongoing financial obligations and remains solvent at all times, including where applicable, complying with any financial support agreements with the University;



- h. meet regularly (at least twice a year, and in every case, so as to meet the controlled entity's statutory responsibilities);
- i. ensure the effective management of risk and safety, including development in consultation with the University's Chief Risk and Assurance Officer and Risk, Audit and Compliance Committee, as appropriate, of a risk management plan which is appropriate for the controlled entity and congruent with UOW's risk management framework; if appropriate developing a business continuity and crisis management plan, and ensuring regular reporting and reviews in respect of these plans;
- j. ensure that the Vice-Chancellor and the leadership team has opportunity to review and comment on proposed strategic and risk management plans before they are finalised, in accordance with the reporting requirements of this Policy (see Section 12 and Appendix B);
- k. ensure that an independent review is conducted at least every five years to ensure alignment with this policy and UOW's values, strategies and objectives;
- l. ensure directors fees are not paid to:
 - i. directors who are UOW staff members
 - ii. external directors, unless permitted under the controlled entity's Constitution and applicable laws, and the payment has been approved by the Vice-Chancellor; and,
- m. ensure that the NSW Audit Office is appointed as its auditor (for controlled entities within NSW).

11 Management of a Controlled Entity

- 1. A controlled entity must, or where a controlled entity has subsidiaries, the Board of the holding company must for the controlled entity and its Subsidiaries:
 - a. establish systems of governance, internal controls, management accountability and risk management which are appropriate for its business, align with the strategic, operational and risk management plans of the controlled entity and comply with all applicable legal requirements
 - b. keep proper books and records in accordance with the *Government Sector Audit Act 1983* (NSW), *the Corporations Act (2001)* (Cth) and other applicable legislation and make such books and records available to UOW's internal and external auditors as and when required
 - c. meet the requirements for reporting to Council, specified Council Committees and UOW officers, as set out in this Policy
 - d. maintain levels of remuneration for staff that are reasonable and clearly linked to organisational and individual performance in accordance with appropriate enterprise agreements or recognised industrial awards.
 - e. ensure that its resources are managed efficiently and sustainably in accordance with annual budgets and business plans so as to remain solvent at all times and to achieve its strategic objectives and priorities
 - f. establish appropriate systems and processes to monitor and manage compliance with legislative obligations, including obligations attaching to any statutory licence or permit, and provide evidence and assurance of effective compliance management to UOW's Chief Risk and Assurance Officer and Risk, Audit and Compliance Committee, as appropriate.



- g. establish appropriate systems and processes to manage conflicts of interest that are consistent with UOW's Conflict of Interest Policy
- h. work with UOW to ensure and maintain appropriate and adequate insurance coverage either under UOW insurance policies or, in consultation with the Director, Financial Operations to to make and maintain alternative insurance arrangements.
- i. ,maintain appropriate workers compensation arrangements.
- j. ensure compliance with all UOW Policies and Procedures that apply to the controlled entity and subject to any applicable University policies and procedures, ensure that the controlled entity has appropriate and necessary policies and procedures in place to maintain controls and otherwise, manage risk, ensure compliance with legal obligations and align with UOW strategic priorities.
 - i. As a starting point, applicable UOW policies and procedures will apply to controlled entities unless a controlled Entity has in place its own policies and procedures on the relevant subject matter.
 - ii. For a controlled entity operating a business that supplies goods and services to customers and which does not have its own policies and procedures, the Board must consider whether the relevant UOW policies and procedures require modification so as to be appropriate for the controlled entity's circumstances.
 - iii. Upon establishment, a controlled entity must confirm if any UOW policies and procedures will not apply.
- k. work with UOW to ensure that if it provides services or grants rights to the University, or receives services from or is granted rights by the University, those arrangements are appropriately documented (for example, permission will be required from the relevant delegated authority for the use of the University's name and other logos and branding and any other IP such as course materials, a service level agreement will be required where UOW provides services, including access to IT, HR and Financial services and systems, a sub-lease may be required if the controlled entity will be using premises that the University leases from a third party). Advice from the Office of General Counsel should be obtained as to the appropriate form of documentation.

Provision of Educational Services by a Controlled Entity

- 2. A controlled entity that provides educational services in collaboration with the University or on the University's behalf to offer a Higher Education Award or Pathway Program, for example under a third-party arrangement within the meaning of the Higher Education Standards Framework, must:
 - a. Appoint, at the recommendation of the Vice-Chancellor, an appropriate member of the UOW Senior Executive to its board or academic governance committee;
 - b. establish an academic governance committee accountable to the controlled entity's board and with members including academic and professional staff of UOW with knowledge, skills and experience in third party educational delivery;
 - c. comply with the relevant requirements of Collaborative Delivery of a UOW Course Policy regarding the delivery of educational services to a standard equivalent to delivery by UOW, including processes for approval of delivery, monitoring and review of educational delivery, quality assurance of delivery and other relevant matters.
- 3. A controlled entity that provides educational services in collaboration with UOW or on UOW's behalf to offer a CRICOS registered and/or UOW badged non-award offering, for example under a



third-party arrangement, must comply with the relevant requirements of the Collaborative Delivery of a UOW Course Policy regarding the delivery of educational services, including processes for approval of delivery, monitoring and review of educational delivery, quality assurance of delivery and other relevant matters

12 Reporting Requirements

Notifications to the University

1. A controlled entity must formally notify the Vice Chancellor, Applicable UOW Senior Executive Member and the Chief Risk and Assurance Officer in writing immediately (and in all cases no later than 72 hours after) it becomes aware of circumstances or events with the potential to adversely impact UOW's standing and reputation and/or the viability (including solvency) of the controlled entity and that have a high probability of occurring.

Reporting Protocol

2. A controlled entity must comply with the requirements of the Reporting Protocol set out in Appendix B and discussed in the following sections. Council may amend the Reporting Protocol at its discretion and independently of the Policy Review process.

Business Plan

3. A controlled entity must submit an annual business plan that reflects and aligns with the strategic plan for the controlled entity and provide periodic updates in accordance with the Reporting Protocol (see Appendix B).

Financial Reporting

4. The controlled entity will be required to comply with the management and statutory reporting requirements communicated by UOW Financial Services to fulfil internal and external financial reporting obligations. This is in addition to any reporting requirements applicable to an offshore controlled entity in its own jurisdiction.
5. In consultation with the Director, Financial Operations, ensure the timing of financial reporting aligns with UOW financial reporting and budget setting timeframes as far as possible.
6. Ensure any matter involving the payment of taxes and other levies is discussed with UOW Financial Services and it approved by Chief Operating Officer.

Legislative Compliance Certification

7. The Board of each controlled entity will be required to annually certify to the UOW Risk, Audit and Compliance Committee that in respect of the reporting period the entity:
 - a. has systems and processes (and associated training and materials) in place to achieve compliance with all legislative obligations that apply to it (including compliance with obligations imposed by licences, permits and authorities granted under legislation) within each jurisdiction in which it operates; and
 - b. is not aware of any breach of any such obligations or, if there have been any breaches, that in each case the appropriate remediation actions have been taken and the breach has been resolved.



Commercial Activities Reporting

8. A controlled entity will be required to comply with requirements prescribed by the University for the conduct of “commercial activities” (as defined by the UOW Act), including reporting requirements.

Other reporting

9. Council or the Risk, Audit and Compliance Committee may request additional reports to those specified in the Reporting Protocol from time to time.

13 Voluntary Winding Up of a Controlled Entity

1. Winding-up a solvent controlled entity is a process whereby the company's outstanding business is finalised, its assets are liquidated, and outstanding debts are paid.
 - a. Winding-up of a solvent controlled entity may occur in two ways:
 - i. Voluntarily by the members/shareholders of the company in accordance with applicable law; or
 - ii. Through an application to the applicable companies registry (ASIC in Australia) to have the company deregistered if the company is solvent but does not meet the requirements for voluntary winding up (e.g., it has assets worth \$1000 or more).
 - b. Any decision to wind up a solvent controlled entity must be made by the Council, in accordance with applicable law, based on legal, tax, and other relevant advice. The Vice-Chancellor must be notified of any intention to wind up the controlled entity and the reasons for it.
 - c. A proposal must be developed that sets out the reasons for the proposed winding up and includes all relevant financial and other information to enable Council to make an informed decision.
 - d. Further relevant information is available from the Australian Securities and Investments Commission.
 - e. For overseas controlled entities, any winding up must be in accordance with the requirements in the relevant jurisdiction.

14 Disposal of a Controlled Entity

1. The disposal sale of a controlled entity must be approved by Council. Disposal includes sale, transfer or surrender, with or without consideration.
2. A proposal will be produced that sets out the reasons for the proposed disposal, including all relevant financial and other information, to enable the Vice-Chancellor to make a recommendation to Council regarding the disposal.

15 Roles & Responsibilities

1. The **University Council** is responsible for the approval of the establishment, winding up and disposing of controlled entities and is required to monitor and oversee of the functions, governance and activities of UOW Controlled Entities in accordance with relevant legislation and with the Voluntary Code of Best Practice for the Governance of Australian Public Universities (2018).
2. The **Risk, Audit and Compliance Committee** monitors controlled entities by ensuring effective risk and safety management through an appropriate risk management plan, reviews evidence and



- assurance of effective legislative compliance management and receives and reviews risk and financial reports in accordance with the Reporting Protocol at Appendix B.
3. The **Vice-Chancellor** and **UOW Senior Executive** are responsible for reviewing business cases for new controlled entities, proposed strategic and risk management plans for controlled entities and proposals for the wind-up or disposal of controlled entities.
 4. The **Applicable UOW Senior Executive Member** is responsible for being the main channel of communication between the Board of those controlled entities, the Vice-Chancellor and the UOW Senior Executive.
 5. The **Vice-Chancellor** is responsible for oversight of processes relating to the establishment, winding up and disposal of Controlled Entities and, specifically, will approve any remuneration requests for controlled entity board members.
 6. The **Chief Operating Officer** is responsible for determining whether an entity is a controlled entity for receiving preliminary proposals and business cases for new controlled entities (with the Vice-Chancellor) and providing in principle approval before submitting full proposals to the Vice-Chancellor and UOW Senior Executive and the Council.
 7. The **Chief Governance Officer and Secretary to Council** is responsible for providing advice to the Chief Operating Officer as to whether an entity is a controlled entity and for ensuring controlled entity assurance information is included in the Council's annual assessment of the University's compliance with the Voluntary Code of Best Practice for the Governance of Australian Public Universities (2018).
 8. The **Chief Risk and Assurance Officer** is responsible for providing advice in relation to controlled entity risk management plans and processes and receiving and reviewing reports from controlled entities in their portfolio areas regarding circumstances or events with the potential to adversely impact UOW's standing and reputation and/or the viability (including solvency) of the controlled entity and that have a high probability of occurring.
 9. The **Director, Financial Operations** is responsible for providing advice to the Chief Operating Officer about whether an entity is a controlled entity, reviewing and advising UOW on the financial aspects of proposals to establish, wind-up or dispose of a controlled entity and for advising controlled entities in relation to insurance provisions and financial reporting.
 10. The **Office of General Counsel** is responsible for providing legal advice to the University regarding the establishment, operation, winding up and disposal of UOW controlled entities.
 11. All **UOW staff members** are responsible for complying with this policy.

16 Version Control and Change History

Version Control	Date Effective	Approved By	Amendment
1	14 April 2023	University Council	First Approval



Appendix A

Checklist of business case items required to consider establishing a Controlled Entity

1. A business case to support the establishment of a controlled entity must address the following points:
 - a. How it would align strategically with UOW's values, objectives and strategic priorities, and proposed KPIs for the controlled entity for years one, two and three.
 - b. The proposed name of the controlled entity, measures taken to ensure the name is legally available for UOW and details of brand positioning.
 - c. Why it is proposed to establish a controlled entity rather than the University itself conducting the business or using an alternative operating structure (for example, an existing controlled entity, an unincorporated joint venture or other contractual arrangement)
 - d. The proposed Constitution of the controlled entity, as well as the proposed Board membership (including the Directors' expertise, experience, and affiliations) and terms of office
 - e. Where the proposed board does not include any independent directors (see Definitions), an explanation as to why there is not at least one proposed independent director (consistent with the requirements of this Policy)
 - f. Details of any proposed directors' fees, if applicable
 - g. An identification of the benefits and risks to the University in establishing the controlled entity and assessment of risks in accordance with the UOW Risk Management Framework and the Commercial Activities Guidelines, including whether the necessary controls and mitigants to risks are available, affordable and able to be implemented
 - h. The principal commercial and financial assumptions, including start-up costs/initial investment and any non-financial contribution by UOW to the controlled entity
 - i. Financial forecast for the three years following the establishment or acquisition of the Controlled Entity - this should also include a detailed cash flow forecast which includes purchase costs, capital investment, start-up costs and any initial operating losses to enable an evaluation of the investment required as part of the proposal and the controlled entity's financing needs and information about the proposed employment status of staff of the entity
 - j. Where the controlled entity will be an offshore entity, details of offshore compliance assurance processes and tax treatment
 - k. Any other relevant issues applicable to the particular proposed controlled entity, including potential impact(s) on reputation and brand, students, staff, and compliance requirements including health and safety, licensing and accreditation
 - l. How the controlled entity will identify and manage conflicts of interest in accordance with the Conflict of Interest Policy, for example, by means of a disclosure process.
 - m. The proposed duration of the controlled entity (i.e., is it intended to operate for a limited time or will it be ongoing).
 - n. Any legal and/or tax advice regarding the establishment of the controlled entity. Where the proposal relates to:
 - i. a proposed offshore entity, the sponsor must obtain legal and tax advice in the relevant country
 - ii. a proposed entity in Australia, legal advice must be obtained via the Office of General Counsel.



Appendix B

Appendix B: Reporting Protocol

Controlled entities are required to comply with the following Reporting Protocol unless Council or its Delegate determine that specific controlled entities will be subject to a modified Reporting Protocol, considering the size, operations and risks relevant to the controlled entity:

Time frame	What is required	Notes
Annually	Business Plan for next financial year and updated objectives and KPIs to Council	
Quarterly	Quarterly Report against the Business Plan to Council	See Section 12 above
Quarterly	Controlled Entity risk committee minutes to be provided to the UOW Risk, Audit and Compliance Committee	Risk Management Framework
Annually	Controlled Entity risk committee report to the UOW Risk, Audit and Compliance Committee including legislative compliance attestation	
Annually	Financial Reporting (including audited accounts) to Council via Risk, Audit and Compliance Committee	
As Required	Commercial Activities Reporting to the Applicable Senior Executive Member	
As Required	Immediate notification to the Applicable Senior Executive Member and Chief Risk and Assurance Officer of circumstances or events with the potential to adversely impact UOW's standing and reputation and/or the viability (including solvency) of the Controlled Entity with reporting through to the Risk, Audit and Compliance Committee and Council	See Section 12 above