# INTELLECTUAL PROPERTY (IP) POLICY

<table>
<thead>
<tr>
<th>Date first approved:</th>
<th>Date of effect:</th>
<th>Date last amended:</th>
<th>Date of Next Review:</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 June 2006</td>
<td>23 June 2006</td>
<td>(refer to Version Control Table) 22 August 2017</td>
<td>Currently under review</td>
</tr>
</tbody>
</table>

**First Approved by:** University Council

**Custodian title & e-mail address:** Deputy Vice-Chancellor (Research and Innovation)
Judy_Raper@uow.edu.au

**Author:** Senior Manager, Innovation and Commercial Research

**Responsible Division & Unit:** Innovation and Commercial Research, Research and Innovation Division (RaID)

**Supporting documents, procedures & forms of this policy:**
- Copyright Policy
- Fellow, Volunteer and Visiting Student Assignment of Intellectual Property (IP) Guidelines
- Fellow, Volunteer and Visiting Student Assignment of Intellectual Property (IP) Policy
- Grievance Policy
- Intellectual Property (IP) Commercialisation Plan Guidelines
- Intellectual Property (IP) Commercialisation Report Guidelines
- Intellectual Property (IP) Commercialisation Revenue Guidelines
- Intellectual Property (IP) Commercialisation Revenue Policy
- Intellectual Property (IP) Disclosure Form
- Intellectual Property (IP) Guidelines (includes Intellectual Property (IP) Notification Form
- Intellectual Property (IP) Review Committee Guidelines
- Intellectual Property (IP) Student Assignment of IP Guidelines
- Intellectual Property (IP) Student Assignment of IP Policy
- Open Access Intellectual Property (IP) Guidelines
- Records Management Policy

**Relevant Legislation & External Documents:**
- AV-CC Ownership of Intellectual Property in Universities
- Circuit Layouts Act 1989
| AV-CC Ownership of Intellectual Property in Universities |
| Circuit Layouts Act 1989 |
| Copyright Act 1968 |
| Designs Act 2003 |
| National Principles of Intellectual Property Management for Publicly Funded Research |
| Patents Act 1990 |
| Plant Breeder’s Rights Act 1994 |
| Trade Marks Act 1995 |
| University of Wollongong Act 1989 |

**Audience:** Public

Submit your feedback on this policy document using the Policy Feedback Facility.
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1 Purpose of Policy

1. This policy applies to all Staff Members and Students (undergraduate and postgraduate) of the University of Wollongong (UOW). It may also apply to other persons by agreement. This policy provides guidance on the approach taken by UOW in relation to Intellectual Property (IP), including its ownership, protection and exploitation. It is also intended that this policy will guide UOW’s interactions with research collaborators, such as funding bodies, other research institutions and industry partners.

2. This policy is consistent with the National Principles of Intellectual Property Management for Publicly Funded Research and has been guided by the Australian Vice-Chancellors’ Committee publication “AV-CC Ownership of Intellectual Property in Universities”. A set of explanatory Guidelines accompanies this policy.

3. This policy, along with the Commercialisation Revenue Policy, Student Assignment of Intellectual Property Policy and Fellow, Volunteer and Visiting Student Assignment of IP Policy, form UOW’s intellectual property framework.

2 Definitions

1. References to the singular include the plural and references to the plural include the singular.

<table>
<thead>
<tr>
<th>Word/Term</th>
<th>Definition (with examples if required)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration</td>
<td>Any material documentation, process or software in any format that has been developed for the purposes of UOW administration, performance evaluation, marketing, and legal services, including but not limited to:</td>
</tr>
<tr>
<td>Material</td>
<td>· policies, procedures, guidelines business plans, contracts, funding applications, reports, promotional brochures, business processes;</td>
</tr>
<tr>
<td></td>
<td>· subject outlines or course outlines relating to approved courses and subjects</td>
</tr>
<tr>
<td></td>
<td>· examination documents, material, documentation, processes or software created by general staff in the course of their employment</td>
</tr>
<tr>
<td></td>
<td>This material does not include Creative Material, Scholarly Material or Teaching Material.</td>
</tr>
<tr>
<td>Affiliates</td>
<td>UOW Fellows, Volunteers, Visiting Researcher, Visiting Students</td>
</tr>
<tr>
<td>Commercial Activity</td>
<td>An activity that involves the provision of goods and services with financial, commercial and/or industrial aspects. Situations that have no financial transactions may still be considered as a commercial activity for insurance, liability and risk assessment purposes. Determination is via a judgement call based on the nature of the activity and the parties involved.</td>
</tr>
<tr>
<td>Commercialise or</td>
<td>The process or activity of introducing novel products, process, or services into the market. An economic or societal gain is expected from the commercialisation of UOW generated IP. The activity will require a substantial investment of time and resources.</td>
</tr>
<tr>
<td>Commercialisation</td>
<td></td>
</tr>
</tbody>
</table>

Hardcopies of this document are considered uncontrolled please refer to the UOW website or intranet for the latest version.
| **Commercialisation Expectation** | Where UOW has an expectation that it will manage Commercialisation of the IP. UOW will not have an expectation to commercialise IP that is solely developed by a Student and is not subject to a contract with an external organisation and does not form part of a larger project where UOW does have a Commercialisation Expectation and does not involve pre-existing IP owned or licensed to UOW. |
| **Commissioned Work** | A work, in which Copyright subsists, that UOW specifically engages a Staff Member to create outside the scope of their employee’s duties. |
| **Contributors** | Persons that substantially contribute to the commercialisation of IP but are not creators or inventors. |
| **Copyright** | Has the meaning ascribed as per the Copyright Act 1968. |
| **Creative Material** | Includes paintings, sculptures, manuscripts, prose works (fiction and non-fiction), poetry, music, production, performances, oral work, or other creative works in whatever format, or combinations thereof but does not include Administration Material, Scholarly Material or Teaching Material. |
| **Creators** | Persons who produce, invent, design, enhance, generate, discover, make, originate or otherwise bring into existence IP. |
| **Education Purposes** | Used for the purpose of teaching and learning and does not mean for commercialisation purposes |
| **Exceptional Use of UOW Resources** | Use of UOW resources, including laboratories, funds, services, equipment, computer laboratories, media equipment, consumables, chemicals, staff time and support staff, which are in excess of those normally used or available to a person as part of their role at UOW. |
| **Exploitable Intellectual Property** | Intellectual property for which Intellectual Property Rights can be obtained and provided to other parties under legal contract. |
| **Indigenous Knowledge** | Refers to traditional knowledge and traditional cultural expressions of Indigenous peoples, which includes stories, dance, languages, symbols, crafts, cosmology, medicinal and environmental knowledge. |
| **ICR** | Innovation and Commercial Research Unit. |
| **IP** | Any original product of the creator’s mind or intellect, commonly developed through research or creative efforts (e.g. inventions; literary and artistic works; designs; and symbols, names and images used in commerce) as defined by Article 2 of the Convention Establishing the World Intellectual Property Organisation, July 1967. |
| **Intellectual Property Protection (IPP)** | Processing of developing exploitable IP which includes but is not limited to, definition of IP, determination of the creators, registering trademarks, patent prosecution, defining trade secrets, manuals, software, and other confidential.
material.
<table>
<thead>
<tr>
<th>Intellectual Property Rights (IPR)</th>
<th>Protections provided to the creators of IP under common and statutory law. This includes trademarks, copyright, patents, industrial design rights, and in some jurisdictions, trade secrets.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inventors</td>
<td>A subset of creators. Persons that contribute directly to the claims of a patent. The inventors and their relative contribution to the patent can change as a result of the patent prosecution process.</td>
</tr>
</tbody>
</table>
| License, Option, Assignment (LOA) | A legal contract that specifies:  
  - a license to use IP from the owner;  
  - an assignment of the IP from current owner to new owner;  
  - a time limited option to decide to license; or  
  - seek assignment of the IP. |
| Moral Rights                      | The Copyright Act 1968 recognises three types of moral rights:  
  - an author’s right to be identified as the author of a work;  
  - the right of an author to take action against false attribution; and  
  - an author’s right to object to derogatory treatment of her or his work that prejudicially affects their honour or reputation. |
<p>| Nett Revenue                      | Revenue from which all allowable and agreed expenses, overheads have been deducted. |
| Open Access Intellectual Property | Intellectual property that is owned by UOW provided under agreement for minimal cost e.g. No fees or royalties, in return for meeting agreed objectives to bring the IP to market within a specified timeframe and with appropriate acknowledgement to UOW. |
| Patent Prosecution                | The process of obtaining a patent and includes all interactions between the legal representatives of the IPR holders and the patent offices in which patent protection is sought. |
| Research Purposes                 | Use in research activity and does not include use for Commercialisation. |
| Revenue Distribution Agreement    | The specification of how the nett revenue received from UOW Commercial Activities, Commercial Research, and Commercialisation via LOAs is distributed between UOW Administration, Faculty, Staff, Students, Affiliates, and others. |
| Salaried Fellow                   | Fellows that are paid by UOW and are considered to be Staff Members |
| Scholarly Material                | Includes any copyright 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, Administration Material, Teaching Material or Creative Material. |</p>
<table>
<thead>
<tr>
<th><strong>Staff Member</strong></th>
<th>All people employed by the University including conjoint appointments, whether on continuing, permanent, fixed term, casual or cadet or traineeship basis.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Student</strong></td>
<td>A person registered for a course at the University of Wollongong.</td>
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</tbody>
</table>
| **Teaching Material** | Any copyright material intended for the purposes of teaching and education at UOW produced by Staff and Affiliates including but not limited to:  
  - Lecture notes made available to students;  
  - Computer-generated or projector presentation ie. PowerPoint presentations;  
  - Assignments, tutorial problems and solutions;  
  - Photographs, images, sound recordings, video recordings, musical scores; or  
  - Related content made available in subject or course websites or learning platforms.  
  This does not include Administration Material, Creative Material or Scholarly Material. |
| **Visiting Student** | A student who undertakes part of their research or training at UOW but who is not registered at UOW. |
| **Volunteer**    | A person who is not a Fellow, Visiting Student, Staff Member or Student of UOW but is working on a UOW project in a voluntary capacity. An example of a volunteer is someone who is undertaking unpaid work experience at UOW or is doing an internship at UOW. A collaborating colleague from another University or research institution is not a Volunteer. |
| **UOW**          | The University of Wollongong.                                                                                                    |
| **UOW Fellows (Fellows)** | Honorary and Visiting Fellows appointed by UOW to non-salaried, full-time or fractional positions. These can be titled “Associate Fellow”, “Fellow”, “Senior Fellow”, “Principal Fellow”, “Professorial Fellow”, “Visiting Fellow”, or “Research Fellow” who are not Visiting Students or Volunteers and includes Visiting Academics, Honorary Academics and Honorary Clinical Academics as defined in the Appointment of Visiting and Honorary Academics Policy. |
| **UOW Stakeholders** | Executive Management including Vice- Chancellor, Deputy Vice-Chancellors; and Faculty Management including Executive Deans, Associate Deans, Financial and Research Managers, Heads of School, and Research Directors. |
4 Application & Scope

1. UOW’s vision is “to advance our international reputation as an outstanding research and teaching University distinguished by excellence, leadership and innovation in the quality of our research, in Student learning and achievement and in engagement with our communities.”

2. In accordance with UOW’s vision, IP developed by UOW researchers should benefit:
   2.1 the wider community, in terms of technology transfer and engagement;
   2.2 UOW itself, in terms of its own reputation (distinguishing UOW through innovation and excellence in research outcomes);
   2.3 individual researchers, including Students, in terms of career advancement and achievement; and
   2.4 all three of the above, through potential financial returns from Commercialisation of IP.

3. Since UOW provides an environment that:
   3.1 encourages researchers to develop innovative ideas and
   3.2 supports Commercialisation of these ideas
UOW wishes to share in the benefits arising from Commercialisation of IP developed by UOW researchers.

4. UOW’s share in any financial gains from research Commercialisation will be re-invested in future generations of UOW researchers. This policy is intended to provide a personal incentive and reward for UOW researchers who have developed IP with commercial value. This policy also addresses IP that may have reputational or other value, rather than commercial value.

5 Ownership of Intellectual Property (Other than Teaching Material, Creative Material and Scholarly Material)

1. The law is that an employer owns the IP created by an employee in their course of employment. Therefore, in the absence of any agreement to the contrary signed by an authorised delegate of UOW, UOW will own any IP created by Staff Members in their course of employment at UOW (other than Teaching Material, Creative Material and Scholarly Material, which are dealt with separately in this policy).

2. UOW will ask Students to assign their IP to UOW, in the circumstances outlined in UOW’s Student Assignment of Intellectual Property (IP) Policy.

3. Creators will have the right to use the IP for Research Purposes.

6 Ownership of Copyright in Teaching Material

1. In the absence of any agreement to the contrary signed by the Creator and an authorised delegate of UOW, the Creator will own the Copyright subsisting in their Teaching Material.

2. Each Staff Member, by virtue of their employment and this Policy, grants to UOW, for use and dissemination in the delivery of UOW courses and degrees, a non-exclusive, royalty-free, perpetual licence to use Teaching Materials that are:
2.1 brought with the Staff Member upon employment commencing at UOW and used in the
course of their employment at UOW; or

2.2 developed during the course of the Staff Member’s employment at UOW.

3. In its use of Teaching Material, UOW will consider the reputation of the Creators. UOW will
use its best endeavours to consult the creators on updates, the appropriateness of continued use
of material, and attribution of material so used in UOW course and subject delivery.

4. Each Staff Member retains Copyright in the Teaching Material. Staff Members may freely
grant licenses to others subject to the non-exclusive license to UOW.

5. Each Staff Member may also, if the Staff Member so chooses, assign Copyright. Any such
assignment will operate subject to the non-exclusive license to UOW.

7 Ownership of Copyright in Commissioned Works

1. Where UOW engages a Staff Member to create a Commissioned Work:

   1.1 to the extent to which the Commissioned Work reproduced Teaching Material, Section 6
   (Ownership of Copyright in Teaching Material) applies;

   1.2 to the extent to which Commissioned Work reproduced Creative Material or Scholarly
   Material, Section 9 (Ownership of Creative Material and Copyright in Scholarly
   Material) applies; and

   1.3 to the extent to which the Commissioned Work contains new work, the Copyright in the
   new work vests in UOW.

8 Ownership of Administration or Course Material

1. UOW will own any Administration of Course Material developed by Staff Members during
their course of employment at UOW.

9 Ownership of Creative Material and Copyright in Scholarly Material

1. In the absence of any agreement to the contrary signed by the Staff Member or Student and an
authorised delegate of UOW, Staff Members and Students will retain ownership of Creative
Material and the Copyright in Scholarly Material that they create in their course of
employment or enrolment at UOW.

10 Moral Rights

1. UOW recognises the Moral Rights of the Creators of IP in accordance with the Copyright Act,
1968 (Commonwealth). UOW will use its reasonable efforts to assist authors in asserting their
Moral Rights, which are personal rather than proprietary in nature and as such cannot be sold,
licensed or assigned.
11 Assignment of Intellectual Property

1. Staff Members will execute, in a timely manner, all assignments of IP necessary to give effect to the ownership provisions set out above.

2. UOW supervisors electing to supervise a Student on a project that is likely to have Commercialisation Expectations or is subject to a contract with an external organisation, must ensure that their designated Faculty Commercialisation Manager (CM) has negotiated a Student Deed of Assignment and/or Confidentiality Agreement with the Student before the Student commences work on the project. If the Student chooses not to sign a Student Deed of Assignment and/or Confidentiality Agreement for that project, the project will not be available to that Student and the Student will then be free to choose another project without prejudice.

3. Student assignment of IP is dealt with separately in the Student Assignment of Intellectual Property (IP) Policy.

12 Notification of Intellectual Property

1. To enable UOW to comply with the National Principles of Intellectual Property Management for Publicly Funded Research and to also successfully Commercialise IP, Staff Members and Students should avoid premature disclosure of research results and should notify UOW of new IP development. Staff Members and Students should complete an IP Notification Form to advise UOW that IP with potential commercial value has been developed (Attachment 1 to the Intellectual Property Guidelines). The IP Notification Form should be submitted to the relevant Faculty CM as soon as IP with potential commercial value is developed.

2. Sometimes, it may be important to protect IP that will not have commercial value. In such cases, the Creator should notify the relevant Faculty CM of the new IP before completing an IP Notification Form and their Faculty CM will advise if it is necessary or not to complete an IP Notification Form.

13 Commercialisation of Intellectual Property

1. After receiving the IP Notification Form, UOW will determine whether it wishes to protect and/or commercially exploit the IP. While this takes place, Creators must take all reasonable steps to protect that IP by avoiding public disclosure, such as publication or presentation (including submission of journal or conference abstracts).

2. UOW will consider the Creator’s interests in publishing Scholarly Works as well as the wider obligation of disseminating research findings, while also ensuring that IP with commercial value is protected.

3. The Creators will have the opportunity to participate in the IP Protection and Commercialisation process. Participation may include:

   3.1 early disclosure of new technologies to UOW;
   3.2 not making any external disclosures and delaying publication or presentation until a patent is filed;
   3.3 assisting UOW Commercialisation staff and patent attorneys to draft and lodge patents;
   3.4 undertaking further research and development to provide the information necessary to complete final patent filing;
3.5 disclosing collaborative links with other IP holders and identifying potential restrictions to their research activities that may result from Commercialisation deals (eg. arising from licenses to companies that are competitors to existing collaborators);

3.6 advising on their overall research strategy and any impacts that Commercialisation may have on this;

3.7 assisting UOW Commercialisation staff to understand the technical aspects of the discovery;

3.8 assisting UOW Commercialisation staff to present the technology to potential investors or licensees;

3.9 agreeing to undertake further research, if funded, to support the licensee’s or spin-out company’s activities; and

3.10 disclosure of any other issues that may be of concern or interest in regards to Commercialisation.

4. Within three months of receiving an IP Notification Form, UOW will advise the Creators whether:

   a) it has decided to Commercialise the IP;

   b) it has decided not to Commercialise the IP; or

   c) needs further time to evaluate the commercial prospects and undertake further due diligence (regular updates on progress regarding a decision will then be made via the relevant Faculty CM).

5. In situations where complex commercial or technical assessment and due diligence is required, UOW may take up to eighteen months to make a decision on whether or not to Commercialise.

6. UOW will consider any external issues, such as proposed publication deadlines and the progress of competing researchers, when determining how and when IP should be protected.

7. Where UOW decides not to proceed with the protection or Commercialisation of IP, or if a decision is made to cease commercialising at a later stage, UOW will allow the Creators the opportunity to seek funding and commercial partners, provided that the Creators have fully disclosed the IP and cooperated with UOW during UOW’s evaluation of the IP. This will not, however, affect UOW’s right to seek a share, which will be determined on a case-by-case basis by the Commercialisation Revenue Committee (described in UOW’s Commercialisation Revenue Policy), of nett commercialisation revenue from any such Commercialisation by the Creators.

8. Where UOW decides not to proceed with a patent application, it will use its reasonable efforts to provide early notice of this decision to the Creators so that they may have the opportunity to continue patent protection at their own costs. Wherever possible, UOW will provide three months notice of its intention not to continue with a patent and during this period will continue to pay ongoing patent application costs in patent jurisdictions already entered. However, this is limited to ongoing payments and does not extend to initial national phase entry costs for each patent jurisdiction or initial filing costs for a complete specification.

9. Obligations for Staff Members to sign forms, execute agreements, assist in patent processes and keep information confidential will extend beyond their period of employment.
14 Sharing the Financial Benefits of Commercialisation

1. UOW wishes to encourage innovation by rewarding the Creators of IP with a share in the nett commercialisation revenue as follows:
   1.1 50% to UOW; and
   1.2 50% to the Creators.

2. Specific revenue sharing provisions are detailed in UOW’s Commercialisation Revenue Policy.

15 Dispute Resolution

1. If a dispute arises about how to interpret or apply this Policy, a grievance may be notified according to the procedures set out in UOW’s Grievance Resolution Procedures.

2. Where a Staff Member or a Student is unable to reach agreement with UOW in regards to the Commercialisation (other than ownership and revenue sharing provisions which are dealt with in the Commercialisation Revenue Policy) or protection of IP, they may refer their grievance to the Deputy Vice-Chancellor (Research and Innovation) or to an officer appointed by the Deputy Vice-Chancellor (Research and Innovation) for that purpose. That officer will attempt to resolve the dispute by mediation within a period of three months. Either party may request that an external mediator, acceptable to both parties, be involved in the dispute resolution at this stage. In the event of a continuing grievance, the matter will be determined by an independent expert or independent panel of experts nominated by the Deputy Vice-Chancellor (Research and Innovation) and Chaired by the Deputy Vice-Chancellor (Research and Innovation) or their representative.

3. All matters associated with the resolution of disputes for Staff Members and Students will be held confidential.

16 Communication

1. It is the responsibility of the ICR Unit to develop and review the communication strategy for this policy.

17 Roles & Responsibilities

1. It is the responsibility of the CMs to ensure that the requirements of this policy are followed when assessing and commercialising IP.

2. It is the responsibility of the ICR Unit to use its reasonable efforts to assist authors in asserting their Moral Rights in any contracts with third parties.

3. It is the responsibility of Staff Members and Students (where relevant) to avoid premature disclosure of research results and to notify their Faculty CM of new IP development. It is also the responsibility of Staff Members and Students (where relevant) to cooperatively participate in signing any documents, forms, or agreements that are required to assist in patent or other IP protection processes and to keep information confidential for the period required in order to adequately protect the IP.
## Version Control and Change History

<table>
<thead>
<tr>
<th>Version Control</th>
<th>Date Effective</th>
<th>Approved By</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>June 2006</td>
<td>University Council</td>
<td>New Policy</td>
</tr>
<tr>
<td>2</td>
<td>August 2007</td>
<td>N/A</td>
<td>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).</td>
</tr>
<tr>
<td>3</td>
<td>6 May 2009</td>
<td>Vice-Principal (Administration)</td>
<td>Migrated to UOW Policy Template as per Policy Directory Refresh</td>
</tr>
<tr>
<td>4</td>
<td>9 March 2010</td>
<td>Vice-Principal (Administration)</td>
<td>Future review date identified in accordance with Standard on UOW Policy</td>
</tr>
<tr>
<td>5</td>
<td>18 August 2010</td>
<td>N/A</td>
<td>Policy Custodian position title and email address changed to reflect new role</td>
</tr>
<tr>
<td>6</td>
<td>1 March 2011</td>
<td>N/A</td>
<td>Policy Custodian position title and email address changed</td>
</tr>
<tr>
<td>7</td>
<td>21 June 2011</td>
<td>Vice-Principal (Administration)</td>
<td>Updated to reflect change of name from Wollongong College Australia to UOW College</td>
</tr>
<tr>
<td>8</td>
<td>16 January 2012</td>
<td>Deputy Vice-Chancellor (Research)</td>
<td>Updated to reflect name change from Commercial Research Unit to Innovation and Commercial Research</td>
</tr>
<tr>
<td>9</td>
<td>27 January 2012</td>
<td>Vice-Principal (Administration)</td>
<td>Updated definitions of Administration or Course Material and related changes to the definitions</td>
</tr>
<tr>
<td>10</td>
<td>8 February 2013</td>
<td>Deputy Vice-Chancellor (Research)</td>
<td>Updated supporting documents and references to include new IP Commercialisation procedures and guidelines</td>
</tr>
<tr>
<td>11</td>
<td>6 September 3026</td>
<td>Deputy Vice-Chancellor (Research and Innovation)</td>
<td>Updated policy Custodian and Division responsible to reflect structural change</td>
</tr>
<tr>
<td>12</td>
<td>22 August 2017</td>
<td>Deputy Vice-Chancellor (Research &amp; Innovation)</td>
<td>Updated to reflect UOW Policy Template, UOW definitions, Division titles and supporting documents with links.</td>
</tr>
</tbody>
</table>