

Intellectual Property Policy and Procedure

1. Purpose

The intent or purpose of this policy and procedure is to:

- clarify the ownership and use rights in respect of intellectual property that is created in the course of the Institute’s activities by staff, students and visiting academics;
- encourage an environment in which teaching, research and scholarship can flourish;
- support the dissemination of knowledge and ideas; and
- maximise the benefits of commercialisation of the results of Institute research and innovation.

2. Scope

This policy and procedure applies to all Institute staff, visiting academics and students. This policy and procedure forms part of the terms of employment conditions of enrolment of students and the terms of appointment or visitor rights given to visiting academics.

3. Definitions

| Term | Definition |
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| commercial exploitation | the application, publication, development, use, assignment, licensing, sub-licensing, franchising, exploitation or other utilisation of exploitable intellectual property owned or controlled by the Institute for the use of generating financial or other commercial gains. |
| commercialisation proceeds | the gross revenue received by the Institute as a result of the commercial exploitation after the payment of any withholding, goods and services or other taxes, bank fees, transaction fees and other charges. Commercialisation revenue does not include revenue received from the provision of research, consultancy or other services |
| confidential information | information of any kind which, because of its character, is capable of protection by contractual or equitable means, and includes information of a valuable commercial or technical character but does not include information which is already in the public domain |

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| Term | Definition |
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| copyright work | any artistic work, literary work, dramatic work, musical work, sound recording, cinematograph film, television broadcast, sound broadcast or published edition of work, as those terms are defined by the <i>Copyright Act 1968</i> (Cth). |
| create | to produce, invent, develop, generate, discover, make, originate or otherwise bring into existence, (and created/creation have the corresponding meanings). |
| exploitable IP | IP which may be the subject of Commercial Exploitation by the Institute (as determined in its sole discretion) |
| indigenous knowledge | indigenous cultural heritage, traditional knowledge and traditional cultural expressions and practices of indigenous peoples including but not limited to Australian Aboriginal and Torres Strait Islander peoples, including the rights that such people have in those cultural expressions and practices. This heritage and practices includes tangible cultural property (e.g. sacred sites, burial grounds), intangible cultural property (e.g. languages, stories passed on orally) and documentation of indigenous peoples' heritage in all forms of media (e.g. reports, films, sound recordings) |
| intellectual property (IP) | any proprietary right that arises under, or is capable of being obtained under law in Australia and elsewhere relating to copyright works, patents, designs, trademarks, circuit layouts or plant varieties and including any common law intellectual property rights, know-how, trade secrets and confidential information as well as rights arising under legislation, including (without limitation) the following statutes: <i>Patents Act 1990</i> (Cth), <i>Copyright Act 1968</i> (Cth), <i>Trademarks Act 1995</i> (Cth), <i>Designs Act 1906</i> (Cth), <i>Circuit Layouts Act 1989</i> (Cth), <i>Plant Breeder's Rights Act 1994</i> (Cth), and all other intellectual property as defined in Article 2 of the |

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| Term | Definition |
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| | Convention Establishing the World Intellectual Property Organisation of July 1967. |
| IP Officer | the Executive Dean (or nominee). |
| moral rights | <p>the following personal rights of authors, as recognised under the <i>Copyright Act 1968</i> (Cth):</p> <ul style="list-style-type: none">• right of attribution of authorship – an author’s right to be identified as the author of a work,• right not to have authorship falsely attributed – an author’s rights against false attribution to another person, and• right of integrity of authorship of a work – an author’s right to object to derogatory treatment of his or her work that prejudicially affects his or her reputation |
| person | includes a body politic or corporate as well as an individual. |
| research | activities, including consultancy, that involve creation or authorship and/or new application of knowledge, know-how and/or intellectual property. |
| resources | includes administrative and institutional support (eg provision of facilities and related overheads) and other human resources. |
| scholarly works | an original work in any format that is or contains intellectual property and which is intended for academic publication but not including teaching materials. Examples of scholarly works include journal articles, books, book chapters and presentations for an academic or professional audience. |
| staff member | all fixed term, casual and continuing staff (including any individuals who supply their services through a service company), trainees, interns and work experience staff; includes the Chief Executive Officer (CEO) and members of the Institute’s |

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| Term | Definition |
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| | Executive Management Team. |
| student | any student enrolled in a course of the Institute. |
| teaching materials | teaching materials created by staff, in any format or media, for the primary purpose of teaching and learning. Examples include: <ol style="list-style-type: none">I. lecture notes and materials,II. syllabus content and materials,III. handouts,IV. study guides, andV. assessment materials. |
| visiting academic | an individual academic not employed by the Institute, who is given access to the Institute's resources for the purposes of undertaking academic study, education, research or development, whether or not in collaboration with the Institute. Examples include conjoint, adjunct, emeritus, fellows, honorary and visiting appointees. |
| thesis | original research or scholarship written by a student as a requirement for the completion of a higher degree by research |

4. Policy Statement

- 4.1. Except as indicated otherwise in this policy and procedure, the Institute owns all intellectual property created by a staff member while undertaking research, teaching and administration in the course of employment at the Institute. Staff may not use the Institution's intellectual property for any purposes outside of their scope of employment or engagement except with permission in writing from the Institute.
- 4.2. Intellectual property in a scholarly work is owned by the staff member that created the scholarly work while they are employed by the Institute and each staff member grants to the Institute an automatic, non-exclusive, enduring licence to use such scholarly works for the Institute's teaching, academic, research and learning purposes.
- 4.3. Intellectual property created outside of Institute activities, on personal time, and without the use of Institute resources shall remain the sole property of the creator. The Institute's

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- ownership claims do not extend to intellectual property unrelated to the creator’s role within the Institute.
- 4.4. Intellectual property created or contributed by visiting academics during their tenure and using the Institute’s resources shall be owned by the Institute unless:
 - the Institute has expressly agreed otherwise in writing;
 - the IP relates wholly or materially to a scholarly work.; or
 - the IP relates wholly or materially to a pre-existing work of the visiting academic which has been disclosed in writing to the Institute consistent with clause 4.3.
 - 4.5. In accordance with common practices in Australian universities, students retain ownership of their intellectual property, including theses and other works produced as part of their academic requirements, unless a written agreement specifies otherwise. This provision ensures that students’ rights to their creations and works are respected and preserved throughout their studies.
 - 4.6. Except as provided otherwise in clauses 4.2 and 4.4, the Institute owns intellectual property created by staff and students in activities utilising other intellectual property that has been contributed by the Institute or where the Institute has made a specific contribution of funding, resources, facilities, apparatus or supervision in respect of those activities.
 - 4.7. The Institute respects the moral rights of an authors of intellectual property which is owned by the Institute unless consent or a waiver has been otherwise given to the Institute by the author. The Institute manages the moral rights of creators as required under the *Copyright Act 1968* (Cth) and the Institute will use its best endeavours to respect the moral rights of each originator by:
 - ensuring that the originator is acknowledged (in so far as this is reasonable);
 - consulting with the originator before modifying or adapting, or authorising modification or adaptation, of the originator’s material;
 - consulting with and obtaining the agreement of the originator and the adaptor as to the attribution provided in any adaptation or modification;
 - after consultation with the originator, ensuring that acknowledgement of the author or performer is a term of any assignment or licence of the material; and
 - ensuring that any request by the originator not to be acknowledged is respected.
 - 4.8. In alignment with the Australian Institute of Aboriginal and Torres Strait Islander Studies’ *Code of Ethics for Aboriginal and Torres Strait Islander Research*, the Institute will follow a process of consultation and obtain consent before utilizing intellectual property that includes, references or comprises Indigenous cultural knowledge. The Institute recognizes the importance of maintaining integrity and respect in representing Indigenous cultural knowledge and cultural expressions.
 - 4.9. Any staff member or student who becomes aware of the unauthorised exploitation use or infringement of any intellectual property to which this policy and procedure applies, must inform the IP Officer as soon as practicable in writing of all relevant details of the intellectual property, including the intellectual property’s technical and commercial significance.

5. Procedure

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- 5.1. The Institute grants all staff members a non-exclusive, royalty-free licence to reproduce, publish, perform, broadcast, disseminate and otherwise use for teaching and research purposes at the Institute, any intellectual property created by any staff member under 4.1 that does not have any potential for commercial exploitation. The staff member will, prior to any use of a licence granted under this clause, obtain written notification from the Institute that the intellectual property does not have any potential for commercial exploitation.
- 5.2. The Institute may enter into an agreement with any person in relation to the creation, ownership, licensing, use or commercial exploitation of its intellectual property. To the extent of any inconsistency and where applicable, such an agreement shall prevail over the terms and provisions of this policy and procedure.
- 5.3. A staff member, visiting academic or student must, if required by the IP Officer, execute any document or do anything reasonably required by the Institute in relation to intellectual property created by the staff member or student in order to demonstrate, prove or assign intellectual property ownership to any person or secure intellectual property protection.
- 5.4. To protect the Institute’s confidential IP, the Institute may require staff, students, and collaborators to sign non-disclosure agreements (NDAs) where applicable. This measure is especially relevant in projects involving external partnerships to ensure the security and integrity of the Institute’s intellectual property.
- 5.5. The IP Officer is appointed attorney at law to do any act or execute, on behalf of any staff member, student or visiting academic, any document required by a staff member, student or visiting academic to give effect to any term or provision of this policy and procedure.
- 5.6. If a dispute arises as to the operation of this policy or procedure the matter will first be referred to the IP Officer for resolution. If a disputed matter cannot be resolved by the IP Officer or if the staff member, visiting academic or student involved is not satisfied with the resolution of the IP Officer, the IP Officer must refer the matter to the Academic Appeals Committee for final determination. Should a dispute remain unresolved after internal review by the IP Officer and the Academic Appeals Committee, the Institute will offer external arbitration as a neutral and final dispute resolution mechanism to ensure fair treatment of all parties involved.

6. Commercialisation

- 6.1. The Institute will apply the following policy and procedure in respect of any Exploitable IP created or contributed to by staff, students or visitors. This section does not place any obligation on the Institute to commercially exploit the intellectual property, which the Institute may or may not deal with in its absolute discretion.
 - Disclosure and Review: Staff, students, and visitors must complete the Invention Disclosure and Assessment form for any new IP developed by them during which they assess may be exploitable IP.
 - Submission: Submit the completed form to the IP Officer for review.
 - Acknowledgment: Receipt of disclosures will be acknowledged within two working days by the IP Officer.
 - Review: The IP Officer will review and assess the disclosure for any exploitable IP eg. patentability, market potential, ownership, and technical maturity.

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- Decision: Decisions about IP protection and commercialisation will be notified to the creator(s) within 90 days.
- 6.2. Revenue Distribution: The Institute will divide any net proceeds of Commercialisation Proceeds as follows:
- Inventor(s)/Creator(s): 33%
 - School/Department: 33%
 - Institute: 33%
- To ensure transparency in the calculation of Commercialisation Proceeds, the Institute will provide Inventors/Creators with a detailed breakdown of all costs deducted prior to distribution in periodic statements. Such costs include, but are not limited to, expenses related to Intellectual Property registration, legal fees, marketing, and operational overhead.
- 6.3. A creator may wholly assign their rights to net commercialisation revenue as above to:
- the Institute in exchange for agreed consideration (for example, an equity stake or option over shares in an entity established to commercialise the Exploitable IP);
 - the Institute on agreed commercial terms; or
 - a third party only with the prior written consent of the Executive Dean.
- 6.4. Commercialization Process
- Initial Steps: The IP Officer will evaluate the commercial potential and, if applicable and its sole discretion, decide on initial patent filings.
 - Provisional Patents: Initial filings are reviewed by the IP Manager and approved by [Head of Research] for further investment.
 - Assignments: Inventors shall sign any documents to confirm the Institute ownership of IP.
 - Reversion: If the Institute declines to protect or commercialize the Exploitable IP, rights may be assigned back to the creators under agreed conditions.
- 6.5. Publication and Confidentiality
- Publication: while creators are encouraged to publish research results, premature disclosure of exploitable IP may prejudice or prevent patentability, and, accordingly, creators are required to liaise on a confidential basis with the IP Officer in advance of potential publication. Creators may receive advice on pre-publication drafts to prevent prejudicial disclosure.
 - Delay in Publication: The Institute will use reasonable endeavours to complete the assessment of Exploitable IP within three months to avoid impacting thesis completion or career prospects but provided that this period may need to be extended in certain circumstances on a reasonable basis.

7. Responsibilities

- 7.1. The Institute shall have responsibility to act in relation to any breach of its intellectual property.
- 7.2. The IP Officer may set down guidelines and criteria for reporting the creation, exploitation, unauthorised use or infringement of intellectual property.
- 7.3. Except where otherwise provided for in this policy and procedure, staff members, visiting academics and students must maintain confidentiality of the Institute's intellectual property.

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7.4. The Institute shall be entitled to amend or update this policy and procedure at any time.

8. Implementation and communication

This policy and procedure will be implemented and communicated through the Institute via:

- the Institute’s internal portal;
- Internal circulation to staff;
- Staff professional development;
- Student orientation programs; and
- Student handbook.

When amendments are made to this policy, the Institute will inform staff, students, and visiting academics via official communication channels, such as the Institute’s internal portal, email notifications, and relevant orientation or professional development programs. This process ensures that all stakeholders are aware of updates and can provide feedback on significant changes where applicable

9. Supporting documents and References

Institute documents:

Copyright Policy and Procedure
Responsible Conduct of Research Policy
MIT Staff Code of Conduct Policy
Staff Complaint Policy and Procedure
Student Complaints and Grievances Policy and Procedure
Academic Appeals Policy and Procedure

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