

Research IP Management Procedures

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1. Governing Policy

[Intellectual Property Policy](#)

2. Purpose

To enable the principles in the [Intellectual Property Policy](#) to be implemented in respect of intellectual property (IP) created through research.

3. Scope

These procedures apply to IP created through research, and not to IP generated for teaching purposes, or to other forms of University IP, such as trademarks.

4. Identifying University IP with commercial potential

Acting promptly can be critical to the appropriate protection of IP. In all cases, discuss the matter with a Commercial Manager in the Deputy Vice-Chancellor (Research) (DVCR) Portfolio (Commercial Manager).

Creator or creator's line manager

- a. Promptly notify the relevant College Dean (Research) and the DVCR Portfolio Commercial Manager using the prescribed [Invention Summary Form](#) or via email to ip@flinders.edu.au when:
 - i. the Creator reasonably believes it has or is likely to have potential to be commercially significant, and/or
 - ii. there is a legal requirement of disclosure of IP under the terms of a research grant or contract with the University or a third party.

5. Determining commercial or strategic options

5.1. Prima facie consideration

DVCR Portfolio Commercial Managers (in conjunction with the creator/s)	<p>Stage 1:</p> <ul style="list-style-type: none"> a. On receipt of notification of IP identification, promptly conduct a prima facie evaluation of the IP and its commercial potential, and lodge in the Register of Research IP. b. Identify all creators associated with the IP, and the proportion each has created, in conjunction with the relevant line manager and College Dean (Research). c. Identify any confidentiality provisions which need to be effected to safeguard the potential while more extensive evaluation is conducted, and notify the creator/s. d. Identify any third-party encumbrances or involvements which apply to the IP. e. Not later than 6 months after receipt of notification under Procedure 5.1.a., determine whether the IP has ongoing commercial potential or not. f. If satisfied the IP has no ongoing potential, notify the creator/s, who may publish their research without encumbrance, and may also take action under Procedure 5.5. at any time. g. If satisfied the IP has commercial potential, proceed to Stage 2. <p>Stage 2:</p> <ul style="list-style-type: none"> h. Monitor the development of the IP and its ongoing commercial potential. i. Not later than 12 months after receipt of notification under Procedure 5.1.a., assess the commercial potential of the IP. j. If satisfied the IP development has reached a point where it has genuine commercial potential, arrange with the creator/s to submit a case to the Office of the DVCR Portfolio for consideration under Procedure 5.2. k. If the creator agrees, the decision to submit a case to the Office of the DVCR Portfolio may be delayed beyond 12 months from the receipt of notification, while further development occurs, for such period as the creator agrees. l. If satisfied the IP has no commercial potential, notify the creator/s, who make publish their research without encumbrance, and may also take action under Procedure 5.5. at any time.
Creator/s	<ul style="list-style-type: none"> l. Provide the required documents and comply with any confidentiality requirements specified by a Commercial Manager under Procedure 6. m. Work with a DVCR Portfolio Commercial Manager to present information about the IP to the Office of the DVCR Portfolio.

5.2. Patent Assessment Process

- a. The Deputy Vice-Chancellor (Research) will establish an assessment process that may include the establishment of a Patent Advisory Committee to make recommendations on the benefits versus costs of patenting IP for the purposes of commercialising the IP or building a portfolio of protected innovations that are likely to lead to enhanced industry funded research.
- b. If established, the committee must make a recommendation within one calendar month of a case being submitted to it for consideration.
- c. Recommended outcomes may include, but are not limited to:
 - i. protection by way of a patent and further development through licensing or through a University spin-out company (in accordance with the [External Entities Policy](#)) or in some other way
 - ii. if available, registration with “easy access” IP databases with simplified licensing systems to promote partnerships with industry through the transfer of University knowledge for public benefit
 - iii. other forms of commercialisation, as appropriate
 - iv. no further action if commercial potential is considered insufficient to warrant the University taking any further action with respect to the IP.

5.3. Further development

Authorised delegate	<ol style="list-style-type: none"> a. Make a determination within 10 business days of the date the recommendations are made. b. Notify a DVCR Portfolio Commercial Manager of the outcome.
DVCR Portfolio Commercial Manager	<ol style="list-style-type: none"> c. Inform the creator/s, and the relevant Dean (Research). d. Take follow-up action in accordance with the determination, in consultation with the creator/s. e. Keep relevant Deans (Research) informed of progress. f. Review the merits of continuing protection at least annually and, if any changes proposed, make recommendation to the delegated authority.
Creator	<ol style="list-style-type: none"> g. Work with the DVCR Portfolio Commercial Manager to further the development process.

5.4. Patent processes

- a. When a decision to commercialise involves filing for patent protection, the work will be undertaken by a DVCR Portfolio Commercial Manager.
- b. A decision to continue University support for a patent beyond provisional filing will depend on various factors, including: technical validation, market validation, commercial interest, research support for the commercialisation process and return on investment.
- c. A decision not to proceed may be made at any time by the authorised delegate.

5.5. Options for creator if no action on IP is taken by the University

- a. If the University, through its authorised delegate, decides that it will take no action to protect, commercialise or otherwise deal with particular IP, the creator/s may apply to do so in their own right.

- b. Approval of the application, and the terms of any approval, are at the complete discretion of the University's authorised delegate. Options include:
 - i. licensing the IP directly to the creator/s, or
 - ii. assigning the IP to the creator/s.
- c. At no time may University resources be used for the private development of IP.

Creator/s	d. At their discretion, apply to the authorised delegate.
Authorised delegate	e. Consider the application, taking into account the University's best interests, and any pre-existing or potential internal needs or commitments to third parties. f. Determine whether to grant the application or not, and on what conditions.
DVCR Portfolio Commercial Manager	g. Ensure the determination is properly documented and recorded in the University's records management system, and follow-up action to implement the determination is taken.

Note: A University staff member creator who pursues commercialisation of IP may be subject to the University's [Outside Professional Activities Policy](#).

6. Creator obligations

- a. To ensure the University does not lose any opportunity to protect or commercialise its IP, creators must:
 - i. keep IP with commercial potential confidential, and work with the DVCR Portfolio Commercial Managers to ensure it is assessed and appropriately handled and protected before it is published or publicly disclosed^{[1][SEP]}
 - ii. abide by any contractual obligations the University has with third parties related to IP disclosure
 - iii. retain sufficient records, materials and data in accordance with the [Research Data Management Procedures](#), in order to justify the outcomes of any research and to defend those outcomes if challenged, and
 - iv. execute all documents and do all acts that may be necessary or desirable in a timely manner, as required by the University.
- b. Notwithstanding Procedure 6.a., the University may not require publication of research results in the form of a scholarly work to be delayed beyond 12 months from a decision under Procedure 5.3, unless the creator agrees otherwise.
- c. In the case of patents, creators (inventors) must remain involved in the prosecution of a patent, as their technical knowhow is needed to ensure that patent examiners' queries can effectively be addressed. A commitment from the creator may be sought by the University before the patenting process begins.
- d. If a creator fails to complete any documentation or any other action that the University deems necessary for the commercialisation of IP owned by the University, the Vice-Chancellor has the right to do all things necessary to complete that action as the creator's attorney, even when the University is a beneficiary of that action.

7. Terminating a commercialisation strategy

- a. At any time, an authorised delegate may determine that it is not in the University's interests to continue with a commercialisation strategy for specific University IP, and terminate the strategy.
- b. If this happens, creators may take action under Procedure 5.5.

8. Sharing in commercialisation benefits

- a. The University's authorised delegate will recognise the contribution made by creators to University IP when commercialisation occurs, or is planned to occur, by allocation of direct returns from successful commercialisation, or by any other mechanism deemed appropriate.
- b. In determining the allocation, the authorised delegate must have regard to:
 - i. all costs incurred, or likely to be incurred, by the University, the creator and any other person in providing facilities, services and resources for the creation, protection and commercialisation of the IP
 - ii. the extent to which the University, the creator and any other person has contributed (e.g., by intellectual input, or by the provision of finance, time, pre-existing IP, know-how, research facilities and data) to the creation, protection and commercialisation of the IP
 - iii. any submissions by the creator/s or any other person who claims an interest in the IP
 - iv. the University's commitment to encourage and reward the creation of IP by staff, students and academic status holders
 - v. whether the IP is subject to an external agreement or has become inseparably mixed with other IP; and
 - vi. any other matter the delegate reasonably considers to be appropriate.
- c. Subject to any adjustments in light of b. above, the delegated authority may apportion any net revenue in accordance with the following table:

Net revenue from commercialisation	Creator/s	University or University entity
• For the first \$50,000	100%	0%
• For the net revenue above \$50,000	40%	60%

- d. The University's proportion of any net returns will be used for strategic investment in research, with half to be allocated by the Deputy Vice-Chancellor (Research), and half to be allocated by the relevant College Vice-President and Executive Dean.
- e. If there is more than one creator, the creators' proportion will be shared according to their proportionate contribution. If there is no agreement, it will be shared equally among all creators.
- f. In the case of net return payments, creators who are staff members may elect to receive their share of payments by way of:
 - i. journal transfer to a University managed project or a consulting fund (funds must be used for bona-fide University-approved activities)
 - ii. payment via the University payroll system, or
 - iii. as otherwise mutually agreed.

- g. Creators who are not staff members will be paid as the University determines.
- h. Distributions under this section will continue regardless of whether a creator retains a connection with the University.

9. Infringement of University research IP rights

A staff member, academic status holder or student who becomes aware of any unauthorised use of University-owned research IP must promptly inform the Deputy Vice-Chancellor (Research) in writing of the relevant details.

10. Grievances

- a. Grievances by University staff about the application of the Intellectual Property Policy or these procedures are handled in accordance with the provisions of the current Enterprise Agreement.
- b. Grievances by academic status holders are handled in accordance with a process determined by the Deputy Vice-Chancellor (Research).
- c. Grievances by students are handled in accordance with the [Student Complaints Policy](#).

11. Authorities

For authorised delegates, see the [Intellectual Property Policy](#).

12. Forms

[Invention Summary Form](#)

Approval Authority	Deputy Vice-Chancellor (Research)
Responsible Officer	Pro Vice-Chancellor (Research Enterprise and Infrastructure)
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* Unless otherwise indicated, this policy or procedures still apply beyond the review date.

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