

INTELLECTUAL PROPERTY POLICY

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Contact person	Company Secretary and General Counsel
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Related policies	Staff Consultancy Policy (TLR 7.01) Code of Conduct for Research Policy (TLR 5.06)

1. INTRODUCTION AND OBJECTIVES

The Bond University Intellectual Property Policy seeks to establish an environment, which encourages [invention](#), creative work, technology transfer and exploitation of intellectual property developed by [staff](#) and students of Bond [University](#) for the benefit of the staff, [students](#), and the University.

This Policy recognises the range of different interests within the Bond University community in relation to intellectual property ([IP](#)) creation. Intellectual property is created by staff in the course of their University employment, as well as by students during a course of study while enrolled at the University.

2. IP PRINCIPLES - UNIVERSITY STAFF

- 2.1. The University notes that an employer is entitled to any IP created by an employee in the [course of their employment](#), but seeks to create an environment which enhances scholarly and scientific development, and in which creativity and invention may flourish.
- 2.2. Notwithstanding 2.1 above, the University will, upon request, assign its copyright interests to the [originator](#) in relation to relevant works of the creative arts and to published books and articles, with the exception of those in which substantial [University resources](#) (such as University funds, resource development services, University commissioned works, office equipment and supplies and secretarial services) have been utilised in their creation.
- 2.3. What constitutes “substantial University resources” for the purpose of clauses 2.2 and 2.4 is at the discretion of the Faculty Executive Dean and the Deputy Vice-Chancellor (Academic).
- 2.4. If a staff member has created IP or [other intellectual property](#) other than in the course of their employment at the University then the University will not assert ownership of such IP. However, if a staff member wishes to undertake work which may lead to the creation of IP or other intellectual property from which they may benefit financially other than as a University employee and they wish to:
 - (a) spend more than one day a week in relation to such work; or
 - (b) use substantial University funding or resources in relation to such work; or
 - (c) use University owned IP or other intellectual property in relation to such work; or
 - (d) do the work while absent from the University on approved detachment of any kind, other than absences or leave without salary;

then he/she must get prior written University approval for the work and the assignment of rights to the IP and other intellectual property to the University will usually be required as a condition of that approval. Where, contrary to this clause, prior approval is not obtained the University may insist upon an assignment of the relevant IP or other intellectual property.

- 2.5. Sections 2.1, 2.2 and 2.3 do not apply if IP is created by staff in their role as a student.

- 2.6. Without limiting clause 2.2 and subject to any conflicting third party right that is granted in good faith, staff will make available to the University Library, for [research and teaching uses](#) only, a copy of the full text (or equivalent) of any scholarly work, literary work, dramatic work, artistic work, cinematographic film sound recording or [computer program](#) created during the course of their employment with the University.
- 2.7. Where research or inventions may have commercial potential, the University will assert ownership of the IP created by [academic staff](#) in the course of their employment, and without limiting the application of this Policy will deal with the matter in terms of the Consultancy Policy.
- 2.8. The University will assert ownership of IP created by professional staff in the course of their employment, although this provision does not prevent a separate contract leading to the generation of IP between member(s) of [professional staff](#) and the University being established.
- 2.9. The University asserts ownership of copyright in all lecture notes, lecture materials (including digital materials), audio-visual works, assessment and examination instruments, any online subject presentations written by staff members in the course of their employment, and any other [copyright works](#) created in the course of their employment with the University, whatever the format for delivery. The provision of teaching materials in any or all of the above forms is considered to be part of the duties of academic staff in the normal course of their employment so that IP and other intellectual property rights in those materials is owned by the University. If the author is not delivering the program, the University will use the materials with appropriate acknowledgment and with respect for the author's [moral rights](#).

3. IP PRINCIPLES - STUDENTS

- 3.1. Subject to 3.2, if no employment relationship exists between the University and a student, and there is no relationship with a third party as a sponsor of a program or research project that could claim part or full ownership, then the student owns the IP he/she creates during his/her studies.
- 3.2. Where a student:
 - uses substantial University resources;
 - uses University-owned IP;
 - receives project-specific funding from the University or a third party engaged by the University;
 - uses IP owned by a University staff member; or
 - participates in a University-managed project,

the assignment of IP rights to the University by a student is required by the University prior to the commencement of the relevant program or research project. However, in the case of programs or research projects which involve students creating films, television programs, computer games, artistic works, scripts or any other output which they may want or need to demonstrate to others their talent and experience in their field or discipline, the University will make any assignment of IP and other intellectual property rights to it under this clause 3.2 subject to the student having a royalty free licence to do all things reasonably necessary with the relevant output and the underlying IP or other intellectual property rights to enable them to demonstrate their talent and experience. Requests for a licence for a student to commercially exploit any output in which IP and other intellectual property rights have been assigned under this clause 3.2 to the University will need to be considered on a case by case basis. The request and any response must be in writing and the response must be approved by the relevant Faculty Executive Dean and the Deputy Vice-Chancellor (Academic).

- 3.3. What constitutes "substantial University resources" for the purposes of section 3.2 is at the discretion of the Faculty Executive Dean and the Deputy Vice-Chancellor (Academic).
- 3.4. In the event that IP is originated by a student independently of their research or study as a student of the University, then the University will not consider assisting the student to protect or develop the property unless a proportion of the [net surplus](#) is assigned to the University.
- 3.5. The University recognises that students retain copyright in their thesis even if they assign the IP in inventions or other works or subject matter that form part of the thesis.
- 3.6. Where IP is developed jointly by staff and students, the proportion of ownership of the IP should be subject to a separate written agreement negotiated between the University, staff and students addressing the revenue arrangements prior to the commencement of the relevant project.
- 3.7. Without limiting clause 3.1 and subject to any conflicting third party right, higher degree research students will make available to the University, for teaching and research uses only, a copy of the full text of any scholarly work, literary work, dramatic work, artistic work, musical work, cinematographic film, sound recording and computer programs created during the course of their study at the University.

4. INVENTIONS CREATED BY A STAFF MEMBER

- 4.1. If a staff member makes a discovery, creation, or invention in any of the following circumstances, all the IP or other intellectual property subsisting in or which may subsist in any aspect of the discovery or invention, including but without limitation the right to be granted a patent in respect of the discovery or invention, shall vest in and be the property of the University:
- (a) where the discovery, creation or invention is made in the course of their employment;
 - (b) where the discovery, creation or invention is (or, pursuant to clause 2.4, should be) the subject of an agreement with the University under clause 2.4 pursuant to which all relevant IP is assigned to the University;
 - (c) where the University specifically commissions a staff member to undertake a project of any kind, on terms which provide for all IP resulting from the project to vest in the University.

5. EXPLOITATION OF INTELLECTUAL PROPERTY

- 5.1. Where a staff member creates, invents, or develops any product or process in which intellectual property subsists (other than a scholarly work) in the course of their employment, and that product or process is, in his/her opinion capable of commercial exploitation, he/she will report its existence to his/her designated [University Officer](#) and to the Deputy Vice-Chancellor (Academic).
- 5.2. Following consultation with the member of staff, the designated University Officer, and/or the Deputy Vice-Chancellor (Academic), shall determine, after appropriate consultation, whether the University wishes to become involved in the exploitation of the discovery, creation, or invention, which is reported under clause 5.1 or is otherwise brought to their notice.
- 5.3. The University shall notify the member of staff within six weeks of receiving notice of a discovery, creation, or invention, under clause 5.1 or otherwise (whichever is the later), whether it wishes to be associated with the exploitation of the discovery, creation, or invention.
- 5.4. If the University fails to notify the member of staff in writing in accordance with clause 5.3, or notifies the member of staff that it does not wish to be involved in the exploitation of any particular discovery, creation or invention, the University is deemed to have relinquished any rights to that discovery, creation or invention and:
- (a) the member of staff shall be free to protect and exploit the discovery, creation, or invention or otherwise at his/her discretion, subject to the interests of any third parties; and
 - (b) if the member of staff so requests, the University will promptly perform any acts (including the execution of any assignment) to ensure that the member of staff can freely exploit any rights in relation to the discovery, creation, or invention.
- 5.5. Where the University decides to be involved in the commercial exploitation of the discovery, creation, or invention, it will consult with the member of staff who created the discovery, creation, or invention and with the Deputy Vice-Chancellor (Academic) before determining, as it sees fit, the appropriate action to be taken. In conducting these negotiations, the University will act in a timely fashion.
- 5.6. Subject to the inventor's rights and entitlements under clause 7 to a share of the returns from any exploitation of the IP or other intellectual property in the relevant discovery, creation or invention, action taken under clause 5.5 may include, without limitation, one or more of the following:
- (a) the filing of a patent application in the name of the University with the member of staff as named inventor;
 - (b) the identification of potential licensees;
 - (c) the assignment or licence of the rights to a third party;
 - (d) the formation of a limited liability company to exploit the technology.
- 5.7. In determining the appropriate course of action for the commercial exploitation of an invention, the University:
- (a) shall address any need for confidentiality by the University and/or the member of staff; and
 - (b) may consult, on a confidential basis, with appropriate experts and advisers.
- 5.8. The sole authorised signatories on behalf of the University on matters relating to Intellectual Property shall be the Vice Chancellor and President, and the Company Secretary, or in the specific cases mentioned in this document, the Deputy Vice-Chancellor (Academic). Where the Vice Chancellor and President wishes to exploit a discovery, creation, or invention in which (s)he is personally involved, the Chancellor will be the authorised signatory. Agreements executed under seal will be subject to the University's usual procedures.

5.9. The use by the University of intellectual property which is created by a member of staff:

- (a) on the express direction of the University; and
- (b) the making of which is outside the course of their employment because it goes beyond ordinary and established duties in relation to research and teaching,

should be discussed between the member of staff and the University at or before the time that the express direction is given and then agreed in writing which makes it clear what uses can be made and on what terms.

6. INVENTIONS CREATED BY A STUDENT

- 6.1. If a student creates a discovery, creation, or invention in the course of their research or study at the University then the student must notify the designated University Officer and the Deputy Vice-Chancellor (Academic) of the discovery, creation or invention. Except in the circumstances detailed in clauses 3.2 and 3.6, the student retains all of the intellectual property rights subsisting in or which may subsist in any aspect of the discovery or invention including but without limiting the generality of such intellectual property rights the right to be granted a patent in respect of the discovery or invention.
- 6.2. Higher Degree Research or creative arts students are required to read the University's HDR Manual , and to sign a [Student Supervisor Agreement](#) covering ownership of intellectual property before commencing a research project or program which is expected or likely to result in the creation, invention or development of any work, subject matter, invention or other material in which IP or other intellectual property may subsist.
- 6.3. Students must disclose to the Deputy Vice-Chancellor (Academic) if there is a third-party claim on students' intellectual property (for example their employer) that may impose restrictions on their study or research. Ownership and rights relating to the intellectual property must be resolved through negotiation with the student, the third party and the University and the agreement documented before the student commences his/her study or research. The Deputy Vice-Chancellor (Academic) has responsibility for representing the University in these negotiations.
- 6.4. In the event that the IP of a student's work is considered commercially viable, the University will encourage the student to protect and develop this property. Should the student decide to assign the ownership of the IP to the University to facilitate its protection and commercialisation, the student will be entitled to a share of the net surplus on the same basis as University staff, provided that a licence to develop the commercial potential of the IP is conferred upon the University. Such negotiations are detailed in the University's Staff Consultancy Policy.

7. REMUNERATION FROM COMMERCIALISATION OF INTELLECTUAL PROPERTY

- 7.1. It is recognised that University staff and students are a valuable source of innovation. This Policy encourages staff to be innovative, secure in the knowledge that their efforts will be rewarded. This section of the Intellectual Property Policy is concerned with rewards for staff and students whose IP leads to successful commercial development, with resultant benefits for the University and the originator. Commercialisation with respect to teaching and learning resources refers to where the sales of materials generate royalties or other revenues. Commercialisation does not include fee-paying students or the delivery of programs through national or international partners.
- 7.2. It is not necessary for staff or students to have ownership rights in order to benefit from the rewards provisions of this Policy and it is likely that in most cases ownership will reside with the University, and rewards will be a separate consideration.
- 7.3. **Originators Entitlements**
 - 7.3.1. Subject to section 7.3.2, the originator(s), in total, will be entitled to 40% of the net surplus generated as a result of the development of IP. Net surplus will be calculated by deducting all reasonable direct and indirect costs (including costs of developing, protecting, marketing, commercialising and administering the IP), as well as University overhead charges.
 - 7.3.2. Where the originator has made substantial expenditure of personal resources in the property prior to disclosure to the University, subject to written approval by the designated University Officer, this fact will be recognised and considered in the disbursement of net surpluses arising from commercial development of that property.
 - 7.3.3. The payment to be made to the originator will be determined by the Policy in effect on the date of disclosure to the University.
 - 7.3.4. The payment to be made to the originator will not be altered when affiliation with the University is terminated.

7.4. More than One Originator

- 7.4.1. Subject to 7.3.1 where more than one staff member and/or student is involved, apportionment of their shares of the net surplus will be determined according to their respective contributions
- 7.4.2. In the event of University staff and/or students failing to agree on the apportionment between them or their share of the net surplus in accordance with section 7.4.1, the matter will be determined in accordance with Clause 14.

7.5. Distribution of Net Surplus

- 7.5.1. Distribution of any net surplus will take place as soon as practicable after receipt by the University of relevant revenues from commercialisation.
- 7.5.2. The originator may determine the method of payment of his/her share of the net surplus provided that the method of payment is in accordance with one or more of the options allowed for under the relevant policies of the University at the time.
- 7.5.3. The University's share will usually be split equally between the Deputy Vice-Chancellor (Academic), the originator(s)'s Faculty/s and the University central fund. The Vice-Chancellor has the ultimate discretion in determining the split of the University's share.

8. OTHER INTELLECTUAL PROPERTY

- 8.1. Any rights arising in relation to other intellectual property resulting from the activities of staff in the course of their employment, or students in the course of study or program of research for which they are enrolled at the University shall be dealt with, to the extent possible, as though they were IP and otherwise in accordance with the relevant law in force from time to time in Queensland. Any doubt with respect to these rights should be discussed between the member of staff or student with the Deputy Vice-Chancellor (Academic).

9. STAFF OR STUDENTS BRINGING EXISTING INTELLECTUAL PROPERTY TO THE UNIVERSITY

- 9.1. Staff members or students who bring existing IP or other intellectual property with potential for commercialisation to the University to be used in the course of their employment or otherwise, should provide evidence of ownership to the Deputy Vice-Chancellor (Academic) to enable full recognition of their ownership at the time of their appointment and contribution to the scope of knowledge held at the University by providing:
- (a) an inventory of that IP or other intellectual property;
 - (b) all documents relating to the ownership of the IP or other intellectual property, including any contract, agreement, licensing agreement or other documentation.

10. EXTERNAL CONSULTANTS/VISITING OR ADJUNCT STAFF

- 10.1. Where external consultants, visiting or adjunct staff are expected or likely to create, develop or invent IP or other intellectual property which will have the potential for commercialisation in which the University would expect to be involved or which the University would expect to be available for its ongoing research or teaching purposes, a written agreement must be executed between these parties and the University. It should address both the ownership and use of any existing IP or other intellectual property during the course of the consultancy or visit/adjunct position and any new IP or other intellectual property that might be created. The Deputy Vice-Chancellor (Academic) has responsibility for representing the University in these negotiations.

11. GRANT AND SPONSORSHIP BODIES

- 11.1. A written agreement on intellectual property ownership, rights and management must be negotiated between the grant or sponsorship body and the University before the research or work begins on any funded project. The Deputy Vice-Chancellor (Academic) has responsibility for representing the University in these negotiations.

12. OUTSIDE RESOURCES/JOINT VENTURE/COLLABORATIVE ARRANGEMENTS

- 12.1. A written agreement on IP or other intellectual property ownership and management must be negotiated between the outside party, joint venturer or collaborator and the University before the research or work begins. The Deputy Vice-Chancellor (Academic) has responsibility for representing the University interests in these negotiations.

13. MORAL RIGHTS

- 13.1. The University shall exercise its rights in relation to IP and other intellectual property under this Policy in a manner which as far as reasonably possible is consistent with the academic freedom and moral rights of staff members.

14. DISPUTE RESOLUTION

- 14.1. Subject to section 14.2, if a dispute arises under this Policy or in relation to its subject matter, the parties to the dispute shall endeavour in good faith to settle the dispute by mediation in accordance with this Part 14 before having recourse to arbitration.
- 14.2. Where a staff member is employed under an industrial agreement, which specifies mediation and dispute resolution procedures, those procedures will be followed by the University.
- 14.3. A party claiming that a dispute has arisen must give written notice to the other parties to the dispute and to the Deputy Vice-Chancellor (Academic) specifying the nature of the dispute.
- 14.4. On receipt of the notice specified in clause 14.3, the parties to the dispute and the designated University Officer must, within twenty-eight (28) days of receipt of the notice, meet with the Deputy Vice-Chancellor (Academic) to seek to resolve the dispute.
- 14.5. If the dispute is not resolved within twenty-eight (28) days or within such further period as the parties agree, then the dispute may be referred by any of the parties to the Bar Association of Queensland for mediation.
- 14.6. The mediation shall be conducted in accordance with the Bar Association of Queensland [National Mediator Accreditation Practice Standards](#) which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and which terms are hereby deemed incorporated.
- 14.7. In the event that the dispute has not been settled within twenty-eight (28) days after the appointment of the mediator or such other period as agreed to in writing between the parties, the dispute shall be submitted to arbitration (administered by the Bar Association of Queensland) and conducted in accordance with the Association's Arbitration Guidelines, which are hereby deemed incorporated.
- 14.8. The arbitrator shall not be the same person as the mediator.

15. VARIATIONS

- 15.1. The University reserves the right to modify or add to this Policy at any time provided that any such change will only apply to any works, materials, inventions or other subject matter in which IP or other intellectual property subsists to the extent that they come into being after the effective date of change.

16. DEFINITIONS

For the purposes of this Policy, the following definitions apply:

Academic staff	Academic staff refers to Bond University academic staff and Bond University College teaching staff.
Commercialisation	The application, publication, development, use, assignment, licensing, sub-licensing, franchising, exploitation, sale, or other utilisation of intellectual property for the purpose of generating financial or other benefits, and "commercially develop", "exploit", "commercially exploited", "commercial exploitation" and "commercially exploitable" have corresponding meanings.
Computer program	A computer program as defined by the <i>Copyright Act 1968 (Cth)</i> as amended or replaced from time to time.
Copyright work	Any work or other subject matter as defined in the <i>Copyright Act 1968 (Cth)</i> including artistic, literary, dramatic, or musical work, sound recording, cinematographic film, television broadcast, sound broadcast, published edition of a work, photograph, video recording or computer program.
Course of their employment	For all staff (both academic and professional), in the course of carrying out duties which they are engaged and paid to perform pursuant to their employment contract with the University. These duties include the duties as set out in the terms and conditions of any relevant enterprise bargaining agreement, contract of employment, duty statement, performance plan or other contract or agreement (whether or not in writing), or in any direction given pursuant to and in accordance with the employment contract or which are otherwise understood as being duties of that person or their role at the time at which intellectual property was generated.
Professional staff	All staff other than those employed as Academic or teaching staff. This definition includes staff employed as research assistants or the like.

IP	Intellectual property as defined or referred to in the <i>Copyright Act 1968</i> (other than moral rights), the <i>Patents Act 1990</i> , and the <i>Trade Marks Act 1995</i> , and the <i>Designs Act 2003</i> , and the <i>Circuit Layouts Act 1989</i> , as added to or varied from time to time by legislation which amends or replaces, in whole or in part, all or any of these Acts.
Invention	Invention as defined in section 3 of the <i>Patents Act 1990</i> .
Moral rights	Has the meaning ascribed to that term in the <i>Copyright Act 1968</i> , as amended by the <i>Copyright Amendment (Moral Rights) Act 2000</i> .
Net surplus	All sale, royalty, licensing, and other income received by the University from the commercial exploitation of any IP and other intellectual property less all the University's costs in connection with the development, protection and exploitation of the IP including taxes, legal and other fees, expenses and relevant overheads.
Originator	The academic staff member or student who generates the IP in question.
Other intellectual property	Includes: (a) Information which is confidential; (b) Any other intellectual property (other than moral rights) not expressly dealt with in this Policy.
Research and teaching uses	Includes all uses of scholarly works undertaken through the Bond University library for the research, study or teaching purposes of students, staff and others who are authorised to use that library.
Scholarly works	Books, chapters in books, journal articles, conference papers and other copyright works, in whatever form, which contribute to knowledge in a field of intellectual endeavour.
Staff, academic staff, staff member, or University staff	Means and includes all those employed as academic staff of the University, whether full-time or part-time, continuing or fixed-term. This definition does not include staff who are professional staff, research assistants, consultants, visiting or seconded to the University if they are not employed as academic staff under contracts of service, and does not include students except if they are also employed as academic staff in which case it will include them in that capacity alone.
Student	All students enrolled at Bond University and includes undergraduate, postgraduate, fee and non-fee, degree, and non-degree students.
University	Bond University
University Officer	An officer of the University duly authorised by the Vice Chancellor and President to perform the functions required by this Policy, as listed in Appendix A .
University intellectual property	Intellectual property owned by the University.
University resources	Those resources resulting from the expenditure of the University's funds and include equipment, accommodation, administrative facilities, support facilities (eg library services, computing services, power, and telephone) and existing University intellectual property. Unless otherwise indicated, it includes the provision of relief from teaching, administrative or other responsibilities, but does not include the creator's usual salary.

17. RELATED PROCEDURES, GUIDELINES AND FORMS

Appendix A

Designated Officers:

1. The Vice Chancellor and President
2. Vice President Operations
3. Company Secretary
4. Executive Deans of Faculties
5. Deputy Vice-Chancellor (Academic)
6. The Director of Research, Office of Research Services