### POLICY

**INTTELLECTUAL PROPERTY – R & D**

| **Policy Group:** | Organisation, Structure, Governance and Management  
Research and Development |
|-------------------|---------------------------------------------------|
| **RMIT Statute and / or Regulation Reference Number:** | RMIT Statute 7.1 – Intellectual Property  
RMIT Regulation 7.1.2 – The Research and Development Intellectual Property Committee  
RMIT Regulation 7.1.3 – The Education and Training Intellectual Property Committee |
| **Relevant State / Federal Govt. Legislation:** | Royal Melbourne Institute of Technology Act 1992 |
| **Policy Reference and Version No.:** | |
| **Commencement Date:** | **Review Date:** |

### POLICY STATEMENT

**INTENT**

The creation, preservation and effective utilisation of intellectual capital are key priorities for the University. This policy governs identification, ownership, management and exploitation of research and development intellectual property created by RMIT University staff, students and visitors to the University.

**SCOPE**

This policy applies to all staff and students of RMIT University.

This policy also applies to:

- All RMIT University staff who visit other organisations or institutions for collaboration or to perform research or similar activities
- R&D intellectual property created through collaboration with other entities
- R&D intellectual property generated through commercially-funded research and consultancy undertaken on a contractual basis, and
- All adjunct professors, emeritus professors, casual staff and visitors to RMIT University while they engage in collaborative research with RMIT staff or students, or while they utilize RMIT University resources or facilities for research or similar activities.

**OBJECTIVES**

- To encourage staff to be full contributors in activities which lead to the creation and transfer of new knowledge, whether this be through research or other creative endeavours
- To ensure mechanisms exist which will encourage staff to bring to the attention of the University any intellectual property which has the potential for commercial development for the mutual benefit of the University, the inventor and government, commercial or other partners
- To increase the involvement of students in research and innovative activities
- To strengthen the quality and quantity of intellectual property generated by RMIT staff and students as part of its goal to become a world class university
- To provide a clear understanding of the rights and responsibilities of staff and students and to protect the interests of the University and its members
To assist external organisations and associations by providing clear processes for intellectual property exploitation and thus facilitate collaborative research and knowledge transfer between RMIT and commercial and community organisations

To outline the mechanisms which are relevant for commercialisation of intellectual property created by staff or students at RMIT, the role of the University and its commercial companies and the basis for the distribution of any income arising from commercialisation

To provide a means by which decisions concerning the ownership and development of intellectual property may be reviewed through the establishment of an Intellectual Property Committee

**RMIT RATIONALE FOR COMMERCIALISATION**

Commercialisation enables the creators of R&D intellectual property to demonstrate the application and commercial value of their endeavours to the University’s partners, other organisations and the community at large.

The knowledge and expanded experience University staff and students gain from people and organisations outside the University system through commercialisation initiatives enriches their academic programs, and increases the intellectual capital of RMIT.

The financial rewards from successful commercialisation provide incentives for University staff and students to engage in real world activities, and generate a return to the University and its partners on their investment in research and discovery.

**DEFINITIONS AND ACRONYMS**

**Intellectual Property**

Intellectual property means any confidential information or any rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields, including but not limited to the electronic media and any rights under the Patents Act, Copyright Act, Design Act, Trade Marks Act, Plant Varieties Act and rights under any convention to which Australia is a party and under the Common Law.

**R&D Intellectual Property**

In accordance with the above definition, R&D intellectual property includes any new ideas, concepts, theories, designs, processes or other artifices created by individuals or teams of people through systematic or adventitious research or discovery or similar activities.

**Pre-Existing Or Background R&D Intellectual Property**

Pre-existing or background R&D intellectual property includes identifiable R&D intellectual property, pre-existing ideas, concepts, theories, designs, processes or other artifices (where ownership by the University or other persons or entities could be established) that could act as precursors to discovery or contribute to the creation of new R&D intellectual property. Pre-existing or background R&D intellectual property does not include ideas, concepts, etc., that would normally be regarded as existing in the public domain.

**Foreground Intellectual Property**

New R&D intellectual property created through research and similar activities is often called foreground R&D intellectual property, to distinguish it from the pre-existing (or background) R&D intellectual property that often is the foundation for research that leads to new intellectual property.

**Intellectual Capital**

Intellectual capital is the knowledge and expertise of the University,
accumulated through, and applied in its academic programs. Intellectual capital may include specific items of intellectual property, as well as knowledge and expertise often referred to as “know how”.

The University strives to expand its intellectual capital and that of its staff through all their endeavours, and improve its application so as to enhance the quality, relevance and value of the University’s teaching, research and other activities.

**Commercialisation**

Commercialisation includes any activity or initiative undertaken with the objective of, or that could contribute to, development or exploitation of intellectual property in ways that might or are intended to generate commercial returns or other material benefits to the owners of the intellectual property.

**Education and Training Intellectual Property**

In an Education and Training context this Clause is construed to mean "duties pursuant to the work specified in the contract of employment, position description and work plan". **The University's interpretation of Clause 4.2.1 is therefore that it claims ownership of Intellectual Property in course material, course material delivery systems and other work-related outputs.**

The University does not propose to claim ownership of Intellectual Property in respect of the following material (regardless of whether material is contained in traditional or digital format):

- Personal lecture notes, overheads and other materials which a staff member produces for delivery of lectures and other classes
- Commercially published books
- Journal articles
- Conference papers.

Whilst the University agrees that it will not claim ownership of Intellectual Property in respect of such works, the University does require a non-exclusive licence to use, reproduce and communicate to the public such Intellectual Property, where ownership is retained by the relevant staff. This licence must be irrevocable, royalty-free and world-wide.

**POLICY PROVISIONS**

RMIT will adopt a “whole of organisation” or enterprise-wide approach to the identification, management and commercialisation or other exploitation of its R&D intellectual property.

Any physical object embodying University intellectual property will be the property of the University.

The Research and Development Intellectual Property Committee or its nominee advises the Vice-Chancellor in the administration of any right or interest of the University in any matter relating to the University's intellectual property.

Proposals for collaborative research and development and similar activities involving other individuals or organisations require the approval of the Pro Vice-Chancellor (Research & Innovation)

In any research, collaborative initiative with other organisations or commercialisation proposal, the University’s preferred position is for it to retain access to the R&D intellectual property through a royalty-free license or other arrangements that will enable the University to increase its intellectual capital and thereby enhance its academic programs, non-commercial research, etc.

The Research and Development Portfolio in conjunction with its associated commercial companies (where applicable), will be responsible for Research, application and innovation intellectual property

The University’s will maintain a Register of R&D Intellectual Property
The commercial development of any University research and development intellectual property will be decided by and must be negotiated by Research and Development Portfolio or one of its commercial companies created for this purpose.

**STAFF**

The University owns all research and development intellectual property created or developed by staff in the course of his or her duties.

The University owns R&D intellectual property created by adjunct professors, emeritus professors, casual staff and other visitors engaged in research or activities where the R&D intellectual property is created directly through their appointment or responsibilities at RMIT University, including through participation in research projects, collaboration with other staff, supervision of students of the University, or while they utilize RMIT University resources or facilities.

All University staff who are also students at the University, or who undertake educational programs or activities that may result in the creation of R&D intellectual property, must enter into an agreement with the University that clearly identifies the ownership of any R&D intellectual property that could be created through these activities.

The University claims a share of research and development intellectual property developed by visiting staff while working at the University, such share to be determined by the Intellectual Property Committee having regard to the funds, equipment, facilities or supervision provided by the University.

**Publication of R&D Intellectual Property**

Subject to any established contractual issues or obligations, commercial confidentiality or any other constraint or limitation determined by RMIT as the owner of the R&D intellectual property, University staff do not need to seek explicit release from RMIT to publish that R&D intellectual property.

Ownership of the copyright and the moral rights of the author will be in accordance with applicable University policies.

4.2.3  **Clarification of Clause 4.2.1 – Education and Training Context**

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4.2.4 Recognition of the Moral Rights of Authors

The University endorses the AV-CC’s statement on the Moral Rights of Authors issued on 9 May 1995 and acknowledges this as University Policy.

Regardless of whether or not research and development intellectual property is owned by the University or a staff member, where a particular work has been authored by a staff member and is used for University purposes, that staff member's authorship of the work must be acknowledged.

Where a decision is taken that the Portfolio or commercial company will not proceed with commercialisation, the University will assign the rights of ownership to the intellectual property to the staff member, provided that the University is granted a non-exclusive, royalty-free and irrevocable licence to use the intellectual property for its own teaching and research.

STUDENTS

Subject to any employment relationship between the University and a student or any provision under paragraph 4.3.2, any research and development intellectual property created solely by a student is owned by that student.

Where a student contributes to the development of research and development intellectual property through research or other activities involving other students or members of staff or uses existing University intellectual property (background intellectual property), all the contributors to the creation of the intellectual property associated with that research or other activity will be recognised.

Where a student is involved in a project or specific commission in respect of which the University or any party to an agreement with the University has provided funds, equipment, facilities or supervision, the University may require the student to be a party to an intellectual property and/or confidentiality agreement before commencement.

The University may require that public access to a thesis be restricted for a specified period to enable the student, the University and any outside funding bodies to benefit commercially from the results of a research project.

In the event that the intellectual property in a student's work may be commercially viable, the University encourages the student to utilise the services of the relevant Portfolio or commercial company in assessing, protecting and prosecuting the commercial application of the intellectual property.

Supporting / Related Documents:

1. Outside Activities – RMIT People Services Policy No. 311
2. Conflict of Interest – RMIT People Services Policy No. 570
4. RMIT University Code of Research Practice
5. Procedures for Non Operating Grant Funded Activities - Commercial and Legal Services Group

Key Words for Search Engine (SIM):

### PROCEDURES:
1. Identification, Management And Commercialisation Of University-Owned R&D Intellectual Property
2. The RMIT Register Of R&D Intellectual Property
3. Distribution Of The Net Benefits Obtained From The Successful Commercialisation Of R&D Intellectual Property

### GUIDELINES:
1. Identification, Management And Commercialisation Of University-Owned R&D Intellectual Property
2. Distribution Of The Net Benefits Obtained From The Successful Commercialisation Of R&D Intellectual Property

### ACCOUNTABILITIES

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### WHO SHOULD KNOW THIS POLICY?
All RMIT University staff and students. Visitors to RMIT University

### EFFECTIVENESS OF THIS POLICY

**Performance Indicator(s):** Establishment and operation of University-wide processes for identification, management and utilisation of intellectual property to support the University’s mission particularly through:
- increases in the University’s intellectual capital and
- the generation of positive benefits for the University, its staff and its students, including commercialisation of R&D intellectual property where appropriate

Increased understanding and application of the policy and procedures through effective education and awareness programs for RMIT staff and students

### REVISION HISTORY

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