

COMMERCIALISATION FOR IMPACT POLICY AND PROCEDURE



CONTENTS

1	PURPOSE.....	1
2	SCOPE.....	1
3	POLICY STATEMENT	2
	Identification and disclosure.....	2
	Investigation and assessment.....	2
	Execution	3
	Traditional and contemporary knowledges	3
	Distribution of net commercialisation proceeds	4
	Discontinuation.....	4
	Dispute resolution	4
4	PROCEDURE	4
	Disclosure	5
	Initial investigation.....	5
	Assessment.....	5
	Execution	6
	Distribution of net commercialisation proceeds	6
5	RESPONSIBILITIES	6
	Compliance, monitoring and review	6
	Reporting.....	7
	Records management.....	7
6	DEFINITIONS	7
	Terms and definitions.....	7
7	RELATED LEGISLATION AND DOCUMENTS	9
8	FEEDBACK.....	9
9	APPROVAL AND REVIEW DETAILS.....	9
10	APPENDICES	10
	Appendix 1: Stage gate 1 – Intellectual property, market and opportunity assessment.....	10
	Appendix 2: Stage gate 2 – commercialisation strategy.....	11

1 PURPOSE

1.1 This policy and procedure establishes an accountable and transparent framework for:

- managing CQUniversity's commercialisation portfolio and commercial impact activities, and
- transferring University research, ideas and innovation into communities in line with the strategic goal to achieve real-world impact.

2 SCOPE

2.1 This policy and procedure applies to University intellectual property:

- developed by CQUniversity employees, including employees of CQUniversity's controlled and non-controlled entities
- commercialised by CQUniversity and its controlled and non-controlled entities

- developed by adjunct academic appointees, visiting fellows and other individuals who are treated as employees on the basis that they are working at CQUniversity and making significant use of the University's resources and facilities, and
 - developed by other persons, by agreement.
- 2.2 This policy and procedure does not apply to the intellectual property developed by CQUniversity students in the course of their studies unless the University has been assigned ownership of the intellectual property from that student.

3 POLICY STATEMENT

- 3.1 The University acknowledges the creative contributions of its employees and that these contributions vest in a valuable asset, being intellectual property. The University fosters a culture of creativity and is committed to maximising the commercial, community and societal impact of these creative ideas, research and innovations. The University's commercialisation agenda is to transfer its knowledge, research and innovations in such a way as to have positive real-world impact and application in our societies, our communities and our industries.
- 3.2 The University encourages productive and mutually beneficial relationships, collaborations, alliances and partnerships with the end-users of research and innovation. This may be through joint intellectual property ownership arrangements where these relationships can be leveraged for further development of the Intellectual Property.
- 3.3 The University manages its commercialisation portfolio and commercial impact activities through the Corporate Services Division, in collaboration with the Research Division, with operational management and support allocated to the Commercialisation Team.
- 3.4 Under the allocated authority of the Chief Operating Officer and Vice-President (Research), the Commercialisation Team will manage the operational elements of commercial impact activities, including identification and assessment of intellectual property and opportunities, support for employees, delivery of training and education, reporting to the Commercialisation Committee, engagement with external stakeholders, and development and execution of commercialisation strategies.
- 3.5 The Commercialisation Committee will provide consultation and expertise on the protection of intellectual property, assessment of commercial merit, and recommendations on appropriate commercialisation strategies and pathways or exit strategies.

Identification and disclosure

- 3.6 The ability to protect and commercialise intellectual property is dependent upon its early identification. Creator/s who develop University intellectual property that is reasonably capable of having commercial impact must, as soon as possible after its creation, report that fact to the Commercialisation Team and provide full details of the University intellectual property created.
- 3.7 Creator/s must not publicly disclose the creation via publication, presentation, or submission of journals or conference abstract before a formal decision by the Vice-President (Research) on the protection of University intellectual property has been made.
- 3.8 In line with University budgetary provisions and the [Intellectual Property and Moral Rights Policy](#), the Vice-President (Research) can approve the protection of University intellectual property. The Vice-President (Research) may consult with the Commercialisation Committee prior to making a decision.
- 3.9 Where there is any doubt as to whether University intellectual property is capable of having commercial impact, it is the responsibility of creator/s to seek the advice of the Commercialisation Team.

Investigation and assessment

- 3.10 The Commercialisation Team will undertake an initial investigation of the viability of the University intellectual property based on the details disclosed and will consult with the creator/s.

- 3.11 Where conditions are met, further investigation will be conducted in the form of a market and opportunity assessment to assess whether any formal protection is possible and/or required, confirm freedom to operate, and evaluate commercial viability. A recommendation will be provided to the Commercialisation Committee for review.

Execution

- 3.12 Where the Commercialisation Committee recommends, and the Chief Operating Officer and Vice-President (Research) decide, to advance the commercial impact activity, the creator/s (where appropriate) and Commercialisation Team, together with any external parties and consultants, will progress the commercial readiness of the innovation and develop and execute the commercialisation strategy.
- 3.13 Creator/s will be encouraged to participate in the execution process but will not be obligated to do so except where the Commercialisation Committee recommends that creator/s input is critical to the activity.
- 3.14 A spin-off company is one of many possible commercialisation pathways and strategies to advance and extract value from University intellectual property. The establishment of a spin-off company will generally only be considered in instances where there is an external collaborative party with the capacity to contribute capital and/or expertise. The University will contribute the intellectual property in return for an equity interest in the company. The involvement of creator/s in actively driving and supporting the operation of the spin-off company will be considered on a case-by-case basis in accordance with the University's [Conflict of Interest Policy and Procedure](#).
- 3.15 The Commercialisation Committee will review draft strategies, recommend appropriate execution strategies and have oversight of same, review draft agreements containing commercial initiatives, terms and measures, undertake post-implementation reviews and monitoring of Commercial Impact Activities.
- 3.16 All agreements concerning commercial impact activities must be prepared, negotiated and executed in accordance with the University's [Contract Management Policy and Procedure](#) and associated signing and financial delegations.

Traditional and contemporary knowledges

- 3.17 In accordance with the [United Nations Declaration on the Rights of Indigenous Peoples](#), the Custodians of Traditional and Contemporary Knowledges ("Custodians") have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional and contemporary knowledges, and traditional cultural expressions.
- 3.18 The University, in the pursuit of commercial impact activities, will do no harm to Custodians nor their custodianship of traditional and contemporary knowledges. The University will ensure that appropriate recognition, protection and respect is provided to the Custodians.
- 3.19 The University will ensure that culturally appropriate engagement processes, including free prior and informed consent, are applied when engaging and negotiating with Custodians on the development, approval, use, and public disclosure of traditional and contemporary knowledges in commercial impact activities. In relevant circumstances, Registered Native Title bodies should be consulted as they may have significant input on the use of traditional and contemporary knowledges held by Custodians.
- 3.20 The University will engage with Custodians to negotiate fair and equitable benefit sharing arrangements on mutually agreed terms from any commercial impact activities involving traditional and contemporary knowledges.
- 3.21 The University will ensure that free prior and informed consent, and benefit sharing arrangements are in place prior to the use of publicly accessible traditional and contemporary knowledges.
- 3.22 The University will ensure it respects and considers the use of traditional and contemporary knowledges in any proposed commercial impact activities prior to the execution of those activities. Appropriate legal advice must be obtained before engaging in any commercial impact activities that use or refer to traditional and contemporary knowledges. The Office of Indigenous Engagement must also be consulted.

- 3.23 The University's [First Nations Community Engagement: Industry Guide Phase 1](#) and [Engaging and Communicating with Aboriginal and/or Torres Strait Islander or First Nations People Protocol](#) provide useful and practical information on engaging with First Nations communities and employing best practice in interactions and message delivery.

Distribution of net commercialisation proceeds

- 3.24 The University recognises that creator/s are entitled to an equitable share of any returns from commercial impact activities.
- 3.25 Where the University receives cash proceeds from commercial impact activities, any net commercialisation proceeds will be distributed in accordance with section 3.29, unless otherwise specified in agreed contractual arrangements.
- 3.26 Creator/s will not be entitled to any distribution in relation to the use of copyright material in delivering teaching, education and training courses at the University.
- 3.27 Unless otherwise collectively agreed by creator/s, contributor/s will not be entitled to a share of net commercialisation proceeds.
- 3.28 In relation to pre-existing arrangements, despite any contrary provision in this policy and procedure, all existing legally binding contracts, deeds and agreements entered into by the University prior to the effective start date of this policy and procedure will remain in full force and effect. Their terms will prevail to the extent that there is an inconsistency with this policy and procedure.
- 3.29 Net commercialisation proceeds will be distributed as follows:

Party	Share of Net Proceeds
Creator/s	40%
Creator/s Business Area – CQUniversity	20%
Research Division – CQUniversity	20%
Central – CQUniversity	20%

- 3.30 It is the responsibility of individual creator/s to obtain their own independent financial advice in terms of the taxation implications of such distributions of net commercialisation proceeds.

Discontinuation

- 3.31 Where commercial viability is not present, the Commercialisation Committee will provide recommendations on possible exit strategies and discontinuation of commercial impact activities to the Chief Operating Officer and Vice-President (Research). Such exit strategies may include assignment of intellectual property to creator/s.
- 3.32 Any recommendations relating to the assignment of University intellectual property will be made to the Vice-President (Research) in accordance with the [Intellectual Property and Moral Rights Policy](#).

Dispute resolution

- 3.33 Unresolved matters pertinent to the matters covered by this policy and procedure will be referred to the Vice-President (Academic). Where the applicant is not satisfied with the Vice-President (Academic)'s decision, the applicant may request an internal review by the Vice-Chancellor and President.

4 PROCEDURE

- 4.1 The [Commercialisation Process - Flowchart](#) details how an innovation will typically flow through the University from an initial idea or early concept through to creating impact. The flowchart specifies the stakeholders responsible at relevant points in the process and identifies the stage gate points at which further investigation is required.

4.2 The [Commercialisation Process - Detail](#) underpins the University's commercialisation process flowchart. The framework specifies the following detail at each critical stage in the [Commercialisation Process - Flowchart](#):

- responsibilities of key stakeholders
- decision points and criteria for assessment
- approval authorities
- supporting documentation, forms and templates, and
- knowledge skills and experience requirements.

Disclosure

4.3 Where creator/s believe they have created University intellectual property capable of generating impact, they should complete the relevant [Innovation Disclosure Form](#) and submit the completed form to the Commercialisation Team at u-innovate@cqu.edu.au.

Initial investigation

4.4 The Commercialisation Team will perform an initial assessment of the University intellectual property based on the submitted [Innovation Disclosure Form](#) and associated discussions with the creator/s, and will determine if the requirements for further investigation are met, based on, but not limited to, the following criteria:

- alignment with the University's commercialisation and research objectives
- demonstrated market need and the intellectual property solves a problem
- demonstrated competitive advantage
- novelty of intellectual property where capable of protection
- intellectual property is unencumbered and ownership is not significantly diluted, and
- no public disclosure.

Assessment

4.5 Where initial investigation criteria are met, a more in-depth investigation of the intellectual property will be undertaken in the form of a market and opportunity assessment based on, but not limited to, the following criteria:

- novelty of intellectual property based on documented search
- intellectual property has real-world application and solves an industry problem and/or market need
- level of competition
- density of intellectual property landscape
- freedom to operate with the intellectual property
- market/s size and potential, and
- barriers to entry by competitors.

4.6 The Commercialisation Team will provide the assessment, together with any recommendations for potential funding source/s, to the Commercialisation Committee for their consideration.

4.7 The Commercialisation Committee will review the assessment and provide their recommendation on advancement or discontinuation, potential external funding opportunities, and protection of University intellectual property to the Chief Operating Officer and Vice-President (Research).

4.8 [Appendix 1](#) details the criteria to be reviewed by the Commercialisation Committee and recommendations that may be made.

- 4.9 Creator/s will be encouraged to be involved in the assessment process but will not be obligated to do so, except where the Commercialisation Committee recommends that creator input is necessary to inform the activity.

Execution

- 4.10 Where the Chief Operating Officer and Vice-President (Research) decide to advance the commercial impact activity, the Commercialisation Team, together with any external parties and consultants, will develop the commercialisation strategy.
- 4.11 Once the strategy is drafted, the Commercialisation Team will conduct an assessment of the commercial readiness of the innovation and provide both the strategy and the assessment to the Commercialisation Committee for review. The assessment will be based on, but not limited to, the following criteria in no particular order:
- existence of a working prototype or minimum viable product and/or completed trials in a simulated and/or operational environment
 - existence of a funding commitment from a potential partner for intellectual property development and/or working trials/studies with an option to license
 - extent of interest from end users and/or commercial partners with an in-kind commitment to conduct trials/studies
 - funding grant success for further development and/or commercialisation
 - solid positive market report with a commercialisation pathway
 - end users are engaged and interested
 - creator/s suited to commercialisation, and
 - intellectual property development strategy with defined markets.
- 4.12 Creator/s will be encouraged to be involved in this process but will not be obligated to do so, expect where the Commercialisation Committee recommends that creator input is critical.
- 4.13 The Commercialisation Committee will review and make recommendation on advancement of the commercial impact activities, investment in the commercialisation strategy and further intellectual property protection, or an appropriate exit strategy to the Chief Operating Officer and Vice-President (Research).
- 4.14 [Appendix 2](#) details the commercialisation strategy criteria to be reviewed by the Commercialisation Committee at this stage and recommendations that may be made.

Distribution of net commercialisation proceeds

- 4.15 The Corporate Services Division will manage and distribute net commercialisation proceeds including the preparation of distribution statements and notifications to creator/s.
- 4.16 Where more than one creator is present, the creators will determine their respective participation percentages in creating the intellectual property. This decision must be submitted to the Commercialisation Team using the [Creator and Contributor Form](#) no later than six months after the initial innovation disclosure referred to in section 4.3.

5 RESPONSIBILITIES

Compliance, monitoring and review

- 5.1 The Chief Operating Officer is responsible for implementing, monitoring, reviewing and ensuring compliance with this policy and procedure.
- 5.2 The Commercialisation Committee is responsible for providing recommendations on the University's commercial impact activities and monitoring and reviewing the University's commercialisation portfolio in accordance with this policy and procedure.

- 5.3 The Commercialisation Team is responsible for ensuring the operational elements of the University's commercial impact activities including identification, management and execution, are in compliance with this policy and procedure.
- 5.4 The Finance Directorate is responsible for the reporting and recording of income and expenses from commercial impact activities and the disbursement of net commercialisation income to stakeholders.

Reporting

- 5.5 The Commercialisation Team will report to the Chief Operating Officer and the Vice-President (Research) at least every quarter on:
- innovation disclosures made in the preceding three months
 - initial assessments of commercial viability in the preceding three months
 - proposed strategies for University intellectual property protection and commercialisation
 - the status of any commercial agreements, and
 - recommendations for possible funding to advance commercial impact activities.
- 5.6 The Commercialisation Team will report to the University Management Committee, Audit Risk and Finance Committee and the University Council on an annual basis. This annual report will include:
- any new commercial impact activities undertaken during the year
 - the status of any existing and executed commercialisation agreements
 - the details of any pipeline commercial impact activities of significance, and
 - financial information relating to commercialisation income and commercialisation costs for the relevant year-end.

Records management

- 5.7 Employees must manage records in accordance with the [Records Management Policy and Procedure](#). This includes retaining these records in a recognised University recordkeeping information system.
- 5.8 University records must be retained for the minimum periods specified in the relevant [Retention and Disposal Schedule](#). Before disposing of any records, approval must be sought from the Records and Privacy Team (email records@cqu.edu.au).

6 DEFINITIONS

- 6.1 Terms not defined in this document may be in the University [glossary](#).

Terms and definitions

Aboriginal Tradition: under the *Acts Interpretation Act 1954* (Qld), means the body or traditions, observances, customs, and beliefs of Aboriginal people generally or of a particular community or group of Aboriginal people, and includes any such traditions, observances, customs and beliefs relating to particular persons, areas, objects or relationships.

Commercial impact activities: protecting, developing and dealing with University intellectual property through manufacture, licence, hire, collaboration directly with or through a third party, sale, spin-off and other means of exploitation.

Commercialisation Team: appointed by the Chief Operating Officer and Vice-President (Research), including but not limited to:

- Director Office of Research
- Solicitor (Research)

- Senior Executive Officer, Corporate Services and Commercialisation.

Contributor/s: individuals who have assisted in reducing the intellectual property to practice, but have not provided significant intellectual or creative input.

Creator/s: individuals whose intellectual property and creative input were critical to the creation of the intellectual property in its current form. These individuals have conceived or contributed an element essential to the innovation, either independently or jointly with others, during the evolution of the innovation or its reduction to practice. Co-authors of publications may not necessarily be creators.

Custodians: under the *Biodiscovery Act 2004* (Qld), custodians of traditional and contemporary knowledges are the Aboriginal peoples or Torres Strait Islanders to whom the traditional and contemporary knowledges relate.

Free prior and informed consent: a specific right under the [United Nations Declaration on the Rights of Indigenous Peoples](#) (Article 19). The [Nagoya Protocol](#) extends this right to the use of traditional and contemporary knowledges about genetic resources. Free Prior and Informed Consent ensures that:

- consent is given voluntarily by Custodians without pressure, coercion, intimidation or manipulation
- consent is obtained before the use of traditional and contemporary knowledges
- all relevant information is provided to, and understood by Custodians in seeking their consent, and
- use of traditional and contemporary knowledges only occurs with the consent, and continued consent, of Custodians.

Intellectual property: intangible property that attracts rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields. Property protected includes but is not limited to:

- a) literary, artistic and scientific works,
- b) performances of performing artists, phonograms and broadcasts,
- c) inventions in all fields of human endeavour,
- d) copyright in computer software code,
- e) scientific discoveries,
- f) industrial designs,
- g) trademarks, service marks and commercial names and designations, and
- h) protection against unfair competition.

Island Custom: under the *Acts Interpretation Act 1954* (Qld), the body of customs, traditions, observances, and beliefs of Torres Strait Islanders generally or of a particular community or group of Torres Strait Islanders, and includes such customs, traditions, observances and beliefs relating to particular persons, areas, objects or relationships.

Net commercialisation proceeds: cash financial proceeds actually received from the exploitation of University intellectual property through manufacture, licence, hire, franchise, collaboration directly with or through a third party, sale, royalty, spin-off and any other means of exploitation, net of costs incurred in connection with developing, protecting, registering, managing, marketing, commercialising and enforcing the intellectual property, including but not limited to the following:

- legal costs
- patenting and protection costs
- consulting costs
- marketing and market research costs
- advisory fees and professional fees
- insurance costs
- travel expenses, and

- any other commercialisation costs.

Financial proceeds and revenue received for research and development funds and / or consultancy services performed are specifically excluded from net commercialisation proceeds.

Traditional and contemporary knowledges: referencing the [World Intellectual Property Organization](#), are knowledges, know-how, skills and practices that are developed, new, emerging or evolving, and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity. Under the *Biodiscovery Act 2004* (Qld), traditional knowledges mean information based on Aboriginal Traditions or Island Customs. Traditional and contemporary knowledges also encompass all cultural expressions that use tangible and/or intangible ways in which traditional and contemporary knowledges are expressed or communicated. Examples include but are not limited to languages, music, stories and oral traditions, dance, rituals, customs, names, symbols, designs, visual art and crafts, and architecture.

University intellectual property: intellectual property owned, wholly or in part, by the University, in accordance with the Intellectual Property and Moral Rights Policy.

7 RELATED LEGISLATION AND DOCUMENTS

[Acts Interpretation Act 1954](#) (Qld)

[Biodiscovery Act 2004](#) (Qld)

[Commercialisation Committee Terms of Reference](#)

[Commercialisation Process - Flowchart](#)

[Commercialisation Process - Detail](#)

[Conflict of Interest Policy and Procedure](#)

[Controlled and Non-Controlled Entities Policy and Procedure](#)

[Copyright Act 1968](#) (Cwlth)

[Delegations of Authority Policy](#)

[Innovation Disclosure Forms](#)

[Intellectual Property and Moral Rights Policy](#)

[Nagoya Protocol](#)

[United Nations Declaration on the Rights of Indigenous Peoples](#)

[World Intellectual Property Organization](#)

8 FEEDBACK

8.1 Feedback about this document can be emailed to policy@cqu.edu.au.

9 APPROVAL AND REVIEW DETAILS

Approval and Review	Details
Approval Authority	Vice-Chancellor and President
Delegated Approval Authority	N/A
Advisory Committee	University Management Committee
Required Consultation	N/A
Administrator	Chief Operating Officer
Next Review Date	02/11/2025

Approval and Amendment History	Details
Original Approval Authority and Date	Vice-Chancellor and President 02/11/2022
Amendment Authority and Date	Editorial amendment 03/01/2023
Notes	

10 APPENDICES

Appendix 1: Stage gate 1 – Intellectual property, market and opportunity assessment

At this stage in the process, the creator/s have submitted the Innovation Disclosure Forms to the Commercialisation Team, who have performed an initial review of the intellectual property and an investigation of the market and opportunity offered by the innovation.

This investigation will be provided to the Commercialisation Committee for their consideration.

The Commercialisation Committee will assess and consider the following criteria in relation to the innovation:

- Is the innovation and intellectual property novel?
- Does the innovation solve an industry or market problem?
- Is the intellectual property landscape crowded?
- Is there freedom to operate with the intellectual property?
- Are the potential markets for the innovation sizeable?
- Is market competition low?
- Are the barriers to market entry for competitors high or low?

After assessing the criteria above, the Commercialisation Committee will provide recommendations and feedback on the following elements:

- whether to proceed with protecting the intellectual property
- whether to invest in and/or seek funding for further development of the innovation
- whether to undertake further commercial assessments and identify funding for these activities, and
- whether discontinuation of commercialisation activities is appropriate and associated exit strategy recommendations.

Appendix 2: Stage gate 2 – commercialisation strategy

At this stage in the process, a commercialisation strategy has been developed and will be presented to the Commercialisation Committee for their consideration.

The Commercialisation Committee will assess and consider the following criteria in relation to the innovation and the commercialisation strategy:

- Is there a working prototype or minimum viable product and/or have trials been conducted in a simulated and/ or operational environment?
- Is there a funding commitment from partners or collaborators for intellectual property and/or trials or students with an option to licence the intellectual property?
- Is there interest from end users or commercial partners willing to commit funding and/or in-kind contributions for trials?
- Has there been any successful applications for grant funding for further development of the innovation and/or commercialisation?
- Are there any appropriate funding sources (e.g., grants) for further development of the innovation and/or commercialisation?
- Is there a positive market report with a clear commercialisation pathway?
- Are end users engaged and interested?
- Is the researcher or employee or group suited to commercialisation?
- Is there an intellectual property development strategy with defined markets?

After assessing the criteria above, the Commercialisation Committee will provide recommendations and feedback on the following elements:

- whether to proceed with continued protection of the intellectual property
- whether to invest in and/or seek funding for further development of the innovation
- whether to invest in and/or seek funding for the commercialisation of the innovation including the development of a commercialisation plan (business plan) and associated commercialisation activities
- identification of relevant funding for these activities, and
- whether discontinuation of commercialisation activities is appropriate and associated exit strategy recommendations.