

## Intellectual Property Policy and Procedure

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Policy owner	Principal Executive Officer
Responsible Officer	Principal Executive Officer
Approving authority	Academic Board
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Related Documents	Student Code of Conduct Staff Code of Conduct Copyright Policy Copyright Procedure Student Complaint and Appeal Policy and Procedure Student Academic Misconduct Policy and Procedure Communication and Usage of ICT Policy
HESF (Threshold Standards) 2021	4.1.1; 4.1.2; 4.1.3; 4.1.4; 5.2.1; 5.2.2; 7.2.2(d).
Policy Visibility	Public

### 1. Purpose

This Policy establishes the commitment of the Australian Institute of Higher Education Pty Ltd ('the Institute') to fostering an innovative culture which values and safeguards intellectual property.

### 2. Principles

The key principle informing this Policy is the recognition that intellectual property entails both rights and responsibilities.

This Policy reflects the law relating to Intellectual Property at the time this policy was approved. Changes in the law arising after this Policy comes into effect will prevail over this policy. Any content within this policy that deals with the laws relating to Intellectual Property are not intended to be relied on as legal advice by any person.

This Policy sets out general principles and procedures, and it has not been designed to address every conceivable circumstance. Under principles of fair play, the developer of the material and the Institute mutually operate so that no one will unfairly exploit inadvertent errors or omissions in this written Policy.

The principle of transparency promotes both the disclosure and avoidance of actual and apparent conflicts of interest associated with external commercial activities.

Throughout all phases of the creation and implementation of this Policy, it is assumed that members of the AIH community will be guided by a sense of mutual trust and goodwill. In the event of future controversies regarding the rights to intellectual property, the commercialisation of particular property, or in the interpretation of this Policy, all parties should recognise that mutual trust and goodwill were fundamental principles in creating this Policy.

### 3. Context

This Policy has been developed to ensure that intellectual property created within the Institute is identified and managed appropriately; and to provide a clear understanding of the rights and responsibilities of staff and students.

This Policy covers Intellectual Property rights in relation to Copyright of literary works, promotional content, artistic works, video clips, sound recordings, published editions of works, content on the Institutes Learning Management System, course materials, computer works and computer programs.

### 4. Scope

This Policy applies to all staff, students and stakeholders at the Institute.

### 5. Definitions

See the AIH Glossary of Terms for definitions.

### 6. Policy Details

#### 6.1 Ownership of Intellectual Property

##### Staff

Subject to this Policy, the Institute owns any intellectual property developed, acquired or contributed by its staff, in the performance of their duties and/or using the Institutes facilities and resources. The provisions of this Policy are deemed to be part of the terms and conditions of employment of all staff. In the case of sessional staff who are engaged as consultants, this provision will form part of the contractual arrangements with those staff.

The Institute and staff members will action, in a timely manner, all requirements to give effect to the ownership provisions set out in this Policy and to allow for the use

and commercialisation of the intellectual property by the Institute as set out in this Policy.

Unless specifically approved by AIH, academic and administrative staff, external course developers, and contractors shall not use AIH facilities or resources to create, develop, or commercialise Intellectual Property outside the course and scope of employment or agreement. Staff shall not use AIH facilities or resources to commercialise any Intellectual Property. Any amendment to this clause in the Policy must be approved by the Dean and the Principal Executive Officer.

The Institute acknowledges its obligation and responsibility to ensure all staff are aware of the rights and obligations relating to intellectual property, moral rights and the application of this Policy.

Any staff member whose research or scholarly activities as an employee of the Institute, undertaken using the Institute's resources, leads to an intellectual property outcome which might reasonably be regarded as being of potential commercial value is obliged to advise the CEO and Dean in writing prior to any publication, dissemination or commercialisation of the intellectual property. The Dean will advise the staff member promptly whether or not the Institute wishes to become involved in the process of commercial exploitation of the intellectual property.

The Institute does not claim ownership of research and other work conducted outside of working hours and using non-Institute resources. Staff members must carefully consider and plan their work to ensure that non-Institute property is not resourced by the Institute to ensure clarity of ownership.

### Students

Unless specifically approved by AIH, students shall not use AIH facilities or resources to create, develop, or commercialise any Intellectual Property outside the course and scope of their studies whilst at the Institute. Any amendment to this clause in the Policy must be approved by the Dean and the Principal Executive Officer.

The Institute does not claim ownership of intellectual property which students generate through their studies or associated activities within the Institute. However, where extensive use is made of the Institutes facilities and/or background intellectual property, the Institute may seek shared ownership of intellectual property with a student. Any sharing of ownership of intellectual property would involve an agreement which assigns a student's ownership rights to the Institute which outlines the ownership rights of the student and the Institute. Any reference in this Policy to the Institute having rights to the intellectual property of students is understood to be only in the circumstance of the students assigning ownership rights to the Institute by written agreement.

The Institute retains the right to use student work for educational and/or promotional purposes through appropriate agreements with the student.

## Stakeholders

Subject to this Policy, the Institute owns any intellectual property developed, acquired or contributed by its stakeholders as per any contractual arrangements made between the stakeholder and the Institute.

The Institute and relevant contracted stakeholders will action, in a timely manner, all requirements to give effect to the ownership provisions set out in this Policy and to allow for the use and commercialisation of the intellectual property by the Institute as set out in this Policy.

Unless specifically approved by AIH, external course developers and contractors shall not use AIH facilities or resources to create, develop, or commercialise Intellectual Property outside the course and scope of employment or agreement. Any amendment to this clause in the Policy must be approved by the Dean and the Principal Executive Officer.

## Moral Rights

The Institute will take all reasonable steps to respect the right of an originator to be acknowledged as the creator of intellectual property, and to ensure that others respect that right. Where the Institute uses intellectual property created by an originator it must take reasonable steps to consult with the originator before modifying or adapting that intellectual property. Where an originator wishes not to be acknowledged as the creator of intellectual property which has been modified or adapted, the Institute will take reasonable steps to respect that wish, and to ensure that others respect it after written confirmation has been received. An originator must take reasonable steps to ensure due acknowledgment of the Institute's contribution of facilities and resources used in the creation of intellectual property is included in any publications.

### 6.2 Dispute Resolution

The resolution of disagreements and disputes of matters related to this Policy shall be dealt with under the Institute's *Staff Grievance Policy* and associated Procedure for staff or the *Student Complaint and Appeal Policy* and associated Procedure for students.

### 6.3 Allegations of Misconduct

Allegations of misconduct in relation to this Policy will be dealt with in accordance of the Student Code of Conduct for students or Staff Code of Conduct for staff.

## 7. Authorship and Intellectual Property (HDR Publications)

The Institute upholds the Australian Code for the Responsible Conduct of Research (2018) and recognises that clear, fair and transparent attribution of authorship and ownership of research outputs is critical to research integrity. This section applies to all publications and creative works arising from Higher Degree Research (HDR) candidature, including journal articles, conference papers, monographs, exhibitions, software and datasets.

## 7.1 Principles

1. Substantial Scholarly Contribution – Authorship is offered only to individuals who have made a significant intellectual or creative contribution to the conception, design, execution or interpretation of the research and who agree to be accountable for their contribution. Offering authorship to those who have not contributed, or omitting those who have, constitutes a breach of responsible conduct.
2. Transparency and Documentation – An Authorship and IP Agreement must be discussed, drafted and signed:
  - at project inception (or no later than Confirmation of Candidature);
  - reviewed whenever project scope or team membership changes; and
  - lodged with the Director Research for record-keeping.
3. Student-Centred Priority – HDR candidates are recognised as primary drivers of their research. The default presumption is that the HDR candidate is first (lead) author on publications derived mainly from their thesis work, unless disciplinary conventions or the agreed Authorship Agreement dictate otherwise.

## 7.2 Order of Authors

Author order should reflect the relative weight of each contributor's intellectual input (not seniority, funding, or supervisory position).

Typical sequence for thesis-derived outputs:

1. HDR Candidate (lead author)
2. Principal Supervisor
3. Associate Supervisor(s) and other collaborators in descending order of contribution
4. "With" or "and" designation may be used where discipline norms require equal first or senior last authorship.

Where equal contribution is claimed, this must be stated in the publication's footnote or acknowledgements.

## 7.3 Supervisors and Automatic Authorship

- Supervisors are *not* automatically listed as authors on every HDR-related publication.
- A supervisor qualifies for authorship only when they have met the same substantial-contribution test (e.g., significant input into study design, data analysis, or manuscript drafting).
- Supervisors who provide routine mentorship, facilities access, or general oversight without substantial intellectual input will be formally acknowledged in place of authorship.

## 7.4 Intellectual Property (IP) Ownership and Licensing

1. Student Ownership – In accordance with the Institute’s IP provisions and Australian copyright law, HDR candidates normally own the IP and copyright in works they create, unless:
  - o the research is subject to a third-party funding or commercialisation agreement that states otherwise; or
  - o the candidate has expressly assigned IP rights to the Institute in writing.
2. Institute and Third-Party Rights – Where Institute resources, confidential data or external sponsor funding materially contribute to the research, joint or Institute ownership may apply as specified in the relevant contract.
3. Publication and Deposit – All HDR-generated publications must cite the Institute affiliation and, upon acceptance, a final author-accepted manuscript must be deposited in the Institute’s open-access repository, subject to embargo or publisher conditions.

## 7.5 Conflict Resolution

- Disputes regarding authorship order or IP are to be addressed first within the supervisory team, then escalated to the Director of Research.
- Unresolved disputes will be referred to the Dean under the HDR Responsible Conduct Policy processes.

## 8. Legislation

This Policy and the associated Procedure comply with the Higher Education Standards Framework (Threshold Standards) 2021, specifically:

- Standard 4 (Research and Research Training):  
4.1.1; 4.1.2; 4.1.3; 4.1.4 : Research and associated activities are conducted within a framework designed to ensure:
  - a. ethical conduct of research and responsible research practice
  - b. clarification of ownership and management of intellectual property
  - c. successful management of research partnerships
  - d. clarification of requirements for publication and authorship, and
  - e. resolution of allegations of misconduct in research.
- Standard 5 (Institutional Quality Assurance):

- 5.2.1; 5.2.2: Preventative action is taken to mitigate foreseeable risks to academic and research integrity, including misrepresentation, fabrication, cheating, plagiarism, and misuse of intellectual property, and to prevent recurrences of breaches.
- Standard 7 (Representation, Information and Information Management): 7.2.2(d): Information for students is available prior to acceptance of an offer, written in plain English where practicable, accompanied by an explanation of any technical or specialised terms, and includes:
  - d. information to give access to current academic governance policies and requirements, including admission, recognition of prior learning, transition, progression, assessment, grading, completion, qualifications, appeals, academic integrity, equity and diversity, intellectual property, and withdrawal from or cancellation of enrolment.

Other applicable legislation includes:

- Patents Act 1990
- Trade Marks Act 1995
- Designs Act 2003
- Copyright Act 1968
- Copyright Amendment (Moral Rights) Act 2000
- Competition and Consumer Act 2010
- Copyright Amendment Act 2006
- Copyright Amendment (Online Infringement) Act 2018
- Copyright Amendment Rules, 2021
- Intellectual Property Laws Amendment Act (2015)

## 9. Version Control

This Policy has been endorsed by the Australian Institute of Higher Education Academic Board as at August 2025 and is reviewed every 3 years. The Policy is published and available on the Australian Institute of Higher Education website <http://www.aih.nsw.edu.au/> under 'Policies and Procedures'.

Change and Version Control				
Version	Authored by	Brief Description of the changes	Date Approved:	Effective Date:
2016-2	Registrar	Updated template.	6 July 2016	6 August 2016
2017-1	Ms. McCoy	Revised content.	4 August 2017	7 August 2017
2020.1	Registrar	Minor title changes	2 December 2020	3 December 2020

2022.1	Registrar	Updated Higher Education Standards Framework [Threshold Standard] 2021	25 May 2022	26 May 2022
2023.1	Chief Executive Officer	Review of Policy as per 3-year Cycle	5 April 2023	6 April 2023
2025.1	Principal Executive Officer and Acting Head of Quality Assurance	Expanded Section 7 (Authorship and Intellectual Property – HDR Publications) to clarify authorship order, supervisor authorship criteria, HDR candidate lead authorship conventions, and processes for resolving disputes. Added detailed provisions on IP ownership, licensing, and repository deposit for HDR-generated works and updated Legislation & Standards to explicitly include all relevant HESF (Threshold Standards) 2021 clauses (4.1.1; 4.1.2; 4.1.3; 4.1.4; 5.2.1; 5.2.2; 7.2.2(d)) for compliance clarity.	06 August 2025	7 August 2025