

Higher Education Research Commercialisation IP Framework

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The Australian Technology Network of Universities (ATN), in collaboration with The University of Newcastle, welcomes the opportunity to contribute to the development of the [Higher Education Research Commercialisation IP Framework](#).

ATN is the peak body representing Australia's five most innovative and enterprising universities: Curtin University, Deakin University, RMIT University, University of South Australia (UniSA), and University of Technology Sydney (UTS). The University of Newcastle is an important research-intensive anchor institution in the regional gateways of the Hunter and Central Coast. Together, we are home to over 300,000 university students and over 23,000 full and part-time staff.

We are a strong supporter of research commercialisation and its contribution to the ultimate goal of improving the lives of Australians and providing meaningful employment by creating innovative and competitive new products and services. Research and commercialisation improve the knowledge and productive capacity of the Australian economy, resulting in increases in output and terms of trade. This will create jobs for existing workers, students, graduates and researchers, and better lives for all Australians.

Managing and maximising the benefit of intellectual property is not a new or emerging issue for our universities and their partners. It is a challenge and opportunity we have been collaboratively working on for decades as we have become more engaged and integrated with our industry partners.

We recognise the value in providing our industry partners with a consistent, accessible and streamlined approach to commercialisation and intellectual property. ATN has already committed to this when we adopted our [National IP Principles](#). Our industry partners can be confident that when dealing with any of our leading, industry-engaged universities, the approach to IP will be consistent.

As advocated in [ATN's submission on the University Research Commercialisation Scheme](#), we need a comprehensive and connected package of initiatives. The IP Framework can be part of the solution, but it needs to work in concert with existing university and industry activities and additional support. The research commercialisation scheme needs to further the convergence of education and research and the integration of employment and education.

The IP Framework as outlined is not fit-for-purpose – its prescriptive approach and focus on compliance is antithetical to the flexible, adaptive and responsive approach that our industry partners are seeking. Instead, we make the following recommendations to maximise the use of intellectual property in university-industry partnerships.

Recommendations

1. The IP Framework should be re-cast to focus on enabling opportunity rather than enforcing compliance.
2. Indigenous knowledge is a significant area of opportunity – it should be supported by its own strategies that acknowledge and include Indigenous partners.
3. The Government should provide direct, positive support for commercialisation as part of a comprehensive scheme.

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Key points

- Consultation and coordination across and between the Government departments responsible for industry, science and health will be vital. Engagement with the Department of Industry, Science, Energy and Resources (DISER) will be particularly important in this area given that major schemes such as the Cooperative Research Centres (CRCs) and the Modern Manufacturing Initiative sit with DISER.
- The constraints identified in the discussion paper do not reflect the contemporary experience at ATN universities where we have a variety of partnerships with businesses both off and on-campus.
- The proposed framework takes an overly centralised and prescriptive approach to intellectual property issues and attempts to solve a complex set of challenges with a reductive solution.
- If the commercialisation environment is too tightly regulated, then the Government will in fact discourage and stymie the kind of commercialisation activities we intend to promote and pursue.
- Building long-term relationships and trust between universities and industry is even more important than the specific form and nature of the legal agreement – the proposed framework is lacking in this fundamental aspect.
- Our industry partners are varied and the routes to translation and commercialisation are highly dependent on the nature of the research and the industry. Our approach has been characterised by flexibility, adaptability and responsiveness to industry, which this framework threatens to jeopardise.
- Templates and models are most useful as a starting point for negotiation and for setting common standards and expectations, but they should not restrict or limit universities and their partners from making the arrangements that best suit their circumstances.
- The discussion paper is focused primarily on foreground intellectual property, which underplays the significance of the substantial amount of background intellectual property universities have built up and the significant work we do as direct contractors.
- Research and commercialisation are global endeavours and any framework needs to be adaptable to international and transnational commercial norms and legal requirements.
- Intellectual property is not the same as market value, and there is little reflection of translation success rates in the wider market.

Recommendation 1

The IP Framework should be re-cast to focus on enabling opportunity rather than enforcing compliance.

ATN would support the development of a set of templates, models and documents that can set common standards and expectations for industry partners engaging with universities. These templates would be a useful starting point for negotiation, especially for partners with little prior experience of commercialising research.

The IP Framework should build on the leadership that ATN has demonstrated by adopting our National IP Principles. Our seven principles are the basis on which ATN universities operate when it comes to doing business with industry.

By adopting the National IP Principles, ATN committed to:

- Actively promoting greater commercialisation of university research by reducing barriers and complexities
- Increasing collaboration between industry partners and researchers
- Being responsive to industry needs by ensuring we act in a pragmatic, flexible and agile manner
- Respecting the tight timeframes and unique requirements of individual businesses
- Reassuring industry that they will have a similar engagement experience, based on agreed principles, across all ATN universities.

Our seven principles are:

1. We actively encourage students and staff to undertake research that is relevant to challenges faced by society and in partnership with industry, government and community groups
2. As guided by our industry partners, we encourage them to own and take the lead in commercialisation of intellectual property generated from industry funded research when they are best placed to do so
3. Where access to university owned or jointly owned intellectual property is necessary or beneficial for commercialisation, we support access to the intellectual property based on fair and equitable terms, in a timely manner
4. Our interactions with industry will be governed by a transparent, flexible and user-friendly system that supports and encourages engagement using a range of intellectual property models
5. Each university will make public our intellectual property policies and standard commercial agreement templates, to provide a simple and transparent framework
6. We actively encourage and promote an entrepreneurial culture for our staff and students – this includes a system of support to facilitate the creation of new ventures where our staff and students are appropriately involved
7. All partnerships and resultant commercial agreements will be developed and negotiated in a prompt manner and in keeping with these core principles.

In keeping with these principles, there is a place for standard agreements and templates. However, the principles of flexibility, adaptability, responsiveness and being partner-led also mean that standard agreements should not restrict or limit universities and their partners from making the arrangements that best suit their circumstances.

ATN is concerned that the proposed framework takes an overly centralised and prescriptive approach to intellectual property issues. The approach attempts to solve a complex set of challenges with a reductive solution, without due regard for existing work in this area and the needs of industry partners.

Our industry partners are varied and the routes to translation and commercialisation are highly dependent on the nature of the research and the industry. Our approach has recognised this and we have responded appropriately.

It is particularly important to recognise the importance of particular sectors in different parts of Australia, as seen in the critical role of defence research. This will have an influence on the nature of agreements.

We do not support the assumption that the primary value of the humanities, arts and social sciences (HASS) disciplines is copyright and that of the science, technology, engineering, mathematics and medicine (STEMM) disciplines is commercialisation. Copyright and commercialisation opportunities can be found across and in the connective activities between disciplines.

There is a real risk that if the commercialisation environment is too tightly regulated and subject to an onerous reporting burden, then the Government will in fact discourage and stymie the kind of commercialisation activities we intend to promote and pursue. Our goal should be to make commercialisation easier and more attractive for all partners.

Building long-term relationships and trust between universities and industry is even more important than the specific form and nature of the legal agreement. The proposed framework is lacking in this fundamental aspect – it focuses more on compliance than on positive and direct action to promote and enable commercialisation.

ATN has focused on showcasing the results we have achieved through our research, especially those achieved in partnership with industry. Publications like [Our Research](#) demonstrate to potential partners in Australia and around the world that ATN universities put industry engagement into practice.

The Government should take a leading role to highlight and promote the existing examples of good practice and successful partnerships. Together we can help industry partners, from start-ups and small businesses to large corporations, understand the potential opportunities in partnering with universities, understand how they can explore those opportunities, and know where to go and what to expect.

Similar to the National Priorities and Industry Linkage Fund (NPILF), sharing examples of success and best practice would be an effective way for the Government to provide positive support for universities that are already performing at a high level in commercialising research and managing intellectual property. The key is to support and promote existing initiatives and success to the wider business community wherever possible, while providing additional support and resources for those universities that require it.

Recommendation 2

Indigenous knowledge is a significant area of opportunity – it should be supported by its own strategies that acknowledge and include Indigenous partners.

ATN welcomes the acknowledgement of the opportunities in Indigenous knowledge. It is fundamental that this be driven by and for Indigenous people.

There are particular customs, legal issues, rights and responsibilities, and cultural and ethical considerations that should govern the use of this intellectual property. It must be supported by its own strategies that can centre these considerations.

We are particularly keen to see activities and actions that will acknowledge and protect Aboriginal and Torres Strait Islander knowledges.

Example: [The Kuuku I'yu Medicinal Plants Project](#)

For over 10 years, researchers in the UniSA Knowledge Transfer Stream of the Quality Use of Medicines and Pharmacy Research Centre have worked with the Chuulangun Aboriginal Corporation on a collaborative project. This project has woven together both Aboriginal and Western scientific knowledge and approaches to understand the medicinal properties and healing potential of some plant species used in Aboriginal medicine. This project was initiated and driven by the Corporation, which represents traditional owner families of the Kuuku I'yu homelands in central Cape York Peninsula, Queensland, and which manages a Federally-funded Indigenous Protected Area over part of these homelands.

Case study: [First Nations help bring native foods safely to market](#)

As Australia's native food industry develops, an RMIT researcher is working with local communities and government to help make it an Indigenous-led industry.

RMIT Indigenous Pre-Doctoral Research Fellow Luke Williams is evaluating the dietary safety of Australian native plants and collaborating with Food Standards Australia New Zealand (FSANZ).

FSANZ is looking to revamp regulatory frameworks for assessing the safety of traditional food items as they are developed for commercial markets.

Williams said current frameworks don't acknowledge Aboriginal and Torres Strait Islander connection to native plants, including their knowledge, cultural connections and their long history of use.

"Alongside FSANZ, I want to help develop these new frameworks that acknowledge all of this cultural knowledge and pay respect to the interests of Traditional-Owners," he said.

Williams says he's looking forward to going on Country and working alongside the community – not just having community as the subject.

"I'll be working with various Aboriginal groups to hear their stories, which will inform my safety studies in the lab and ultimately the bigger risk assessment which can be developed for FSANZ," he said.

"Eventually this work will go back to the Traditional-Owners, so that they can use this information to help get their food safely on the market or provide marketing opportunities.

"Hopefully this will set the scene for future Indigenous businesses to successfully develop their traditional products with ease."

Recommendation 3

The Government should provide direct, positive support for commercialisation as part of a comprehensive scheme.

A key recommendation in our [pre-Budget submission](#) was to maintain a pipeline of research from discovery through to application and commercialisation. A healthy research commercialisation system needs a healthy and sustainable pipeline of research at all stages, which in turns relies upon a pipeline of Australian and international research talent.

There are various potential blockages in the research-commercialisation pipeline and specific enablers needed from early-stage research right through to commercialisation. Managing and maximising our use of intellectual property is one element of a much larger system.

So, while well-funded research is important, there also needs to be support for related non-research activities (e.g. product development). To encourage commercialisation, direct and targeted Government support is needed (especially to defray risks and cover the initial setup costs).

Incentives for participation need to be designed with a wide range of industries and types of business in mind. We need to build success in innovation for start-ups, small and medium enterprises (SMEs) and large businesses through considered construction of funding and support mechanisms.

Historically, state governments in Australia have supported research, development, collaboration and commercialisation activities at small and medium enterprises (SMEs) through ‘voucher’ programs. There is more scope for the Government to mandate commercialisation terms through new schemes such as this, rather than through existing funding.

In addition to direct funding, the commercialisation scheme needs to support the flow of people and exchange of ideas between universities and industry to create the right environment for commercialisation. This will need to be supported by training and capability building across the board – including researchers, commercialisation experts, industry partners, students and graduates. The entrepreneurial potential of the 300,000 students at ATN universities and millions of ATN alumni should also be at the forefront of this scheme, as well as academics and researchers.

The Government should support industry-engaged learning to maximise opportunities for commercialisation. Initiatives such as collaborative learning hubs that physically co-locate industry and education and training organisations are critical to support new work-integrated models of learning and innovation. This kind of environment will naturally foster new relationships and creative use of intellectual property.

Further enquiries should be addressed to:

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