

INTELLECTUAL PROPERTY POLICY

Section	Learning and Teaching		
Approval Date	22.09.2008	Approved by	Executive Team
Next Review	05.12.2020	Responsibility	Executive Director – Learning Innovation and Delivery
Last Reviewed	05.12.2018	Key Evaluation Question	6

PURPOSE

To clarify intellectual property rights and ownership at Nelson Marlborough Institute of Technology (NMIT).
To recognise the value of intellectual property (IP).

SCOPE

In this policy, “intellectual property” and “IP” includes the rights to all created work.

This is an institute-wide policy.

In this document, "Institute" and "NMIT" refer to: Nelson Marlborough Institute of Technology and its contractors.

DEFINITIONS

Intellectual Property (IP)	Intangible property that is the result of creativity, such as, but not limited to, ideas, names, designs, symbols, artwork, writings, digital media, audio clips, video clips and other creations.
Creative Commons Licence	Free licences enabling varying degrees of sharing and reuse of copyrighted work. Attribution-ShareAlike Licence is the recommended licence.

PRINCIPLES

NMIT aims to encourage an environment in which teaching, scholarship, research and innovation will flourish. NMIT adheres to the principles that knowledge and ideas should be made available for the benefit of the entire community.

NMIT has a preference for the open sharing of information, knowledge and resources and wishes to foster the empowerment of individuals in their endeavours in a protective and/or promotional framework for individual creators associated with NMIT.

NMIT wishes to clarify rights of ownership and usage at an early stage, which recognise legal and ethical rights prior to any work commencing in order to avoid conflict which may arise.

NMIT wishes to, where possible, support free and open access to IP generated through the “Creative Commons” attribution process.

NMIT recognises its “guardianship role” as holder of Māori knowledge and that Māori IP is protected and recognised. This policy will operate in accordance with the NMIT Treaty of Waitangi Te Tiriti o Waitangi policy.

RESPONSIBILITY

Where any doubts exist about the ownership of intellectual property and/or the commercialisation of any IP, these matters will be discussed and agreed between the relevant Executive Team member and the staff or students involved. This will ideally be prior to the commencement of the work in question but if a dispute arises after commencement of the work the same process should apply. If an agreement cannot be reached, the matter may be referred to the Chief Executive (CE) for resolution. If a decision cannot be reached at this stage, refer to the relevant NMIT complaints procedure.

POLICY

OWNERSHIP OF IP AND OUTPUTS ARISING FROM INTELLECTUAL ACTIVITY

In general all IP and the outputs and outcomes arising from that IP are owned by the creator.

While NMIT will derive benefits from the outcomes; there are exceptions to this, as follows:

“Co-ownership” refers to those materials that are jointly owned by NMIT and a staff member where such activities are identified within the employment agreement, in this policy, or subject to specific agreement for co-ownership: Teaching materials created by staff are co-owned through the contractual obligations in the employment agreement.

“Exclusive ownership” refers to IP that is created when the Institute has specifically commissioned work or is part of a staff members’ employment contract to undertake specific work that will result in the development of IP as part of the employer’s business. Examples would include creating marketing or advertising materials, computer software developed specifically for the employer's business and course or programme development. Exclusive ownership also includes IP generated through professional development activities funded by NMIT.

“Ownership by a third party” refers to IP created through work that is undertaken for an external party. All such work will be managed by contractual arrangements which will include an agreement to undertake work, defining the basis of that work, and including how IP will be managed and owned in advance of the work being undertaken.

Note: Unless specifically contracted to do so, nothing in this policy is to be interpreted as the Institute claiming any form of ownership over research outputs.

STUDENTS’ IP

The Institute does not wish to make any claim over the ownership of outputs or outcomes of students’ work. These belong to the creator.

- (i) The Institute will act in the role of a guardian of students’ activity to protect students' rights to IP.
- (ii) For a staff member or any other party to claim any interest in a student's work this must be agreed and specified prior to the engagement in the activity.
- (iii) Staff cannot copy students’ work, other than for regular ‘fair use’ purposes, without their permission (refer to the Copyright Guidelines for Staff Policy).

MĀORI IP

Māori knowledge that is brought to NMIT remains the property of Māori.

IP created from Māori knowledge is owned by both Māori and the creator but is held by the Institute as kaitiaki or “guardian” of that knowledge in accordance with the NMIT Te Tiriti o Waitangi policy. NMIT recognizes its responsibility to consult with Māori regarding any future use or dissemination of Māori IP and will do so in consultation with Māori communities and Iwi where relevant.

ATTRIBUTION OF OWNERSHIP OF IP

NMIT supports free and open access to IP and will make freely available through the Creative Commons Attribution (or similar) IP it owns or co-owns with the following exceptions:

- (i) The Institute may make exceptions to the sharing of IP it owns on a case by case basis with reasons given for limiting the free access to material; any such restrictions should be time dependent.
- (ii) IP the Institute owns that it considers is commercially sensitive may also be restricted.

NMIT encourages staff and students to support free and open access to IP and also to apply the Creative Commons Attribution framework (or similar) to work created. Where a staff member co-owns IP by virtue of their employment relationship to NMIT the staff member may request an exception be made to the use of the Creative Commons attribution license. Any such exception must be approved by their Programme or Line Manager.

REFERENCES

INTERNAL

[Treaty of Waitangi](#)

[Copyright policy](#)

[Employee Involvement in Consulting and Outside Business Activities](#)

EXTERNAL

Copyright Act 1994

Trade Mark Act 2002

Patents Act 1953

Creative Commons Licences (<http://creativecommons.org/>)