

Who should complete the intellectual property agreement?

Any Higher Degree by Research Candidate:

1. Whose project is being conducted in collaboration with an external body (or bodies);
2. Whose project is (in part) funded by an external body;
3. Who is receiving a stipend / scholarship from an external body;
4. Whose project is governed by an agreement with an external body; or
5. Whose project has the capacity to generate innovative outcomes with commercial potential

Why should the intellectual property assessment form to be used?

The purpose of the Intellectual Property Assessment form is twofold. For collaborative projects, especially those with external support, an agreement should be developed which clarifies rights and obligations with respect to the ownership and use of project outcomes (Intellectual Property, or 'IP'). This Agreement Proforma serves to identify cases in which a candidate agreement that mirrors the project agreement should also be in place. For projects that have commercial potential, the Proforma serves to trigger disclosure to the JCU Manager of Innovation and Commercialisation (if that has not already occurred). Such disclosure may lead to the candidate being required to sign a Deed of Assignment of Intellectual Property, which will allow the candidate and other project participants to be treated equitably under JCU's Intellectual Property Policy. Relevant excerpts from the JCU Intellectual Property Policy are provided on Page 4 of this Proforma.

Submission requirements

This Proforma should be completed within six (6) weeks of commencement of candidature, concurrently with the Checklist Between Higher Degree by Research Candidate and Advisor(s):

<https://www.jcu.edu.au/graduate-research-school/formstemplates>

Candidate's Details

| | | | | |
|--|-------------------------------------|---------------------------------|---|---|
| First /Given Name: | | | | |
| Surname / Family Name: | | | | |
| Student ID: | | | | |
| Thesis Title: | | | | |
| Brief Project Description (200 words): | | | | |
| Degree: | <input type="checkbox"/> Masters | <input type="checkbox"/> PhD | <input type="checkbox"/> Professional Doctorate | <input type="checkbox"/> PhD by Prior Publication |

| Advisory Panel | |
|------------------------------|------------------------------|
| Primary Advisor | Secondary Advisor |
| Name: | Name: |
| Additional Secondary Advisor | Additional Secondary Advisor |
| Name: | Name: |
| Advisor mentor | External Advisor |
| Name: | Name: |

| Complete section A or section B, or both (as relevant) | | | | |
|---|-----|--------------------------|----|--------------------------|
| Section A – projects with possible external constraints | | | | |
| a) Is the project being conducted in collaboration with a body or bodies external to JCU? If so, please identify body/bodies: | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| b) Is the project funded by the external body/bodies? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| c) Does the candidate have an externally provided stipend or scholarship, other than an APA or IPRS? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| d) Does the project fall within the scope of a wider research venture? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| Please select one: | | | | |
| AIMS@JCU | | | | <input type="checkbox"/> |
| CSIRO/JCU Tropical Landscapes Joint Venture | | | | <input type="checkbox"/> |
| Queensland Tropical Health Alliance | | | | <input type="checkbox"/> |
| Cooperative Research Centre (please identify which CRC): | | | | <input type="checkbox"/> |
| Other entity (please identify): | | | | |
| If you have answered 'Yes' to any of items (a)-(d) please complete the below- | | | | |
| i. Is there any constraint on the candidate's ownership and use of project results? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| ii. If 'Yes', is there a project agreement that clearly sets out the constraints? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| iii. If 'Yes', has JCU Research Services explained the terms of the agreement? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| iv. Has the candidate been briefed on the reporting requirements of the external body / bodies) and the consequences of not meeting them? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| v. If 'Yes', has the candidate signed an agreement that mirrors its terms? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| If you have answered 'No' to any of items (ii)-(iv) above, or if there is any doubt as to the correct answer to item (i), the candidate and advisor(s) must make an appointment with Research Services (Manager/Associate Innovation & Commercialisation – jcuconnect@jcu.edu.au), as soon as possible. | | | | |
| If the answer to item (iii) above is 'Yes', please attach a copy of the candidate agreement to this Proforma before submitting it to the Graduate Research School. | | | | |

Section B – projects with commercial potential

Briefly outline the commercial potential of the project (200 words):

Has the project been disclosed to the JCU Research Service Office?

Yes

No

If the project has some commercial potential however the answer to the above question is 'No', the candidate and advisory panel must make an appointment with Research Services (Manager/Associate Innovation & Commercialisation – ic@jcu.edu.au) as soon as possible.

Approvals

By signing this Proforma the candidate and advisors attest to the above information being correct and entire.

Candidate

Signature:

Primary Advisor

Name:

Signature:

Date:

Secondary

Name:

Signature:

Date:

Additional Advisors including Advisor Mentor

Name:

Signature:

Date:

Name:

Signature:

Date:

Please forward this completed form to the Graduate Research School (GRS@jcu.edu.au) together with the completed 'Checklist Between Higher Degree by Research Candidate and Advisor' form.

If you have any issues in completing this form please consult the Associate Dean, Research Education (ADRE) in your college. A list of the ADRE's can be found here: <https://www.jcu.edu.au/graduate-research-school/contacts>

4. Ownership and Assignment of Intellectual Property – Students

4.1 The University makes no claim to automatic ownership of intellectual property created by students in the course of their studies at the University.

4.2 A student cannot be required to assign his or her intellectual property to the University unless he or she is permitted to make an informed decision, freely and with consent.

4.3 If a student wishes to participate in any activity which:

(a) Is governed by an agreement with a third party which affects the intellectual property or moral rights of participants, or

(b) Involves staff or other students and has led to the creation, or is likely in the future to lead to the creation, of intellectual property that is capable of commercial exploitation, then, before the student is permitted to participate in the activity:

4.3.1 The Head of School must give approval to the student's participation and advise the Intellectual Property Officer accordingly;

4.3.2 The University may, as a condition of the student being allowed to participate in the activity, require the student to:

(a) Assign the student's intellectual property to the University, except for copyright in the student's thesis or in scholarly publications authored by the student;

(b) Agree to restrictions on the use of his or her intellectual property and the production of publications that include or are based on his or her intellectual property, including:

(i) Keeping research results confidential,

(ii) The examination of the student's thesis in confidence,

(iii) The subsequent restricted storage of the student's thesis for a period of up to eighteen months,

(iv) Consent to the infringement of the student's moral rights.

4.4 The University, through the person in charge of the activity, the student's supervisor(s) and the Research Office, has a responsibility to ensure that the student is notified about the requirements of participating in the activity, including all those matters covered in Section 4.3. The University strongly recommends that students seek independent legal advice prior to entering into any deed of assignment of intellectual property. The University will underwrite reasonable requests for assistance with independent legal advice.

The student has the responsibility to inform the University of any impediments to the student's fulfilling the requirements under Section 4.3, including any claims to the student's intellectual property by his or her employer or scholarship provider.

4.5 If the student declines to comply with its requirements under Section 4.3, the University has the right to refuse to permit the student to participate in the activity. If it does so, the University will give the student all reasonable assistance in identifying an alternative activity.

4.6 In the event that a student is participating in a research project that involves staff or other students and that has led to the serendipitous creation of intellectual property that is capable of commercial exploitation, and the requirements of Section 4.3.2 have not been met, the University may require that the requirements of Section 4.3.2 be met.

4.7 Where a student solely creates and owns intellectual property which he or she believes to be capable of commercial exploitation, the student may ask the Intellectual Property Officer for the University's involvement in its commercial exploitation. The University will require the student to assign ownership of the intellectual property to the University as a precondition of the University so becoming involved, and the terms of Section 11 will otherwise apply.

4.8 The University recognises that when a student assigns his or her intellectual property to the University it has an obligation to ensure that the student receives a share in any commercial benefits in accordance with Section 12, and in the process be treated no less favourably than originators who are employed by the University.