

INTELLECTUAL PROPERTY

AMENDED 01.04.2011

Section	Teaching and Learning		
Approval Date	22.09.08	Approved by	Directorate
Next Review	As required	Responsibility	Director of Curriculum and Planning
Key Evaluation Question	6	ITPNZ Quality Standard	1

PURPOSE

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

SCOPE

Intellectual property is generated by efforts of the mind and includes but is not restricted to original developments of a scholarly, literary, dramatic, musical or artistic nature, teaching materials, research, ideas, technology, products, processes, trade secrets, artworks, designs, and trade marks.

This is an institute-wide policy.

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

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 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.

Where intellectual property is developed by multiple parties all parties should give consent to any significant changes.

The NMIT Intellectual policy will operate in accordance with the NMIT Te Tiriti o Waitangi policy.

RESPONSIBILITY

Where any doubts exist about the ownership of intellectual property in terms of the policy, these matters will be discussed and agreed between the relevant Directorate member and the staff or students involved prior to the commencement of the work in question.

The agreement entered into will be in writing and will describe the obligations of the parties and the division of ownership and usage rights.

If an agreement cannot be reached, the matter may be referred to the Chief Executive (CE) for resolution. If a decision can not be reached at this stage, refer to the relevant NMIT complaints procedure.

If a dispute arises after commencement of the work the same process should apply.

POLICY

1. Intellectual property legislation, particularly the Copyright Act 1994 together with established common law principles, determine that intellectual property generated by employees during the normal course of employment is the property of the employer, subject to any agreement to the contrary. For Institute employees, therefore, the test of ownership is whether that property was created in the normal course of their employment.

Note: What is expected in the normal course of employment is covered in the relevant job description.

However, to encourage the development of intellectual property, NMIT agrees to waive its rights to that property in the following cases, unless varied in terms of an express contract between NMIT and an individual staff member.

- A Publications (including books, text-books, articles in journals or conference proceedings or other collections, research reports, book reviews, published lectures and exhibition catalogues) provided that:

NMIT is appropriately acknowledged; and

NMIT has the right to use such publications for teaching, research, consultancy or administrative activities, unless excluded by copyright agreement with the publisher.

- B Artworks developed in association with NMIT provided that NMIT is appropriately acknowledged.

2. Materials created by staff members during the normal course of employment at NMIT are the Intellectual Property of the Institute. The staff member should be acknowledged as the creator. If a staff member wishes to use such materials on leaving the employment of NMIT, approval will not be unreasonably withheld. Joint ownership rights may be negotiated. However withholding rights will be exercised if the staff member intends using the materials in direct competition with NMIT.
3. NMIT will not waive its claim to ownership of intellectual property other than that identified in A and B, unless an express contract is entered into for that purpose.
4. Intellectual property created by staff outside the normal course of employment, or created for personal use is owned by the staff involved. Staff are required to reimburse NMIT for the full cost of any Institute resources used, unless otherwise agreed in writing.

5. In general, all intellectual property generated by students belongs to them, unless there is an express contract to the contrary.
6. In the case of intellectual property developed jointly between a student and staff member where the activities of the staff member are within the normal course of employment, the student and NMIT would be joint owners of the intellectual property. Where publications are jointly authored between students and staff, the owners of the copyright would be the authors in terms of clause 1 of this policy unless there is an express contract to the contrary.
7. In the case of intellectual property developed by a NMIT Contractor the intellectual property will be owned by NMIT unless there is an express contract to the contrary.

REFERENCES

INTERNAL

Treaty of Waitangi
Ethical Considerations for Research
Approval and Publication of Research
Copyright, Explanation for Staff
Staff Involvement in Outside Business Activities
Consultancy Activity

EXTERNAL

Copyright Act 1994
Official Information Act
Privacy Act