



Council of Australian Postgraduate Associations Incorporated

Council of Australian Postgraduate Associations (CAPA)

Response to Higher Education Research Commercialisation IP Framework

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Compiled with the assistance of the staff and office bearers of the Council of Australian Postgraduate Associations (CAPA) and its affiliated member organisations.

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Foreword

The Council of Australian Postgraduate Associations (CAPA) is the peak body representing the interests of the over 400,000 postgraduate students in Australia. We represent coursework and research, as well as domestic and international, postgraduates. We are comprised of 27 university and campus based postgraduate associations, as well as the National Aboriginal and Torres Strait Islander Postgraduate Association (NATSIPA).

CAPA carries out its mission through policy, research, and activism, communicating the interests and issues of postgraduate students to higher education stakeholders and federal and state governments, Opposition parties, and minor parties. Postgraduate students represent the workforce that will engine Australia's R&D productivity into the future. Naturally, the career trajectory of postgraduate students will be significantly impacted by any reforms around R&D. As crucial stakeholders; we welcome the opportunity to provide consultation to the Research Commercialisation IP Framework discussion questions from the perspective of postgraduate students.

Introduction:

CAPA maintains our position that academic curiosity is fundamental to directing the graduate research experience. We acknowledge there is 'no such thing as a free meal', and where possible, the pursuit for new knowledge should be translated to benefit the communities and businesses. Key features of our address will be reflected in this response as follows:

- Research students are not classified as employees, a consistent reminder that has been used to defend why PhD stipends are well below the minimum wage. The distinction between student and employment status needs to be acknowledged. Students should be rewarded a fair proportion of IP in a research partnership arrangement.
- The development, management and protection of IP addressed in this framework should include research students as relevant partners/co-founders in any research collaboration.
- This framework will help establish the foundations for collaborating and encourage participation between partners (industry, universities and research students).

General reception towards IP Commercialisation Framework:

CAPA welcomes any initiative that will encourage future employment opportunities in research and promote career progression for postgraduate students. Yet, we remain concerned whether the proposed IP Framework will effectively address the pre-existing barriers stifling research commercialisation. Informal collaboration plays a vital role in building trust between partners before reaching a formal agreement. It is often unclear, especially with less experienced partners (i.e. research students), when an informal collaboration should become a formal one.

Acknowledging research students and informal collaborations

It is essential to address that collaborations can take many forms, and the Framework has taken an ideal approach on how collaborative arrangements typically form. It is ideal for one party to accurately identify and define a 'problem' and the other party reciprocate with a proposed proof of concept. In reality, this is not always straightforward in many research disciplines, and the IP Framework does not appear to merit this complexity with collaborations.

To address this complexity at a deeper level, we need to address how collaborations form. The Framework is unclear when a formal agreement needs to be established, especially when considering a research students' interest and contribution to IP.

In many instances, formal collaborations are nurtured through informal partnerships and communications. During these informal collaborations, and before any legal commitments are made, students may develop novel ideas and rightfully be accredited with IP ownership. Unfortunately, between a power imbalance between research students and their collaborative partners (i.e. industry, supervisors and universities), we are concerned that students will be wrongfully excluded from any formal arrangements and unrecognised for their contribution.

IP ownership is an ideal graduate outcome for any research student to further their careers. We believe that protecting the IP rights of research students falls within the scope of the IP Framework. Unfortunately, understanding how to protect IP is not emphasised or standardised in research training programs at Australian universities.

Flexibility in Collaboration

The discussion paper outlines the common types of arrangements and agreements suitable for sectors that are primarily STEM-based. Where these processes may lack cohesiveness are in some fields of humanities and cultural studies. In some cases, this can also overlap with research investigating the active ingredients from traditional medicine that have cultural origins. In such circumstances, we see that the IP Framework should be adopted voluntarily and used to guide best practices where applicable.

The proposed IP Framework does not address or accommodate the unpredictable nature of research outcomes. There must be explicit considerations on pathways to amend pre-existing agreements when project arrangements change due to unforeseen circumstances:

- Additional expenses from project extensions and unexpected changes to the research direction.
- Relocation of resources/responsibilities as a result of changing partnerships and research personnel.
- Changes to organisational priorities for one or more collaborative partners.

- Unforeseen creation of new IP through research that is not prescribed in the initial agreement. Often can be unclear when the nature in which it was discovered is taken into context.

Final Comments:

CAPA welcomes the proposed Framework with amendments and views this as an opportunity to acknowledge the contribution of research students to IP and further encourage entrepreneurship later in their careers.

The HERC IP Framework has many positive ideas that address some of the burdening features of collaboration. However, there are still many unaddressed uncertainties mentioned that requires further discussion and consultation. Collaborations are dynamic interactions between contributing parties, and recommendations caution against mandating a standardized process across the sector. We would recommend implementing this Framework as a pilot program for observation before expanding practices to other areas.