MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

BRIEFING

Intellectual Property management policy implementation overview

Date:	22 April 2026	**Priority:**	Medium
Security classification:	In Confidence	**Tracking number:**	REQ-0026236

Action sought		
	Action sought	**Deadline**
Hon Penny Simmonds **Minister of Science, Innovation and Technology**	Approval of proposed amendments to the IP Management Policy, and for officials to recommend further changes as needed to ensure smooth implementation of the Policy from 1 July 2026.	28 April 2026

Contact for telephone discussion (if required)				
Name	**Position**	**Telephone**		**1st contact**
Michael Contaldo	Manager, Innovation Policy	Privacy of natural persons		✓
Maj-Britt Engelhardt	Senior Policy Advisor, Innovation Policy			

The following departments/agencies have been consulted

Minister's office to complete:

- ☐ Approved
- ☐ Declined
- ☐ Noted
- ☐ Needs change
- ☐ Seen
- ☐ Overtaken by Events
- ☐ See Minister's Notes
- ☐ Withdrawn

Comments

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Date:	22 April 2026	**Priority:**	Medium
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Purpose

To provide you with proposed amendments to the Intellectual Property (IP) Management Policy for research organisations in order to support effective implementation from 1 July 2026.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

a **Approve** amending the Policy in-principle to include the most critical additions at Annex Two, and to allow these proposed changes to be confirmed through final legal review.

Approved / Not approved

b **Approve** in-principle the wider proposed amendments at Annex Three, subject to legal review.

Approved / Not approved

c **Agree** to the implementation transition measures proposed, including pre-launch communications.

Agree / Disagree

d **Agree** to officials making further amendment recommendations if needed, and to provide you before 1 July 2026 with a final revised version of the Policy for your approval.

Agree/ Disagree

Michael Contaldo
Manager, Innovation Policy
Labour, Science and Enterprise, MBIE

22 / 04 / 2026

Hon Penny Simmonds
Minister of Science, Innovation and Technology

..... / ...... / ......

Background

A new national Intellectual Property (IP) Management Policy (“Policy”) to improve commercialisation outcomes from government funding has been put in place

1. On 17 September 2025, the Cabinet Economic Policy Committee agreed to introduce the new Policy for IP created within research organisations supported by Science, Innovation and Technology (SI&T) funding [ECO-25-MIN-0145].

2. The Policy aims to better incentivise commercialisation outcomes by giving creators more involvement in the commercialisation process, and first right of ownership in some situations; and is due to go live on 1 July 2026 through phased implementation in various SI&T funding contracts.

3. Cabinet also authorised you to:

    - make decisions on any issues that arise in the implementation of this Policy; and

    - to amend the Policy to address any issues that arise in its implementation.

This work is part of a wider approach to drive better commercialisation outcomes from publicly funded research

4. The Policy sits alongside a number of related measures to the support the science system reforms. This includes:

    - **Commercialisation Engagement Guidelines**: these will provide practical, early-stage guidance for how researchers and institutions engage as research ideas begin to move toward potential commercial application.

    - **University commercialisation support:** this proposes funding to Technology Transfer Offices (TTOs) - through increased investment in the Commercialisation Partner Network (CPN) and the Pre-Seed Accelerator Fund (PSAF) - to purchase commercialisation support for researchers. We are recommending that it include additional, early-stage commercialisation services from the TTOs and programmes to build researchers’ commercialisation capability. Officials will provide you with more advice on this shortly.

    - **Post-spinout support:** future arrangements for supporting deep-tech start-ups, including university spinouts. Confidential advice to Government [redacted]

    - **Commercialisation Outcomes Measures:** A set of six measures of commercialisation performance from universities and Public Research Organisations (PROs).

5. Annex One provides a brief overview of these initiatives, their roles within the ecosystem, key Cabinet and Ministerial decisions, and the current state of play.

6. Additionally, you may want to note that the startup support package being prepared for Budget 2026 combines a couple of the above commercialisation workstreams with other related workstreams in the SI&T portfolio (The Founder and Startup Support Programme, the Healthtech Activator and decisions relating to the R&D Tax Incentive). These sit alongside initiatives in the Economic Growth portfolio to create a suite of interventions that provide support to high growth start-up ventures.

Resolution of key implementation issues

7. We have been working through the challenges with applying the Policy in practice and have largely resolved the key implementation issues.

8. This briefing details the amendments (as per Annexes Two and Three) we consider as most critical for the Policy to be workable. However, we believe a more comprehensive set of changes could even more effectively support implementation, as outlined in proposed next steps.

We propose adding a scope, intent and principles to the Policy to help address some of the key implementation issues

9. Including an explicit scope in the Policy would help clarify to who, what and when the Policy applies. This recognises that in practice IP is often developed through SI&T funded collaborative projects, sometimes involving multiple parties from across different organisations and jurisdictions. These may include contributors to which it may not be feasible, or desirable, to apply the Policy to, such as overseas creators and ROs, or co-funders.

10. We further recommend adding an intent and principles to address concerns raised by stakeholders. Specifically, that the Policy lacks context and direction when read without the related Cabinet paper. Also, that in needing to be interpreted stand-alone from the Cabinet paper, it also risks becoming overly prescriptive. However, the inclusion of both intent and principles will enable less rigid, will allow for more outcomes-focused application.

11. Annex Two sets out these proposed additions.

The Policy has two different sets of rules to balance incentivising creators with other outcomes

12. Cabinet recognised that giving creators first IP rights may, in some cases, be at the expense of other outcomes, such as PROs fulfilling their mandates.

13. To manage this tension, the Policy establishes two sets of rules, the key differences are:

   - **Situation 1 rules** – the RO has 90 days to assess or evaluate the IP, after which the creator decides on IP rights and commercialisation control.

   - **Situation 2 rules –** the RO has the first option over IP rights and commercialisation control but must consult with the creator. If the RO does not commercialise within a reasonable period, the creator then has the option to do so.

14. Which situation applies is currently determined by whether the IP was '*initiated and/or directed by the creator(s)*' ["Situation 1] or if it is '*conducted under the direction of the RO*' [Situation 2]. The Policy also requires you, or your delegate, make this determination for each research project in scope.

15. We consider this approach will be labour intensive and difficult to implement in practice. Allowing ROs and creators to determine the applicable situation themselves based on the rules as currently drafted would also be problematic and likely contentious. Creators have a strong incentive to argue for Situation 1, whereas ROs are incentivised to favour Situation 2. In collaborative projects, this may be further complicated if IP development involves both creator and RO direction.

16. Instead therefore, we recommend using organisation type as the default basis for determining which rules apply:

   - Tertiary Education Offices would be Situation 1 by default; and

- PROs and other ROs in scope would be Situation 2 by default.

17. We also suggest more explicitly allowing for exceptions where a different determination, or application of the rules, is required; Confidential advice to Government [redacted]

18. Enabling exceptions would also help avoid unintended consequences, such as for industry-linked collaborative projects, without making the Policy more prescriptive. It would also better address issues related to inter-dependent IP; for example, where enabling IP, or individual IP in a platform, must remain integrated.

Further changes will help address some other implementation issues

Supporting ROs under Situation 2 to make strategic decisions

19. Under the rules for Situation 2, if a RO chooses to delay or not commercialise the IP, the creator(s) must be given the option to commercialise. This applies even where the RO has a strategic or commercial reason for its decision, Confidential advice to Government [redacted]

20. This issue could be addressed by revising the Situation 2 rules, so the creator(s) do not by default get commercialisation control where the RO has a strategic or commercial reason to delay or not commercialise the IP.

Clarifying benefit-sharing under Situation 1

21. Under Situation 1, if the creator opts to commercialise the IP with support from their RO, or Situation 2 where the Creator gets to commercialise, the RO may take 5 to 10% equity share in exchange for providing reasonable services to help prepare the IP for private investment. Where equity is not appropriate, an equivalent net revenue share may be taken. Where the RO provides more than reasonable services, it may take a higher equity or revenue share.

22. Stakeholders often interpret 'equivalent net revenue' as meaning "5 to 10% of any net revenue" (e.g. from licensing). At these levels, it is often not viable to provide even reasonable services. This is also likely to disincentivise ROs from doing more.

23. These issues could be addressed by amending 'equivalent net revenue' to 'a proportional revenue or other proportional benefit share', and being less prescriptive in what the RO may take if providing above the reasonable services.

Wording changes to address major ambiguity and stakeholder concerns

24. We also suggest that additional changes could ensure the Policy is more coherent in relation to the assignment of IP between ROs and creators, and to reflect that IP rights are usually held by the RO at the time of creation. For example, amending the Policy so rather than the creator(s) assigning IP rights (which they do not hold), they instead acknowledge the RO holds the rights.

25. While the Policy requires ROs to have adequate policies in place to support the responsible use of mātauranga Māori, and to apply them where relevant, there is ambiguity as to whether those policies or this Policy take precedence. Clarifying that this Policy is not intended to override RO mātauranga Māori policies would readily remove this ambiguity.

26. Finally, adding '*non-commercial'* before *"non-exclusive right to use the Intellectual Property for research and teaching purposes, without cost and in perpetuity*" would remove the risks that ROs may use these rights for commercial purposes.

27. We also suggest replacing some words, which although not critical from an interpretation perspective, we see may be important in helping reduce stakeholder resistance to the Policy.

We have developed a set of proposed measures to help mitigate implantation transition issues

28. In some cases, the Policy may only apply after the IP is disclosed and IP rights and commercialisation decisions have occurred. For example, where the Policy takes effect when PSAF supports are used to help commercialise IP already disclosed, which was created without any SI&T funding, and for which IP rights and ownership agreements may have been made

29. To help address this issue, pre-launch communications will clearly signal that where SI&T funding commercialisation support is likely to be sought, parties should ensure any IP and commercialisation agreements align with the Policy. Keeping all IP created before 1 July 2026 out of scope offers further mitigations while these communications take effect.

30. Confidential advice to Government [redacted]

Next steps

31. We propose making further amendments to reduce rigidity, and to improve clarity and readability, which together we consider important for smooth implementation. Subject to your agreement to this approach, we will provide you with a draft of a final revised version of the Policy incorporating the full set of changes including those proposed in this briefing.

32. To provide government and stakeholders with more assurance given the significance of the Policy, we will then have an IP law specialist review of the proposed revised Policy before seeking your approval for this final set of changes.

33. Finally, we are also working on incorporating the Policy into contract documentation to be published on MBIE’s website as part of calls for funding proposals. Communications will be developed to accompany these and the final approved version of the Policy.

Annexes

Annex One: Overview of key commercialisation initiatives.

Annex Two: Proposed additions to the Policy.

Annex Three: Other proposed implementation critical changes to the Policy.

Annex One: Overview of key commercialisation initiatives

Commercialisation Engagement Guidelines	Helps creators and ROs navigate the Policy and ensure early engagement so decisions informed, transparent and support intent. Sits alongside existing commercialisation institutions and processes.	Cabinet noted IP Policy would be accompanied by a set of national guidelines on terms of engagement between creators, their RO, and others, which will be developed in consultation with the sector based on best practice. Officials have convened a Reference Group to co-develop Guidelines made up of representatives of the researchers, the university TTOs, and investors. This has met bi-weekly over the past few months to consider and agree the content. Final version of Guidelines will be provided to you by June.
University commercialisation support	Ensures researchers have access to high-quality TTOs focused on making commercialisation work support. Directed at stage between discovery research and private-sector investment (Pre-invention disclosure; Post-invention disclosure, pre-spinout).	Agreement to joint Budget 2026 start-up support package that included lifting investment in university TTOs. You and the Minister of Finance recently approved funding transfers that increase the investment in university commercialisation by $40.683m; and increase funding by $1.4m per year each for the Health Tech Activator and Founder and Start-Up Support Programme. Officials are finalising the detailed policy settings for the enhanced CPN programme and will provide you with advice before beginning contract negotiations with providers.
Post-spinout support – including Technology Incubators	Enables creation of more high growth deep-tech spinouts. Encourages continued diversification and growth of the economy. Provides incubation/ investment support to improve founder/ venture capability and bridge early-stage capital gap.	Confidential advice to Government [redacted]
Commercialisation Outcomes Measures	Assesses commercialisation impacts of SI&T policies and funding. Provides evidence of how successful we have been overall in eliciting change, and what we might need to focus on to increase impact.	In December 2025 commissioning to develop six measures to be used across agencies and interventions, including for rewarding commercialisation performance under the Tertiary Research Excellence Framework (TREF). Agreement in April to final set of measures to be applied across the sector. Officials are currently working on finalising the definitions and establishing the process for establishing a baseline for these measures from July 2026.

Annex Two: Proposed additions to the Policy

Scope

This Policy comes into force on and from 1 July 2026.

Compliance with this Policy will be a condition of receiving most Science, Innovation and Technology (SI&T), and as noted in the relevant funding contract(s).

This Policy applies to:

- all Intellectual Property with commercial potential created or commercialised with the support of SI&T funding for which the Policy is a contract condition, except for Intellectual Property with commercial potential created before 1 July 2026.
- all Research Organisations that do or will receive any such SI&T funding for the creation or support of Intellectual Property with commercial potential (whether direct or via sub-contract to or from another party that has SI&T funding for this purpose), as outlined in their relevant SI&T funding contract(s) ("in-scope Research Organisation")
- all Creator(s), within the in-scope Research Organisations, who contributed to the creation of such Intellectual Property with commercial potential and who are:
  - engaged by any in-scope Research Organisation, or
  - a student of any in-scope Research Organisation.

The Minister of SI&T, or a person they delegate to, may allow for some parts of the Policy not to apply in some circumstances, on a case-by-case or other categorised approach, on the proviso these decisions align with the Policy's intent and principles.

Intent

The Policy aims to increase the impact of the SI&T portfolio funding by encouraging and enabling greater commercialisation of Intellectual Property with commercial potential that has been created or supported by SI&T funding.

This Policy is intended to incentivise Creator(s) to create and disclose Intellectual Property of commercial potential, by providing them:

- with more involvement in the commercialisation process of Intellectual Property created or supported by SI&T funding, and
- in some situations, more ownership rights and control of this Intellectual Property.

Principles

This Policy aims to support the following principles:

Ensuring the Policy intent and desired outcomes

- Any Intellectual Property with commercial potential to which this Policy applies shall only be commercialised in ways consistent with the intent of this Policy and the Government's broader Commercialisation outcomes.
- Commercial outcomes must be balanced with New Zealand's reputation and other interests, and other Government outcomes as far as reasonably practical.

Acting in good faith and good practice

- All Research Organisations and Creator(s) must act ethically, and in good faith towards each other and other relevant parties across the Commercialisation process.
- Intellectual Property that is created or supported subject to this Policy, must be disclosed to all parties who have contributed to or otherwise may have rights to that Intellectual Property with commercial potential, regardless of whether those parties (individuals or organisations) are bound by this Policy or not.
- Any treatment of Intellectual Property with commercial potential and undertaking of a Commercialisation approach under this Policy must ensure Treaty, Māori and mātauranga Māori, and indigenous rights and interests are properly considered, understood and respected.

Ownership and benefits

- Ownership of and benefits arising from Intellectual Property with commercial potential should be justifiably proportionate to each of the contributors' relative contributions.
- As far as reasonably practicable, creators and research organisations should identify and agree at the start of projects (or at least before the Intellectual Property with commercial potential is created) on the relative contributions of each party, and who is likely to have direct rights or interests when this Intellectual Property is created.
- Research Organisations are encouraged (but not required unless specified elsewhere in this Policy) to provide Creator(s) and other contributors with benefits, control, ownership or other incentives, as appropriate, that support the intent of this Policy

Annex Three: Other proposed implementation critical changes to the Policy

Current	Proposed change	Addresses
The policy distinguishes between the following two situations: "Situation #1" where the Intellectual Property is created under a research project initiated and/or directed by the Creator(s); and "Situation #2" where the Intellectual Property is created under a research project conducted under the direction of the Research Organisation. The Minister of Science, Innovation and Technology or a person they delegate shall determine which situation applies to a research project. The Minister or their delegate may make this determination in relation to all research projects conducted at a Research Organisation or any part of a Research Organisation, or on a case-by-case basis (for example, for joint research projects involving more than one Research Organisation that are covered by both situations #1 and #2). Guidance may be developed to assist the Minister (or their delegate) and revised from time to time. The presumption is that Intellectual Property generated at universities and other TEOs will normally fall under Situation #1 and Intellectual Property generated at PROs, independent research organisations, and specific university research institutes will normally fall under Situation #2.	The Policy distinguishes between the following two situations: • **"Situation #1"** where the Creator(s) involved in creating the Intellectual Property is (are) within a Tertiary Education Office; and • **"Situation #2"** where the Creator(s) involved in creating the Intellectual Property is (are) within a Public Research Organisation or Independent Research Organisation. The Minister of SI&T, or a person they delegate to, may determine a different application of the rules, on a case-by-case or other categorised approach, in line with the Policy's intent and principles. Guidance may be developed to assist the Minister (or their delegate) and revised from time to time.	Feasibility: labour-intensive and problematic to apply in practice
If the Research Organisation elects not to exercise its option to commercialise the Intellectual Property within a reasonable period, the Research Organisation shall give the Creator(s) an option to commercialise	The Research Organisation(s) may opt not to exercise or to delay its option to Commercialise the Intellectual Property where it has a strategic or commercial reason for doing so that aligns with the Policy's intent and principles. In such cases, the Research Organisation(s) shall inform the Creator(s) as soon as practicably	Commercial risks / negative outcomes where RO delays or opts not to commercialise for a strategic or commercial reason.

	possible that it is choosing to delay or not commercialise based on having such a reason. Where the Research Organisation does not have such a strategic or commercial reason, and it elects not to exercise its option to commercialise the Intellectual Property within a reasonable period, the Research Organisation shall give the Creator(s) an option to commercialise	
In exchange for providing these services, the Research Organisation may take a 5 to 10% equity share, the amount to be agreed with the Commercialising Creator(s), in any spinout company formed to commercialise the Intellectual Property or an equivalent net revenue share where an equity share is not appropriate. In exchange for providing more than a reasonable amount of services and with the agreement of the Commercialising Creator(s), the Research Organisation may take a greater equity or net revenue share.	may take a 5 to 10% equity share, the amount to be agreed with the Commercialising Creator(s), in any spinout company formed to commercialise the Intellectual Property or a proportional revenue or other proportional benefit share where an equity share is not appropriate; and in each case, the amount to be agreed with the Commercialising Creator(s). In exchange for providing more than a reasonable amount of services and with the agreement of the Commercialising Creator(s), the Research Organisation may take a greater equity, revenue and/or other benefit share.	Non-viability and disincentives for the RO to provide reasonable or more supports.
(If the approach at section 2 is agreed to …) and If the approach at section 3 is agreed to …) The Creator(s) shall assign sole ownership of the Intellectual Property to the Research Organisation	((If the approach at section 2 is agreed to …) / (If the approach at section 3 is agreed to …): The Creator(s) shall acknowledge that their Research Organisation(s) holds legal ownership of the Intellectual Property, or where the Creator(s) hold legal ownership, shall assign this to their Research Organisation	Assignment incoherency / related issues.

… the Research Organisation shall assign sole ownership of the Intellectual Property back to the Commercialising Creator(s) or to …	…, the Research Organisation shall assign sole ownership of the Intellectual Property to the Commercialising Creator(s) or to …	
…subject to granting the Research Organisation a non-exclusive, royalty-free licence to use the Intellectual Property for research purposes	…subject to granting the Research Organisation a non-exclusive, royalty-free licence to use the Intellectual Property for non-commercial research purposes.	Risks that ROs have unintended commercial rights in perpetuity.
The Research Organisation shall have a non-exclusive right to use the Intellectual Property for research and teaching purposes, without cost and in perpetuity.	The Research Organisation shall have a non-exclusive right to use the Intellectual Property for non-commercial research and teaching purposes, without cost and in perpetuity.	
The rules specified under this policy do not affect the existing ownership of mātauranga Māori. Research organisations are expected to have adequate policies or plans in place to support the responsible management of mātauranga Māori, and to apply them where relevant. Any use of mātauranga Māori should be subject to agreed terms with relevant contributors, including where appropriate, provisions for access, protection, and benefit sharing.	The rules specified under this policy are not intended to affect the existing ownership of mātauranga Māori. Research organisations are expected to have adequate policies or plans in place to support the responsible management of mātauranga Māori, and to apply them where relevant. This Policy is not intended to override such policies and any use of mātauranga Māori should be subject to agreed terms with relevant contributors, including where appropriate, provisions for access, protection, and benefit sharing.	Ambiguity as to whether this or other Policies take precedence.
… amount of services	... amount of supports	Stakeholder concerns / resistance.
… must consult with the Creator(s)	… must engage with and consider the views of the Creator(s)	