

<b>OTAGO POLYTECHNIC MANAGEMENT POLICY</b>		<b>Number: MP1103.01</b>	
Title:	<b>Intellectual Property - Matauranga Māori</b>		
ITPNZ Standard:	<b>11 Research</b>		
Chief Executive Approval:	Approval Date: <b>30 Oct 09</b>	Effective Date:	<b>30 Oct 09</b>
Previous Policy Number:	<b>n/a</b>	Review Date:	<b>30 Oct 11</b>
Contact Authority:	<b>Kaitohutohu</b>	Status:	<b>current</b>

## Purpose

This policy is intended to maintain and enhance Otago Polytechnic's commitment to upholding the Treaty of Waitangi by giving specific expression to the relationship between intellectual property and matauranga Māori. The Matauranga Māori policy:

- clarifies the ownership of intellectual property (IP) developed by staff and students that incorporates matauranga Māori;
- intends to foster and empower individual and collective innovation by recognising and respecting pre-existing rights and responsibilities over matauranga Māori;
- encourages the sharing of matauranga Māori by recognising and respecting rights and responsibilities over matauranga Māori;
- provides guidelines for commercialisation of IP incorporating matauranga Māori.

This policy seeks to give effect to the spirit and terms of the Memorandum of Understanding with Ngai Tahu and Te Kura Matatini Ki Otago Māori Strategic Framework 2007-2011.

## Background

### Statutory Compliance

Copyright Act 1994  
Trademarks Act 2002  
Patents Act 1953

### National Guidelines

n/a (Wai 262 pending)

### Policy and Procedures

#### 1. Definition of Matauranga Māori

In this policy, matauranga Māori means the knowledge, innovations and practices which are; generated, preserved and transmitted within Māori communities and between generations; distinctively associated with or linked to traditional Māori culture or communities through a sense of custodianship or cultural responsibility; or identified by the source community as being matauranga Māori. Matauranga Māori includes but is not limited to:

- Literary, dramatic, artistic, and musical works;
- Traditional ecological knowledge;
- Traditional medicinal knowledge;
- Place names;
- Tikanga Māori (Māori law and ethical understandings); and
- The philosophical/epistemological systems underpinning all of the above.

Matauranga Māori includes knowledge, innovations and practices which may or may not be recognised and/or protected under statutory intellectual property instruments, and is not subject to the originality, novelty and duration prescriptions of those statutes.

Matauranga Māori includes knowledge, innovations and practices that originate in historical and contemporary times.

Should any dispute arise as to whether a particular knowledge, innovation or practice should be classified as matauranga Māori, the opinion of the originating community or individual shall take precedence.



## **2. Definition of Intellectual Property**

Intellectual property, under this policy, has the meaning provided in policy MP1100 Intellectual Property.

## **3. Rights and Responsibilities over Mātauranga Māori**

Mātauranga Māori is recognised by Otago Polytechnic as an evolving ancestral inheritance that is a taonga protected under the Treaty of Waitangi and which serves to maintain, enhance, transmit and generate cultural identity within Māori communities. Otago Polytechnic accepts that under tikanga Māori (Māori law and ethics) Māori individuals and communities have conditional rights to use and access mātauranga Māori, contingent upon their fulfillment of kaitiaki (guardianship) obligations.

Otago Polytechnic recognises that mātauranga Māori introduced to the Polytechnic by staff or students remains subject to the kaitiakitanga obligations and principles recognised by the originating community and/or individual(s). Accordingly, Otago Polytechnic will support originating communities and/or individuals to fulfill kaitiakitanga obligations in respect of mātauranga Māori incorporated into materials held by Otago Polytechnic, and will also act as a secondary kaitiaki in collaboration with the originating community and/or individual.

Otago Polytechnic recognises that the use and development of mātauranga Māori is subject to the overriding principles and obligations of kaitiakitanga. Therefore, Otago Polytechnic will at all times ensure that access to and use of IP containing mātauranga Māori maintains and enhances the integrity of the mātauranga Māori and the originating community and/or individual.

### **Intellectual Property and Mātauranga Māori**

Intellectual property created in the course of work, study, or research that incorporates mātauranga Māori, or elements thereof, shall be treated as creating severable ownership interests. The intellectual property creation shall be subject to ownership as provided under this and policy MP1100 Intellectual Property, whereas the mātauranga Māori shall remain under the ownership and kaitiaki relationship of the originating community and/or individual.

### **Mātauranga Māori held by staff or students**

Otago Polytechnic recognises that staff and students may be repositories of mātauranga Māori. The Polytechnic does not assume rights or responsibilities over mātauranga Māori held by staff and students unless and until a contract to that effect has been executed enabling assignment or transmission to the Polytechnic.

### **Mātauranga Māori held by Research Collaborators**

Otago Polytechnic recognises the valuable role of Māori communities and individuals as research partners and participants. In respect of any research collaborations with Māori communities and/or individuals, the Polytechnic will enter into specific contracts so as to give effect to the aspirations and obligations of the originating community and/or individual. The Polytechnic will not assume any proprietary interest of the mātauranga Māori contributed by research collaborators without their free, prior and informed consent. Accordingly, subsequent use of research products containing mātauranga Māori will be contingent upon the Polytechnic acquiring consent from the research collaborator.

## **4. Sharing of Mātauranga Māori**

Otago Polytechnic acknowledges that mātauranga Māori is a significant component of New Zealand's heritage, and that sharing mātauranga Māori facilitates inter-cultural dialogue and understanding that is in the national interest. However, the Polytechnic recognises that the originating Māori community and/or



individual has the primary interest as kaitiaki over the matauranga Māori and the Polytechnic is therefore committed to ensuring that the sharing, promotion and innovation based on matauranga Māori respects and enhances the cultural and spiritual integrity of matauranga Māori and the originating community and/or individual.

#### 5. Commercialisation of Matauranga Māori

Matauranga Māori is also recognised for its innovative potential and commercial value. However, the Polytechnic accepts that commercialisation of matauranga Māori remains subject to the principles and obligations of kaitiakitanga. Accordingly, the Polytechnic will not commercialise intellectual property that incorporates matauranga Māori, or elements thereof, without:

- a. seeking the consent of the originating community and/or individual;
- b. reaching agreement with the originating community and/or individual on protocols for the use and development of the matauranga Māori sufficient to preserve and/or enhance the integrity of both the matauranga Māori and originating entity, and;
- c. reaching agreement with the originating community and/or individual on a fair and equitable benefit sharing regime which recognises the contributions and value of the respective contributors.

**Referral Documents** MP1100 Intellectual Property  
*other documents as relevant*

**Delegation of Procedures** n/a

#### Chief Executive Approval



Signature

30 October 2009

Date

