



# Guideline 2.02 - Intellectual Property Management

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## 1. Application

Policy 2 – Compliance and this guideline apply to all NQBP Personnel.

## 2. Policy

### Compliance with Intellectual Property Laws

All NQBP Personnel have a duty to comply with the law as well as binding Government and NQBP policies.

Consistent with NQBP's compliance management approach (as outlined in Procedure 2.01 - Compliance), NQBP will comply with all relevant intellectual property laws, including ensuring that its rights are appropriately recognised and protected and that the rights of third parties are not infringed.

### NQBP's Intellectual Property

The Intellectual Property of NQBP has considerable value and it is important that NQBP takes appropriate steps to capture and protect its Intellectual Property.

NQBP can acquire Intellectual Property rights by employees during the course of their employment and pursuant to contracts entered into with third parties, for example, consultants engaged by NQBP to undertake various projects or transactions for NQBP. All agreements or other arrangements with Consultants or Contractors engaged by NQBP should contain appropriate provisions to give effect to this (to apply both during and after engagement with NQBP).

- **Employees**

Any Intellectual Property rights created by employees and Contractors of NQBP during the course of their employment or engagement with NQBP, becomes the sole property of NQBP, unless otherwise specifically authorised by the CEO and (if appropriate under the Instrument of Delegation) the Board of Directors.

During the course of their employment or engagement with NQBP, employees and Contractors of NQBP must use the Intellectual Property of NQBP for the benefit of NQBP, unless otherwise specifically authorised by the CEO.

- **External Consultants and External Contractors**

Any new Intellectual Property rights (including new improvements to existing Intellectual Property) created by such consultants or Contractors engaged by NQBP and for which NQBP has made payment, becomes the sole property of NQBP, unless otherwise specifically authorised by the CEO and (if appropriate under the Instrument of Delegation) the Board of Directors. NQBP may licence the use of this new Intellectual Property to such consultants or Contractors for purposes related to NQBP's business.

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- **Protecting NQBP's Intellectual Property**

To protect its Intellectual Property, NQBP needs to be diligent in identifying and safeguarding its Intellectual Property, including by communicating its legal rights and, if necessary, defending its rights through legal action.

Legal protection is available under common law for infringements of trade secrets, passing off of trade-marks and breach of confidentiality obligations and agreements, as well as under legislation in the *Competition & Consumer Act 2010 (Cth)* (misleading or deceptive conduct).

The Intellectual Property rights of NQBP can be protected in one of three ways:

- commercial strategies, such as trade secrets and confidentiality obligations or agreements to protect proprietary knowledge of NQBP;
- formally register such rights (for example, patents, trademarks, industrial designs);  
or
- automatic rights such as copyright, where no formal registration is required.

The primary responsibility for the capture of the Intellectual Property rights of NQBP in relation to a particular matter, project or transaction, will rest with the NQBP General Manager in whose area the Intellectual Property is being generated.

In relation to a particular matter, project or transaction, NQBP will adopt the following high level approach in relation to capturing and protecting the Intellectual Property rights of NQBP, unless otherwise specifically authorised by the CEO:

- determine if any material Intellectual Property may subsist in works or services being undertaken by or for NQBP;
- note the existence of such Intellectual Property in the Central Contracts Register and keep the Register updated in relation to such Intellectual Property;
- consult with General Counsel in relation to taking appropriate steps to protect such Intellectual Property that is appropriate to the particular works or services (for example, appropriate contractual provisions, confidentiality agreements or registration of designs, patents or trademarks);
- with the assistance of General Counsel, implement the appropriate steps to protect such Intellectual Property and maintain (if applicable) renewal of such Intellectual Property;
- in transactions involving the transfer or licensing to NQBP of copyright, registered designs, registered patents or registered trademarks, confirm the ownership and/or registration of such Intellectual Property as part of a due diligence process, including (as appropriate) by inclusion of appropriate warranties in the contract documentation or by independent searches.

**Infringement of NQBP's Intellectual Property by Third Parties**

Where an employee or Contractor suspects that a third party is unlawfully using the Intellectual Property of NQBP, the matter should be raised with their General Manager.

**Infringement of Intellectual Property owned by Third Parties**

It is important that NQBP does not infringe a third party's Intellectual Property rights by unlawfully use of that Intellectual Property. In the event that such an infringement occurs, NQBP can potentially be exposed to pay compensation to the third party as well as be subject to penalties for breach of the *Competition & Consumer Act 2010 (Cth)*.

To manage this potential exposure, NQBP will adopt the following high level approach:

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- where NQBP does not own the rights in the Intellectual Property that NQBP is proposing to access or use, steps must be taken to ensure that appropriate agreements are put in place with the owner of the relevant Intellectual Property, authorising the access and/or use by NQBP of such Intellectual Property. NQBP will comply with the terms and conditions of any such agreement; and
- where NQBP is proposing to access or use registered designs, patents or trademarks, steps must be taken to ensure that NQBP does not infringe the rights of the owner of the registered designs, patents or trademarks, including undertaking appropriate searches to ascertain the ownership rights of that registered property and putting in place appropriate agreements if applicable.

### 3. Compliance Policy, Procedure, Standard and Legislative Framework

This guideline is to be read in conjunction with:

- a. Standard 2.01 Code of Conduct
- b. Policy 2 – Compliance
- c. Procedure 2.01 Compliance
- d. Procedure 2.03 Competition and Consumer Law
- e. *Corporations Act 2001* (Cth)
- f. *Information Privacy Act 2009* (Qld)
- g. *Privacy Act 1988* (Cth)
- h. *Public Interest Disclosure Act 2010* (Qld)
- i. *Right to Information Act 2009* (Qld)

### 4. Policy Review Date

This policy should be reviewed by 30 June 2019.

### 5. Definitions

**Contractors:** means Contractors or consultants engaged by NQBP under a personal services consultancy agreement or other similar arrangements.

**Intellectual Property:** means all statutory and other property rights (including rights to require information to be kept confidential) protected by Australian law and international agreements applying to Australia as amended from time to time including the statutory intellectual property of patents, copyright, designs and trade-marks, inventions/improvements, original designs, know-how, the practical application of a good idea, as well as certain types of confidential information and trade secrets.

**NQBP:** means North Queensland Bulk Ports Corporation Limited ACN 136 880 128.

**NQBP Employee:** means employees and Contractors of NQBP but does not include NQBP directors.

**NQBP Personnel:** means NQBP officers (for example NQBP directors) and NQBP Employees.

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