

1. Purpose of policy

The purpose of this policy is to outline the powers and responsibilities of Council to form, participate in the formation of, or be a member of controlled entities as set out in the University of the Sunshine Coast Act 1998.

2. Policy scope and application

2.1 This policy and any related procedures apply to all staff and members of University decision-making or advisory bodies.

2.2 This policy and any related procedures apply to the establishment, acquisition, and disposal of interests by the University of the Sunshine Coast in controlled entities including companies, trusts, joint ventures and partnerships.

3. Regulatory background

3.1 In accordance with section 63 of the University of the Sunshine Coast Act 1998 (the Act), the University may be a member of, form, take part in forming or manage a corporation whose objects include any of the following.

- (a) making available facilities for study, research or education;
- (b) providing teaching, research, development, consultancy or other services for public or private entities;
- (c) helping or engaging in the development or promotion of the University's research or the application or use of the results of the research;
- (d) preparing, publishing, distributing or licensing the use of literary or artistic work, audio or audiovisual material or computer software;
- (e) exploiting commercially a facility or resource of the University, including, for example, study, research or knowledge, or the practical application of study, research or knowledge, developed by or belonging to the University, whether alone or with someone else;
- (f) seeking or encouraging gifts to the University or for the University's purposes;
- (g) another object, consistent with this Act, that the Council considers is appropriate in the circumstances.

3.2 This activity is consistent with a type 1 financial arrangement under the Statutory Bodies Financial Arrangements Act 1982 (the SBFA Act), but the University's powers in this regard is not limited by the SBFA Act due to the existence of the provisions outlined in 3.1 above.

4. Definitions

Please refer to the University's Glossary of Terms for policies and procedures. Terms and definitions that are specific to this policy and are critical to the effectiveness of it, which are not already included in the Glossary, are listed below:

Control means the capacity of the University to lead decision making, directly or indirectly, in relation to the financial and operating policies of an entity so as to enable that entity to pursue the goals of the University.

Controlled entity means an entity that satisfies the test of control in s50AA of the Corporations Act 2001 and includes:

- an entity which the University wholly owns, or
- an entity in which the University holds a partnership interest or other legal or beneficial interest of any kind (including a shareholding interest or membership interest), and
- the University has control of the entity.

Company means an entity formed and registered under the Corporations Act 2001 of the Commonwealth, or the corporations law of a country or state outside Australia, for economic purposes and trading as a business, whether for profit or not, and includes a company limited by guarantee, a company limited by shares, or an unlimited company.

5. Policy statement

5.1 The University recognises the important contribution controlled entities can make in achieving its overall mission. This policy establishes a controlled entities governance framework that is consistent with the University's strategic goals, governance and risk management practices, to assist Council to discharge its responsibilities effectively in relation to controlled entities.

APPROVAL AUTHORITY

Council

RESPONSIBLE OFFICER

Vice-Chancellor and President

DESIGNATED OFFICER

Chief Operating Officer

FIRST APPROVED

5 December 2006

LAST AMENDED

7 December 2018

EFFECTIVE START DATE

7 December 2018

REVIEW DATE

5 December 2020

STATUS

Active

6. Establishing controlled entities

6.1 Controlled entities may be established or acquired by the University for a variety of reasons including:

- (1) to provide an appropriate governance framework for the management of specialised functions of the University, or
- (2) to separate the management of non-core functions of the University from core functions; or
- (3) to provide for a level of independence in the decision making or operation of a function of the University; or
- (4) to enable the University to establish a more flexible operational environment for the purpose of the management of specific functions of the University; or
- (5) to act as a holding entity for specific activities of the University; or
- (6) to assist the University in its objectives as contemplated by section 63 of the Act.

6.2 Controlled entities operate at arm's length from the University and may have duties and responsibilities imposed by law, in addition to any duties, functions or limitations imposed under the Act.

6.3 As decision-making bodies, controlled entities are capable of exposing the University to increased levels of risk and liability for their decisions and activities. Therefore the Council must take reasonable steps to ensure that controlled entities operate at all times in the best interests of the University and are accountable to the University, in addition to meeting their own stated objects.

6.4 Where the University has approved the establishment of a controlled entity, the University must ensure that the controlled entity is accountable and operates within a system of internal controls that allows the Council to verify and assure the appropriateness of decision making and management.

6.5 Subject to the requirements of this policy, a controlled entity will operate independently of the University and will manage its own operations in accordance with the Act, relevant laws, its constituting documents and, where applicable, any agreement with the University.

7. Requirements for controlled entities

7.1 Controlled entities of the University must operate in accordance with high standards of corporate governance which ensure accountability and meet community expectations, as identified in this policy and any related procedures, the law and any other rule of the University.

7.2 The constituting documents of the controlled entity, and any subsequent amendments, must be approved by Council and must address the following:

- (1) the objects of the controlled entity, which shall not be inconsistent with the objects of the University as set out in the Act;
- (2) whatever restrictions on the functions of the controlled entity as may be necessary to ensure compliance by the University with the Act or any other legislation, in relation to:
 - borrowing funds other than from the University
 - issuing shares, or options to acquire shares, to other parties
 - acting as agents of the University or making warranties or representation on behalf of the University
 - committing University resources into contractual arrangements with other entities
 - entering into joint ventures or partnerships
 - providing loans or benefits to directors, other than directors' fees
 - incurring any debt or contingent liability
 - investing any funds
 - such other matters as may be determined by the Council.

(3) provide for the appointment of members of the governing board by the Council, in such proportion as may be necessary for the management of the University's risk, such appointments to be for a period of two or three years, with reappointment subject to satisfactory performance and continuing suitability of the appointee, to be assessed by the governing board. The Vice-Chancellor and President must be consulted in relation to all appointments and reappointments.

7.3 The financial statements of Controlled Entities if required to be audited, must be audited by the Queensland Audit Office or by other arrangements approved by Queensland Audit Office.

7.4 A Controlled Entity will be subject to internal audit as specified in its constitution or by agreement with the University. The controlled entity must make its financial and other records available to the University's internal auditors, upon request.

8. Requirements relating to the governing board

8.1 The governing board of a controlled entity is responsible for managing the entity with particular regard to the best interests of the University and in accordance with the law and this policy and any related procedure.

8.2 The constituting documents of the controlled entity must specify the role and responsibilities of the governing board as being responsible and accountable to the University for:

- (1) oversight of the controlled entity's performance
- (2) documenting a clear corporate and business strategy which reports quarterly to Council via the Vice-Chancellor and President on the controlled entity's long-term objectives
- (3) adopting an annual business plan containing measurable performance targets
- (4) adopting a risk assessment and management policy in accordance with the standards required by the University
- (5) establishing and monitoring systems of control and accountability consistent with the requirements established by the Council
- (6) providing an annual report on the activities of the controlled entity to the Vice-Chancellor and President by the end of February each year. The report would normally include the following:

- a review of performance of the past year, as measured against the entity's approved objectives
- a prognosis of performance for the next year, and longer term if appropriate
- an annual review of the entity's corporate and business strategy
- a summary of risk management strategies and practices
- any significant changes in the governance or operation of the controlled entity
- a set of audited financial statements or certified financial statements, where the entity is not required to be audited
- a list of entity directors and the numbers of meetings each attended.

9. Authorities and responsibilities

9.1 The Council is responsible for:

- approving the establishment, acquisition or disposal of a controlled entity
- approving the monitoring systems of control and accountability in relation to controlled entities
- establishing requirements regarding reporting by governing bodies of controlled entities to the Council
- ensuring, as far as is reasonably practicable, that the governing bodies of controlled entities:
 - possess the expertise and experience necessary to provide proper stewardship and control, and
 - comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and
- adopt and evaluate their own governance principles, and
- document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets.

9.2 The Vice-Chancellor and President is responsible for:

- recommending to Council proposals to establish or acquire controlled entities
- in consultation with the entity's board of directors, appointing the Chairperson of a University controlled entity
- appointing a secretary or company secretary
- reporting to the Council in relation to the operation of controlled entities
- conducting assessments and recommending reviews of controlled entities to Council if considered necessary.

9.3 Each of the Vice-Chancellor and President and the Chief Operating Officer are delegated authority by Council to negotiate with third parties in relation to a proposed establishment, acquisition or disposal of Entities on the basis that the requirements of this Policy are complied with.

9.4 The Chief Operating Officer is responsible for maintaining a register of the University's interests in all Entities.

END

RELATED DOCUMENTS

Governance Framework - Governing Policy

SUPERSEDED DOCUMENTS

Establishment and Operation of Controlled Entities - Governing Policy

RELATED LEGISLATION / STANDARDS

University of the Sunshine Coast Act 1998

Statutory Bodies Financial Arrangements Act 1982 (Qld)

Corporations Act 2001 (Cwlth)

usc.edu.au/policy