

	CENTRAL HIGHLANDS REGIONAL COUNCIL POLICY	
	Intellectual Property	POLICY REF NO CHRCP: 0047

1.0 Policy Purpose

1.1 This policy regulates the ownership and protection of council’s intellectual property and provides specific directions and formal guidelines to staff, Councillors, contractors and consultant on intellectual property related matters.

2.0 Policy Statement

- 2.1 Council recognises the importance of protecting intellectual property in the creation of assets and other benefits.
- 2.2 This policy establishes flexible mechanisms by which council is able to identify, protect, manage and commercialise its intellectual property.

3.0 Ownership of intellectual property

- 3.1 Except otherwise stated in class 4.1, council owns all intellectual property created by staff, Councillors or contractors and consultants in the course of their duties as follows:
 - 3.1.1 Created in or during the course of employment or engagement by council.
 - 3.1.2 Using or accessing council resources.
- 3.2 Intellectual property created in or during the course of employment or engagement with council includes intellectual property created while participating in any project or program supported by funding obtained or provided by or through council.

4.0 Ownership of Council of Intellectual Property Developed by Staff

4.1 Council owns intellectual property created by staff, councillors, contractors and consultants unless a signed agreement by the Chief Executive Officer has been executed to vary this policy.

5.0 Ownership of Pre-Existing Intellectual Property

5.1 Council does not assert ownership over pre-existing intellectual property that has clearly been identified in advance and documented in an agreement. To avoid disputes as to ownership, the relevant staff member, Councillor or contractor, must advise the Chief Executive Officer in writing of the existence of pre-existing intellectual property that the individual brings to the council prior to employment or engagement. If no such advise is received by the Chief Executive Officer, then any intellectual property used or disclosed during the period of employment or engagement will be treated as council-owned intellectual property.

6.0 Brands

6.1 Where this policy states that council owns intellectual property, brand, trade mark, domain name or business name and it is used by a staff member, Councillor, contractor or consultant in a promotion,

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naming or commercialisation of that intellectual property, then council owns that brand, trade mark, domain name or business name.

7.0 Exceptions to Council Ownership

7.1 Where the policy states that council owns intellectual property, this may only be varied or waived by an agreement or approval in writing by the Chief Executive Officer.

8.0 Assignments of Intellectual Property

8.1 Contributors must:

8.1.1 Execute all confirmations of assignment and ownership and other documentation necessary to give effect to the intellectual property ownership and use provisions set out in this policy, prior to use of such.

8.1.2 Provide assistance as reasonably requests, such as providing evidence including date of creation assisting with intellectual property protection procedures, and assistance with enforcement of intellectual property.

9.0 Effect of this Policy on Existing Arrangements

9.1 All existing legally binding contracts, deeds and agreements entered into by council prior to the policy date will remain in full force and effect. Their terms will prevail to the extent that there is an inconsistency with this policy.

10.0 Assignment of Intellectual Property Ownership by Council

10.1 Council may assign its rights, title and interests in intellectual property owned by it to another council at its sole discretion.

11.0 Copyright Ownership Statement

11.1 All published or distributed copyright material owned by council must include the following copyright statement:

© Copyright Central Highlands Regional Council [year]

12.0 Notification

12.1 Staff, Councillors, contractors or consultants develop intellectual property over which council assets ownership rights under this policy, must follow the CHRCP 0048 – Copyright Policy.

13.0 Protection

13.1 The terms on which Council protects intellectual property owned by council pursuant to this policy will be at the absolute discretion of the Chief Executive Officer. Council will endeavour to make decisions regarding protection of such intellectual property in consultation with the relevant creators and business units.

14.0 Commercialisation

14.1 The terms on which council's intellectual property is commercialised is at the absolute discretion of council and may include consultation with the relevant creators and business units.

15.0 Dealings by Staff

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15.1 No staff member, Councillor, contractor or consultant may act on behalf of council, or act in their own name, to assign, licence, protect, enforce, commercialise or otherwise deal with intellectual property which is owned by council, or over which council assets rights under this policy, unless specifically permitted in writing by the Chief Executive Officer to do so.

16.0 Moral Rights

16.1 Council recognises the moral rights of the creators of certain works in accordance with the *Copyright Act 1968*. These include the right of fair attribution, and the need for work not to be altered or used in such a way that it harms the reputation of the creator. Where a creator agrees to be involved in research activities as part of a project between council and an external contractor or other third party, the creator may be required to provide a written consent in respect of the creator’s moral rights in relation to certain works that may be created during the project prior to work commencing.

17.0 Indigenous Cultural and Intellectual Property Rights

17.1 The heritage of indigenous people is a living one and includes items that may be created in the future based on that heritage. Council recognises and will protect indigenous cultural and intellectual property rights as identified under Australian Federal Laws.

Strategic Link	<i>Copyright Act 1968 (Cth)</i> <i>Circuit Layouts Act 1989 (Cth)</i> <i>Designs Act 2003 (Cth)</i> <i>Patents Act 1990 (Cth)</i> <i>Trademarks Act 1995 (Cth)</i> <i>Copyright Act 1968 (Cth)</i>
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Lead Business Unit	Governance
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Related Documents	Copyright Policy

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