

# Intellectual Property Policy

## Section 1 - Purpose

(1) The purpose of this Policy is to set out the principles and practices of Charles Sturt University (the University) relating to ownership, management and development of intellectual property created by staff and students of, and visitors to, Charles Sturt University.

### Scope

(2) This Policy applies to all staff, all students, and all visitors to the University, whether academic, professional, technical, administrative, undergraduate or postgraduate, and whether employed, enrolled, or otherwise engaged in any role or activity in association with Charles Sturt University on a full time or part time basis.

### Principles

(3) The University encourages and supports an academic environment in which teaching, learning and research may flourish.

(4) The University invests in the management, protection, registration and commercialisation of the intellectual property generated by staff, students and visitors in order to facilitate benefits to society.

(5) This Policy acknowledges the University's commitment to the National Principles of Intellectual Property Management for Publicly Funded Research.

### References

(6) This Policy is to be read in conjunction with the University's:

- a. [Outside Professional Activities Policy](#);
- b. [Code of Conduct](#); and
- c. [Guidelines for Commercial Activities Policy](#).

(7) In the event that there is any real or apparent lack of clarity, or conflict between any part of this Policy and any other policy, code, or other rule then the matter shall be determined by the Deputy Vice-Chancellor (Research).

## Section 2 - Glossary

(8) For the purpose of this Policy:

- a. Commercial Benefit - means any benefit that the University receives (whether income, in-kind or otherwise) from the development of intellectual property and explicitly excludes any income or other support received by the University for research, consulting services, or the Costs of prosecuting any application or maintaining any registered intellectual property, whether granted or not.
- b. Commercialisation - means to:

- i. market, manufacture, sell, hire, or otherwise exploit intellectual property for commercial benefit;
  - ii. provide commercial services incorporating intellectual property; or
  - iii. licence any third party the right to do any of (a) or (b) above.
- c. Computer Program - has the meaning ascribed to it by s10 of the [Copyright Act 1968](#).
- d. Confidential Information - means all trade secrets, financial information and other commercially or scientifically valuable information of whatever description and in whatever form which:
  - i. is by its nature confidential;
  - ii. has been designated as confidential;
  - iii. is capable of protection law or equity as confidential information; or
  - iv. is derived or produced partly from the confidential information.
- e. Confidential information does not include information that is in the public domain or that is independently known or developed by the person receiving the information, other than as a result of a breach of any obligation of confidentiality owed by or to any other person.
- f. Costs - means any amount (including, without limitation, any Australian or foreign taxes, charges or other imposts, or any legal or professional fees) the University incurs to protect, develop or commercialise intellectual property. Costs will be deemed to include the salaries, wages and expenses paid by the University, and the cost of any equipment, material and resources used, in the Development and creation of such intellectual property.
- g. Course - means any program of study, in whole or part, conducted by or on behalf of the University.
- h. Create - means to produce, invent, design, enhance, generate, discover, make, originate or otherwise bring into existence (whether alone or with another person) and 'creation' has a corresponding meaning.
- i. Develop - means to exercise intellectual property rights (whether alone or with another person) for commercial or non-commercial purposes including, without limitation, to apply, publish, exhibit, transmit, enhance, use, assign, license, sub-license, franchise, adapt or modify intellectual property and 'Development' has a corresponding meaning.
- j. Exempt Intellectual Property - means copyright in a book, article, conference paper, presentation slides, or other material that is not teaching material as defined in this Policy.
- k. Intellectual Property - includes rights (including, without limitation, rights of registration or application for registration) relating to:
  - i. literary (including Computer Programs), artistic, musical and scientific Works;
  - ii. multimedia subject matter;
  - iii. performances of performing artists, phonograms and broadcasts;
  - iv. inventions in all fields of human endeavour;
  - v. scientific discoveries;
  - vi. industrial designs;
  - vii. trade secrets and Confidential Information;
  - viii. trademarks, service marks and commercial names and designations;
  - ix. plant varieties; and
  - x. circuit layouts.
- l. Intellectual property - does not include any Moral Right.
- m. Moral Right - has the meaning ascribed to that term in the [Copyright Act 1968](#) (as amended by the [Copyright Amendment \(Moral Rights\) Act 2000](#) and recognises three types of Moral Rights:
  - i. an author's right to be identified as the author of a Work - known as the right of attribution of authorship;
  - ii. the right of an author to take action against false attribution - known as the right not to have authorship of a Work falsely attributed; and
  - iii. an author's right to object to derogatory treatment of their work that prejudicially affects their honour or

reputation – known as the right of integrity of authorship of a work.

- n. Net Revenue - means the monetary amount of any commercial benefit received and retained by the University from the development of intellectual property after all costs and third party claims have been deducted.
- o. Originator - means staff, students or visitors who create, in whole or part, intellectual property that is subject to this Policy regardless of whether the relevant intellectual property or any part of it is created by one person or jointly by two or more people.
- p. Protect - means any action taken or that is required to protect a claim in connection with intellectual property and includes, without limitation, registration anywhere in the world or enforcement or assertion of that intellectual property in any legal proceedings.
- q. Staff - means a person who is a member of the University's academic or general/professional staff (whether full-time, part-time or casual) at the time they create any intellectual property.
- r. Student - means a person who is enrolled as a student of the University at the time they create any intellectual property.
- s. Teaching Material - means any Work created in any medium by staff in pursuance of the terms of their employment with the University (but regardless of whether this occurs under a specific direction to do so) as an aid or a tool for instruction in a Course.
- t. Visitor - means a person who is not staff or a student of the University, who at the time creates any intellectual property to which this Policy applies:
  - i. takes part in any research, teaching or other activity that would normally be conducted by staff or students;
  - ii. visits a part of the University in which research or scholarship, or any related activity, is conducted; or
  - iii. is designated as adjunct staff.
- u. Work - means a literary work, a dramatic work, a musical work an artistic work, cinematograph film, multimedia work or Computer Program.
- v. Words in the singular have the same meaning in the plural and vice versa.

## Section 3 - Policy

### Ownership of intellectual property

(9) Subject to the terms of any agreement between Charles Sturt University and any other party, and to any further exemptions explicitly stated in this Policy, the University asserts legal and beneficial ownership rights in accordance with the following provisions.

#### Intellectual property created by staff

(10) The University owns the intellectual property created by staff within the conduct of their duties as an employee of the University. This includes but is not limited to all research results and teaching materials.

(11) The University owns all other intellectual property created by staff if the creation of that intellectual property has been the result of, depended on, or required, use of any resources or facilities of the University other than access to copyright materials through the facilities of the University Library.

(12) The University assigns ownership of its intellectual property rights in exempt intellectual property to the originator of that exempt intellectual property, subject to the University retaining a non-exclusive, perpetual, royalty-free licence to use that exempt intellectual property in any manner, anywhere in the world.

### **Intellectual property created by students**

(13) In the absence of an agreement to the contrary each student owns the intellectual property created by that student as a student of the University.

### **Intellectual property created by visitors**

(14) The University owns all intellectual property created by visitors where that intellectual property has been created as a result of:

- a. collaboration between any visitor and any staff or student where the University owns the intellectual property created by that staff or student; or
- b. the use of University equipment, facilities, or other resources, including intellectual property owned by the University.

### **Moral Rights**

(15) The University recognises the Moral Rights of the originators of intellectual property in accordance with the [Copyright Act 1968](#).

(16) The University will manage the Intellectual Property it owns with due regard to the Moral Rights of the originators.

### **Third party rights**

(17) The University recognises the rights of Intellectual Property owners external to the University.

(18) All staff, students and visitors must undertake reasonable investigation for potential third party intellectual property rights required for their Work prior to any use of such intellectual property.

### **Indigenous cultural and intellectual property rights**

(19) The University recognises that the cultural and intellectual property rights of Indigenous peoples in relation to knowledge, ideas, cultural expressions and cultural materials must be respected and should be taken into account in any dealings with intellectual property under this Policy.

## **Section 4 - Procedures**

### **Intellectual property owned by the University**

#### **Disclosure**

(20) Any originator of intellectual property which is owned by the University under this Policy and believed to be capable of commercialisation, must notify the Director of Research Services as soon as possible after its creation.

#### **Review**

(21) The Director of Research Services or their nominee will review all disclosures made in accordance with clause 20 of this Policy, together with additional information as deemed necessary to make a determination of University's management of the disclosure.

(22) The originator is required to provide any additional information requested by the Director of Research Services and, if asked to do so, assist the University in the process of review, complete all documents, including execution of assignments, and other related matters as they arise.

(23) In reviewing each disclosure, the University will consider how the intellectual property can be managed to encourage its use for the benefit of society.

(24) The University will make a determination on how the intellectual property is to be managed and report to the originator within three months of the disclosure.

### **Sharing of benefits**

(25) The University will distribute net revenue in relation to commercialisation of intellectual property in the following shares: one third to the originators; one third to the organisational unit(s) in which the originators undertook the work that led to the creation of the intellectual property; and, one third to the University.

### **Other requirements**

(26) Every originator must take steps to ensure that the intellectual property owned by the University in accordance with this Policy is managed in a manner that maintains the value of that intellectual property and facilitates use of that intellectual property for the benefit of society. In particular, an originator must not disclose Confidential Information in relation to any intellectual property owned by the University without explicit authorisation as set out in the University [Delegations and Authorisations Policy](#).

(27) Where the University owns intellectual property in accordance with this Policy, each originator is required to execute in a timely manner any documents nominated by the University to give effect to the University's ownership of that intellectual property and management of that intellectual property.

(28) Originators must not act of behalf of themselves or purport to act on behalf of the University in dealing the intellectual property owned by the University. Any commercial enquiries in relation to the right to develop intellectual property owned by the University must be referred to the Director of Research Services or their nominee.

### **Intellectual property owned by students**

(29) If in order to undertake a research project a student is requested to assign intellectual property to the University, the supervisor for that student must first contact the Director of Research Services or their nominee detailing the requirements for the assignment.

(30) The Director of Research Services will provide a form of assignment acceptable to the University.

(31) No student will be required to assign their intellectual property to the University in order to qualify for admission or to complete the requirements of a Course in which the student has been admitted.

### **Intellectual property owned by third parties**

(32) Any staff, student, or visitor who is aware of third party intellectual property rights which may be infringed by activities in which they're involved must as soon as reasonably practicable disclose that intellectual property to the Director of Research Services or their nominee.

### **Dispute resolution**

(33) If there is a dispute about this Policy or the operation of these Procedures, the matter will be referred to the Deputy Vice-Chancellor (Research).

## **Section 5 - Guidelines**

(34) Nil.



## Status and Details

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