

POLICY TITLE: INTELLECTUAL PROPERTY
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Policy Author			
Governance and Corporate Services			
Endorsed by			
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Responsible Position			
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1. Purpose

This policy regulates the ownership and protection of Isaac Regional Council (IRC) intellectual property and provides specific directions and formal guidelines to staff, Councillors, contractors and consultants on intellectual property related matters.

2. Scope

This applies to all IRC staff, Councillors, contractors and consultants engaged by Council.

3. Definitions

- IRC: Isaac Regional Council
- CEO: Chief Executive Officer
- IP: Intellectual Property
- Contributor: Staff member, Councillors or contractors is a:
 - Creator
 - Person that contributed to the creation, development or invention
- Creator: Staff member, Councillors or contractors who:
 - In the case of a patentable invention subject to the Patents Act 1990: is an inventor
 - In the case of a copyright work or similar subject to the Copyright Act 1968
 - In the case of a trade mark subject to the Trade Marks Act 1995: is a person who developed or first used the trade mark
 - In the case of designs registrable under the Designs Act 2003: is a designer
 - In the case of Plant Breeders Rights, under the Plant Breeder's Rights Act 1994: is a principal breeder
 - In the case of circuit layouts, under the Circuit Layouts Act 1999: is a designer
 - In the case of trade secrets and know how: is a creator of that body of knowledge
- Intellectual Property (IP): All statutory and other proprietary rights (including rights to require information be kept confidential) in respect of inventions, copyright, trademarks, designs, patents, plant breeder's rights, circuit layouts, know-how, trade secrets and all other rights includes:
- Pre-Existing Intellectual Property: Intellectual property that is developed and is owned by IRC staff, Councillors or contractors

4. Policy Statement

IRC recognises the importance of protecting intellectual property in the creation of assets and other benefits.

This policy establishes flexible mechanisms by which IRC is able to identify, protect, manage and commercialise its intellectual property.

4.1 Ownership of Intellectual Property

Except otherwise stated, IRC owns all intellectual property created by staff, Councillors or contractors and consultants in the course of their duties as follows:

- Created in or during the course of employment or engagement by the IRC
- Using or accessing IRC resources

Intellectual property created in or during the course of employment or engagement with IRC includes IP created while participating in any project or program supported by funding obtained or provided by or through IRC

4.2 Ownership by IRC of Intellectual Property Developed by Contractors

Except as otherwise stated in this policy, IRC owns all IP created by contractors:

- Created in or during the course of the appointment with IRC
- Using IRC resources
- While participating in any project or program supported by funding obtained or provided by or through IRC

4.4 Ownership by IRC of Intellectual Property Developed by staff

Except as otherwise stated, IRC owns IP created by staff, Councillors, contractors and consultants unless a signed agreement has been executed to vary this policy.

4.5 Ownership of Pre-Existing Intellectual Property

IRC 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 CEO in writing of the existence of pre-existing intellectual property that the staff member brings to the IRC prior to employment or engagement. If no such advice is received by the CEO, then any IP used or disclosed during the period of employment or engagement will be treated as IRC owned IP.

4.6 Brands

Where the policy states that IRC owns IP, and a brand, trade mark, domain name or business name is used by staff member, Councillor, contractor or consultant in a promotion, naming or commercialisation of that IP, then IRC owns that brand, trade mark, domain name or business name.

4.7 Exceptions to IRC Ownership

Where the policy states that IRC owns IP, this may only be varied or waived by an agreement or approval in writing by the CEO.

5. Assignments of IP

5.1 Assistance

Contributors must:

- Execute all confirmations of assignment and ownership and other documentation necessary to give effect to the IP ownership and use provisions set out in this policy, prior to use of such if
- Provide assistance as reasonably requested, such as providing evidence including date of creation, assisting with IP protection procedures, and assistance with enforcement of IP

5.2 Effect of this Policy on Existing Arrangements

All existing legally binding contracts, deeds and agreements entered into by IRC 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.

5.3 Assignment of IP Ownership by IRC

IRC may assign its rights, title and interests in IP owned by it to another Council in its sole discretion.

5.4 Copyright Ownership Statement

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

© Copyright Isaac Regional Council [year]

6. Protection and Commercialisation of IP Owned by IRC

6.1 Notification

Staff, Councillors, contractors or consultants develop IP over which IRC asserts ownership rights under this policy, must follow the LG-003 Copyright Policy

6.2 Protection

The terms on which IRC protects IP owned by IRC pursuant to this policy will be at the absolute discretion of the CEO. IRC will endeavour to make decisions regarding protection of such IP in consultation with the relevant creators and business units.

6.3 Commercialisation

The terms on which IRC's IP is commercialised is at the absolute discretion of IRC and may include consultation with the relevant creators and business units.

6.4 Dealings by Staff or Students

No staff member, Councillor, contractor or consultant may act on behalf of IRC, or act in their own name, to assign, license, protect, enforce, commercialise or otherwise deal with IP which is owned by IRC, or over which IRC asserts rights under this policy, unless specifically permitted in writing by CEO to do so.

7. Moral Rights

IRC 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 IRC 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.

8. Indigenous Cultural and Intellectual Property Rights

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

9. Communication Channels

The Intellectual Property Policy will be communicated throughout the Council via:

- An announcement on the IRIS intranet
- Online Policy Library
- External website

10. References and Related Documents

- Patents Act 1990
- Copyright Act 1968
- Trademarks Act 1995
- Designs Act 2003
- Circuit Layouts Act 1989
- Charles Stuart University