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# Intellectual Property Policy

June 2020

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## Purpose

1. This policy is to ensure that all Intellectual Property created or acquired by Council and/or used by Council is managed professionally and protected and preserved where it is appropriate to do so.

## Policy Summary

2. Central Coast Council owns the Intellectual Property listed in **Appendix 1** to this Policy. This list is not exhaustive and is subject to change.
3. All Intellectual Property created by personnel through the course of their employment with Central Coast Council is owned by Council.
4. All published or distributed materials over which Council owns the copyright should include the following copyright statement – © *Copyright Central Coast Council [year]*

## Scope

5. This Policy applies to:
  - a. all elected members of Council;
  - b. all personnel employed by Council;
  - c. any person, organisation or consultant contracted to or acting on behalf of Council;
  - d. any committee, community group or organisation established or managed by, or exercising a function of, Council; and
  - e. any person, organisation or consultant employed to work on Council premises or facilities

involved in the everyday functions and activities of Council and/or participation in any project or program supported by funding obtained or provided by, or through, Council.
6. Intellectual property and other terms are defined in the Definitions section at the end of this policy.
7. It is the personal responsibility of all Council employees and agents to have knowledge of, and to ensure compliance with this Policy.

## Background

8. Council and its delegates/partners/vendors create and/or acquire rights to use Intellectual Property daily in its routine functions and through the programs and projects it supports or

provides. Effective management of Intellectual Property is necessary to ensure that Intellectual Property is used, and where necessary, disclosed appropriately.

## General

### Council's Intellectual Property

9. Council owns the Intellectual Property listed in **Appendix 1** to this Policy. This list is not exhaustive and is subject to change.
10. All Intellectual Property created by personnel through the course of their employment with Council is owned by Council.
11. Subject to any specific arrangements, contractual or otherwise, all Intellectual Property created by Council; any committee of Council; any committee exercising a function of Council or any community group or organisation established and/or managed by Council is owned by Council.
12. Unless otherwise provided, it will be a condition of any contract with any person, organisation, contractor or consultant engaged by Council, that any Intellectual Property generated by that person, organisation, contractor or consultant as a result of the contract arrangement, is owned by Council.
13. All published or distributed materials over which Council owns the copyright should include the following copyright statement – © *Copyright Central Coast Council [year]*

### Third party intellectual property

14. Council acknowledges that there may be circumstances whereby Council will allow third parties to own Intellectual Property under negotiated agreements where the ownership of Intellectual Property is not desirable for Council. In those circumstances where such agreements are negotiated, Council will have consideration for:
  - a. the purpose of the ownership of the Intellectual Property;
  - b. the nature of the services provided by the third party;
  - c. the Background Intellectual Property brought to a project by a third party; and
  - d. the costs of Council protecting and maintain the Intellectual Property.

Approval for such agreements to be entered into must be provided by an officer of Council holding the requisite delegated authority.

15. In accordance with the [Copyright Act 1968](#), Council acknowledges the moral rights of the creator of certain Intellectual Property, including the right of fair attribution and the need for work not to be altered or used in such a way that harms the reputation of the creator.
16. Council will ensure that it obtains appropriate authorisation from any third party that owns the Intellectual Property in any information, data or other material, in any form, used by Council, in order to use that Intellectual Property. Use includes disclosure to a third party, including the public.
17. Council will ensure that any Intellectual Property that it owns and discloses to a third party, is disclosed subject to the following conditions:
  - a. That the use of the Intellectual Property is for a specific and lawful purpose; and
  - b. Council must be appropriately recognised in any use of the Intellectual Property by the third party
  - c. Prior written authorisation from Council is required for any use, disclosure, publication or alteration by a third party of Intellectual Property owned by Council.

## Requirements for Council contracts

18. Council employment contracts must include a condition that the creation of Intellectual Property by a Council employee, during the course of employment with Council, is owned by Council.
19. Where appropriate, contracts with any person, organisation, consultant or contractor engaged by Council must include a condition that the creation of Intellectual Property by that person or organisation, as a result of the contract, is owned by Council.

## Dealing with requests for use of IP

20. In the event that a request for access to Council Intellectual Property is received, Council employees are responsible for ensuring that they:
  - a. Have the requisite delegation and/or other authority to release the Intellectual Property;
  - b. Seek advice from subject matter experts in the relevant Directorate/Unit of Council; and
  - c. Seek legal advice as to any appropriate conditions that the disclosure must be subject to.

## Compliance, monitoring and review

21. Suspected breaches or misuse of this policy are to be reported to the Chief Executive Officer. Alleged breaches of this policy shall be dealt with by the processes outlined for breaches of

the Code of Conduct, as detailed in the Code of Conduct and in the Procedures for the Administration of the Code of Conduct.

22. In the event of a breach of intellectual property by a contracted party, Council may exercise its legal rights for breach of contract or breach of copyright.
23. This policy is to be reviewed every 4 years.

## Records management

24. Staff must maintain all records relevant to administering this policy in a recognised Council recordkeeping system.

## Definitions

25. In this policy:
  - a. **Background Intellectual Property:** Property that is already in existence at the time of entering into a contractual arrangement involving that Intellectual Property and is made available by a party prior to the development of new Intellectual Property or during the course of the contractual arrangement.
  - b. **Copyright:** The protection given to the original expression of an idea, concept, fact or piece of information not including the underlying idea, concept, fact or piece of information itself. Copyright subsists automatically on creation of a work. There is no registration system in Australia for copyright.
  - c. **Council:** The elected representatives, Councillors, who form the governing body of Central Coast Council and the organisation responsible for the administration of Council affairs and operations and the implementation of Council policy and strategies.
  - d. **Domain Name:** The domain name that identifies the domain name holder's internet address.
  - e. **Intellectual Property:** Intangible property that is the result of a person's mind or proprietary knowledge. Intellectual Property at Central Coast Council may include, but is not limited to, reports, correspondence and papers being written in which copyright subsists; brand names or logos that may or may not be the subject of a trade marks application; software which could be the subject of copyright protection as a literary work or could be the subject of a patent application.
  - f. **Intellectual Property Rights:** The rights provided by legislation to protect the products of intellectual endeavour. The legislation includes laws relating to copyright, trademarks, domain names and patents.

- g. **Moral Rights:** The personal rights belonging to a creator of a work in which copyright subsists. Moral rights exist only in individuals, not corporations or organisations. Moral rights include the right fair attribution and the right not to have work subjected to derogatory treatment or be misrepresented.
- h. **Patent:** The registered protection of an owner's invention.
- i. **Trade Mark:** A sign (such as a name, logo, symbol, brand or marketing) used to distinguish the goods or services of a trader or organisation.

## Related resources

### 26. Legislation:

- a. [Local Government Act 1993 \(NSW\)](#)
- b. [Copyright Act 1968 \(Cth\)](#)
- c. [Trade Marks Act 1985 \(Cth\)](#)
- d. [Patents Act 1990 \(Cth\)](#)

### 27. Associated/Internal documents:

- a. [Central Coast Council Code of Conduct](#)
- b. [Central Coast Council Delegations Register](#)
- c. Central Coast Council Information Technology Acceptable Use Policy
- d. Central Coast Council Information and Records Management Policy

## Appendix 1: Intellectual property owned by Central Coast Council (non-exhaustive list)

1. All Central Coast Council logos, including sub-brand logos, as provided for in the Central Coast Council Corporate Style Guide (as updated from time to time)
2. All information, including the documents, pages and images placed on, at any point in time, the Council website, and any other website owned and/or controlled by Council (unless indicated otherwise).
3. All publications, video and audio content produced by and on behalf of Council.
4. Council development and building planning documents, including but not limited to the local environmental plan, development control plan, strategic plans, GIS Maps and all other planning policies.
5. Council policies and procedures.
6. Council community publications, including but not limited to all electronic and print newsletters, information brochures, newspaper advertisements, posters, and media releases.
7. Council reporting documents, including but not limited to, annual reports, meeting agendas, meeting minutes, meeting reports and annual financial reports.
8. Council forms.
9. All internal Council documents, including (but not limited to) internal reports, correspondence including emails, advices, agreements, policies, procedures, guidelines and fact sheets.
10. All internal management systems, created by or on behalf of Council, including processes, databases, electronic forms and other management tools.
11. All insights, analytics and data algorithms developed for all Council owned websites and social media handles.
12. All databases created by Council owned membership bodies, websites, social media and email marketing campaigns.
13. Project working documents including but not limited to project governance documents, business requirements, solution designs, as built documentation, business readiness artefacts, system configuration documents, working papers and support documents.
14. Technology solutions developed for and commissioned by Council including but not limited to computer programs, mobility apps, eforms, electronic workflows, policies and procedures, frameworks, technology roadmaps and strategy documents.



## History of revisions

Amendment history	Details
Original approval authority details	<p>Chief Executive Officer</p> <hr/> <p>02/07/2020</p> <hr/> <p>This Central Coast Council policy replaces the Intellectual Property Policy of former Wyong Shire Council (WSC119)</p>