

INTELLECTUAL PROPERTY POLICY

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1. Purpose

1.1 Monaro Higher Education (MHE) seeks to fulfil its obligation to owners of all textbooks, study notes, music and any other resources MHE uses. MHE upholds all relevant legislation regarding intellectual property.

1.2 MHE recognises that many of the resources used in classes, including those created by our academic staff, are copyrighted. Honouring such copyright is an important part of MHE’s regulatory compliance as well as setting a good example of academic integrity to students.

2. Principles

2.1 MHE seeks to be a source of free thought. We honour each staff member’s unique style and individuality and encourage a broad ranging original approaches and innovative methodology. MHE gives due recognition to the creativity of its staff and rewards them accordingly for their contribution to MHE’s reputation and their students’ learning experience.

2.2 MHE’s academic staff will not only declare knowledge to students but also lead by example. Acknowledging owners of intellectual property, copyright holders and sources of information wherever such is appropriate is a crucial element of the academic integrity we value.

3. Context

3.1 MHE uses broadly sourced material. MHE constantly seeks to learn from the best higher education providers worldwide about theories and practices of its subject matter and means of presentation. MHE's ancillary staff will employ a variety of forms and documents. MHE's Learning Management System and online presence will contain a range of videos, photos, diagrams, charts and documents. Each of these must be adapted to become substantially our own original content. Sources must be cited. Licensing fees must be paid wherever applicable.

3.2 This Policy is aligned with Sections 5-2 and 7-2 of the Higher Education Standards Framework 2021.

4. Scope

4.1 This policy applies to all academic and clerical staff as well as any staff, student, contractor or stakeholder who contributes to the production of MHE's resources or contributes to MHE's online presence.

5. Definitions

Copyright – Legal restrictions on the use, performance, communication or copying of an original written, audio, artistic or creative work under the Copyright Act (1968).

Creative Commons License – License which allows free distribution of otherwise copyrighted material for the purpose of building on it, e.g., to allow the use of the work as an element of research.

Intellectual property – any written, audio, design, video, musical or other artistic or creative production which may legally be considered to belong to the creator.

Licence – Commercial or statutory contract stipulating that profit for the use of a work of art or creativity must flow to the creator of the work or owner of the intellectual property.

Moral rights – legal obligations specified under the Copyright Act (1968) to be correctly and fairly attributed as the author, composer or creator of a work and to have the integrity of such upheld.

6. Roles and Responsibilities

6.1 The Board of Directors will be responsible for:

- Making decisions concerning the commercialisation of MHE's intellectual property and distributing or assigning any revenue from commercialisation appropriately
- Paying any cost associated with registering MHE's intellectual property

6.2 The Human Resources staff will be responsible for:

- Ensuring that all staff contracts spell out MHE's rights and the staff member's rights concerning intellectual property they create as part of their work

6.3 MHE's Compliance Manager will be responsible for:

- Ensuring that staff and students are aware of their responsibilities and rights concerning intellectual property, copyright and related legislation
- Monitoring the creation of anything within MHE to ensure that all relevant legislation is upheld
- Maintaining a register of any intellectual property created by MHE

7. Policy details

7.1 Intellectual Property Created Within MHE

7.1.1 Intellectual Property Created by MHE Staff

7.1.1.1 Any intellectual property created by a member of MHE staff, including sessional staff, or by a committee, work unit, work team etc with delegated authority from the MHE Board of Directors, shall be considered as the intellectual property of MHE and shall be owned by MHE in perpetuity if:

- It is produced using MHE's resources or budget, including but not limited to
 - Funds
 - Services
 - Labour
 - Facilities
 - Equipment
 - Stationery
 - Any other materials paid for or provided by MHE
- It is funded by MHE
- It is produced as a part of their employment with MHE to be used in the fulfilment of their duty statement and/or delegated authority.

7.1.1.2 The ownership outlined in point 7.1.1.1 above includes, but is not limited to:

- Unit Outlines and Course Outlines
- The Student Handbook
- Course material
- Guides to training techniques
- Assessment instruments
- Computer programs and course software
- Administrative forms or records
- Administrative questionnaires and surveys
- Policies and procedures
- Marketing and promotional material (including the design of the MHE logo)
- Reports
- Business plans
- Memoranda
- any presentation of data or other information in a form which is substantially different from the form of the existing piece of intellectual property from which it was sourced

7.1.1.3 MHE does not claim ownership of or assert rights over intellectual property produced by a member of MHE staff during their period of employment, except as outlined in points 7.1.1.1 and 7.1.1.2 above.

7.1.2 Other Intellectual Property Created Within MHE

7.1.2.1 Intellectual property created by MHE students will only belong to MHE if it was specifically commissioned by MHE (for the purpose of interpreting this point, no exam or assessment is considered a commission), or if a contract or other legally binding agreement between the creator and MHE formally assigns it to MHE.

7.2 Intellectual Property Created Outside MHE

7.2.1 Educational and scholarly resources used in lectures, tutorials, workshops, classes or the Learning Management System are not the intellectual property of MHE, unless produced by staff or students under the conditions laid out in subsections 7.1.1 or 7.1.2 above.

7.2.2 Under no circumstances will MHE condone or tolerate the reproduction, exploitation, distribution, broadcast, uploading, or any other use or any dissemination of resources or material in any way which can be legally interpreted as breaching the owner’s intellectual property rights, unfaithful to licensure agreements or breaching copyright. All staff and students must comply fully with all legislation and must take every reasonable precaution to avoid infringement. Intellectual property which belongs to a third party may only be used where permissible by either legislation or formal agreement between the MHE staff or student and the owner.

7.2.3 MHE will not be permitted to make spontaneous claims of ownership concerning any intellectual property not created specifically by or for MHE, including any created by its staff unless in accordance with the above points.

7.3 Permissible Reproduction

7.3.1 MHE and its staff and students may reproduce written sources for the purpose of study if it comprises:

- Not more than ten percent of the total number of pages of a book, or one chapter if the book consists of chapters
- One article from a journal, or more than one if the articles are on the same subject
- Up to ten percent of the total number of words of a work published in electronic form.

7.3.2 MHE may copy any broadcast on free-to-air radio, television and online for educational purposes and copy any audio-visual material but may not copy commercial DVDs or videos or non-free-to-air broadcast material without the producer’s written consent. Permission must be sought from the copyright owner if the material so copied is not used for educational purposes.

7.3.3 Any piece of intellectual property over which MHE asserts ownership in accordance with any of the above points is held by MHE in perpetuity free of fees or royalties, with unrestricted licence to be used for any purpose MHE sees fit.

8. Relevant Legislation

MHE acknowledges its legal and regulatory obligations under the following frameworks:

- Higher Education Standards Framework (HESF) 2021
- Education Services for Overseas Students (ESOS) Framework 2013
- Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS)
- National Code of Practice for Providers of Education and Training to Overseas Students 2018
- Education Services for Overseas Students Act 2000

9. Policy Administration

Policy category	Compliance
Policy owner	Compliance Manager
Responsible officer	Compliance Manager and Dean
Approving authority	Board of Directors
Contact officer	Compliance Manager/Dean
Approval date	18 th March 2022
Commencement date	18 th March 2022

Review date	18 th March 2025
Version	1.1
Related documents	Intellectual Property Procedure

10. Version control

Version	Approval date	Approved by	Summary of changes
1.1	18 th March 2022	Board of Directors	

11. Benchmark / References

- Australian School of Accounting
Intellectual-Property-Policy_V2.1.pdf (asahe.edu.au)
- TAFE NSW
<https://www.tafensw.edu.au/documents/60140/1074037620/Intellectual+Property+Owners+hip+and+Management+Policy.pdf>
- Western Sydney University
Intellectual Property Policy / Document / Policy DDS (westernsydney.edu.au)