

INTELLECTUAL PROPERTY PROCEDURES

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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. Procedure Details

#### 6.1 Commercialisation of MHE's Intellectual Property

6.1.1 Where a member of staff believes that MHE's intellectual property is capable of being commercialised, they must inform the Board of Directors in writing with complete details of the intellectual property under consideration, the potential market and any other information required to achieve its commercialisation potential. The Board of Directors will then consider the potential financial or other benefits and costs to MHE of commercialisation, in consultation with the Compliance Manager, the creator and any other relevant person or body. Creators must give their formal consent to this process.

6.1.2 When intellectual property created by an individual member of MHE staff or a MHE student directly generates financial revenue, fifty percent of that revenue will be shared with the creator, regardless of whether that creator's tenure or study time with MHE is still current at the time of the production of that revenue.

6.1.3 When intellectual property created by a committee, work unit, work team etc directly generates financial revenue, that revenue will be divided amongst the members of that committee, work unit, work team etc, or deposited into the general budget of that committee, work unit, work team etc at the discretion of the designated chair, manager, director or head of that committee, work unit, work team etc.

## 6.2 Material Produced and Used Within MHE

6.2.1 Although students of MHE retain ownership and hold copyright of any essay, research output or assessment response they produce, MHE reserves the right to retain a copy or the original for its own records and to employ any tabular or graphical information or any photographs, drawings or illustrations contained within the student's work for any purpose of MHE's choice.

6.2.2 MHE reserves the right to maintain an archive of all educational materials, articles, essays, creative work and software that are used in any part of its operation unless copyright legislation, licensure or intellectual property rights is breached in so doing.

6.2.3 MHE permits open access of publications produced by and for its staff and/or its students. Such publications may be stored in the MHE library and/or electronically.

6.2.4 It shall be a condition of employment, stated in all staff members' employment contracts, that any teaching materials of any nature in any media which they produce, write or create as part of the fulfilment of their designated duties and/or exercise of their delegated authority will be subject to a perpetual, non-exclusive, royalty-free licence by which MHE may utilise, adapt, translate, reproduce, distribute, sub-licence and commercially exploit such teaching materials at will, and that such licence will not terminate at the termination or expiry of the staff members' tenure with MHE.

6.2.5 Where intellectual property created within MHE contains Indigenous Knowledge and Culture, MHE may not claim ownership. MHE will liaise with Indigenous groups to ensure the recognition and protection of their interests in accordance with all relevant laws and Indigenous protocols and maintain careful records of such liaison.

6.2.6 All intellectual property created within MHE which is subject to copyright shall be clearly labelled: "© Monaro Higher Education [year of production]," in the footer of a document, on the title page of a book, or at the end of a video.

6.2.7 MHE will bear the cost of any required registration of MHE's intellectual property. All such registrations will be in the name of MHE. No individual member of staff and no student may apply for registration of, or rights associated with, MHE's intellectual property in their own name.

6.2.8 Material which may be used for the production of intellectual property within MHE, including educational resources, class notes, presentations, videos for MHE's YouTube channel or anything uploaded to the Learning Management System, distributed in class, or used as part of a lecture, tutorial, class or presentation include but are not limited to:

- A staff member's own original work
- Original work created by a team within MHE
- MHE's intellectual property or anything copyrighted to MHE
- Creative Commons Content
- Open access content
- Public Domain content
- Open Education Resources content
- URLs to websites
- Anything which the copyright holder has given permission in writing to use

## 6.3 Third-Party Relationships

6.3.1 When MHE or any member of MHE's staff establish a third-party agreement, contract or partnership with any other person or entity to produce anything which could be termed intellectual property, MHE's Compliance Manager must be formally advised as soon as practicable. The MHE Compliance Manager will then monitor the partnership to ensure that neither MHE nor the third party violates any intellectual property rights or breaches copyright legislation.

6.3.2 A written agreement must be duly signed by all parties to establish, as a minimum, who will write, create, invent or otherwise be responsible for the production of any intellectual property and who will own and provide resources used for this production.

6.3.3 At the expiration of the agreement, partnership or contract, a brief written report must be supplied to the Compliance Manager which includes as a minimum:

- Contact details of all interested parties
- Brief details of any work produced, created or invented
- Itemised list of the resources employed for this purpose
- A copy of the original agreement as per point 6.3.2 above.

## 6.4 Pre-Existing Intellectual Property

6.4.1 Any pre-existing intellectual property brought by a staff member to MHE for the purpose of carrying out any part of their delegated duties or fulfilling any part of their duty statement, whether created by the staff member or otherwise, must be declared to their manager together with proof of either their ownership or their legal right to use this intellectual property.

6.4.2 In the case of no such declaration as per point 6.4.1 above, MHE may consider any intellectual property developed or used during the employment period as its own intellectual property unless clear copyright notices are in place.

6.4.3 MHE and its staff and students must honour the rights of original authors of any written works to be correctly attributed as such without misrepresentation of the intent of the work or denigration of the author's character.

## 6.5 Copyright

6.5.1 It is the responsibility of the Compliance Manager to ensure that staff and students know and understand their obligations under the Copyright Act (1968). These obligations will be made clear:

- To staff at their induction or any onboarding process
- To students in the Student Handbook
- By maintaining this Procedure document and the related Policy document online for reference
- In a public notice in the library near any photocopies or printers.

6.5.2 Students may seek clarification from their lecturers or tutors or the librarian. Any staff member may seek clarification of their obligations, if necessary, from the Compliance Manager.

6.5.3 Students and staff are encouraged to report alleged breaches of copyright, infringements of intellectual property rights or contraventions of licencing agreements to the Compliance Manager or to the Dean, who must investigate the allegation promptly and impose disciplinary measures in accordance with any relevant MHE policy and procedure and/or refer the case to an external law enforcement authority.

6.5.4 No ascription of copyright, author or creator's name, or other ascription that identifies an owner of intellectual property may be deleted, defaced or removed from any work which is subject to copyright.

6.5.5 MHE reserves its rights under the Copyright Act (1968) to reproduce and disseminate copyright material for educational purposes. The library staff, in consultation with the Compliance Manager, will be responsible for maintaining copyright compliance, including:

- Maintaining contractual agreements with collecting organisations and individual owners
- Managing licence administration and compliance

- Maintaining a collection of photocopied journal articles which may be relevant to the units taught by MHE, stamped with notice of
  - Their source
  - Their author(s) names
  - Their dates of publication
  - Legal statement of MHE’s right to produce, store, lend and otherwise use such articles for academic purposes.

6.5.6 Anything created in MHE by MHE, by any member of MHE’s staff or by a student must uphold all copyright and all moral rights.

## 6.6 MHE’s Brand

6.6.1 MHE’s brand name, logo, slogan and any other image or wording created for the purpose of marketing MHE must be used in accordance with all relevant legislation as well as all MHE policies and procedures.

6.6.2 Any use of MHE’s logo, including any co-branding, and any advertising or marketing material for MHE, must be approved by MHE’s Marketing Manager and produced in accordance with the MHE Marketing Plan.

## 7. 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

## 8. Procedure Administration

Policy category	Compliance
Policy owner	Board of Directors
Responsible officer	Compliance Manager and Dean
Approving authority	Board of Directors
Contact officer	Compliance Manager
Approval date	18 <sup>th</sup> March 2022
Commencement date	18 <sup>th</sup> March 2022
Review date	18 <sup>th</sup> March 2025
Version	1.1
Related documents	Intellectual Property Policy

## 9. Version control

Version	Approval date	Approved by	Summary of changes
1.1	18 <sup>th</sup> March 2022	Board of Directors	

## 10. 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)