1. Context

Torrens University Australia is committed to providing an environment in which scholarship and research can flourish. It recognises that intellectual property created as a result of University activities may be a significant and valuable asset which must be responsibly managed. This policy sets out the University’s approach to the ownership and commercialisation of intellectual property created by the Torrens University Australia community or with Torrens University Australia resources.

2. Definitions

Administrative materials: means materials created for Torrens University Australia’s administrative or business functions, including letters, memos, templates, handbooks, systems software, advertising material and internal reports.

Commercialise: means engage in any process to transfer technology, sell, assign, license, sub-license, or otherwise trade in or deal with intellectual property to gain or attempt to gain financial or other benefit.

Creator: means a staff member, student, affiliate or visitor of Torrens University Australia who is the inventor, author, composer, sculptor, designer, compiler, film-maker, programmer, photographer or other originator of intellectual property which is the subject of this policy.

Intellectual property: means the legal rights which may be claimed for intellectual creations. Specifically, it includes:

- Copyright, which protects computer software; teaching materials; scholarly written, artistic, dramatic and musical works; and other works including film and sound recordings. Refer to the Copyright Act 1968 (Cth);
- Patents, which protect new inventions and processes in areas such as software, biotechnological and engineering advances, and business methods. Refer to the Patents Act 1990 (Cth);
- Confidential information, consisting of know-how, trade secrets or other proprietary information and background knowledge. This is protected under Common Law;
- Design Rights to protect the shape or appearance of manufactured goods. Refer to the Designs Act 2003 (Cth);
- Trademarks comprising the signs and trading identities of businesses. See the Trade Marks Act 1995 (Cth) for registered marks. Unregistered trademarks are protected under Common Law; and
• Circuit Layout Rights to protect the configuration of electronic circuits in integrated circuit products or layout designs. Refer to the Circuit Layouts Act 1989 (Cth).

**Scholarly or Creative work:** means journal articles, conference papers and proceedings, books, recorded performances, radio scripts, as well as artistic, musical, dramatic or other creative works produced during the course of a creator’s University activities, but does not include work that is a computer program, teaching materials or administrative materials.

**Teaching materials:** means materials in any form prepared for the teaching of a course or program that is offered or intended to be offered by Torrens University Australia. They include curriculum outlines, lectures, lecture notes and material, syllabuses, study guides, assessment materials, images, web content, course software, etc.

3. **Scope**

This Policy applies to all staff members, students, affiliates and visitors of Torrens University Australia.

4. **Ownership**

4.1 **Ownership of intellectual property created by staff**

a. Torrens University Australia owns all intellectual property created by staff members in the course of their employment with the University, including teaching materials, administrative materials, scholarly or creative work, and research design and outcomes, unless there is a specific written agreement or exception to the contrary.

b. In the case of **scholarly or creative works**, Torrens University Australia retains a discretion to assign ownership of these to the creator and would normally do so unless:

   i. the creator has been engaged specifically by the University to create such work; or
   
   ii. the relevant work is subject to an overriding contractual obligation with a third party; or
   
   iii. the relevant work relates to intellectual property which is being commercialised by Torrens University Australia.

   This assignment of ownership is on condition that Torrens University Australia has a free, ongoing, non-exclusive right to use the relevant work for teaching, research and promotional purposes.

4.2 **Ownership of intellectual property created by students**

Students own intellectual property they create in the course of their studies, except that, if a student elects to participate in a project that:

• builds upon pre-existing Torrens University Australia intellectual property; or
• is being carried out for, or in conjunction with, an external third party,

then Torrens University Australia owns the intellectual property, subject to any other agreement in writing between the University and the student.

4.3 **Ownership of intellectual property created by visitors and affiliates**

Torrens University Australia owns all intellectual property created by visitors and affiliates where the intellectual property was generated solely or primarily through the use of Torrens University Australia resources, funds or pre-existing University intellectual property, unless there is a specific written agreement or exception to the contrary.
4.4 Collaborative research

Staff, students, affiliates and visitors who engage in collaborative research with a person or organisation external to the University must ensure that appropriate agreements are in place to clarify intellectual property ownership and rights of use.

4.5 Commercialisation of Torrens University Australia intellectual property

a. Creators have an obligation to:
   • disclose the creation of new intellectual property if it has potential commercial value, or is required by third party agreements; and
   • keep it confidential pending commercialisation decisions.

b. Torrens University Australia will make reasonable efforts to protect the commercially viable intellectual property that it owns, and to derive an income from it.

c. When intellectual property is protected or commercialised, the creators will be appropriately recognised as contributors to that intellectual property.

d. Following the commercialisation of intellectual property other than administrative materials, teaching materials or scholarly or creative works, Torrens University Australia will share the net revenue from the intellectual property (ie cash revenue, including royalties, licence fees, lump sums, milestone payments and revenue from sale of shares, less commercialisation costs, including costs of commercial development, legal services, IP protection and marketing) with the creators.

e. Net revenue will be disbursed as follows:
   • 1/3 to the creators
   • 2/3 to Torrens University Australia

   This disbursement to the creators will continue regardless of whether a creator remains a staff member, student, affiliate or visitor with Torrens University Australia.

f. Where it is decided not to protect or commercialise intellectual property, opportunity will be provided to creators to apply to the University to do so in their own right. Prompt consideration will be given to any such application and the implications of any assignment for Torrens University Australia. Assignment will not, however, affect Torrens University Australia’s right to seek a share of net commercialisation revenue from any such commercialisation by the creators.

5. Traditional Indigenous Knowledge

Torrens University Australia recognises that the commercial development of products resulting from use of the traditional knowledge of indigenous peoples should be subject to benefit-sharing negotiations with the providers of such knowledge, and conform to the relevant Indigenous protocols and ethical guidelines (including the Guidelines for Ethical Research in Australian Indigenous Studies).

6. Moral Rights

Torrens University Australia recognises and respects the Moral Rights, ie the rights conferred on creators by Part IX of the Copyright Act 1968 (Cth) in relation to their literary, dramatic, musical or artistic works and cinematograph films. It will use its best endeavours to ensure that those Moral Rights are respected by any third party under contract with the University.

In the case of administrative or teaching materials, Torrens University Australia asserts its right to use or modify such materials as it sees fit.
7. Disputes

If a disagreement arises out of the application of this policy, the Academic Director, will work with the parties in dispute to find a mutually acceptable solution. If the matter is not resolved within 6 weeks of its reference to the Academic Director, then the Vice-Chancellor and President will appoint an appropriate expert to determine a resolution. The expert must act as an expert and not as an arbitrator, and the determination of the expert will be final and binding.

For any dispute not covered by such expert determination:

- staff may use the Staff Grievance Management Policy; and
- students may use the Student Grievance Management Policy.

Nothing in this policy affects any available options for general legal redress.