



INTELLECTUAL PROPERTY POLICY

Revision Number		Accountability	Academic Dean
Policy Number		Operational Responsibility	Faculty
Date of Approval	Dec 2017	Last Reviewed	
Approval Authority	APC/T&LSPC Academic Board	Next Review	Q3 2020

OBJECTIVES

This policy provides the basic regulatory framework that will govern LCI MELBOURNE in all aspects of intellectual property (the “**Policy**”).

SCOPE

This Policy makes available to the LCI MELBOURNE Community, the basic regulatory framework that it has adopted for matters concerning intellectual property.

The “LCI MELBOURNE Community” includes:

- All LCI MELBOURNE students and employees;
- All LCI MELBOURNE students and employees who visit other organisations for the purposes of collaboration, research, teaching and learning or related activities;
- Intellectual property created through collaboration with other organisations;
- Intellectual property generated through research funding;
- Educational/curriculum development and consultancy undertaken on a contractual basis; and
- All visitors to LCI MELBOURNE while they engage in collaborative research, educational/curriculum development with employees or students, or while utilising LCI MELBOURNE resources or facilities for research, teaching and learning or other creative activities.

EXCLUSIONS

There are no exclusions to this policy.

DEFINITIONS

Intellectual Property

Intellectual Property includes, but is not limited to, any right that is or may be granted or recognised under any Australian or foreign legislation or any statutory provision or common law principle



applicable regarding copyrights, neighbouring rights, trademarks, patents, industrial designs or any other intellectual property rights of any kind, whether registered or unregistered and including rights in any application for any of the foregoing.

PROVISIONS

Commitments

LCI MELBOURNE's Community, in implementing its teaching, research and expansion activities, shall respect the Australian law on Intellectual Property concerning, but not limited to, all results produced in the performance of their activities and/or services such as, in the performance of research projects, dissertations, theses, monographs, class assignments, agreements with public or private institutions, or in any other academic, commercial or industrial activity.

Special Provisions on Intellectual Property in the Design Sector

Images

1. The use of images or graphics, the rights to which belong to third parties: the graphics industry, in its various subsectors, fundamentally requires the use of certain graphic content or images as input for the development of its products. This is the case with illustrations or drawings, photographs, portraits, paintings, etc. This content may be protected by copyright, which entails the following:
 - The express prior authorisation of the copyright holder is required in order to take any of the following actions: reproduction, alteration, distribution or public communication of the artistic work;
 - If the copyright holder decides to charge a royalty for the use of that artistic work, the party using it must necessarily be subject to the fees and terms of use established by the copyright holder;
 - All rights web content use may be made of an artistic work only if the copyright holder himself has granted express permission, or when that use is consistent with one of the copyright exceptions or limitations established by law, or when the work is in the public domain, for example, when the time period for which an author's economic rights are protected in Australia has expired, which is fifty years after his or her death as a general rule but there are other periods of protection granted by the Copyright Act of Australia.

Photographs of an artistic work

Concerning intellectual Property of photographs of an artistic work, their reproduction may require two different authorisations: that of the owner of the photographed artistic work and that of the holder of the rights to the photography.

Photographs of architectural constructions: the façade or external image of architectural constructions may be freely reproduced by express mandate of the law. This is not true for other parts of the building or construction, with respect to which the architect's consent may be required.

Images on the Web

Intellectual property on the Internet: the fact that a photograph, drawing or illustration, for example, is on a website, does not mean that said images are free to use and may be reproduced and distributed to the public without the copyright holder's consent.

2. Students are considered authors and holders of economic rights to any intellectual creation produced as the result of their personal effort and without the production thereof entailing any employment or contractual relationship with LCI MELBOURNE. These creations include dissertations, monographs, projects, drawings, models, products and research performed by the students personally or under the guidance of a faculty member for academic purposes.

Subject to section 11 below, students are required to sign a release and authorisation form allowing LCI MELBOURNE, or its LCI affiliates, license to usage of projects (e.g. design works/photographs/testimonials/projects/presentations) created for evaluation purposes for the promotion, advertising and marketing of LCI MELBOURNE, or its LCI affiliates, without compensation.

3. When the student's production is the result of a task contracted by LCI MELBOURNE, the economic rights must be transferred to LCI MELBOURNE by means of a written document, with the formal requirements provided for by law and the student shall waive his moral rights. The student may only receive that which was agreed to in the respective contract for the execution and creation of the Intellectual Property. These provisions shall be applicable monographs, projects, drawings, models, products and research performed by the students as an integral part of a research project carried out by a research group established and financed at LCI MELBOURNE.
4. Administrative staff, faculty and researchers associated with LCI MELBOURNE through an employment contract agree to transfer the economic rights to any intellectual creation they produce in the performance of their duties or pursuant to their employment contract and waive their moral rights. Except as otherwise specified, the invention produced by a worker or agent contracted to perform research belongs to the employer or principal.

When the worker has not been contracted to research and the invention is produced by means of data or media known or used by reason of the work performed. In this case the worker shall be entitled to compensation that will be established in accordance with the amount of the salary, the importance of the invention, the profit to the employer or other similar factors.

If the parties involved cannot reach agreement on the monetary reward appointed to the employee, the Executive Management Committee will meet and establish the amount of the compensation while taking into consideration the factors mentioned cited above.

5. Economic rights to Intellectual Property of those persons who are associated with LCI MELBOURNE through a civil contract for service provision shall be transferred to LCI MELBOURNE.
6. When the Intellectual Property of a member of the faculty or staff is the result of a task contracted by LCI MELBOURNE, unrelated to his or her employment contract with it, the economic rights shall be transferred to LCI MELBOURNE by means of a written document, complying with the formal requirements provided for by law and their moral rights shall be waived. The faculty or administrative staff member will only receive that which was agreed to in the respective contract for the execution of the work.

If the Intellectual Property is developed by a member of the faculty but no contract for the execution of the work has been pre-negotiated (no consideration established in advance), the worker shall be entitled to compensation that will be established in accordance with the amount of the salary, the importance of the invention, the profit to the employer or other similar factors.

If the parties involved cannot reach agreement on the monetary reward appointed to the employee, the President will, commission a committee to recommend the amount of the compensation after considering the factors cited above.

7. It is assumed that part-time, full-time or adjunct faculty who give lectures or classes at LCI MELBOURNE and deliver or send academic material to their students, are authors of such material or, in obtaining it, have observed the laws that are in force in Australia concerning Intellectual Property and/or the clauses present in their contract.
8. A faculty member or researcher, who, in compliance with his or her employment or contractual obligations to LCI MELBOURNE, is designated as director or advisor for a final project, shall be subject to the following rule for purposes of establishing whether he or she is entitled to some share in the intellectual rights to any creation obtained:
 - If the faculty member or researcher, in compliance with his or her employment or contractual obligations, limits himself to guiding the student in his or her final project, giving and setting forth ideas or suggestions on the matter to be developed or its structure, laying out and approving paths to follow, without participating directly in the specification, realisation, execution, production and development of the Intellectual Property thus performed, this work shall belong to the student for purposes of intellectual property rights;



- In the respective work, the student must mention the director or final project advisor who performed under the above-described conditions – but this does not imply the recognition of moral or economic rights to the creation in his or her favour.
9. When projects arise in conjunction with an outside public or private entity that assigns the performance thereof or finances it, the respective company and LCI MELBOURNE must also sign a specific collaboration agreement establishing the purpose of the contract and the ownership of the economic rights for utilisation of the Intellectual Property.
 10. In all cases, the credits of the respective author or inventor must be recognised with the respective mention.
 11. LCI MELBOURNE shall have the right to publish the works or research produced in any medium, including, but not limited to, any or all design works/photographs/testimonials/projects/presentations at the institution, with the prior informed consent of the author(s). Authors' names will be credited to any works or research produced at the institution that are published by the institution.
 12. Upon entry into the institution, students, faculty and staff shall sign the form for transfer of economic Intellectual Property rights to LCI MELBOURNE and for the waiver of their moral rights, after being advised of this Policy.

Limitations and Exceptions to Intellectual Property Rights Associated with Academia and Teaching

13. It shall be permissible to quote an author by transcribing the necessary passages, provided that such passages are not so numerous and so consecutive that they might reasonably be considered as a simulated and substantial reproduction that might harm the author of the work from which they are taken. Each quotation shall mention the name of the author and source of the quoted work.
14. Reproduction by reprographic means for teaching or administering examinations, to the extent justified by the goal pursued, of articles legally published in newspapers or newspaper collections or brief excerpts from legally published works, is legal on condition that such utilisation be in accordance with the aforementioned uses and that it not be the object of sale or other transaction for valuable consideration, or be directly or indirectly for profit.
15. LCI MELBOURNE's library may reproduce, for the exclusive utilisation of their users and when necessary for preservation, one copy of protected works deposited in collection[s] or archives that are no longer available on the local market.
16. The use of literary or artistic works or part[s] thereof for illustrative purposes in works intended for teaching, through publications, broadcasts, or sound or visual recordings within the limits justified by the purpose, or transmitting, for teaching purposes, broadcast work[s] for academic



purposes not intended for profit, is permitted, with the obligation to mention the author's name and the title[s] of the works so used.

***Note:** LCI MELBOURNE adopts "fair dealing" which is an exception to copyright infringement for the purpose of research, private study criticism, review, news reporting, education, satire or parody. More information on "fair dealing" and specific exceptions to the copyright act for educational purposes can be found in – Academic Honesty and Integrity Policy*

Assignment and Transfer of Intellectual Property to LCI MELBOURNE

17. LCI MELBOURNE shall have the right to grant another person or entity permission to commercialise a certain product of the knowledge whose intellectual property rights belong to LCI MELBOURNE.
18. Whenever LCI MELBOURNE is a party to projects, agreements or arrangements that involve disclosure, dissemination, assignment or transfer of its Intellectual Property rights, it must formalise, at the start of negotiations, a confidentiality agreement wherein the parties undertake not to use or disclose the confidential information to which they may have access during the negotiations to third parties; said information may be technical (specifications, designs, plans, commercial information concerning clients, databases, strategies, business plans and so forth).
19. The President of LCI MELBOURNE, or the President's delegate, will supervise the following responsibilities regarding Intellectual Property:
 - Oversee socialisation, disclosure of and compliance with the Intellectual Property Policy of LCI MELBOURNE for all students and employees;
 - Determine and authorise whether a product is suitable for protection as Intellectual Property;
 - Establish institutional policies for the promotion of research and innovation;
 - Set up negotiations among authors, companies and LCI MELBOURNE with respect to economic rights in connection with projects carried out at the institution.

SUPPORTING PROCEDURES

For each particular project, a specific agreement, contract or arrangement must be signed. This will constitute the framework of the legal relationship resulting from such participation. This Agreement must contain, at a minimum, the following:

- Academic or administrative unit responsible for the project or research;
- Name of the project or research;
- Purpose of the project or research;
- General description;
- Director of the project or research;



- Members of the work team, activities and responsibilities;
- Associated outside entities, if any;
- General timetable;
- Duration of the project or research;
- Financing and/or contributing organisations, if any, breaking down the percentage of participation of each, and including the nature of the contribution;
- Information concerning whether the participation of any member of the work team or work group is for the purpose of fulfilling an academic requirement;
- The holders of moral and economic rights to the result[s] of the project or research and their percentages of participation in ownership of the Intellectual Property Rights that may be or will be generated thereto;
- Reasons for withdrawal and/or exclusion;
- Certification that all participants are familiar with the Agreement.

Any modification of the original Agreement must be set forth in writing and signed by each and every party who signed the initial Agreement.

20. LCI MELBOURNE legal council will support the academic and administrative units in drawing up and revising the documents and agreements that contain intellectual property clauses.

FURTHER INFORMATION

- Copyright Amendment Act 2006: <https://www.legislation.gov.au/Details/C2006A00158>
- Smartcopying:
<http://www.smartcopying.edu.au/copyright-guidelines/what-can-i-copy-communicate-/2-1-text-works>
- Academic Honesty and Integrity Policy
- Employee Code of Ethics

Accountable Officers

The accountable officers for the implementation and relevant training of this policy are listed below.

Policy Category		Academic		
Responsible Officer		Academic Dean		
Review Date		Q2 2021		
Approved by				
T&LSPC on behalf of the Academic Board				
Change and Version Control				
Version	Authored by	Brief Description of the changes	Date Approved	Effective Date
1.0	Academic Dean	New policy	02.12.2017	13.12.2017