



Intellectual Property Standard

CS-ST-147/1.0

Corporate Services : Standard

TCA Corporate Management System

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Document History

Status	Version	Date	Doc no.	CMS doc no. and title	Notes
Approved	1.0	16 Sep 10		Intellectual Property Standard - CS-ST-147/1.0	To manage TCA copyright primarily relating to publications and websites - part of GAP analysis requirements.

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1. Purpose and scope

Transport Construction Authority (TCA) owns, controls and manages intellectual property assets and rights in the course of carrying out its activities and functions. This includes documents and materials, reports, publications, websites, software and photographs.

This Standard sets out the principles for managing intellectual property assets and rights held by TCA. It is supported by the TCA Intellectual Property Procedures (IP Procedures) which specify in greater detail the practices and procedures of TCA in respect of the management of intellectual property.

This Standard applies to all activities, functions, employees, consultants and contractors of TCA.

2. Definitions

Nil

3. Accountabilities

The Group General Manager Corporate is accountable for this Standard. Accountability includes authorising the document, monitoring its effectiveness and performing a formal document review.

Direct reports to the Chief Executive are accountable for ensuring the requirements of this document are implemented within their area of responsibility.

The direct reports to the Chief Executive who are accountable for specific projects/programs are accountable for ensuring associated contractors comply with the requirements of this document. Employees, consultants and contractors of TCA must not depart from this Standard unless approval in writing is obtained from the Chief Executive

4. Management of Intellectual Property

TCA adopts a risk management approach in implementing this Standard and the IP Procedures.

The main types of intellectual property rights held by TCA are copyright and confidential information. Under the *Copyright Act 1968*, because TCA is a NSW government agency, copyright in material created by TCA will be owned by the Crown unless TCA agrees in a particular contract that it is to be owned by the other party to the contract.

As an owner of copyright, the Crown through TCA has certain exclusive rights under the *Copyright Act 1968*. This includes rights to copy, communicate, publish or make adaptations of its works. Copyright applies upon creation of a copyright work. There is no system or requirement for registration of copyright in Australia.

The nature of TCA's functions and activities means that it does not usually generate any intellectual property in the form of trade marks, patents and designs. However, TCA may from time to time be a licensee of domain names used in its business.

5. Creation of intellectual property

Ownership of intellectual property is addressed by TCA through the use of appropriate contractual provisions. TCA may in limited circumstances also seek to rely upon Crown copyright.

Under its employment contracts, TCA is the owner of all intellectual property created or developed by TCA employees in the course of their employment by TCA. Where TCA engages any contractors

or consultants, and intellectual property is developed or created as part of that engagement, TCA will generally have a written contract in place with the contractor or consultant which provides for the transfer to TCA of the intellectual property.

Exceptions to ownership of intellectual property by TCA may be granted in limited circumstances.

6. Commercialisation

The commercialisation of intellectual property is not core to the activities and functions of TCA. If intellectual property of TCA is to be commercialised, the approval of the Chief Executive must be obtained.

7. Third party access to TCA documents and other works

Third parties often request access to TCA intellectual property. Where appropriate, TCA will provide access to its documents and other works in accordance with the IP Procedures.

8. Use by TCA of third party intellectual property

The *Copyright Act 1968* grants certain exclusive rights to copyright owners. Generally, the permission of the copyright owner is required before anyone else can exercise any of these exclusive rights.

The Act grants the Crown a statutory licence to use copyright works without the permission of the copyright owner if the activity is for the services of government. TCA relies upon the statutory licence scheme in respect of its reproduction of copyright works for the services of government. For all other uses, TCA seeks the consent of the copyright owner.

9. Related documents and references

CMS Document no. and title
Intellectual Property Procedures – CS-PR-260

10. Superseded documents

CMS Document no. and title
There are no documents superseded as a result of this document.