

FSDf SPATIAL INFORMATION MANAGEMENT POLICIES – INTELLECTUAL PROPERTY

Objective: Maximising value through the protection of rights.

This document is presented by ANZLIC – the Spatial Information Council, representing the Australian and New Zealand Governments, and the governments of the States and Territories of Australia.

*The Australian and New Zealand Foundation Spatial Data Framework:
FSDf Spatial Information Management Policies – Intellectual property.*

About this document

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FSDf Intellectual Property Policy

Introduction

1. This document defines the intellectual property arrangements that have been established to support the implementation of the Australian and New Zealand Foundation Spatial Data Framework (FSDf). The applicable overarching policy is provided by the Australian Government intellectual property rules. Where equivalent New Zealand Government intellectual property policy applies, acknowledgement will be made in future iterations of this document.
2. The FSDf is a federated project across the Commonwealth governments of Australia and New Zealand and the governments of the States and Territories of Australia. During the process of information collection and aggregation, organisations must ensure the protection of information according to the laws and policies governing their particular jurisdiction.

Improved Access

3. The objective of the FSDf is to improve access to spatial data to the point where this data will become ubiquitous in all sectors of both the Australian and New Zealand economies. Intellectual property policy appropriate to this objective is essential and well recognised by all the jurisdictions involved in the FSDf.
4. The Commonwealth Department of Communications is the lead agency responsible for the FSDf and is required to be compliant with the Australian Government intellectual property rules.

Purpose

5. The purpose of this document is to describe the intellectual property policy for national data under the FSDf. The intent is that the Commonwealth;
 - a. grants rights to its intellectual property, as a public asset, in a manner that maximises its impact, value, accessibility and benefit consistent with the public interest; and
 - b. acquires or uses third party intellectual property in a transparent and efficient way, while upholding the law and managing risk appropriately.

Intellectual Property Principles

6. The Commonwealth has developed [intellectual property rules](#) that include a set of principles to be applied in the management of government information rights. These principles are included at annex A.
7. Within these principles the Commonwealth has specified that information should be licensed under the Creative Commons BY standard by default.

Application

8. Each of the major stakeholders in the FSDf; the Australian state, territory and Commonwealth and New Zealand governments, have discrete policies for intellectual property. The FSDf, which aggregates data from all jurisdictions, will need to reconcile these policies in order to achieve a homogeneous national dataset(s) for each FSDf theme.

Governance of this Policy

9. The currency and application of this policy is the responsibility of the FSDf secretariat in coordination with the sponsors/custodians of the FSDf themes/national spatial datasets. Where significant changes occur to intellectual property policy covering either the source or aggregated data, a review and response is required within the management processes under the FSDf Governance Model.

Roles and Responsibilities

10. FSDf Secretariat – monitoring the legislation, rules and guidance relating to intellectual property and management of the FSDf intellectual property policy and implementation.
11. Theme Sponsors – guidance on the application of intellectual property policy within the FSDf.
12. National Dataset Custodian – management of the information rights for data in the national spatial dataset aggregated from multiple sources.

Annex:

- A. Australian Government Agency Intellectual Property Principles

Annex A – Australian Government Agency Intellectual Property Principles

GENERAL PRINCIPLES

1. *Australian Government agencies are responsible for managing IP in their control or custody in an effective, efficient and ethical manner.*
2. *Agencies should periodically evaluate the overall effectiveness, including cost, risks, and benefits of the policies and practices they have in place for the management and use of IP.*

CORPORATE FRAMEWORK

3. *Each agency should have an IP management policy which reflects its objectives and these IP Principles.*
4. *Implementation of the IP management policy should be supported by appropriate training and resources, including access to expert advice.*
5. *Agencies should maintain appropriate systems and processes to identify and record IP.*
6. *Agencies should have strategies and guidelines to ensure that IP is protected in an appropriate manner.*
7. *Agencies should have procedures in place to reduce the risk of infringement of the IP rights of others.*

CREATING AND ACQUIRING IP

8. *Agencies should maintain a flexible approach in considering options for ownership, management and use of IP.*
- 8.(a) *In respect of information and communication technology (ICT) contracts for software, agencies should adopt a default position in favour of the ICT supplier owning the IP in the software developed under the procurement contract.*
9. *Agencies should recognise innovation and creativity in the development of IP in an appropriate manner which is consistent with agency objectives.*
10. *Contracts and other agreements must address IP issues where relevant.*

SHARING, COMMERCIALISATION, DISPOSAL, AND PUBLIC ACCESS TO IP

11. (a) Agencies should encourage public use and easy access to material that has been published for the purpose of :

- *informing and advising the public of government policy and activities;*
- *providing information that will enable the public and organisations to understand their own obligations and responsibilities to Government;*
- *enabling the public and organisations to understand their entitlements to government assistance;*
- *facilitating access to government services; or*
- *complying with public accountability requirements.*

11.(b) *Consistent with the need for free and open re-use and adaptation, public sector information should be licensed by agencies under the Creative Commons BY standard as the default.*

11.(c) *At the time at which Commonwealth records become available for public access under the Archives Act 1983, public sector information covered by Crown copyright should be automatically licensed under an appropriate open content licence. Agencies will be responsible for the selection and use of an appropriate licence.*

12. *Australian Government agencies should be mindful of opportunities to share IP for which they are responsible with other agencies.*

13. *Agencies should be responsive to opportunities for commercial use and exploitation of IP, including by the private sector.*

14. *Unless commercial activities are required as an integral part of an agency's objectives, commercialisation of IP (including public sector information) by an agency should be no more than an ancillary part of its activities and should not become a core business activity.*

15. *Where IP is commercialised or disposed of, agencies must do so in an accountable manner consistent with Australian Government legislation, policies and guidelines.*