



THIRD PARTY COPYRIGHT POLICY

TITLE: Third Party Copyright Policy

POLICY TYPE: Statutory

POLICY NUMBER: GRC 0084

RESPONSIBLE OFFICER: Chief Executive Officer

DEPARTMENT: Executive Office

Version	Decision Number or CEO Approval	Decision Date	History
1.	Ordinary Meeting Minutes (ref. OM-0188/16)	14 December 2016	Adopted by Resolution
2.	Reviewed	December 2018	Review December 2020
3.	Reviewed	December 2020	Review December 2022

1. PURPOSE

The purpose of this policy is to outline the responsibilities and procedures regarding the use of third party copyright material with the objectives of:

- 1.1 Reducing staff and Goondiwindi Regional Council exposure to the risks associated with the use of third party copyright material;
- 1.2 Assisting staff to make full legal use of the materials at their disposal by clearly identifying responsibilities; and
- 1.3 Promoting copyright compliance by ensuring that the terms and conditions of statutory and contractual licence agreements providing for the use of Third Party Copyright material are met.

2. SCOPE

This policy applies to all employees, contractors, patrons, and volunteers of the Goondiwindi Regional Council and anyone exercising an exclusive right of a copyright holder on behalf of or in conjunction with the Council.

This policy applies to all offices, depots, operations, and activities located in Australia. Any person exerting the rights of third party copyright holders for Council purposes in another country must abide by the copyright laws of that country.

3. OBLIGATIONS OF THE GOONDIWINDI REGIONAL COUNCIL

All employees, contractors, patrons, and volunteers must comply with:

- 3.1 This policy;
- 3.2 The Copyright Act 1968 (Cth); and
- 3.3 The Copyright Regulations 1969 (Cth).

4. BREACHES OF THIS POLICY, THE COPYRIGHT ACT, OR THE COPYRIGHT REGULATIONS

- 4.1 Any employee, contractor, patron, or volunteer in breach of this policy may be subject to disciplinary action by the Goondiwindi Regional Council.
- 4.2 Any employee, contractor, patron, or volunteer found in breach of this policy, the Copyright Act, or the Copyright Regulations, may be subject to legal action from copyright owners and/or rights holders.
 - 4.2.1 Further, any employee, contractor, patron, or volunteer, infringing on copyright may be subject to criminal charges resulting in fines and jail time.
- 4.3 Failure to observe and abide by the conditions of statutory and contractual licence agreements providing for the use of third party copyright material may lead to legal action against the Goondiwindi Regional Council and/or withdrawal of the Council's right to use the licensed content.

5. MORAL RIGHTS

- 5.1 The Goondiwindi Regional Council recognises the Moral Rights of authors and performers as provided in the Copyright Act. The Council must abide by Moral Rights requirements when using copyright material for Council purposes.
- 5.2 Only individuals are entitled to Moral Rights, and are entitled to:
 - 5.2.1 The right of attribution by being identified as the creator of the work.
 - 5.2.2 To not have their work attributed to others, i.e., false attribution.
 - 5.2.3 The right of integrity by objecting to the derogatory treatment of their creations, in defence of their reputations.

6. DURATION OF COPYRIGHT

- 6.1 The duration of copyright depends on the work, however, it is generally accepted the copyright is valid until 70 years after the death of the work's creator.
- 6.2 Once copyright ceases to exist it is said to be 'in the public domain' and it may be freely used.

7. RESPONSIBILITIES

- 7.1 Goondiwindi Regional Council employees, contractors, patrons, and volunteers have a responsibility to ensure that their activities on behalf of the Council comply with this policy, the Copyright Act, and the Copyright Regulations.
- 7.2 At a strategic level, the Chief Executive Officer, and Legal Officer have overall responsibility for ensuring that the Council fulfils its legal obligations and effectively manages the risk exposure that may result from compliance failures.
- 7.3 Responsibility for compliance with this policy, the Copyright Act, and the Copyright Regulations rests with the Heads of Departments. All heads shall ensure that their employees, contractors, patrons, and volunteers are informed of their responsibilities under this policy.
- 7.4 Refer to the Appendix 'Using Third Party Copyright Material' for further information regarding acceptable and fair use of third party copyright material.

8. SPECIFIC POLICY CONCERNING THE GOONDIWINDI REGIONAL COUNCIL LIBRARIES

- 8.1 The librarian shall, in accordance with the Copyright Regulations 1969 (Cth) place a warning notice above any copying devices.
 - 8.1.1 The warning shall be printed clearly on A4 paper, at such a size that a reasonable person may sight it at the time of copying the third party copyright material.
- 8.2 A copy of the Copyright Regulations 1969 - Schedule 4, is included in the Templates section, 'Prescribed form of notice to a library user making a request'.
- 8.3 Patrons of the library are entirely responsible for any copyright infringement resulting directly or indirectly from their own actions.
- 8.4 The library takes no responsibility for the illegal photocopying of legal documents by library patrons.
- 8.5 All library staff share responsibility for implementing this policy in all sections of the library.

9. REVIEW DATE

December 2022

10. RELATED DOCUMENTS & LEGISLATION

- Goondiwindi Regional Council Code of Conduct
- *Copyright Act 1968*

Appendix

Using Third Party Copyright Material

1. Whether you are an employee, contractor, patron, or a volunteer, when you undertake work affiliated with the Goondiwindi Regional Council you need to comply with copyright laws.
2. Fair Use.
 - 2.1. Fair use refers to how much third party copyright material you may use before requiring permission from the Copyright holder.
 - 2.2. Fair Use is not a defence against breach of Copyright Law because Australia does not have a broad-based Fair Use Exception like other countries, favouring instead a number of narrowly defined Fair Dealing Exceptions that allow limited copying.
 - 2.3. The most common Fair Dealing Exception is for the purpose of research and study which gives similar copying rights to Fair Use.
 - 2.4. Fair Dealing restricts the ways in which you can use any copied third party copyright material.
 - 2.4.1. The Fair Dealing Exception allows a person to copy a reasonable amount of someone else's material without asking permission. A reasonable amount is not specifically defined under the law, but it is generally accepted to be:
 - 2.4.1.1. One chapter, or 10% of the number of pages in a book.
 - 2.4.1.2. 10% of the number of words of an electronic work.
 - 2.4.1.3. The whole or part of a book of less than 15 pages.
 - 2.4.1.4. One article per issue of a periodical
 - 2.4.1.5. Two or more articles of a periodical may be copied if the articles are related.
 - 2.5. See 'Copyright for Study and Research Purposes' for more information on Fair Dealing Exceptions.
3. Material from the World Wide Web.
 - 3.1. You may use the Fair Dealing Exceptions to copy a reasonable amount of third party copyright material for the purposes of research or study to copy material from the internet.
 - 3.2. If you wish to use more than a reasonable amount of material then permission must be sought from the copyright holder.
 - 3.2.1. Most websites have a copyright policy or copyright information that sets forth what permission you're automatically granted.

3.2.2. If you use third party copyright material from the World Wide Web then it is advised to retain a copy of the site's copyright information for reference.

3.3. Refer to the section 'Seeking Permission to Copy' for more information.

4. Third party copyright material in Council Publications.

4.1. From time to time, the Goondiwindi Regional Council may publish material for sale or for distribution to the public at no cost.

4.2. If the author of a Council publication wishes to use third party copyright material in their publication then they cannot rely on the Fair Dealing Exception.

4.3. The author of any Council published work must seek permission from the copyright holder for any amount of third party copyright material used in a publication (including the Council's website).

5. Material for Educational Purposes.

5.1. From time to time the Council may produce material for the purpose of educating their staff or the public.

5.2. The author of the educational material must still seek permission from the copyright holder to use any third party copyright material in their educational publication.

6. Use of Youtube videos.

6.1. Any employee, contractor, patron, or volunteer may use Youtube videos in the course of their work provided the video is a legal copy.

6.1.1. To be a legal copy the video must have been uploaded by the copyright holder, or someone authorised by the copyright holder.

6.1.2. A video may also be used if the copyright for the clip has expired.

6.1.3. Youtube videos must not be shown for commercial purposes. The showing of the video must only be for educational or informational purposes related to the Council's work, and only to employees, contractors, patrons, and volunteers involved in that work.

7. Showing DVD's.

7.1. DVD's may be shown to employees, contractors, patrons, and volunteers if the DVD is a legal copy.

7.1.1. A legal copy refers to a purchased or hired DVD.

7.1.1.1. If the DVD is hired then the hire agreement must not restrict viewing to private or domestic use.

8. Showing footage recorded from TV.
 - 8.1. The Goondiwindi Regional Council has no licence with Screenrights Australia to rebroadcast television or radio broadcasts.
 - 8.2. Copyright It is possible to seek the permission of the copyright holder to use third party copyright material from television and radio broadcasts where necessary.

For Study and Research Purposes

1. The Copyright Act provides students and researchers with a 'fair dealing' provision.
 - 1.1. The provision allows for copying third party copyright material for the purpose of research or study.
 - 1.2. Materials that may be copied include:
 - 1.2.1. Artwork
 - 1.2.2. Books
 - 1.2.3. Dramatic Works
 - 1.2.4. Films
 - 1.2.5. Music (Audio)
 - 1.2.6. Music (Sheet)
 - 1.2.7. Periodicals
 - 1.2.8. Sound Recordings
 - 1.2.9. Web Pages
2. Consider the following five factors when considering copying a work under the 'fair dealing' provisions:
 - 2.1. The purpose and character of the use of third party copyright material
 - 2.1.1. If the new work is a straight copy of the third party copyright material, then extra considerations such as creator attribution are required.
 - 2.1.2. If the work is attributed, but altered or paraphrased in some way, then the copy is considered more fair than a straight copy.
 - 2.1.3. If the work will be used for public or commercial purposes then this is seen as the least fair dealing, and exceptions may fail.
 - 2.2. The nature of the third party copyright material.
 - 2.2.1. Copying third party copyright material where the rights have expired is

seen as more fair than copying works whose rights are reserved.

- 2.3. The possibility of obtaining the third party copyright material at an ordinary or commercial rate.
 - 2.3.1. For example, consider a publisher who prints productivity benchmarking templates. They may print copies of the template for sale rather than allowing you to continuously copy one single sheet.
- 2.4. The effect of the use of the third party copyright material on the commercial market.
 - 2.4.1. For example, copying content from another Council's tourism brochure, regardless of whether the brochure is free, for use in the Goondiwindi Regional Council's tourism brochure would not be considered a fair use of the third party copyright material.
- 2.5. The substantiality of the third party copyright material.
 - 2.5.1. Using even less than 10% of a third party copyright material may be considered unfair if that part of the material is key to the remainder of the material.
 - 2.5.1.1. For example, copying the results of a scientist's research may be seen as less fair than copying the conclusion drawn from those results.

Seeking Permission to Copy

1. From time to time the Goondiwindi Regional Council will need to use third party copyright material in the course of its work.
 - 1.1. Some instances of where this may occur are in training workshops, or informational literature.
2. Allow enough time for requests to be completed.
 - 2.1. When seeking permission from copyright holders, ensure that you leave enough time between requesting permission and publication.
 - 2.2. You will need to establish the contact details of the copyright holder, by referring to the copyright notice in the book, magazine, website, or by some other means.
 - 2.2.1. Sometimes it can be difficult to find the current copyright holder if the rights have been transferred since the publication of the original work.
 - 2.3. You will need to allow time for the copyright holder to respond to your request, as some copyright holders may require all permission in writing, and have long-winded procedures to grant permission.
3. Have more than one source of information if possible.
 - 3.1. Quite often a 'plan B' is needed in case you don't receive permission for your preferred piece of material in time for publication.
4. Find out who owns the right to the part of the content you need.

- 4.1. Some third party copyright material has more than one copyright holder.
 - 4.2. For example, a song usually has separate copyright over the lyrics, the musical work, any artistic images on CD's or iTunes, etc.
 - 4.3. In such cases you will need to get permission from many copyright holders, or you may have to address your request to one copyright holder via another.
5. Future use of third party copyright material.
- 5.1. When seeking permission to use third party copyright material, consider all uses of the work you are requesting.
 - 5.2. For example, if you are requesting to use the third party copyright material in print form, consider also whether that material may appear in any promotional videos, sound recordings, or placed on the Council's website.
 - 5.3. You may need to seek permission for one piece of third party copyright material many times.
6. Ensure that your request is reasonable.
- 6.1. Copyright holders may have concerns about the widespread distribution of their work that is beyond their control.
 - 6.2. Be empathetic to their concerns, and remember that this may be their primary source of income and survival.
7. How much are you willing to pay.
- 7.1. Some copyright holders will ask for a licensing fee to reproduce the third party copyright material.
 - 7.2. In some cases it may be as simple as buying multiple copies of the one piece of third party copyright material
 - 7.2.1. For example, say you are seeking permission to use a text-book for training employees. The simplest solution may be to purchase a separate book for each trainee, rather than seeking permission to copy sections from within.
8. Keep your request simple.
- 8.1. Keep your requests in writing, whether it be by email or post, down to a few short paragraphs.
 - 8.2. Use bullet points to set out your intended use. Clarity is key to success when seeking permission to use third party copyright material.
 - 8.3. Use the template, 'Request to Use Third Party Copyright Material', as an example.

9. Retain a copy of the permission letter or email.
 - 9.1. Make sure that all requests and their responses are kept in a safe and accessible place.
 - 9.2. You may need to refer to the permission in the event of a dispute.

Templates

Request to Use Third Party Copyright Material

Dear [copyright owner],

I am completing a [white paper/book/monograph/brochure] at the Goondiwindi Regional Council (Queensland, Australia), and I seek your permission to use [item/s] from [book/article/movie/image etc.] in my work.

[Provide a very brief overview of your work — no more than two sentences.]
The distribution information for my work is as follows:

- [format/s — e.g. print or online]
- [audience — who, and where]
- [distribution (numbers, if known)]
- [required length of permission period — e.g. perpetual]

I look forward to hearing from you.

Kind regards,
[Full Name]
email: [xxxx@xxxx.com]
phone: [XXXXXXXXXX]

Prescribed form of notice to a library user making a request

(regulation 4D)
Commonwealth of Australia
Copyright Act 1968
Notice for paragraph 49(7A)(c) of the *Copyright Act 1968*

Warning

This material has been provided to you under section 49 of the *Copyright Act 1968* (the Act) for the purposes of research or study. The contents of the material may be subject to copyright protection under the Act.

Further dealings by you with this material may be a copyright infringement. To determine whether such a communication would be an infringement, it is necessary to have regard to the criteria set out in Division 3 of Part III of the Act.