

MAAS Third Party Copyright Policy

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Date for Review: July 2018

1. Policy Statement

This Policy provides a framework for the Museum of Applied Arts and Sciences (MAAS) to manage Third Party Material in the MAAS Collection under the terms of the *Copyright Act 1968* (Cth). In accordance with the *Copyright Act*, where another person or entity holds the exclusive rights to material, MAAS recognises that permission must be granted by the Copyright holder before this material can be reproduced, except in limited situations. MAAS manages Third Party Material through Limited Non-exclusive Copyright Licences.

2. Application

This Policy applies to MAAS in its management and use of Third Party Material.

3. General Principles

- 3.1 MAAS will seek Limited Non-exclusive Copyright Licences from Copyright owners for the reproduction of Copyright Material in the Collection for a range of purposes, as specified in the Licence.
- 3.2 MAAS will seek a *Licence* at the time of acquisition and will also work to obtain Licences for the reproduction of Copyright Material already in the Collection.
- 3.3 MAAS will maintain records of the Copyright Licence status of Collection objects.
- 3.4 MAAS will manage requests for reproductions of Copyright Material in the Collection to facilitate appropriate and lawful use of reproductions and to inhibit breaches of Copyright.
- 3.5 MAAS will treat digital information with the same care as all other formats and take reasonable steps to prevent breaches of Copyright.
- 3.6 In addition to the terms of this Policy, MAAS will be guided by the terms of the Indigenous Cultural and Intellectual Property Policy in relation to Aboriginal and Torres Strait Islander Cultural Property.

4. Obtaining Rights

- 4.1 Unless in exceptional circumstances, or as otherwise outlined in this Policy, all Copyright Material proposed for acquisition will require a Limited Non-exclusive Copyright Licence to be completed before submission for acquisition approval. MAAS curators are responsible for negotiating and obtaining Limited Non-Exclusive Copyright Licences.
- 4.2 Acquisitions without Limited Non-exclusive Copyright Licence forms or with variations to the standard Licence must be approved by the Director, Curatorial, Collections & Exhibitions, and the Director.
- 4.3 For Copyright Material already in the Collection and for which a Licence has not previously been obtained, responsibility for negotiating and obtaining Licences lies with the relevant curator, the Rights & Permissions Officer, or staff responsible for MAAS Publications, online content or similar projects.
- 4.4 In the case of archival collections containing material with multiple Copyright owners, a Licence need only be obtained from the Creator of the archive and further Licences will be sought later on a needs basis.
- 4.5 Should MAAS wish to use a reproduction for commercial purposes not approved in the Limited Non-exclusive Copyright Licence, separate negotiations are undertaken by curators, the Rights & Permissions Officer or persons managing MAAS Publications or merchandising projects.
- 4.6 Where items or works are commissioned or purchased by MAAS for purposes other than acquisition into the Collection (e.g. as part of exhibition design or education programs) and are likely to be used in a Publication or online, the relevant curator should be consulted, and the contract written in accordance with this Copyright Policy.

5. Fees for MAAS Use of Copyright Material

- 5.1 MAAS will not pay fees to Copyright owners for the reproduction of Copyright Material for purposes covered by the Limited Non-exclusive Copyright Licence.

- 5.2 MAAS will negotiate with the Copyright owner or their agent should it wish to use a reproduction of the material for commercial purposes other than for publishing or promotional purposes. MAAS may pay fees or royalties in such circumstances.

6. Management of Requests for Reproduction of Third Party Copyright Material

- 6.1 All requests for images of Copyright Material held in the MAAS Collection are managed by the Photo Library.
- 6.2 MAAS will require external users who wish to obtain reproductions of Copyright Material held in the MAAS Collection to sign an agreement detailing conditions of use of the reproductions.
- 6.3 MAAS requires that external clients obtain, and provide to MAAS, written permission from Copyright owners or their agents before facilitating reproductions of Copyright Material in the Collection for purposes other than private research and study, as defined in the *Copyright Act*. If objects subject to Copyright are included in film/TV/photo shoots at short notice, users will be required to gain Copyright clearance before broadcast/Publication.
- 6.4 MAAS may charge fees to external users for reproductions of Copyright Material in the Collection. Users will be provided with the current Schedule of Fees. MAAS acknowledges that, where relevant, the Copyright owner may also levy fees against the external user.
- 6.5 When a reproduction is to be published or featured in any form of broadcast or other use, either internally or externally, MAAS curatorial staff will consider and approve the appropriateness of the use and any specific considerations to be addressed in the Letter of Agreement.
- 6.6 Information about any restrictions on public photography in exhibitions will be provided in visitor information distributed by MAAS.

7. Attribution and Acknowledgement

- 7.1 Reproductions of Collection objects used for MAAS purposes will acknowledge the Creator of the object in accordance with the Moral Rights provisions of the *Copyright Act*. As appropriate, the donor and/or funding source will also be acknowledged.
- 7.2 Where a reproduction is to be used for external use, MAAS will require the external user to acknowledge the Creator of the object, MAAS and, where appropriate, the donor and/or funding source of the object.

8. Record Keeping

- 8.1 The Registration unit is responsible for record keeping of Limited Non-exclusive Copyright Licences. Licences will be maintained on relevant Collection files and documentation maintained in the CMIS, in accordance with the Collection Information Management and Access Policy.

9. Roles and Responsibilities

Head of Strategic Collections: Ensures that management of Third Party Copyright at MAAS is undertaken in accordance with this policy and related legislation, policies, plans and procedures.

Photo Library: Manage external requests for reproduction of Copyright Material.

Curators: Seek a Limited Non-exclusive Copyright Licence at the time of acquisition and work to obtain Licences for the reproduction of Copyright Material already in the Collection.

Registrars: Manage record keeping of Limited Non-exclusive Copyright Licences.

10. Definitions

CMIS: The Collection Management Information System maintained by MAAS to document, track and communicate information, documentation, metadata and details of the management and use of the Collection and objects in MAAS care.

Copyright: The exclusive rights of the Copyright owner in accordance with the *Copyright Act 1968* (Cth).

Copyright Material: Any object in the Collection that is subject to Copyright.

Creator: The person who gave physical form to the original idea.

MAAS Collection or Collection: The acquired Collection of material and objects owned by MAAS.

Moral Rights: Personal rights conferred by Part IX of the *Copyright Act 1968* (Cth).

Limited Non-exclusive Copyright Licence or Licence: The right to use Copyrighted material on a non-exclusive basis.

Reproduction medium: The way the reproduction is made or stored.

Publication: The means by which the reproduced Copyright Material is distributed.

Third Party material: Collection objects or material in which Copyright is owned by a Party other than MAAS.

11. Related Museum plans, policies and/or procedures

- Australian Indigenous Cultural and Intellectual Property (ICIP) Protocol Acquisition and Accession Policy
- Archives Policy
- Collection Information Management and Access Policy
- Collection Management Policy
- Record Keeping Policy
- Research Library Policy
- Restitution Policy

The latest Policy or legislation referred to will apply.

12. Relevant legislation and external context

This Policy should be read in conjunction with the following:

- *Copyright Act 1968* (Cth)
- *Copyright Regulations 1969* (Cth)
- *Museum of Applied Arts and Sciences Act 1945* (NSW)
- *Museum of Applied Arts and Sciences Regulation 2012* (NSW)

The latest version of any Policy or legislation referred to will apply.

13. Responsible Officer

Head of Strategic Collections

14. Responsible Department & Unit

Curatorial, Collections & Exhibitions department, Library Services unit

15. Amendment history

Version	Date issued	Notes	By
1	26/03/2010		Executive
2	21/07/2016		Executive