



DATE ADOPTED: 26 April 2016

VERSION: 1.0

POLICY OBJECTIVE

The objective of this policy is to:

- Ensure Maitland City Council complies with the requirements of the *Copyright Act 1968 (Cth)*.
- Protect the copyrights of others with respect to copyright-protected material held by Maitland City Council.
- Protect Council's copyright in accordance with the *Copyright Act 1968 (Cth)*.
- Establish a framework in relation to copyright compliance when using copyrighted materials both internally and external to Council.

POLICY SCOPE

This policy applies to all Council Officials which include Councillors, employees, consultants, volunteers and contractors of Maitland City Council.

POLICY STATEMENT

Maitland City Council is subject to the provisions of the *Copyright Act 1968 (Cth)*. All usage of copyright material undertaken by Council must be in accordance with the provisions of the *Copyright Act 1968 (Cth)* and any relevant copyright 'Terms of Use' agreement(s) or licences currently in force. Council in no way condones any act that could be in breach of the *Copyright Act 1968 (Cth)*.

Maitland City Council respects the copyrights of others and has made it a priority to ensure all employees comply with copyright law and adhere to Council's Copyright Policy and Protocol. Copyright infringement through inappropriate copying or distribution of copyrighted content is a personal as well as a Council liability.

What is copyright?

Copyright is the exclusive right and assignable legal right given to the originator for a fixed number of years to print, publish, perform, film, or record literary, artistic, or musical material. The purpose of copyright law is to provide authors and other creators (and those who obtain rights through such persons) with an incentive to create and share creative works by granting them exclusive rights to control how their works may be used. Works are automatically protected by copyright under Australian law. Among the exclusive rights granted to those authors are the rights to reproduce, distribute, publicly perform and publicly display a work. These rights provide copyright holders control



over the use of their creations, and an ability to benefit, monetarily and otherwise, from the exploitation of their works.

Copyright also protects the right to 'make a derivative work', such as a movie from a book; the right to include a piece in a collective work, such as publishing an article in a book or journal; and the rights of attribution and integrity for 'authors' of certain works of visual art.

If you are not the copyright holder, you must ordinarily obtain permission prior to re-using or reproducing someone else's copyrighted work. Acknowledging the source of a work, for instance, is not a substitute for obtaining permission. However, permission generally is not necessary for actions that do not implicate the exclusive rights of the copyright holder, such as reviewing, reading or borrowing a book or photograph.

What is protected by copyright?

The rights granted under the *Copyright Act 1968 (Cth)* are intended to benefit 'authors' of 'original works of authorship', including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural and audiovisual creations.

This means that virtually any creative work that you may come across in readable or viewable format, including books, magazines, journals, newsletters, maps, charts, photographs, graphic materials; unpublished materials, such as analysts' reports and consultants advice; and non-print materials, including websites, computer programs and other software, databases, sound recordings, motion pictures, video files, sculptures and other artistic works are almost certainly protected by copyright.

What is not protected by copyright?

Not everything is protected by copyright. This includes: works that are not fixed; titles, names, slogans; ideas, facts and data; listings of ingredients or contents; natural or self-evident facts; and public domain works. Some of these things may, however, be protected under other areas of law, such as patent or trademark law, or by contract. It is important to be sure that no other form of protection restricts the use of such materials before using them.

Obtaining copyright protection

Copyright protection is automatic under Australian law from the moment a piece of work is placed in a material form. This includes writing down, recording or filming. A work doesn't have to be published to be protected by copyright – copyright also protects unpublished works.

Performers' rights

The Copyright Act also gives some rights to performers. These rights are in addition to the rights of the copyright owners and creators of the material performed. Under the *Copyright Act 1968 (Cth)*, people generally need to get consent from a performer to record or broadcast a live performance. The performer's consent may also be needed to use an unauthorised recording of a performance, or to use an authorised sound recording of a performance on a film soundtrack. Performers on audio recordings have additional rights, including moral rights.

Expiry of copyright

Copyright lasts in a work for 50 years after the death of its author, or 50 years after its first publication, whichever is the later.

For photographs and sound recordings made after 1969, copyright expires 50 years after first publication; if made before; it expires 50 years after its being made.



Responsibilities of council officials

Council expects its Council Officials to be responsible consumers of copyright-protected materials. Maitland City Council Officials must not reproduce any copyrighted work in print, video or digital form in violation of the law. As there is no registration of copyright in Australia, and no formal procedures to go through, Council Officials must assume that most materials used are copyrighted until proven otherwise.

Use of Council equipment, facilities and/or premises for a purpose which infringes copyright is expressly forbidden. Any person who commits such an infringement shall be personally liable under the *Copyright Act 1968 (Cth)*. The Council may also be found liable.

Council Officials are encouraged to educate their peers on copyright compliance. If any staff witnesses a potential copyright infringement they must bring the matter to the attention of the individual.

Council Officials must seek out and receive through a licence or the express written permission of the copyright holder, the right to reuse the copyrighted work in order to avoid an infringement of copyright.

When work is not covered by copyright, Council Officials should confirm that the material is not protected by any other area of law, such as trademark or trade secret law.

Use of Council created materials

Copyright in works created by an employee of Council in the course of employment is owned by Council; therefore Council Officials may use the works for Council related business only.

When Council owned copyrighted materials are used, a copyright notice should be included on any materials to be distributed outside of Council. If there is any doubt whether the work is covered by copyright it is best to be cautious and contact the Governance and Information Services Department to obtain advice.

If Council Officials become aware of any unauthorised use or distribution of Council created materials they should promptly notify the Governance and Information Services Department.

Note: external distribution is also subject to any confidentiality restrictions applicable to that material.

POLICY DEFINITIONS

Copyright	Copyright is a bundle of exclusive rights of the owner to publish, copy, adapt, broadcast and perform material contained in literary, dramatic, musical, and artistic works, and in computer software, sound recordings, films, and broadcasts.
Owner	Owner is generally the author or maker of the copyright material, but may be another person, or legal entity, in accordance with the <i>Copyright Act 1968 (Cth)</i> .



POLICY ADMINISTRATION

BUSINESS GROUP:	ADMINISTRATION AND GOVERNANCE
RESPONSIBLE OFFICER:	GROUP MANAGER – ADMINISTRATION AND GOVERNANCE
COUNCIL REFERENCE:	Ordinary Council Meeting 26 April 2016 Item 11.4
POLICY REVIEW DATE:	Three (3) years from date of adoption
FILE NUMBER:	110/15
RELEVANT LEGISLATION	<ul style="list-style-type: none"> • Copyright Act 1968 (Cth) • Government Information (Public Access) Act (NSW) 2009 • Environmental Planning and Assessment Regulation (NSW) 2000 • Local Government Act (NSW) 1993
RELATED POLICIES / PROCEDURES / PROTOCOLS	<ul style="list-style-type: none"> • Copyright Protocol • Right to Information Policy • Right to Information Guidelines

POLICY HISTORY

VERSION	DATE APPROVED	DESCRIPTION OF CHANGES
1.0	26 April 2016	New policy adopted