Copyright Procedure

Section 1 - Preamble

(1) Charles Darwin University ('the University', 'CDU') is committed to ensuring that the management of copyright meets the intent and requirements of the Copyright Policy.

(2) The University Library (the Library) is the central service provider for copyright and related services throughout the University.

(3) The University adopts an educative approach to copyright for staff and students.

Section 2 - Purpose

(4) This procedure explains the University's expectations regarding the use of copyright content for educational, research and non-commercial purposes, and how the University will meet its legal obligations under the Copyright Act 1968 (Cth) (the Act).

(5) This procedure informs and supports staff, students and other members of the University community to maximise the legal use of copyright material to benefit the University while ensuring the rights of copyright owners are respected and the risk of copyright infringement is minimised.

Section 3 - Scope

(6) This procedure applies to all University staff and students. It should be read in conjunction with the Copyright Policy and supporting information available on the CDU Library copyright website.

Section 4 - Procedure

(7) This procedure outlines the requirements on staff when using third party copyright content that is covered by:

a. Section 113P statutory licences (113P licences);
b. The Tertiary Music Licence;
c. Section 28 and Section 200AB of the Copyright Act 1968;
d. Content licensed by contract to the university e.g. Information resources agreements negotiated by the Library;
e. Provisions for students with a disability;
f. Fair dealing provisions;
g. Moral rights provisions; and
h. Copyright notices.

(8) This procedure will also assist staff when:

a. designing audio-visual materials for CDU students;

b. designing audio-visual materials for publicly available digital platforms and services;
c. pre-recording and recording lectures;
d. using audio-visual content from YouTube, other digital services and platforms and commercial DVDs; and
e. managing copyright infringements.

(9) Detailed instructions for using third party copyright content for University purposes are set out in the CDU Library copyright website.

Minimising the risk of copyright infringement

(10) University staff and students must ensure that the risk of copyright infringement is minimised by:

a. ensuring that any copying made under fair dealing for the purposes of research, study, criticism, review, parody or satire is fair and is limited to the amounts indicated in the Act;
b. ensuring the use of University equipment, facilities, digital platforms and services does not infringe or increase the risk of copyright infringement;
c. ensuring third party copyright content is not stored on external University digital platforms and services such as social media;
d. acting on the University's advice to minimise the risk of copyright infringement; and
e. respecting the moral rights of creators and appropriately attributing sources where known.

General considerations when using copyright material

(11) Copyright is complex and carries associated risk. Copyright restrictions for the same content may differ between jurisdictions. Staff and students should contact askthelibrary@cdu.edu.au if there is any uncertainty about using copyrighted content.

(12) Materials licensed for University use must not be posted to external digital platforms and services, including social media and content streaming services.

(13) An appropriate copyright notice must be displayed before staff and students access copyright material. The Library can provide advice and supply copyright notices.

Creative Commons Licences

(14) Creative Commons licensed content can be used freely and may potentially be modified for educational and instructional purposes including videos, podcasts and teaching/learning resources for educational or instructional purposes.

(15) Each Creative Commons Licence will specify the kind of attribution and uses that can be made of the content.

(16) When using Creative Commons content, a URL to the Creative Commons Licence must be provided.

Section 113P statutory licence

(17) A 113P licence allows educational institutions to copy and communicate text, artistic and broadcast material, including television and radio broadcasts, for educational purposes without contacting the copyright owner. CDU is party to 113P licences negotiated between Universities Australia and:

a. Copyright Agency Limited (text and artistic content); and
b. Screenrights (broadcast content).

(18) The Library provides centralised management of all works covered by the 113P licence.

(19) Resources, including presentations, lectures, broadcast works and other learning resources, containing 113P licence content must not be uploaded on external digital platforms and services unless those services have been specifically contracted for that use by the Library.

(20) All text and artistic works covered by the 113P licence may only be made available to students through the University's Reading List Service.

(21) Text and artistic works from print and online sources can be used in presentations, lecture notes, learning guides and other learning resources. Content containing 113P licence content must have an appropriate copyright notice attached at the beginning of the file or provided as a gateway to the content.

(22) Printed Course Readers containing book chapters, articles, images, lecture notes and other printed learning content are governed by the 113P licence and must have their details recorded in the University's Reading List Service and a copy of the electronic master provided to the Library to meet compliance requirements.

(23) Printed course readers containing 113P licensed content must have an appropriate copyright notice attached at the beginning of the document.

(24) The 113P licence allows recording of copies of anything broadcast on radio or television and broadcasts made available on the broadcaster's website to be used for educational purposes. 113P licence broadcast works can be:

a. copied and communicated for the educational purposes of the University via the University Streaming Media Service;
b. shown and captured in lectures or tutorials;
c. recorded or pre-recorded; and
d. made into compilations.

(25) Where possible, staff should to online streaming copies of broadcasts via the broadcaster's website or via Library subscribed services rather than housing content in the University's Streaming Media Service.

(26) All broadcast content housed at the University may only be made available to students via the University's Streaming Media Service. Recordings of broadcasts must not be uploaded directly to the Learning Management System.

(27) Purchases of broadcasts must occur via the Library to ensure the compliance requirements are met.

Tertiary Music Licence

(28) Universities Australia has entered into a Tertiary Music Licence agreement with the following music societies:

a. Australasian Mechanical Copyright Owners Society (AMCOS);
b. Australasian Performing Right Association Ltd (APRA);
c. Australian Record Industry Association (ARIA); and
d. Phonographic Performance Company of Australia (PPCA).

(29) The Tertiary Music Licence agreement covers the copying and communication of music in both musical notation and recorded form for University purposes.

(30) Content containing content covered by the Tertiary Music Licence must be correctly attributed and have an appropriate copyright notice at the beginning of the file or as a gateway to content.

(31) To meet compliance requirements, all music notation, including sheet music and scores, containing content covered by the Tertiary Music Licence must:

a. have master copies purchased by and lodged with the Library; and
b. be communicated via the University's Reading List Service if provided as learning resources in a course of study.

(32) All recorded music containing content reliant on the Tertiary Music Licence used in a course of study must be communicated via the University's Streaming Media Service.

(33) The use of music for university events and activities is set out on the CDU Library copyright website.

Section 28 of the Copyright Act

Performance and communication of works in the course of educational instruction

(34) Section 28 of the Act allows the performance or showing of copyright content including broadcast content, commercial and borrowed films and DVDs in lectures, tutorials, workshops, seminars and other University spaces for educational instruction of a specific class.

(35) Section 28 also allows copying of all content, including commercially purchased or hired audio-visual material, to a password-protected university system for the one-time purpose of educational instruction for a specific class. This material must be removed immediately after the specific class is finished.

(36) Section 28 does not allow the copying and reuse of commercially purchased and hired audio-visual material for entertainment or to members of the public. This material may not be used for anything other than educational purposes for enrolled students in a specific class.

Section 200AB of the Copyright Act

Use of Works and Other Subject-matter for Certain Purposes

(37) Section 200AB of the Act, referred to as the "Flexible Dealing" or "Special Cases" exception, allows universities to make limited use of copyright content for University purposes. Section 200AB can be applied to text and artistic works, audio-visual works and other copyright content.

(38) Section 200AB may only be applied if the use of content:

a. is not covered by a 113P licence, the Tertiary Music Licence, or any other statutory exception such as Section 28;
b. is for a particular University purpose;
c. is not for the purpose of profit or a commercial advantage, excluding charging on a cost-recovery basis;
d. does not conflict with the normal exploitation of the copyright content;
e. does not unreasonably prejudice the copyright owner, if a licence for the proposed use can be purchased or obtained; and
f. is a special case.

Using Open Educational Resources (OER)

(39) The University encourages and supports the use of Open Educational Resources. These are learning resources in many forms including text, artistic and audio-visual that:

a. are published under a Creative Commons or similar open licence that encourages reuse, remix, redistribution

and adaptation with minimal risk of copyright infringement;

b. can be used in combination with Section 113P statutory licensed content, Tertiary Music Licensed content and Section 200AB content for University courses; and
c. can be used in Massive Open Online Courses (MOOCs), social media, or in digital platforms and other services that are publicly available.

Using copyright material in the Learning Management System

(40) When using copyright material in the Learning Management System staff must ensure that all prescribed and recommended learning resources are made available via the University's provided service, which are:

a. The Reading List Service for text and artistic works including music notation; and
b. The Streaming Media Service for audio-visual works including broadcasts, commercial music and film recordings.

(41) All materials made available through the Learning Management System must be used in ways compliant with the Act or any applicable contracts or licences.

(42) All materials must be correctly attributed and respect the moral rights of copyright owners.

Using copyright material in examinations

(43) Section 201A of the Act allows the University to copy and communicate copyright material for the purpose of conducting or answering a question in paper and online exams.

(44) The exam copying exception does not apply to example exam papers or practice quizzes, which may be covered by the 113P licence or another licence or educational exception.

(45) Past examinations must be made available to the Library to be included in the University's Exam Paper collection. Some sections of an examination paper may not made available via the University's Exam Paper collection if copyright would be infringed in doing so, or if the integrity of future exams would be compromised.

Pre-recording and recording lectures

(46) Copyright content that can be pre-recorded or recorded during a lecture includes:

a. University owned copyright content;
b. Creative original works owned by the person creating the material;
c. Audio recordings covered by the Tertiary Music Licence;
d. 113P licence broadcast content, including television, cable, satellite, Pay TV and radio broadcast content;
e. 113P licence text and artistic content, including content in the Library Reading List service;
f. A reasonable portion of a literary or dramatic work;
g. Content licensed under Creative Commons and other open licences;
h. Public domain content and other content free of copyright restrictions;
i. Content covered by a specific licence or permission in place between the university and the copyright owner for this purpose; and
j. Content where Section 200AB of the Act applies.

Designing audio-visual materials for students

(47) Audio-visual materials made for the educational purposes of the University must be placed in the University's

Streaming Media Service if they contain:

a. 113P licensed textual, artistic or broadcast content;
b. Tertiary Music Licence recordings;
c. content licensed under Section 200AB; and
d. content covered by a specific licence or permission in place between the university and the copyright owner for this purpose.

(48) Content that is recommended to be used in designing audio-visual materials for students are:

a. creative original works owned by the person creating the material;
b. University-owned copyright content;
c. website URLs;
d. Creative Commons and other openly licensed content;
e. public domain content and other content free of copyright restrictions; and
f. content covered by a specific licence or permission in place between the University and the copyright owner for this purpose.

Using audio-visual content from external sources

(49) Audio-visual content includes sound recordings and/or moving images including but not limited to; broadcasts, sound recordings, films, video and commercial DVDs.

(50) Audio-visual content can contain complex layered rights, including synchronisation rights (for example, copyrighted music playing in the background of an original video) and it is not always clear who can provide permission to use the content. If the conditions of use are unclear seek assistance from the Library.

(51) When using audio-visual content from online sources, it is strongly recommended to always check the reputation of sites providing content and where possible link to content rather than obtaining a local copy.

(52) Under Section 200AB, the University may in some limited circumstances be able to use content from commercial DVDs. Contact askthelibrary@cdu.edu.au advice from the Library before relying on this exemption.

(53) Use of content from external sources must be in line with the University's Information and Communication Technologies Acceptable Use Policy and associated procedures.

Designing materials for external and open education services

(54) Content developed for open and public education courses or posted to external digital platforms and services should only contain:

a. creative original works owned by the person posting the content;
b. University-owned copyright content;
c. public domain content and other content free of copyright restrictions;
d. Creative Commons and other openly licensed content; and
e. content covered by a specific licence or permission in place between the university and the copyright owner for this purpose.

Making copyright materials available to students with a disability

(55) The Act contains two exceptions for copying content for persons with a disability. The University can use these

exceptions to assist students with a disability, but the circumstances in which they apply differ. The two sections are:

a. Section 113F, which provides an exception for the use of copyright material by organisations assisting persons with a disability; and
b. Section 113E, which covers fair dealing for the purpose of assisting persons with a disability.

(56) Contact askthelibrary@cdu.edu.au for advice for any use of copyright material reliant on sections 113E and 113F.

(57) It is recommended that staff first consider Section 113E or 113F for copying for students with a disability even if the 113P licence could be used, as copies for students with a disability under these clauses are exempt from remuneration. Section 113Q(2) makes clear that universities do not need to rely on the 113P licence for any copying that could be done under disability exceptions.

Fair dealing

(58) A fair use exception does not apply in Australian copyright law and must not be used to copy and communicate copyrighted content for educational purposes.

(59) Fair dealing exceptions apply in Australian copyright law.

(60) The Act provides that copying a reasonable portion of a work for the purposes of research or study, criticism or review, news reporting or parody and satire will be a fair dealing.

(61) The fair dealing exception does not apply to making multiple copies of content by the University for students required in a course of study. Making multiple copies for students is governed by the Section 113P statutory licence, Tertiary Music Licence and via contract or other licence.

Moral rights

(62) Moral rights are legal obligations contained in the Act to attribute authors and to treat their works respectfully.

(63) The University respects the moral rights of authors and creators.

(64) All staff and students must to be mindful and respectful of the moral rights of authors and creators.

(65) Moral rights are:

a. the right of attribution of authorship. The author has the right to be identified as the author of the work or film when it is presented to the public. The attribution must be reasonably clear and prominently;
b. the right against false attribution of authorship. The author has the right not to have their work attributed falsely to someone else and not to have an altered work being attributed as unaltered; and
c. the right of integrity of authorship. The author has the right to have the integrity of their work respected and not subjected to derogatory treatment. A treatment is derogatory if it in some way prejudicially affects the honour or reputation of the author.

(66) Moral rights are separate from copyright and unlike copyright, cannot be permanently waived, sold, assigned or licensed or transferred. They remain with the author even where the copyright has been sold or passed to a third party.

(67) Moral rights may be waived in specific circumstances. For example:

a. consent may be given by an employee for the benefit of their employer to waive moral rights in relation to all works made or to be made by the employee in the course of their employment; and

b. consent may be given to waive moral rights in a contract to produce a specific work.

(68) When using third party copyright content, staff and students must:

a. attribute the authors and creators of the content where reasonable;
b. not falsely attribute an author's or creator's work; and
c. not alter, add to, crop, edit, and change or distort an author's or creator's work, unless it is reasonable in the circumstances.

Managing copyright infringements

(69) Copyright infringement may arise when creating, copying or communicating copyright works in ways that are not permitted under the Act or in ways where there is not an appropriate licence in place for the intended use.

(70) The University will respond quickly to internal copyright issues and external notifications of alleged copyright infringement.

(71) Internal copyright infringement issues in internal University systems and processes will be dealt with by the University Copyright Officer. Minor issues will be dealt with directly by the Copyright Officer in a confidential manner, while complex issues may be escalated to the Vice-Chancellor.

(72) External individuals or organisations that believe content available on the University's digital platforms and services constitutes a copyright infringement of their work or the work of others should notify the University by emailing askthelibrary@cdu.edu.au.

(73) The notification must contain sufficient information to:

a. recognise that the email is reporting an allegation of copyright infringement;
b. identify and locate the copyrighted work that is the subject of the allegation;
c. provide contact details for the individual or organisation; and
d. identify the owner of the copyrighted material.

(74) The Copyright Officer will deal with external notifications of infringement in a timely and confidential manner. Allegations will be referred to the Vice-Chancellor if they are high risk or cannot be resolved in a reasonable time.

(75) The Copyright Officer will comply with all relevant legislative and other controls, such as the notice and takedown provisions in the Copyright Regulations 2017.

Section 5 - Non-Compliance

(76) Non-compliance with Governance Documents is considered a breach of the Code of Conduct – Staff or the Code of Conduct – Students, as applicable, and is treated seriously by the University. Reports of concerns about non-compliance will be managed in accordance with the applicable disciplinary procedures outlined in the Charles Darwin University and Union Enterprise Agreement 2025 and the Code of Conduct – Students.

(77) Complaints may be raised in accordance with the Complaints and Grievance Policy and Procedure - Employees and Complaints Policy - Students.

(78) All staff members have an individual responsibility to raise any suspicion, allegation or report of fraud or corruption in accordance with the Fraud and Corruption Control Policy and Whistleblower Reporting (Improper Conduct) Procedure.

Status and Details

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Implementation Officer	Bernadette Royal Director Library Services
Enquiries Contact	Bernadette Royal Director Library Services Library Services