

Policy for Use and Reuse of Collection Items

Policy owner:	Chief Librarian, Alexander Turnbull Library
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1. Purpose

The purpose of this policy is to establish a common objective and an overarching suite of principles that support consistency and transparency for the National Library of New Zealand's (NLNZ) and Alexander Turnbull Library's (ATL) decision making, activities and messages on use and reuse of collection items.

This policy includes:

- A policy statement that outlines the objectives of ATL and NLNZ use and reuse activities.
- An outline of the need for guiding principles for use and reuse of digital collections.
- The principles for ATL and NLNZ staff when determining rules, processes, guidance and messages for use and reuse of collections.

2. Policy Objective

New Zealanders are able to easily use and reuse the rich collections of the Alexander Turnbull Library and National Library of New Zealand to create new knowledge, within a clear and transparent framework.

3. Policy Assumptions

The principles in this policy are established on the following assumptions:

- NLNZ have a responsibility to provide information to ensure researchers know their responsibilities for how collection items can be used and reused, however NLNZ has no actual control over what researchers do with the content. The responsibility for following abiding by the information provided sits with the researcher.
- The researcher has been granted access to the collection items, either through an online channel or an in-person service.
- NLNZ does not indemnify researchers against claims by copyright owners or other proprietors claiming damages for publication, use or reuse of collection items.

4. Scope and Implementation

ATL and NLNZ have a range of terms, conditions, rule and guidelines relating to use and reuse of different collections. This situation is a necessity of having such diverse collections of published and unpublished heritage, with a range of rights and entitlements relating to use and reuse, and a number of different channels that are employed to expose this content to the public. Therefore, this policy applies to the range of activities that ATL and NLNZ undertake relating to the use and reuse of our collections, from the initial discussions with donors and depositors, through the management and access of the collections, to the various mechanisms which govern the use of all collections managed by NLNZ, which include (but are not limited to)

- NLNZ Access Policy
- Access rights policy for digital objects in the NDHA
- Reproduction guidelines
- The various copyright statements made for collections available via online channels such as NLNZ catalogues, Papers Past, TAPUHI, NLNZ website
- NLNZ policy on Kaitiakitanga
- Fees and charging guidelines
- NLNZ Digitisation Strategy

This policy also applied to the use and reuse of metadata relating to collection items.

This policy does not cover:

- The various mechanisms by which researchers discover and access the collections of ATL and NLNZ, through finding aids, search tools or third party collaborators. Many of these activities are covered by the NLNZ Access Policy. This policy assumes access has been granted by the Library, or is openly available to the researcher, and acknowledges that some restrictions on reuse of collection items results from the access process.
- The criteria by which collection items will be acquired or collected by ATL and NLNZ.
- The criteria by which collection items will be selected for digitisation.
- How original collection items are used as part of exhibitions.

5. Definitions

Researcher: Any person making use of the range of collections available via National Library of New Zealand and the Alexander Turnbull Library and for the purpose of fulfilling an information need. Sometimes researchers are also referred to as users, clients, customers, browsers or collaborators.

Use and reuse: For the purposes of this policy, use and reuse is defined as any means of employment of a collection item for personal, social, educational or commercial use. It could include (but is not limited to);

- Personal research or interest
- Formal academic research
- Other fair dealing uses like criticism and review, and reporting current events.¹
- Adapting, copying, modifying, mixing, re-mixing, reproducing, repurposing, or publishing collection items in any forum
- Sharing or distributing to recipients via any public forum

¹ Copyright Council of New Zealand, *Fair Dealing*. Available at <http://www.copyright.org.nz/viewInfosheet.php?sheet=338>

Collection item: Any item from the ATL / NLNZ collections that are accessible to a researcher for use or reuse, at any level of aggregation. This includes born digital content, physical/analogue content digitised by NLNZ, or physical/analogue content captured by a researcher on a digital camera.

6. The Need for a Policy on Use and Reuse of Collection Items

6.1 Legislative context

The National Library of New Zealand (Te Puna Mataurangi o Aotearoa) Act 2003 outlines the purpose of the National Library of New Zealand and Alexander Turnbull Library.

Section 7(a) states that the purpose of the National Library is to enrich the cultural and economic life of New Zealand and its interchanges with other nations by, as appropriate, —
7(a): Collecting, preserving and protecting documents, particularly those in relation to New Zealand, and making them accessible for all the people of New Zealand, in a manner consistent with their status as documentary heritage and taonga.

Sections 12(a) and 12(b) state the purposes of the Alexander Turnbull Library are—

12(a): To preserve, protect, develop, and make accessible for all the people of New Zealand the collections of that library in perpetuity and in a manner consistent with their status as documentary heritage and taonga; and

12(b): to develop research collections and the services of the Alexander Turnbull Library, particularly in the fields of New Zealand and Pacific studies and rare books.

This policy on reuse of collection items addresses these purposes, especially in relation to providing an appropriate balance between the intellectual protection of the collections, the accessibility of the collections, and to enable appropriate services for collection items in the digital age.

6.2 Institutional and societal context

ATL and NLNZ collections contain a vast array of items which contribute to the social, economic, and cultural well being of New Zealand, and enable New Zealanders to create new knowledge. The digital age has created a tension between sectors of the researcher community having expectations of open, immediate and reusable digital heritage, versus the ongoing needs of many content creators to protect their intellectual rights and privacy. The development of the policy for use and reuse of collections provides clarity on the ATL and NLNZ's approach to use and reuse through a clear vision and suite of policy principles.

In addition, other use and reuse frameworks in New Zealand have also highlighted the need for the Library to establish a clear policy framework. For example, the Creative Commons framework is designed as a standard for copyright holders to give clear and consistent statements about use and reuse of material to which they have copyright. Similarly, the NZGOAL framework applies to in copyright and non copyright work where the crown has been the creator or funder of that information, or manages and cares for information. This policy aligns with the cabinet directive to all public service departments *to take NZGOAL into account when releasing copyright material and non-copyright material to the public for reuse.*²

² The 2010 Cabinet minute that endorsed NZGOAL for all state sector agencies can be downloaded from here: <http://ict.govt.nz/guidance-and-resources/information-and-data/nzgoal>

7. Policy Principles for Use and Reuse of Collection items.

These principles frame all activities undertaken by National Library of New Zealand (NLNZ) and Alexander Turnbull Library (ATL) that address the use and reuse of collection items.

Principle 1: NLNZ services that support the use and reuse of collection items are lawful.

Explanation: The provision of the range of NLNZ activities and services that support and enable use and reuse of collection items will comply with the requirements under the Copyright Act 1994, and other relevant legal instruments.

Principle 2: All collection items will be delivered to researchers with clear and consistent statements on use and reuse rights and permissions.

Explanation: Clear and consistent use and reuse statements accompanying collection items are important if the Library's use and reuse vision is to be achieved. Risks to collection items being used inappropriately, or not at all, are increased where use and reuse information is either non-existent, confusing, is disconnected from the item presented to the researcher (several clicks back in the discovery process), or contradicted in the various channels through which they can be discovered. It is noted that achieving this principle is especially relevant when redesigning or updating online delivery and access channels, and therefore may not be realised immediately. It is also noted that sometimes a clear statement on use and reuse will inform the researcher to the next step in a staff mediated process.

Principle 3: NLNZ will adhere to the terms, conditions or restrictions for use and reuse as agreed when collection items are acquired or received.

Explanation: The use and reuse permissions of both the published and unpublished collections of NLNZ and ATL are determined by the rights owners, or are agreed at the time of acquisition or receipt of the item. ATL relies on generous donations from individual, families and organisations to build a large part of the unpublished collections. The donation framework means that ATL has little ability to determine use rights on many items within its collection, but rather undertakes to respect the restrictions as asserted by the rights owner, or terms and conditions of acquisition and receipt of the collections. NLNZ acknowledges that this principle is integral to building and maintaining the trust required to continue to develop the collections.

Principle 4: Negotiations with rights owners and donors will promote and be informed by the Creative Commons licensing framework as a mechanism to facilitate use and reuse of in-copyright works.

Explanation: The purpose of this principle is to support more standardisation of use and reuse statements, within an internationally recognised framework. The Creative Commons licence framework which helps people share their copyright works for reuse. The Creative Commons licences enable copyright owners to retain their rights, while still enabling different uses of the material in accordance with a range of permissions specified in advance.

There are 6 Creative Commons licences, starting from a simple attribution requirement (CC-BY), to requiring attribution and specifying use must be non commercial and in exactly the same form (CC-BY-NC-ND).³

In order to be clear, principle 3 (above) takes precedent in how the Library manages the use rights to collection items. Therefore, the negotiation process with rights owners is critical in ensuring that all parties are aware of the possible benefits and associated consequences with opening or restricting use the collections being donated.

Principle 5: Where no copyright restriction applies, NLNZ will seek to provide the items for use and reuse with a statement of ‘no known copyright restrictions’, after careful consideration of cultural and ethical issues relating to the items.⁴

Explanation: NLNZ intends to remove, as much as possible, the ‘permissions barrier’ through expanding the number of collection items which are out of copyright, or where no copyright restriction apply, that are made available to researchers, without use or reuse restrictions. However, NLNZ acknowledges that there may be other legal restrictions (such as donor agreements - see principle 3), or cultural or ethical issues which need to be assessed before providing the appropriate use or reuse statement.⁵

Decisions supporting transparent and consistent application of cultural and/or ethical issues can be guided by (but are not limited to being guided by) the Access Policy, the Kaitiakitanga Policy, and further documentation still to be developed by NLNZ.

Principle 6: Where there are works where copyright is likely to apply, but the rights owner is unable to be identified or traced after a reasonable search, NLNZ will seek to provide a statement of ‘copyright undetermined – untraced rights owner’⁶, after careful consideration of cultural and ethical issues relating to the items.

Explanation: These items fall within the definition of “unknown authorship” under section 7 of the Copyright Act 1994. Providing public access to these items (sometimes called ‘orphaned works’) represents a significant challenge for many libraries, as the task of tracking down and locating rights owners can use considerable expense and is often unsuccessful. Additional complications can arise with unpublished works, such as diaries, letters or personal photographs, which were not originally created for public use and contain items authored by other people. This principle is designed to provide a steer for the Library to enable use and reuse for collection items that fall into this category, only after due process has been completed.⁷

It is incumbent on the rights holder in a work previously judged to be an orphan to provide appropriate validation of their ownership. Upon evidence of a claim from the rights holder, the library will provide options which support the copyright and moral rights of the author, including take-down.

³ Creative Commons Aotearoa New Zealand. <http://www.creativecommons.org.nz/>.

⁴ This principle is a light adaptation of the recommendation under the NZGOAL framework and guidance for government agencies. <http://nzgoal.info/quick-guides/quick-guide-for-agencies/>

⁵ Informed by the National State Libraries of Australasia Position Statement on Public Domain Works, 2012 <http://www.nsla.org.au/publication/position-statement-public-domain-works>

⁶ ‘Copyright undetermined – untraced rights owner’ is the statement recommended by National and State Libraries of Australasia Procedural guidelines for reasonable search for orphaned works, 2010. <http://www.nsla.org.au/publication/procedural-guidelines-reasonable-search-orphan-works>

⁷ Procedures for ‘reasonable search’ are also informed by the National and State Libraries of Australasia Procedural guidelines for reasonable search for orphaned works, 2010.

Principle 7: Collection items with ‘No known copyright restriction’ statements should be available for use and reuse at an appropriate quality resolution.

Explanation: NLNZ acknowledges that availability of only low resolution collection items which have ‘no known copyright restrictions’ can provide a practical restriction on the use and reuse of those items. Therefore the purpose of this principle is to state that if there are ‘no known copyright restrictions’ collection items and a digital copy of the item is able to be accessed (therefore appropriate considerations of cultural and ethical issues have been considered as per principles 5 and 6) that NLNZ will not provide a resolution barrier to the potential use and reuse of these items.

Principle 8: The principles of NZGOAL will be applied to collection items for which NLNZ is the rights owner.

Explanation: The New Zealand Government Open Access and Licensing framework (NZGOAL) is government guidance for agencies to follow when releasing copyright works and non-copyright material for use and reuse by others. It seeks to standardise the licensing of government copyright works for use and reuse through application of Creative Commons New Zealand licences.⁸ In 2010 the New Zealand Cabinet directed all state sector agencies to take NZGOAL into account when releasing copyright material and non-copyright material to the public for reuse.

Principle 9: Appropriate attribution for public use and reuse of collection items is necessary to provide a traceable path back to the authoritative source for the items.

Explanation: The purpose of *appropriate* attribution or acknowledgement is to enable a researcher artistic freedom to use and reuse collection items in creative ways and/or according to the norms of the sector within which the content is used or reused, while at the same time providing a traceable path back to the collection items and their context to any other researcher wanting to use and reuse the items.

NLNZ will support this principle by offering a preferred citation where possible.

⁸ NZGOAL principles and information is available at <http://nzgoal.info/>

8. Policy Statement on Reuse of Collection Metadata

NLNZ is committed to making its bibliographic and descriptive metadata records as broadly available for use and reuse as possible, to support scholarship, research and to promote innovative uses of these records.

Due to a range of contractual obligations with content partners and donors, and privacy concerns around some metadata, NLNZ is not able to provide access to all of its bibliographic and descriptive metadata records. However this policy statement applies to metadata that is publically available via our online channels; including the NLNZ website, the National Library catalogue for published material, the TAPUHI descriptive system for unpublished records, and metadata about NLNZ collections available on third party platforms (e.g., Digital NZ, Flickr Commons).

To the extent that NLNZ has a copyright interest in the metadata records, a [Creative Commons Attribution CC-BY 3.0 license](#) will apply. Before using the metadata NLNZ requests that users review and act in accordance with the following NLNZ community norms:

1. NLNZ requests that you give attribution to NLNZ or ATL as sources of the metadata records.
2. NLNZ requests that you provide the metadata records and any improvements thereto freely available on the same terms as NLNZ has done. Specifically, NLNZ requests that you do not claim any legal right in or impose any legally binding conditions on the metadata records or your improvements. NLNZ asks that you request that your end users also review and act in accordance with these community norms.
3. With respect to metadata records consisting of or contained in records NLNZ has obtained from the OCLC WorldCat database, NLNZ requests that you respect and act in accordance with the community norms set forth in the [WorldCat Rights and Responsibilities for the OCLC Cooperative](#).⁹ Use of metadata from the WorldCat database for study and research is consistent with those norms, but if you plan to use such metadata records for other purposes, whether or not you are an OCLC member, NLNZ asks that you review and act in accordance with those norms and requests that your end users also do the same.

By observing these community norms, you will be helping to promote good practices, foster trust among partners, and encourage growth of the open metadata community.¹⁰

⁹ The WorldCat Rights and Responsibilities for the OCLC Cooperatives are available at: <https://www.oclc.org/worldcat/community/record-use/policy.en.html>

¹⁰ The NLNZ policy statement on re-use of collection metadata has been heavily influenced by the New York Public Library's Policy on Open Bibliographic Metadata, available at: <http://www.nypl.org/help/about-nypl/legal-notice/open-metadata>.