



POSTGRADUATE RESEARCH THESES AND THE AUSTRALASIAN DIGITAL THESIS (ADT) PROGRAMME

Copyright overview

The Copyright Act gives creators of original 'works' the exclusive rights to:

- reproduce;
- publish;
- communicate;
- translate, and adapt their material.

'Works' protected by the Act include:

- literary - most fictional and non-fictional written material, including tables, computer programmes, and instruction manuals;
- dramatic - play scripts, film scripts, choreographic scores, and scenarios;
- musical - scores or other notations (lyrics are protected as literary works);
- artistic - paintings, sculptures, etc., technical drawings and models, photographs, diagrams, and buildings;
- cinematograph film - the visual images and sound track of a film, including those available on video, DVD, CD, or a website;
- sound recordings - any analogue, digital, or electronic recording, including MPEG or MP3 files;
- published editions of works - the way in which an individual edition of a work is presented, including typesetting etc.

The Act, however, also provides exemptions and limitations to a copyright owner's exclusive rights in order to avoid infringement of the law when using copyright materials under certain circumstances, such as those of research, critique, and a range of educational purposes.

For instance, s.40 - Fair Dealing for the Purpose of Research and Study - protects your use (without having to seek the owner's permission) of 'reasonable portions' of third party copyright works during your candidature and in the hard copy version of your thesis.

A 'reasonable portion' is deemed to be:

- either 1 chapter or 10% (whichever is greater) of the pages of a monograph or textbook;
- one article from any single issue of a journal or periodical (subsequent articles in the issue may be copied if they are required for the same research or course of study);
- a work of up to 15 pages from an anthology.

These portions generally apply to electronic and digital works too, though some internet sites may specify other conditions for copying their material. This is only a selection of the items you may need to copy, so check the [University's copyright website](#) for more detail.

Some works are not necessarily covered by copyright, including:

- those that are in the Public Domain because it is more than 70 years since the author's death (see the [Duration of Copyright](#) info sheet on the copyright website for specific details);
- those that are produced by the U.S. government;
- those that are in the Public Domain because the copyright owner has 'released' them – for instance under a [Creative Commons Public Domain Dedication](#);
- those published under [other Creative Commons licences](#) which cede some of the copyright owner's exclusive rights, thus allowing other people to use the materials (including film, video, stills, and audio) in their own work without needing to seek permission.

Using copyright protected works in the digital version of your thesis

Because you will be communicating the material online when your thesis is published electronically through the ADT Programme, the protection of Fair Dealing for the Purpose of Research and Study will no longer apply to your use of third party copyright works.

It may be possible to claim an exemption under s.41 of the Act: Fair Dealing for the Purpose of Criticism or Review. This provision allows the reproduction and communication of a copyright protected work if it is made for the purpose of criticism or review, whether of that work or of another work, and where a sufficient acknowledgement of the work is made.

Note that, under this provision, you must submit the material to a direct critical analysis, not simply use it for illustration or enhancement of your own work.

However, on the whole, the ADT programme requires you to have written permission from the copyright owner(s) to communicate a 'substantial portion' of any copyright work contained in the digital copy of your thesis.

It has been suggested that up to 1% of a copyright work may be reproduced, without the owner's permission, as an 'insubstantial amount' without infringing copyright – but, because there is no definition of 'substantial' in the Act, it is ADT policy that any third party copyright material (beyond quotations) for which you do not have permission must be removed before submitting your thesis to the ADT website.

It is the candidate's responsibility to ensure that you have either:

- obtained permission to communicate any substantial portions of third party copyright material via the Web; or
- made arrangements to have such material suppressed when your thesis is lodged with ADT (a reference can be made to the material suppressed and the reasons why).

Be aware of this requirement from the start of your research.

Go to the Library's [Guidelines for Thesis Authors](#) for information on lodging the digital copy of your thesis and the online [Thesis Submission Form](#).

Possible restrictions on using licenced materials

Many electronic resources and databases (e.g. CDs; DVDs; e-journals, e-books, and internet sites) are licenced in ways that override the provisions of the Copyright Act.

You should always confirm and abide by the terms and conditions of the contract, licence, or other agreement under which the item was obtained.

You may find that there are restrictions on using the materials – especially online; in such cases you should seek written permission to reproduce and communicate the work or extract in the context of your thesis and ADT.

Ownership of copyright in oral histories or interviews

There are alternative possible copyright owners – interviewer or interviewee(s).

The *interviewer* (you) could be the copyright owner – depending on the input in structuring of the interview/discussion, etc., and the degree of commentary or interpretation.

However, in the case of a straightforward recording of an oral history, the owner is more likely to be the *interviewee* – morally if not legally – because it is ‘their’ story, even though there may be no material ‘work’ prior to the recording.

In all instances involving interviews or recordings of individuals, permission to use the resultant work in a publication should be obtained in writing, and where the person is to be identified, this also should be clearly communicated and the appropriate permission obtained prior to publication.

Regarding oral histories where there is no underlying material work (which means that copyright would rest in the recording, therefore with the recorder)

the National Library of Australia recommends ... that a researcher making a sound recording, assign rights back to the storyteller.

(Trevor Gerdson, 2003, *Copyright: a user's guide*, p.271)

ADT advice is to clarify and confirm copyright arrangements with interviewees – especially in respect of identifying contributors, and making their material available online. You can arrange to have the material suppressed if confidentiality is required.

Seeking permission to use copyright protected or licenced materials

When asking for permission to reproduce/communicate a work or an extract, make sure that you ask all relevant parties. Ask the addressee if they are sole owner of the work, or is there someone else from whom permission is required.

There is a permission letter template for research degree candidates on the copyright website in Letters, Forms, and Guides: www.murdoch.edu.au/copyright/forms.html.

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Please do not hesitate to contact Kate Makowiecka, the University’s Copyright Coordinator, if you would like any further information on this or any other copyright matter

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