

Copyright policy

Lisa Wright, Ben Richardson and Bronwyn Mathiesen

Copyright protection is free and automatic. As soon as material of originality and substance is created then it has copyright. The duration of copyright varies but it does eventually expire.

Copyright covers several different types of materials and formats:

- Literary: text-based material (including numeric material such as spreadsheets), compilations of textual material, software
- Dramatic: scripts, screenplays and choreography
- Artistic: drawings, photographs, plans, maps, paintings, logos, sculptures, models, crafts
- Music
- Film: moving images and sound
- Sound recordings
- Radio and TV broadcasts
- Published editions: presentation and layout of the edition

One physical item can have several different copyright protections, e.g. text and photographs.

Copyright does not cover ideas or information, techniques or styles until they become part of a created work. Also, personal names and titles of works are not protected.

Copyright notices should be included in all publications. Contact details should be provided if copyright permission is required for a user to reproduce. (Appendix A for example form)

Crown copyright, which is discussed below, differs in several respects to Individual copyright.

CROWN/CALM copyright

In a State Government Department:

- the Crown owns the copyright for materials made under the direction or control of Government Departments, or for materials first published under Departmental direction or control. This includes staff, contractors, volunteers and students; and
- any provisions in a contractual agreement between the Department and a contractor override copyright provisions. For example, a licence to use a computer program exclusively, although the person who developed the program still holds copyright.

○ ***Rights of the copyright owner***

The copyright owner's rights are:

- reproduction, including changes in format;
- communication to the public via active and passive means:-
 - active - broadcasting, emailing, faxing; or
 - passive - available electronically - Internet and Intranet;
- public performance;

- publication: making public for the first time; and
- adaptation: changing the language.

- ***Moral rights of the creator***

The moral rights of the creator:

- are not transferable and belong to the creator of the material;
- should always be attributed to the creator of the material;
- should not to be falsely attributed;
- cannot use the material in any way that will damage the reputation or honour of the creator; and
- exist for the term of the creator's life plus 50 years.

A record of moral rights of government-owned works should be kept for at least six years after the copyright expires.

- ***Length of copyright***

Duration of copyright is different for different kinds of works and changes in different countries. It begins as soon as the work is created, and in Australia extends for the following periods:*

- **Fifty years** (after first publication date) for published literary, dramatic and musical works. If works are unpublished, protection is **indefinite**.
- **Fifty years** from the end of the year when the artistic work was created (EXCEPT engravings and photographs).
- **Fifty years** for published photographs and engravings. Copyright is **indefinite** for unpublished photographs and engravings.

***With the signing of the Free Trade Agreement between Australia and the U.S.A. the duration of copyright will extend to 70 years for works created on or after the 1 January 2005.**

- ***Future use***

To ensure a work can continue to be used by the Department in future, provisions for extra use should be a part of any contract.

Contractors should be asked to obtain full copyright on any work being done by sub-contractors on the Department's behalf.

Keeping track of Departmental copyright permissions

To be able to keep track of what and where Departmental material is being reproduced or published, please fill in the form in Appendix A.

- The Department is the custodian of material that is:
 - covered by copyright, including CALM publications and materials such as Forests Department unpublished photographs; and
 - no longer covered by copyright because they were published more than 50 years ago. This includes Forests Department books, reports, maps and other publications.

Non CROWN/CALM copyright materials

- The Crown pays for a statutory licence with the Copyright Agency Limited (CAL). CAL is the copyright collecting society that centrally manages the distribution of funds to copyright holders.
- Photocopying for Departmental work purposes, i.e. work for the Crown, is covered by Section 183 of the Copyright Act. This means that there are no restrictions on the copying of published materials, but it has to be for work purposes.
- If the material is unpublished the permission of the creator has to be obtained. If the creator cannot be located, then a good faith notice must be included. The statement shows the copyright owner that the failure to obtain permission was because the owner could not be located, not because we want to avoid paying a reasonable fee. **A good faith notice does not give legal protection from being sued for infringement.**
- If published material is being reused in a Departmental work, then permission has to be obtained from the original copyright holder.
- Emailing material is not yet permitted under the CAL agreement, even if for work purposes.
- **The photocopying of material solely for personal use is not permitted by the Copyright Act. Only copying for the purposes of research or study, can be done under Section 49 of the Copyright Act. ALL photocopiers in the Department should have a copy of the Fair Dealing notice above them. (Appendix B). Departmental equipment should not be used for personal use, and all staff should be aware of the copyright restrictions.**

Image copyright

Donations of slide/print/negatives (including bequests) from non-Crown sources

- The copyright needs to be transferred ('assigned') to CALM and the donor needs to be aware of this.
- The moral rights remain with the photographer or digital image creator.
- The duration of moral rights continues for as long as the photographer or digital image creator lives, plus another 50 years.
- Because of the different ways that works can be used in the digital medium—including placement on web sites—copyright covers reproduction.

Web site publication

- If the user of the web site is allowed to download and reproduce the work, or a matching hard-copy document is made available, then that image or text is published.
- There should be a statement about copyright on the web site. Each page on the site should have a recognisable link to the statement. There are no rules about wording, but it should include the following: (see Appendix F for example)
 - the copyright symbol (©) and the name of the copyright owner;
 - information about what visitors may or may not do with material on the site;
 - a statement giving permission to print material for personal use;
 - a statement about distribution for non-commercial purposes; and
 - contact details (email address) to obtain copyright permission for any of the material on the site. (Appendix A for form)

For questions about policy, the WA Government IP Support Unit can be contacted at ipsp@doir.wa.gov.au.

APPENDIX A (page 5) - Form giving copyright clearance to publish or re-publish Departmental materials

APPENDIX B (page 6) - Fair dealing form

APPENDIX C (page 7) - Forests Department Image Collection Usage Form - Licence agreement

APPENDIX D (page 9) - Herbarium Image Collection Donation Form - Copyright transfer

APPENDIX E (page 10) - Herbarium Image Collection Donation Form - Copyright retention

APPENDIX F (page 12) - FloraBase Copyright declaration

COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. Certain dealings with copyright will not constitute an infringement, including:

- a reproduction that is a fair dealing under the Copyright Act 1968 (the Act), including a fair dealing for the purposes of research or study; or
- a reproduction that is authorised by the copyright owner.

It is a fair dealing to make a reproduction for the purposes of research or study, of one or more articles on the same subject in a periodical publication, or, in the case of any other work, of a reasonable portion of a work.

In the case of a published work in hard copy form that is not less than 10 pages and is not an artistic work, 10 per cent of the number of pages, or one chapter, is a reasonable portion.

In the case of a published work in electronic form only, a reasonable portion is not more than, in the aggregate, 10 per cent of the number of words in the work.

More extensive reproduction may constitute fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in subsection 40 (2) of the Act.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.

**Image collection usage form
Forests Department Image Collection
Licence agreement**

***State of Western Australia, acting through its
Department of Conservation and Land Management,
Library and Information Service***

Name of requester:

Address:

.....

Phone: Fax:

Email:

Conditions of use of images

- 3. I warrant that I will use the images for the purpose stated on this form. If the purpose is altered I will re-request permission.
- 4. I will acknowledge the Department of Conservation and Land Management (CALM) and the Forests Department Image Collection as the source of the photographs.
- 5. I acknowledge I have received copies of the images listed on the attached Photograph List.

Purpose of request

Please describe your intentioned use of the images. If they are to be published give details of the work and proposed publisher. If they are going to be available electronically, please provide the URL.

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Signature of requester: Date:

Return via:

Mail: Forests Department Image Collection, Forest Science Library, Dept of CALM, Locked Bag 104, Bentley Delivery Centre WA 6983.

Fax: (08) 9334 0327 marked for the attention of Forests Department Image Collection.

Email: bronwynma@calm.wa.gov.au with the subject Forests Department Image Collection.

Number of Attached Pages _____

(Please retain a copy of the completed form and Photograph List for your own reference.)

For office use only

Form number: Date granted:

Photographs have been scanned and entered to Forests Dept Image Collection Database:

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(Form continues over the page.)

**Image collection donation form
new donation — copyright transfer**

**State of Western Australia Acting through its Western Australian Herbarium, CALM
(Herbarium)**

Name of donor:

Address:

Phone: Fax:

Email:

Conditions of donation

- 6. I warrant that I am the absolute owner free from encumbrances of the copyright in the photographs that I am donating.
- 7. I hereby transfer to the Herbarium (and thus the State of Western Australia) free of charge the whole of the copyright in my photographs free of encumbrances, including ownership of the original physical photographs (slide, print, negative formats).
- 8. I acknowledge that I retain the moral rights to be attributed as the creator of the photograph.
- 9. The photographs I am donating are described in the attached Photograph List.

Photograph list

Please attach a list of all photographs you are donating. Include the following information for each slide, negative, print or digital file you are donating. This list will be stored with the donation form for future reference.

Photograph number – the number you, the donor, wish to use to identify a single photograph. It may be useful in any future communication with you about it. A format commonly used is your initials + a unique number, such as “ABC1234”;

Photograph date – the date on which the photograph was taken;

Collector’s name and number – only necessary when a specimen of the photographed plant (a “voucher” specimen) was taken and lodged in the Herbarium;

Plant identified by – the person who identified the plant in the photograph. Only necessary if the photograph was not vouchered (see Collector’s Name & Number above);

Plant name – the botanical name given to the plant in the photograph;

Filename – only necessary if the photograph is a digital file, e.g. a JPEG, TIFF or other digital image file.

Signature of donor: Date:

(Please retain a copy of the completed form and photograph list for your own reference.)

Return via:

Mail: Image Collection, Western Australian Herbarium, Dept of CALM, Locked Bag 104, Bentley Delivery Centre, WA 6983.

Fax: (08) 9334 0515 marked for the attention of Image Collection.

Email: herbarium@calm.wa.gov.au with the subject Image Collection Donation.

For office use only

Form number:Date archived:

Part of accession number:

Photographs have been archived (sign):

**Image collection donation form
new donation — copyright retention**

***State of Western Australia acting through its
Western Australian Herbarium, CALM (Herbarium)***

Name of donor:

Address:

.....

Phone: Fax:

Email:

Conditions of donation

10. I warrant that I am the absolute owner free from encumbrances of the copyright in the photographs that I am donating.

11. I wish to **retain the copyright** of my photographs.

12. I acknowledge that I retain the moral rights to be attributed as the creator of the photograph.

13. I permit the Herbarium (and thus the State of Western Australia) to use my photographs free of charge. This permission includes permission to reproduce, to publish, and to communicate to the public, the photographs (tick one).

only in composite images for display to, and “fair use” by, users of FloraBase. “Fair use” is defined in the site’s Copyright Statement at <http://florabase.calm.wa.gov.au/>; or

in any project considered relevant.

14. The photographs I am donating are described in the attached Photograph List.

15. I understand that original photographs in slide, print and negative format will be returned to me as soon as their digitisation has been completed.

Professional photographers

Tick the box if you would like us to forward to you any requests received by email for high-resolution copies of your photographs. (Limiting this to email will allow us to automate this option, you must supply a contact email address.) For walk-in enquiries at our front desk, please include some business cards with your donation form.

(Form continues over the page.)

Photograph list

Please attach a list of all photographs you are donating. Include the following information for each slide, negative, print or digital file you are including. This list will be stored with the donation form for future reference.

Photograph number – the number you, the donor, wish to use to identify a single photograph. It may be useful in any future communication with you about it. A format commonly used is your initials + a unique number, such as “ABC1234”;

Photograph date – the date on which the photograph was taken;

Collector’s name and number – only necessary when a specimen of the photographed plant (a “voucher” specimen) was taken and lodged in the Herbarium;

Plant identified by – the person who identified the plant in the photograph. Only necessary if the photograph was not vouchered (see Collector’s Name & Number above);

Plant name – the botanical name given to the plant in the photograph;

Filename – only necessary if the photograph is a digital file, e.g. a JPEG, TIFF or other digital image file.

Signature of donor: Date:

(Please retain a copy of the completed form and photograph list for your own reference.)

Return via:

Mail: Image Collection, Western Australian Herbarium, Dept of CALM, Locked Bag 104, Bentley Delivery Centre, WA 6983.

Fax: (08) 9334 0515 marked for the attention of Image Collection.

Email: herbarium@calm.wa.gov.au with the subject Image Collection Donation.

For office use only

Form number:

Part of accession number:

Photographs have been returned (sign):

Copyright statement

Publication or other use of information from FloraBase is unauthorised unless that use conforms to the policy set out below.

“Fair use” guidelines for the reproduction of FloraBase information

If your project or interest in re-using FloraBase information conforms to the following “fair use” guidelines you do **not** need to ask our permission.

- It has a demonstrable benefit to conservation of the Western Australian biota.
- The information will be used in a non-profit manner, e.g. a report/assignment/thesis/software for an educational institution, or similar materials within Government.
- For **descriptive text** up to ten species fact pages of text, and for **images** (including photographs and maps) up to three images, will be used in the whole project.
- The information will be used in a commercial setting **but** it does not form a substantial part of the final document, i.e. it is for a minor illustrative purpose.
- The images will be used as-is — cropping is not permitted.
- The information will not be used in a web site. Direct use in external web sites is not permitted. See [our policy on linking](#) for more information.
- A complete citation of FloraBase (as noted on our [About FloraBase](#) page) should appear in your materials;
- The contributor of each map, photograph and textual item should be acknowledged, the following examples set out the preferred wording. The acknowledgment should appear underneath the item.

For photographs (using *Banksia attenuata* as an example):

Photography by C. Hortin & J. Hooper. Image used with the permission of the Western Australian Herbarium, CALM (<http://florabase.calm.wa.gov.au/help/copyright>). Accessed on Monday, 30 August 2004

For maps:

Mapping by Paul Gioia. Image used with the permission of the Western Australian Herbarium, CALM (<http://florabase.calm.wa.gov.au/help/copyright>). Accessed on Monday, 30 August 2004.

For descriptive text:

Descriptions by the Western Australian Herbarium, CALM. Text used with permission (<http://florabase.calm.wa.gov.au/help/copyright>). Accessed on Monday, 30 August 2004.

The current date is included so that users of your information can see when it was printed, and return to FloraBase for the most up-to-date information. Reload the page if the current date is not shown.

Guidelines for other uses of FloraBase information

When a project does not fit the “fair use” guidelines (above), written permission must be obtained from the Western Australian Herbarium, Department of Conservation and Land Management. The written request should contain the following information, and should be received (and acknowledged by Herbarium staff) a month before the project’s deadline:

- A request is made in writing stating:
 - contact details for the project officer;
 - the project’s title and goals;
 - the project’s deadline;
 - the size, format and type of presentation for the project, for example: A4 printed posters;
 - the type of information being requested; and
 - a list of species for which information is requested.
- Postal address:
Western Australian Herbarium,
Locked Bag 104,
Bentley Delivery Centre WA 6983
Australia
- Email can be sent using our [copyright permission form](#).