National Copyright Unit

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**Creating Learning and Teaching Resources**

A copyright guide for TAFE resource developers

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27 July 2023

**Introduction**

TAFE resource developers create online learning materials and make these available to TAFE teachers and students. Many TAFEs offer a hybrid approach to learning, with students attending classes in person, as well as accessing content online and viewing online classes.

Some of the activities resource developers might be doing include:

* copying images to use in a Bachelor of Creative Industries (Visual Arts Course) and sharing the course content via the TAFE Teams platform
* copying a chapter from a textbook for a TAFE course on Permaculture and uploading this to the TAFE Canvas platform
* copying short video clips into the digital component of a course in Certificate III Health Administration, using the Moodle LMS
* copying clips of sound recordings to use in course materials as part of a Diploma of Music Industry (Sound Production) and sharing to the TAFE Connect Platform.

Generally, TAFE resource developers create online material to share within a password protected environment. Occasionally, you may wish to share these materials on a public site (eg on a TAFE’s public facing website). If this applies to you, see **Part D** of this guide.

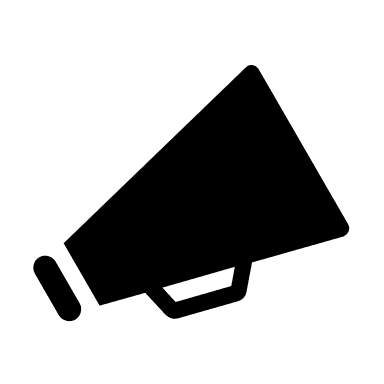
This copyright guide for resource developers will cover the following areas:

* Part A – Tips to follow when creating teaching and learning materials
* Part B – Seeking permission or relying on an existing permission to use third party materials
* Part C – Using third party materials under the statutory licences, the TAFE Music Licence or the education exceptions to copyright infringement in the Copyright Act (Education Exceptions)
* Part D – Uploading material to a public website
* Part E – Commercialisation of TAFE materials
* PART F - Attribution and Copyright notices
* Part G – TAFE Case Studies

When creating learning materials for students, we recommend resource developers:

* use material created by their TAFE and in which their TAFE owns copyright (either by creating new materials from scratch, or repurposing existing materials previously created by their TAFE)
* use Creative Commons (CC) licensed material where possible – ensuring they comply with the terms of the CC licence
* link to material created by others to avoid copying it (linking just provides a pathway to that material)
* apply copyright notices and properly attribute each resource
* when relying on the educational provisions, the statutory licences or the TAFE Music Licence, only make these resources available behind a password protected intranet or learning management system (LMS).

See the flowchart, ‘[Creating learning resources that include third party text and artistic works’](https://smartcopying.edu.au/flow-chart-creating-learning-resources-that-include-third-party-text-and-artistic-works-education-department-or-education-body/) for a visual representation of these issues.

**Quick Tip**

Throughout this guide, we will be including some quick tips at the bottom of each section. Lookout for the megaphone icon!

Note, the following material is designed to be a best practice guide for TAFE resource developers when developing materials. TAFEs can also [contact](https://smartcopying.edu.au/contact-us/) the relevant copyright manager in their jurisdiction or the [National Copyright Unit](https://smartcopying.edu.au/contact-us/) (NCU) for further information.

**PART A – Tips to consider when creating teaching and learning materials**

In summary, we recommend that resource developers use the following types of materials in creating their content:

* materials in which their TAFE owns copyright
* Creative Commons licensed or public domain materials
* materials that can be linked to (rather than copied) in the materials
* materials from which they have obtained permission from the copyright owner or a licence from the copyright owner.

We explain each of these options below.

Where one of these options is **not possible,** you could either rely on the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/) or the Educational Exceptions, which we cover in **Part C**.

* + 1. **Use material in which your TAFE owns copyright**

Using and repurposing materials in which your TAFE owns copyright (TAFE Owned Material) is a great way to manage copyright obligations. As long as the material doesn’t include any material (eg images or text) created by someone who is not an employee of your TAFE, then you can use it any way you like (eg upload it to a public website if needed), because your TAFE owns the copyright in that material.

When you use resources created by a TAFE you should always include your TAFE copyright statement to clearly indicate that the materials are owned by the TAFE. We discuss labelling more in **Part F**, below.

**1.1.2 Use Creative Commons licensed or public domain material**

If you want to use another person's or company's material in your resources, we encourage you to use:

1. **Creative Commons licensed materials**, which are free to access, modify and share (depending on the licence terms). For more information on the different CC licences, see [Quick Guide to Creative Commons](https://smartcopying.edu.au/quick-guide-to-creative-commons/)
2. **Materials in the public domain,** which are materials that are not protected by copyright (because their copyright protection has expired). These materials can be used by anyone without permission.

**Where can I find Creative Commons licensed material or public domain material?**

There are billions of CC licensed and public domain works across millions of websites and databases. We’ve listed some sources below, sorted by type of material, where you can make a start:

* [Openverse](https://wordpress.org/openverse/) is an open-source search engine for open content developed as part of the WordPress project. It searches CC licensed and public domain content from dozens of different sources. Openverse indexes over 600 million items. Openverse was previously the CC Search function on the Creative Commons website.
* [Wikimedia Commons](https://commons.wikimedia.org/) contains more than 87 million public domain and CC-licensed educational media files, included images, sound and video clips.
* [Flickr](http://flickr.com/) has over 300 million CC licensed high quality images.
* [Europeana](https://www.europeana.eu/en) contains digital resources of Europe’s museums, libraries, archives and audio-visual collections including paintings, drawings, maps, photos and pictures of museum objects.
* [Openphoto](https://openphoto.net/) is a moderated photo community with over 3000 CC licensed photos in different categories.
* [Bugwood Image Database System](https://images.bugwood.org/) has collections of openly licensed images relating to ecosystem health including forestry, invasive species, insects and weeds.

**Websites that offer free images under alternative licences to Creative Commons**

* [Unsplash](https://unsplash.com/license) is a photo community providing high quality images and photos, that can be downloaded and used for free for commercial and non-commercial purposes (note, while Unsplash doesn’t require attribution, we advise it is best practice to still do so).
* [Pixabay](https://pixabay.com/) offers high quality images that can be used for free for commercial and non-commercial purposes (note, while Pixabay does not require attribution, we advise it is best practice to do so, see an example of this below). Sometimes, Pixabay’s Terms of Service can change. If you want to use Pixabay images, we advise checking the [Terms of Service](https://pixabay.com/service/terms/) and [Licence](https://pixabay.com/service/license/) to ensure the images can still be used for free, or contacting the NCU first.

**Example attributions for Unsplash and Pixabay:**

**Unsplash**

*‘[insert name of image and contributor] has been reproduced in accordance with the* [*Unsplash Licence*](https://unsplash.com/license) *on [insert date]’.*

**Pixabay**

*‘[insert name of image and contributor] has been reproduced in accordance with the* [*Pixabay Licence*](https://pixabay.com/service/license/) *on [insert date]’.*

The attributions above hyperlink to the Pixabay and Unsplash licence terms on their websites.

* + 1. **Creating an image bank of CC licensed materials**

When searching for CC licensed images to use in learning resources, a good idea is to maintain an ‘image bank’ or folder of high quality photos, pictures and/or diagrams licensed under CC and relevant to a particular topic. This way, you and other resource developers can easily access these in the future. You should also keep attribution details of any CC licensed image you use.

Where TAFE resource developers create their own images or diagrams, we encourage those materials to be licensed under CC (CC BY), so that other resource developers can use these in their resources.

**ClipArt**

* [CLKER.com](http://clker.com/) is an online sharing service where users share free public domain vector clipart.
* [OpenClipart](https://openclipart.org/share) is an online media collection of more than 160 000 vectorial graphics entirely in the public domain.

**Film clips**

* [YouTube clips](https://smartcopying.edu.au/how-to-find-creative-commons-material-using-youtube/) try searching for CC licensed videos by using the ‘Filters’ option on the results page after you do a search on YouTube.
* [Public domain files](http://www.publicdomainfiles.com/) is a repository of various types of images and videos that are in the public domain.

**Sound clips or recordings**

* [Jamendo](https://www.jamendo.com/en) is an active community offering more than 350,000 free music tracks that are CC licensed.
* [Freesound](https://freesound.org/) is a good source of sound effects and background noises, all available for reuse.
* [Art Song Central](https://artsongcentral.com/) is an archive and directory of public domain sheet music for singers and voice teachers.
* [Filmmusic](https://filmmusic.io/) is a website with all CC licensed music, available to search by genre.

For more places to find CC licensed works, see [How to Find Creative Commons Licensed Material](https://smartcopying.edu.au/how-to-find-creative-commons-licensed-materials/) and [Where to find OER Materials](https://smartcopying.edu.au/where-to-find-oer-materials/).

* + 1. **Link or embed**

Providing or embedding links to material is a great way for resource developers to direct teachers, students or their parents to content. By including a link, you are providing a path to the material’s location on another website (rather than reproducing it in your own materials), and this is not a copyright activity. For example, if you want to include a YouTube video on [‘Occupational Health and Safety in the Construction Industry’](https://www.youtube.com/watch?v=f5kGn963c84) as part of a course on Civil Construction, consider including a link to the video in the course materials rather than the video itself.

* + 1. **Use as Inspiration**

If you find useful material that has been created by others, you could use it as inspiration to create your own original content. For example, a resource developer may want to develop some factsheets on food safety, to be used in a Certificate III Course in Commercial Cookery. They could look at a number of different examples online and then create their own from scratch.

However, this is not to say you can [copy](https://smartcopying.edu.au/glossary/copy/) the material in any way (including its form or layout), unless you are relying on one of the educational licences or exceptions that would allow you to do this. You should ensure that what you create is your own work and has been created *independently by you*.

**1.1.6 Insubstantial copying**

You may be able to use an insubstantial part of third party material when creating your resources, without needing to rely on the [statutory licences](https://smartcopying.edu.au/glossary/statutory-licences/) or obtaining permission from the copyright owner. This is because you only infringe copyright in material when you use a substantial part of that material.

What is considered ‘insubstantial’ will vary depending on the circumstances. It isn’t just about how much you copy. It will also depend on how distinct or important that extract is to the overall work. A few lines of a book will probably be okay. However, a few lines of an iconic song may not be.

Even if you are using an insubstantial amount, attribution is still required. You must provide citations for any portions you use (title, author, and source). If you are only using an insubstantial amount, this also means you might be able to upload this to a public facing website.

When in doubt, we strongly recommend that you assume that the part you are taking is substantial, particularly when uploading to a public website, and seek advice from the [NCU](https://smartcopying.edu.au/contact-us/).

**1.1.7 Seeking permission**

TAFE Resource developers may want to use third party materials in their resources and share the final product in different ways. Where resource developers want to use third party materials that are not covered under a CC licence or in the public domain, they may be able to obtain permission from the copyright owner of those materials.

TAFEs/TAFE administering bodies do not pay copyright fees when relying on permissions to use materials (unless the TAFE/TAFE administering body has agreed to pay a licence fee). Seeking permission also provides greater flexibility to content creators as they can often share their materials in different ways.

Some tips on seeking permission or relying on an existing permission to use third party materials are set out in **Part B**.

**1.1.8 License the materials you create under a Creative Commons licence**

There is a growing trend in the schools and university sectors to licence the educational materials they create under a Creative Commons (CC BY) Licence. CC licensed materials are free to access, use, modify and share. Creative Commons licences also encourage collaboration, innovation and the creation of communities based on the sharing of education resources. TAFEs may want to consider licensing their materials under a CC Licence, depending on the circumstances. Licensing under CC means that TAFE materials could be shared with industry partners, and other entities more easily.

TAFEs can [contact](https://smartcopying.edu.au/contact-us/) the NCU for more information or see **Attachment A**, ‘Licensing TAFE materials under a CC licence.’

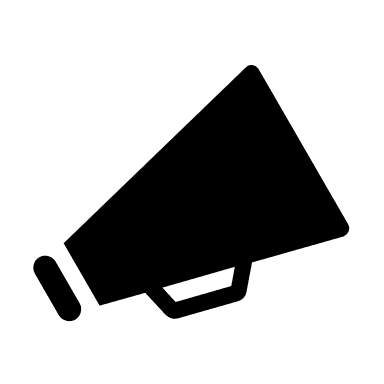
Remember, if you are using any third-party materials in your resources, unless you obtain permission (see **Part** **B**), these cannot be licensed under a CC Licence and will need to be excluded. For more information on how to label this third-party material, see **PART F**.

**Part B - Seeking permission or relying on an existing permission to use third party materials**

**2.1.1 Permission**

The permission you seek from the copyright owner to use third party materials in your resources can have a particular scope – this may be narrow or broad. For example, you may seek permission from a copyright owner to use their work:

* in all TAFE institutes within a particular jurisdiction (eg NSW)
* just in the classroom at one particular TAFE institute
* in the school sector as well as your TAFE jurisdiction
* at all TAFEs in Australia, (such as when certain Training Packages and qualifications are changed or updated and specific industry bodies have information TAFEs require)
* in a resource that you wish to license under creative commons

**Quick Tip**

When you seek permission to use third party materials in your learning resources, it is important that this permission is wide enough to cover how a TAFE wishes to use the materials both now and in the future. Resource developers can also [contact](https://smartcopying.edu.au/contact-us/) the relevant copyright manager in their jurisdiction to confirm any specific guidelines around seeking permission that apply within their jurisdiction.

**How do I seek permission?**

Seeking permission involves identifying the copyright owner of the material you want to use and sending them an email to request permission to use the materials for educational purposes. You should seek and receive permission in writing and keep a copy of the permission on file for future reference, preferably in a central register of permissions that all staff at your TAFE can access.

You can use the [permission](https://smartcopying.edu.au/guidelines/permissions-and-consents/permissions/) templates on the Smartcopying website and adapt these to suit your particular circumstances. It is important that in any permission request, you ensure you include the following points:

1. clearly describe the specific material you wish to use (eg include the name and title, or a link or screenshot)
2. explain the purpose for which you wish to use the work (eg for the educational purposes of your TAFE jurisdiction)
3. explain that you are seeking a gratis permission (ie no payment)
4. ask how the copyright owner would like to be attributed
5. request permission to copy the materials into your resources and communicate them, including via email and on websites and other learning platforms
6. ensure that any future or particular use of the materials is provided for in the permission, see below for some example scenarios.

Where you do obtain permission to use materials, you will need to ensure the material is clearly labelled and you otherwise comply with the terms and conditions of the permission.

See **Part F and** **Attachment D** ‘Quick Guide to Labelling Third-Party Materials’.

**Using materials in resources the TAFE wants to commercialise**

If TAFEs are wanting to commercialise their resources, this is a more complex process, and we suggest you [contact](https://smartcopying.edu.au/contact-us/) the NCU to discuss your options. For more information on Commercial Activities, see **Part E** of this guide.

**Using materials in resources that will be used in future collaborations with other TAFEs**

A TAFE resource developer may wish to use materials from third parties to not only *create* their resources but *share* them with TAFEs in other jurisdictions for collaboration purposes. For example, a resource developer may wish to use Pilbara Minerals' manual of operations, as part of a Certificate III in Mining Exploration. In this instance, the TAFE should seek permission from Pilbara Minerals to do so and ensure that the permission covers not just the initial copying of the manual of operations, but also subsequent sharing to and use by other TAFE students in other Australian jurisdictions.

**Where TAFEs/TAFE Administering Bodies already have permission**

Many TAFEs/TAFE administering bodies may already have permission to use other people’s materials in their resources. It is worth checking with your department/TAFE administering body first to see if there is a list of these materials that may be available to you.

**Requesting that content be licensed under Creative Commons**

It may be appropriate in some circumstances to request that the copyright owner makes its materials available under a Creative Commons licence. This might be where:

* materials are publicly available on a government website, in an industry relevant to TAFEs. For example, a [‘Safe handling of raw egg products’](https://ww2.health.wa.gov.au/Articles/S_T/Safe-handling-of-raw-egg-products) fact sheet on the Government of Western Australia, Department of Health website
* materials are publicly available on a private company’s website, in an industry relevant to TAFEs. For example, on the Iluka Mining website, a publicly available fact sheet on [‘Rare Earth Products’](https://iluka.com/products-markets/rare-earth-products).

You can [contact the NCU](https://smartcopying.edu.au/contact-us/) for assistance with this process.

**Inconsistent or confusing website terms and conditions**

Sometimes material on websites can appear to be licensed under Creative Commons, but the website terms and conditions appear contradictory or overly restrictive. If this is the case, you can [contact the NCU](https://smartcopying.edu.au/contact-us/) and we can clarify.

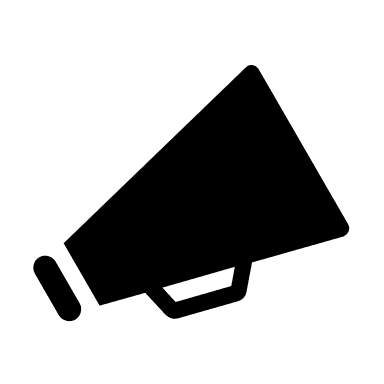
**2.1.2 Using content under subscriptions such as Getty images**

Your TAFE or TAFE jurisdiction may have a subscription to use content from platforms like Getty images, or Adobe Stock photos. *How* you can use content under these subscriptions will depend on the terms and conditions of the subscription. For example, the terms may only allow you to make an initial copy of an image to include in a resource. But they may not cover subsequent use of that image by teachers in the TAFE classroom.

If you are going to use images under a subscription from Getty, Adobe or similar platform, you should ensure that the terms and conditions provide your TAFE (and other TAFEs or institutions, if the resources will be shared with other TAFEs) permission to subsequently reproduce and otherwise use these images once they have been included in a resource.

If the subscription does not allow for this, then you will need to obtain permission (see above under 2.1.1 on how to obtain permission).

If you can't obtain this permission then your TAFE will only be able to use the image in accordance with the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/) (discussed more in **Part C**) or other Education Exceptions. If that is the case, then we would recommend looking to see whether there are CC licensed materials that could be used instead in the first instance.

**Quick Tip**

Departments/TAFE Administering bodies can request that a copyright owner consider licensing their material under a Creative Commons licence. This way, those materials can be used by the resource developer(s) and shared freely.

**PART C – Using third party materials under the statutory licences, the TAFE Music Licence or the Education Exceptions**

**3.1.1 Third party materials**

If you are reproducing third party material (which are not licensed under [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) or in the public domain and for which you don’t have permission from the owner) to include in your resource, you may be able to rely on the [statutory licences](https://smartcopying.edu.au/glossary/statutory-licences/) and/or the education [copyright exceptions](https://smartcopying.edu.au/guidelines/copyright-basics/copyright-exceptions/). However, you need to ensure that you comply with the relevant conditions of the [statutory licences](https://smartcopying.edu.au/glossary/statutory-licences/) or [copyright exceptions](https://smartcopying.edu.au/guidelines/copyright-basics/copyright-exceptions/). You can use the following categories of material under the licences and exceptions.

**3.1.2 Text and Artistic Works**

TAFE resource developers can rely on the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/) to copy text and artistic works and include those in their learning materials, provided that:

1. this is done for an educational purpose of their TAFE
2. access is restricted to teachers and students (for example, if the resource is made available online it should be password protected)
3. the amount of work copied does not unreasonably prejudice the legitimate interests of the copyright owner. There is no hard and fast rule about how much of a work can be copied under this licence. For detailed information on copying limits under the licence, see the Statutory Text and Artistic Works Licence. Copying or communicating less than 10% or one chapter is a useful guide in making this assessment for resources that are still commercially available.

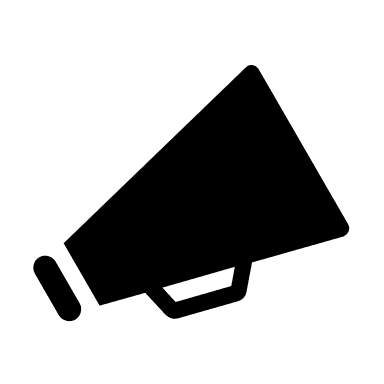
Depending on the type of text and artistic works you wish to use, sometimes it will be preferable to seek permission directly from the copyright owner to use materials rather than rely on the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/). This is because TAFEs have to pay equitable remuneration for any uses made in reliance on the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/).

See Seeking Permission under **Part B**, above for further guidance.

**Standards Australia**

TAFE resource developers may be able to rely on the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/), to copy Australian Standards into their learning materials, provided that they comply with the steps set out above. Copying or communicating less than 10% or one chapter is still a useful guide in making this assessment for resources that are still commercially available.

Note, if TAFEs do want to rely on the [Statutory Text and Artistic Works licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/) to copy materials from Standards Australia, they should first get in touch with the [NCU or their local copyright manger](https://smartcopying.edu.au/contact-us/).

**Quick Tip**

Remember to attribute materials copied under the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/) as follows:

‘*Used under s 113P of the Copyright Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act. Do not remove this notice. Ralph Berry, Frank Cahill, Phillip Chadwick, ‘Electrical Trade Practices’ Cengage Learning Australia, 2019.’*

**3.1.3 Music – sound recordings and musical works**

TAFE resource developers can rely on the [TAFE Music Licence](https://smartcopying.edu.au/guidelines/education-licences/tafe-music-licence/) to copy sound recordings (and incorporate those into learning materials they are creating), perform sound recordings in public and communicate sound recordings for particular purposes.

For example, they may wish to include a sound recording in a presentation as part of a Certificate III in Music Industry, or as part of a Diploma of Music (Sound Production).

The TAFE can also share these resources in the following ways:

* uploading the resource to the TAFE website, or a site with restricted access to staff and students, such as the TAFE website, a password protected intranet or password protected DTE
* emailing or providing a physical copy of (such as on a USB device) the resource to students
* uploading the resource to an educational app being used for TAFE communications (for example, via SkillsLocker).

For more information see [TAFE Music Licence](https://smartcopying.edu.au/guidelines/education-licences/tafe-music-licence/).

**3.1.4 Radio & Television Broadcasts**

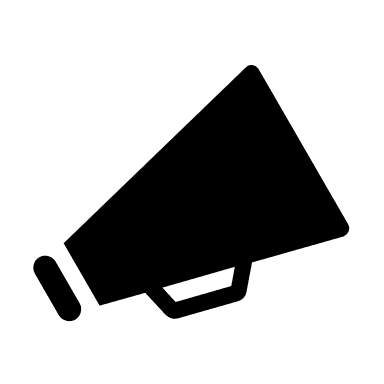
**TAFEs in WA and Bradfield Senior College**

For TAFE resource developers in WA (and resource developers at Bradfield Senior College in NSW), you can rely on the [Statutory Broadcast Licence](https://smartcopying.edu.au/guidelines/education-licences/statutory-broadcast-licence/) to copy television and radio broadcasts from free-to-air television and radio and communicate *that copy* for educational purposes, provided that access to the copy is restricted (eg if the material is uploaded to the TAFE intranet, which is password protected). This licence also extends to catch-up TV, provided the program has already been broadcast.

You can either:

1. make a copy of the broadcasts yourself (eg through use of a set top box, or doing a 'screen recording' on your laptop), or
2. if your TAFE has a subscription to an external resource centre (eg ClickView), rely on this resource centre to make the copy and make it available to access online.

For more information see ‘[Radio and Television Broadcasts’](https://smartcopying.edu.au/guidelines/radio-and-television-broadcasts/).

**Quick Tip**

If you make the copy yourself (ie. scenario (1) above), you need to appropriately attribute the broadcast copied under the [Statutory Broadcast Licence](https://smartcopying.edu.au/guidelines/education-licences/statutory-broadcast-licence/). See **Part F**.

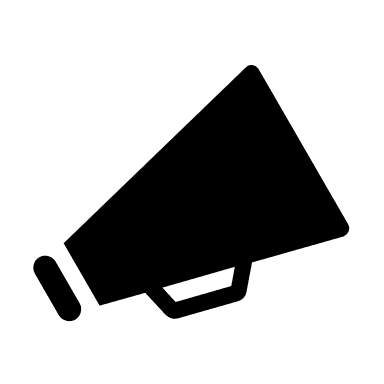
**All other jurisdictions**

TAFE resource developers in other jurisdictions are not covered by the [Statutory Broadcast Licence](https://smartcopying.edu.au/guidelines/education-licences/statutory-broadcast-licence/), and cannot make copies of radio and television broadcasts. However, in certain circumstances they may be able to make copies of clips from films or YouTube to include in learning resources (see below for more information).

**3.1.5 Film**

It may be possible in certain circumstances for TAFE resource developers to make a copy of a whole film, or excerpts of a film for a specific educational purpose under the [flexible dealing exception](https://smartcopying.edu.au/flexible-dealing/) in the Copyright Act (s 200AB). For example, they may want to copy a documentary on acupuncture, as part of a Diploma of Health Science – Traditional Chinese Medicine and upload this to the Department or TAFE administering body’s password protected LMS. Whether the exception applies will need to be assessed on a case-by-case basis.

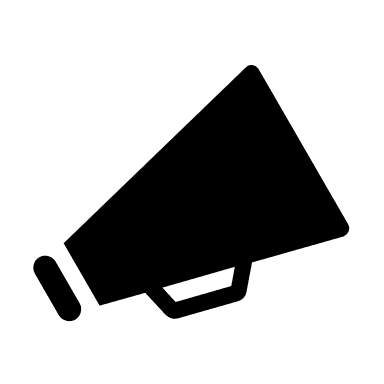
Please [contact the NCU or your local copyright manager](https://smartcopying.edu.au/contact-us/) first to discuss your circumstances.

**Quick Tip**

Linking to or embedding the content of a film (rather than making copies of the film) is a great way to provide access to this material and manage copyright obligations, as linking is not a copyright activity. See heading 1.1.5 in **Part A** above.

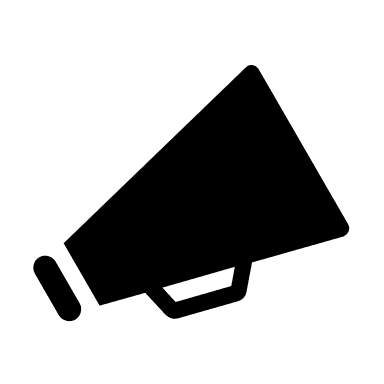
**3.1.6 YouTube**

TAFE resource developers may want to use whole or short extracts of YouTube clips in their materials. For example, they may want to copy short clips of different exercises to include in course material as part of a Certificate IV in Fitness.

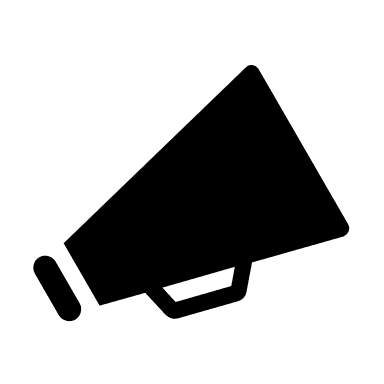
**Quick Tip**

Linking to or embedding the content on YouTube (rather than making copies of YouTube clips) is a great way to provide access to this material and manage copyright obligations, as linking is not a copyright activity. See heading 1.1.5 in Part A above. If you need to make a copy of the YouTube clip to include in your teaching and learning resources, this may be possible in limited circumstances under the flexible dealing exception (s 200AB).

As noted above, whether the exception applies will need to be assessed on a case-by-case basis. Please [contact the NCU or your local copyright manager](https://smartcopying.edu.au/contact-us/) first to discuss your particular circumstances.

**Quick Tip**

If you choose to rely on the [statutory licences](https://smartcopying.edu.au/glossary/statutory-licences/) or the educational use [copyright exceptions](https://smartcopying.edu.au/guidelines/copyright-basics/copyright-exceptions/), you can never make that material available on a public website.

**Quick Tip**

You should be aware that reliance on the [statutory licences](https://smartcopying.edu.au/glossary/statutory-licences/) for materials has significant cost implications for the TAFE sector. Where possible, it is always better to create your own content or use material licensed under [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/).

**PART D – Publishing material to a public website**

Occasionally, TAFE institutes may choose to make resources available on public websites/social media platforms, which anyone, anywhere in the world can access. TAFE should take extra care when doing so and follow the guidance on what they can publish online below**.**

**4.1.1 What you can publish online**

Subject to 4.1.2 below, the only material you can publish to a public website is:

(i) material in which the copyright is owned by the department/TAFE administering body  
(ii) third party material:

* that has been licensed under [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/)
* is in the public domain
* which you have express permission to publish online from the copyright owner.

It is okay to provide *links* to material created by others on public websites rather than publishing copies of the material.

You **cannot** rely on the [statutory licences](https://smartcopying.edu.au/glossary/statutory-licences/) or educational use copyright exceptions in the Copyright Act to publish content to public websites/social media platforms. You would instead need to rely on one of the options in (i) and (ii) above. For example, the TAFE Music Licence does permit the upload of musical works and sound recordings to public websites and social media platforms in certain circumstances.

See [Music Copyright Guide for TAFEs](https://smartcopying.edu.au/music-copyright-guide-for-tafes/).

**PART E – Commercialisation of TAFE Resources**

**5.1.1 Creating new resources or using existing resources to commercialise**

Sometimes, TAFEs may want commercialise their resources and training materials, (ie license these to another entity for profit) for a profit, to other educational institutions or entities. These may include:

* TAFE jurisdictions
* universities
* registered training organisations (RTOs)
* foreign institutions
* education departments and
* schools.

If TAFEs want to create new resources to sell for a profit, we recommend they only use the following types of materials:

* TAFE owned materials
* Creative Commons licensed materials (note they cannot use materials licensed under a CC Non-Commercial licence)
* linked materials (as mentioned above, linking is not a copyright activity, as it is just providing provides a pathway to the material)
* where the TAFE has obtained permission directly from the copyright owner (see **PART B** above on how to do this). For example, a TAFE resource developer wishes to use a series of diagrams that demonstrate the use of chemical solutions as part of a Certificate IV in Laboratory Techniques. The resource developer (or the TAFE staff member who is responsible for managing permissions) asks the publisher for permission to use the diagrams, and for that permission to extend to the use in materials that will be commercialised and sold or licensed to other TAFES. If the publisher agrees, the permission should allow for this use.

If TAFES want advice on using other materials in a way not covered in the list of materials above when commercialising their resources, they should [contact either their TAFE Copyright Advisory Group representative or the NCU](https://smartcopying.edu.au/contact-us/) to discuss their particular circumstances.

**PART F – Attribution and copyright notices**

When preparing resource materials, it is important to identify and clearly label all materials in which copyright is *owned by a department/TAFE administering body*; and all materials in which the copyright is *owned by third-parties*.

When labelling, you should always:

(i) attribute each individual resource, and, where possible, each individual page or element of a resource (if pages of materials are downloaded out of a larger resource, it means these resources can still be clearly identified)   
(ii) include an appropriate copyright notice on the home page of the website or intranet.

For examples of best practice attribution/copyright notices see **Attachment C**.

**6.1.1 Attribution**

How exactly you attribute the material will depend on what the material is (ie text, image or video) and the basis on which you are able to use it. For example, the following will influence how you attribute the material:

* whether it is owned by the department/ TAFE administering body
* whether you have obtained permission from the copyright owner
* whether you are relying on an educational use provision
* whether it is licensed under [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/)
* whether you are relying on a [statutory licence](https://smartcopying.edu.au/glossary/statutory-licences/).

Attribution is important to ensure TAFEs don’t inadvertently pay licence fees for material they already own or are allowed to use (such as department/TAFE administering body created content). It also makes it clear to the relevant user of the content how exactly they can use the material.

Refer to **Attachment C** for examples of how to attribute your materials. Further information is also available at: ‘[Labelling and Attributing (TAFE)](https://smartcopying.edu.au/labelling-and-attribution/)’.

**PART G – TAFE Case Studies**

**Case Study 1 – I am creating a resource for a Certificate II Applied Language (Japanese) course. I want to use simple images in the document that correspond to different expressions of emotions. Where should I source the images from?**

A large portion of copyright fees paid by departments/TAFE administering bodies are due to the use of  [images found on the internet](https://smartcopying.edu.au/using-stock-image-libraries-and-images-from-the-internet-what-am-i-allowed-to-do/). While the department/TAFE administering body may be able to rely on the Statutory Text and Artistic Works licence to use an image found on the internet in this scenario, when they do, these images are captured in the copyright surveys and the department/TAFE administering body pay a licence fee.

If you are using images from the internet in your resource, it is preferable to use images licensed under a [Creative Commons](https://smartcopying.edu.au/quick-guide-to-creative-commons/) licence, particularly if these are generic images (ie images of faces or emotions) as these images are free to use.

For more information on Creative Commons, refer to 1.1.2.

**Case Study 2 – I am creating materials for a Certificate III course in Electrotechnology Electrician. The course requires reference to the book *Electrical Trade Practices* by Ralph Berry, Frank Cahill, Phillip Chadwick and P. Phillips. I want to use small excerpts from the first chapter of the book in my course materials. Should I seek permission or rely on the Statutory Text and Artistic Works Licence?**

If you are using a few small excerpts from a textbook to include in course materials for a short period of time (ie for a particular course, over a semester, rather than for a number of years, and where the likelihood of subsequent copying is low), it is usually fine to rely on the [Statutory Text and Artistic Works Licence.](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/) Just make sure you follow the steps set out above (e.g. access should be restricted to students in the course).

**Case Study 3 – I want to copy different sound recordings of snippets of popular songs, to use in a presentation as part of a Bachelor of Contemporary Music. Can I copy and share these with my students?**

Yes. TAFE resource developers can copy sound recordings into a presentation, under the [TAFE Music Licence.](https://smartcopying.edu.au/guidelines/education-licences/tafe-music-licence/) These materials can then be shared in different ways, for example, by uploading to a password protected intranet or DTE, emailing to students or uploading to an app the TAFE uses for communicating with students such as Skillslocker.

**Case Study 4 – I want to copy a few excerpts of text from a website, the** [**Australian Culinary Federation**](https://www.austculinary.com.au/)**, into a resource as part of a course in Hospitality. Can I do this?**

Yes, TAFE resource developers can rely on the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/) to copy a few small excerpts or snippets of text from the Australian Culinary Federation, for inclusion in a course on hospitality. This could also be uploaded to a TAFE LMS for TAFE teachers and students of the relevant hospitality course to access (provided the content was kept behind a password and access was only provided for the period needed by the students).

**Case Study 5 – A resource developer has a personal subscription to the NYT cooking app, and wants to copy a recipe ‘Spiced Chickpea Stew with Coconut and Turmeric’ by Alison Roman, into a resource for a Certificate IV in Commercial Cookery, as part of an exercise on the rise and fall of the Instagram chef. Are there any copyright issues associated with this?**

Yes, the resource developer can rely on the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/) to copy one recipe and insert it into the resource, even if this is from a staff member’s personal subscription to the NYT cooking app (and the terms and conditions of the NYT are more restrictive). Another option would be to simply provide a link to the recipe, as linking is not a copyright activity.

**Further Information**

If you have questions or need guidance, please contact the National Copyright Unit:  
Tel: 02 7814 3855  
Email: [smartcopying@det.nsw.edu.au](mailto:smartcopying@det.nsw.edu.au)  
[www.smartcopying.edu.au](http://www.smartcopying.edu.au)

**Attachment A**

**Licensing TAFE materials under a Creative Commons licence**

We know that there are some circumstances where TAFEs may be reluctant to license their materials under a Creative Commons licence. For example, TAFEs may be concerned about:

1. another TAFE institute or entity failing to properly attribute the TAFE’s materials
2. particular use where there is competition with different education providers. For example, there may be competition between TAFE Institutes and RDOs in terms of the content they provide.

**Solutions**

When licensing their materials under a Creative Commons licence, TAFEs should be very clear about their attribution requirements. Attribution is a licence condition of all Creative Commons licences. See **Attachment C** for example attribution templates you can use.

If TAFEs have concerns with the way other TAFE institutes might use their materials, they can address this by choosing a particular creative commons licence that has appropriate restrictions. For example:

* they could release their materials under a [Creative Commons Share Alike Licence](https://creativecommons.org/licenses/by-sa/4.0/) (CC BY SA) (which means that where a TAFE uses another TAFE’s materials in their own content, it must also release these under a Creative Commons licence)
* they could release their materials under a [Creative Commons Non-Commercial licence](https://creativecommons.org/licenses/by-nc/4.0/legalcode) (CC BY NC), which restricts another TAFE from commercialising their material.

**Proper attribution under CC licences**

Where TAFEs do license their materials under a CC licence, if this material is then used by a private enterprise or another jurisdiction, there is a requirement under the licence for the TAFE to be properly attributed.

**Where TAFE materials have been modified**

TAFEs can also include in their attribution requirements for other jurisdictions or private entities to clearly label where their materials have been modified. TAFEs can include sample wording in their attribution, similar to the following:

‘if you have modified TAFE WA materials, preface the attribution with the words ‘Modified from’, eg:

Modified from ‘*Course Guide to Aviation Management, 2022*’ © Department of Education and Training, TAFE WA 2022, licensed under [CC BY 4.0](https://creativecommons.org/licenses/by/4.0/)

If you have any concerns around releasing your TAFE owned content under a CC licence, we encourage you to contact the NCU to discuss your particular circumstances and how we can assist.

**How do I license my materials under a CC licence?**

To license TAFE materials under a Creative Commons licence, just include the Creative Commons logo at the bottom of each individual resource. The CC logo indicates what kind of licence the material is released under. Usually this will be in a footer of the pages of your resources or publications, or at the bottom of your TAFE website.

It is important to have the Creative Commons logo as a footer (on each page) of your resource, or at the bottom of each page of your website. This means the notice travels with each page, rather than just sitting on the copyright statement or on the homepage. It makes it clear that the resource is CC licensed even if only sections of it are taken out and used.

**There are two easy ways to do this:**

1. If you are creating resources or publications, copy and paste the Creative Commons logo into your resource or,
2. If you are creating materials to be shared on a website, insert the HTML code. The HTML code can be found on the [Creative Commons Licence Chooser Website](https://creativecommons.org/choose/).

For a comprehensive step-by-step guide to both these processes, see [Applying a Creative Commons Licence](https://smartcopying.edu.au/applying-a-creative-commons-licence/) on the Smartcopying Website.

For template best practice notices see [Recommended Creative Commons Website and Publication notices](https://smartcopying.edu.au/recommended-creative-commons-website-and-publication-notices/) on the Smartcopying Website.

You should not rely on the terms of use of your website when you are making resources available under Creative Commons, because if a resource is downloaded or printed, the Creative Commons notice needs to be visible on the resource itself. Including or embedding the Creative Commons notice in resources also enables educators to find your resources when they search for [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) licensed material. For information on how to properly attribute your own material see **Part F** of this guide.

An example of a simple [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) notice in the footer of your resource might look like the following:

© State of WA (Department of Training and Workforce Development), 2022.



**Attachment B**

**Sample Permission Requests – TAFE**

**1. Sample email requesting permission (if verbal permission provided)**

Example of wording to be sent as an email:

Dear [name of copyright owner],

Thank you for speaking with me and agreeing to provide permission for [TAFE/TAFE administering body] to use, reproduce, [publicly perform – if a musical work or sound recording] and communicate [name or description of work(s)] (‘Works(s)’) for [insert intended use] (‘Purpose’).

So that we have it in writing, will you please confirm via reply email that you own all of the intellectual property rights in the Work(s) and that you grant [TAFE/TAFE administering body] a non-exclusive, royalty free, perpetual licence to use, reproduce, [publicly perform – if a musical work or sound recording] and communicate the Work(s) for the Purpose. Please also tell us how you would like to be attributed as author of the Work(s).

Should you have any questions, please do not hesitate to contact me on [contact details].

Thank you again for your assistance.

Kind Regards,

[Name  
Title]

**2. Sample email requesting permission (if no prior contact)**

Example of wording to be sent as an email:

Dear [name of copyright owner],

I am writing on behalf of the [insert TAFE/TAFE administering body] to request permission to use, reproduce [publicly perform – if a musical work or sound recording] and communicate [name or description of work(s)] (‘Work(s)’) for [insert intended use] (‘Purpose’).

Will you please confirm via reply email that you own all of the intellectual property rights in the Work(s) and that you grant [insert TAFE/TAFE administering body] a non-exclusive, royalty free, perpetual licence to use, reproduce, [publicly perform – if a musical work or sound recording] and communicate the Work(s) for the Purpose. Please also tell us how you would like to be attributed as author of the Work(s).

If you are not the rights holder of the Work(s), we would appreciate it if you would provide us with any contact information you have about the rights holder.

If you require any additional information regarding this request, please contact [name and unit] on [insert phone number] or [insert email address]. If you require further information regarding copyright, please contact the National Copyright Unit on 02 7814 3855 or [smartcopying@det.nsw.edu.au](mailto:smartcopying@det.nsw.edu.au).

Kind Regards,

[Name  
Title]

**3. Sample letter to request permission**

[NAME  
TITLE  
ORGANISATION  
ADDRESS]

[DATE]

Dear [TITLE AND SURNAME]

[NAME OR DESCRIPTION OF WORK]

I am writing on behalf of the [TAFE/TAFE administering body] to request permission to use, reproduce, [perform – if a musical work or sound recording] and communicate the work, [NAME OR DESCRIPTION OF WORK] (“Work”) for inclusion in the following publication:

[INSERT INTENDED USES, INCLUDING WHETHER THE WORK WILL BE PASSWORD PROTECTED]

(“Publication”)

If you agree to grant the requested permission, please complete and sign the attached form and return a copy to [NAME AND UNIT] at the following email address [INSERT EMAIL ADDRESS].

If you are not the rights holder of the Work, we would appreciate it if you would provide us with any contact information you have about the rights holder.

If you require any additional information regarding this request please contact [NAME AND UNIT] on [INSERT PHONE NUMBER] or [INSERT EMAIL ADDRESS]. If you require further information regarding copyright, please contact the National Copyright Unit: 02 7814 3855 or smartcopying@det.nsw.edu.au.

Yours Sincerely,

[NAME  
TITLE]

**4. Sample permission request form**

|  |  |
| --- | --- |
| Work | [INSERT NAME OR DESCRIPTION OF WORK] |
| Year the Work was created | [INSERT YEAR] |
| Name | [INSERT NAME] |
| Company / Organisation | [INSERT COMPANY OR ORGANISATION NAME, IF APPLICABLE] |
| Address | [INSERT ADDRESS, IF KNOWN] |
| Telephone Number/s | [INSERT TELEPHONE NUMBERS, IF KNOWN] |
| Email address | [INSERT EMAIL ADDRESS, IF KNOWN] |

Please indicate the permission granted by ticking the appropriate box.

I confirm that I own all intellectual property rights in the Work, and I grant the following rights to [TAFE/TAFE administering body] on a royalty free basis for the full term of the Work’s copyright:

* I authorise the [TAFE/TAFE administering body] to use, reproduce, [perform – if a musical work or sound recording] and communicate the Work for the purposes of [EDUCATIONAL BODY].
* I authorise the [TAFE/TAFE administering body] to use, reproduce, [perform – if a musical work or sound recording] and communicate the Work for the following purposes only: [INSERT PURPOSES]

Please credit me as follows:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* I do not authorise the [TAFE/TAFE administering body] to use, reproduce, [perform – if a musical work or sound recording] or communicate the Work.
* I do not own the intellectual property rights in the Work. The contact details of the rights holder are as follows:

Information contained on this form has been collected in order to administer educational programs for students in the [TAFE/TAFE administering body’s] schools. Any personal information will be stored, used and disclosed in accordance with the requirements of the Privacy Act 1988 (Cth).

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Date:\_\_\_\_\_\_\_\_\_

**Attachment C**

**Examples of TAFE Copyright Notices/Attribution**

**Example 1: Labelling TAFE/educational body owned material licensed under a CC licence.**

Note this could be placed below the material or as an end credit for videos and as a footer on every page for [text](https://smartcopying.edu.au/glossary/text/) based material:

[Basic Soldering Video TAFE NSW](https://www.youtube.com/watch?v=QUR7wyZFak0) is licensed under a [Creative Commons Attribution-NonCommercial-ShareAlike 3.0 Licence](https://creativecommons.org/licenses/by-nc-sa/3.0/).

Attribution: © TAFE NSW 2023 – ‘Basic Soldering Video TAFE NSW’ licensed under a CC BY NC SA Licence.

**Example 2: Attributing TAFE/educational body owned material which also contains third party material**

a) Notice directly under the third party content

‘P,Taylor, 2022,‘Native Plants of WA’, © Insite Publishers. Used with permission.’

b) General notice that includes all third party, non-Creative Commons licensed content

‘All material on this website, except as identified below, is licensed under the Creative Commons Attribution 4.0 International Licence. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/4.0/>.’

Material that is not licensed under a Creative Commons licence is:

* + Photographs on pages 4-6
  + Poem on page 2
  + Video footage

You must request permission from the copyright owner to use any of the material not licensed under Creative Commons.

**Example 3: Print material used under the Statutory Text and Artistic Works Licence**

“Copied under s 113P [insert author, title, publisher, edition or date of publication, ISBN/ISSN]”

Copied under s 113P J. B. Fitzpatrick, Bob Aus, Merv Curran, New Senior Mathematics, Pearson Australia, 25/06/2013, 9781442566187

**Example 4: Online material used under the Statutory Text and Artistic Works Licence**

Copied Under s 113P, <https://www.instagram.com/p/ByqiTzTpto6/?igshid=11p4m7395ib3q>, The Printed Paw, accessed 18 May 2022

[Link to warning notice]

**Example 5: Material used under the Statutory Broadcast Licence (WA TAFEs and Bradfield Senior College NSW only)**

Copied under the statutory licence in s 113P of the Copyright Act

[Australia Remembers: ANZAC Day 2020](https://iview.abc.net.au/show/australia-remembers-anzac-day-2020), ABC, 28 April 2022

[Link to warning notice]

**Example 6: Creative Commons licensed materials**) Used as a resource on its own

[*Labelling Third Party Content in Creative Commons Licensed Material*](https://smartcopying.edu.au/wp-content/uploads/2020/02/Labelling-3rd-party-content-in-CC-licensed-material.pdf)*, National Copyright Unit, Copyright Advisory Groups (Schools and TAFEs) is licensed under a under a*[*Creative Commons Attribution 4.0 International Licence*](https://creativecommons.org/licenses/by/4.0/)*.*

b) Used in a resource you created

*Chart on Population Growth found on Flickr:*

[*Limits of Growth*](https://www.flickr.com/photos/wheatfields/4313193969/in/photolist-7z9fig-2dNzxdz-6z9j6x-7e8ov2-97rmCg-9DjvhH-EGjkp-25cwtwL-qHuPe-d6dTk1-oJ1GY-5pkrF6-f3qtUU-9G8eB9-7N8ZxC-ZXgKyQ-2hvpkCg-2hvqptm-2hvpkTB-cBnbmq-b5g9H8-z4Cqfh-KzdDkx-29r9Eiv-Ews2ai-5SZVse-bj1xEg-26ary2u-27knKUa-eFa4-HGw2tu-9MBKc-6yRMYK-8F3khR-PU32nK-e4WHkc-25x6wT-zmZJzT-dNMaLE-5T5hjo-5T5hn5-5SZVqB-5T5hjN-29bnceW-NPXaA9-5UHsAw-xYDW5A-Q5WTW6-2acqXTd-27SDM8e)*by*[*allispossible.co.uk*](https://www.flickr.com/photos/wheatfields/)*is licensed under*[*CC BY-SA 2.0*](https://creativecommons.org/licenses/by-sa/2.0/)

**Example 7: Material used with permission from the copyright owner**

a) Used as a resource on its own/in a resource you created

*Reproduced and made available for copying and communication by TAFE NSW for its educational purposes with the permission of J Smith.*

b) If permission is limited to use the specific resource (ie no further copying or communicating is permitted)

*Reproduced and made available for copying and communication by TAFE SA, the Government of South Australia for its educational purposes with the permission of J Smith (for use in this publication only).*

**Example 8: Material where there has been collaboration and the materials are jointly owned by a TAFE and a third party**

Materials published in ‘Australian Native Food and Botanicals’ are jointly owned by TAFE WA and Smith, J.

**Attachment D**

**Quick Guide to labelling third-party materials**

1. **Using CC licensed materials**

Remember to include TASL (Title, Author or Copyright Owner, Source, Licence)

Example:



[Submarine conducts alpha trials in the Atlantic Ocean [Image 1 of 9]](https://www.flickr.com/photos/28650594@N03/7315372288) by [DVIDSHUB](https://www.flickr.com/photos/28650594@N03) is licensed under [CC BY 2.0](https://creativecommons.org/licenses/by/2.0/?ref=openverse).

1. **Using third-party materials where you have obtained permission to use these from the copyright owner, to both copy into your resources and for subsequent copying by teachers and students in all Australian TAFE jurisdictions**

Example:

*The diagram from ‘Marking-off Techniques for Metal Fabrication – A Basic Course’ has been reproduced and made available for copying and communication by TAFE SA and can be used for non-commercial educational purposes by all Australian TAFEs, with permission from G Meyer.*

1. **Using third party text and artistic works in reliance on the Statutory Text and Artistic Works Licence (using a hardcopy rather than works sourced online)**

Example:

*‘Copied under Section 113P, Chris Bird, The Fundamentals of Horticulture, Cambridge University Press, 2014, 9780521707398.’*

1. **Using third party text and artistic works in reliance on the Statutory Text and Artistic Works Licence (sourced online)**

Example:

*‘Copied under S113P,* [*https://www.instagram.com/p/ByqiTzTpto6/?igshid=11p4m7395ib3q*](https://www.instagram.com/p/ByqiTzTpto6/?igshid=11p4m7395ib3q)*, The Printed Paw, accessed 18 May 2022’.*

1. **Using broadcasts copied in reliance on the Statutory Broadcast Licence (WA TAFEs and Bradfield Senior College only)**

Example:

*‘Copied under s 113P,* [*Great Southern Landscapes – Episode 4 Lakes*](https://iview.abc.net.au/video/AC2115H003S00)*, ABC, 23 August 2022’.*

1. **Using CC licensed music**

Remember to include TASL (Title, Author or Copyright Owner, Source, Licence)

Example:



[Ocean Jet - Echoes](https://www.jamendo.com/track/1101597) by [Ocean Jet](https://www.jamendo.com/artist/441694/OceanJet) is licensed under [CC BY-NC-SA 3.0](https://creativecommons.org/licenses/by-nc-sa/3.0/?ref=openverse).