

## **H125      HISTORICAL MATTERS - Copyright - 'The Les Hill Photographic Collection'**

This Policy has been prepared to address a number of issues when dealing with requests for the use of photographic material from the Les Hill Photographic Collection, particularly in relation to copyright issues and the intended use of any photograph.

The following is a basic summary of copyright in photographs.

- Any photograph taken over fifty (50) years ago (from the current day) is deemed to have copyright extinguished and therefore there are no copyright issues for photographs which are over 50 years of age.
- Photographs Council has taken of the Les Hill Collection original prints are covered under the preservation of an artistic work criteria in copyright legislation.
- Requests for copies of photographs from the collection which are less than fifty (50) years old can be approved subject to the intended use being for study/research purposes and a copyright declaration is completed verifying this use.

Council is required legally to hold these completed declarations for five (5) years.

- Copyright in photographs is vested in the author which is defined as:

(i) Photographs taken before May 1969

Basically, for photographs taken before May 1969 it is understood that the author (copyright owner) is taken to be the person who at the time when the photograph was taken, owned the material on which the photograph was taken (normally the negative).

(ii) Photographs taken after May 1969

For photographs taken after May 1969, the author is the person who took the photograph.

Therefore, in terms of the Les Hill Collection all copyright for photographs taken in the last fifty (50) years from current day, is vested in the photographer unless such copyright has formally been transferred or assigned to Council which is understood not to be the case in respect of the Les Hill Photographic Collection.

### **Council Policy Procedures**

In making an endeavour to balance the legal requirements surrounding copyright, the intent and the wishes of the late Mr Hill as well as the basic practicalities associated with the management of the collection, the following procedures have been adopted:

(i) Photographs taken over fifty (50) years ago, from current day

- Requests for copies of photographs be approved only on the basis that the herein stated Council Conditions are satisfied.

(ii) Photographs taken in the last fifty (50) years, from current day

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(a) If intended use is for Study/Research/Community use:

- requests for copies of photographs be approved only on the basis that the herein stated Council Conditions are satisfied.

(b) If intended use is for Commercial use:

- requests for copies of photographs with no 'author' identification markings be approved only on the basis that the herein stated Council Conditions are satisfied.
- requests for copies of photographs with the 'authors' identity clearly identifiable can only be approved subject to:
- the applicant making every effort to obtain the consent of the 'author' or direct descendants of the 'author' for use of the photograph;
- any documentation verifying that consent has either been obtained or every reasonable effort has been made to obtain consent, is to be provided with the application for the use of the photograph;
- in all cases, wherever practicable, due recognition be given to the fact that this resource has been made available from the 'Les Hill Historical Centre archives at the Mount Gambier Public Library'.
- requests for copies of photographs be approved only on the basis that the herein stated Council Conditions are satisfied.

Council Policy Conditions

- All applicants complete the standard copyright declaration where applicable
- The issue of photographs from the Les Hill Photograph collection is subject to Council agreeing to the purpose that the photograph is to be used.

Council has a legal and moral obligation to ensure that for any intended use the integrity of the photographs and the Collection is not compromised in any way and that the principles, values and beliefs of the late Mr Les Hill are continually upheld.

Any intended use that may in any way shape or form compromise Council and the Collection in any legal, moral or discriminatory manner, will not receive Council consent.

- Where practicable, due recognition be given to the fact that this resource has been supplied 'from the Les Hill Historical Centre archives at the Mount Gambier Public Library'.
- Council notes and acknowledges that a significant part of the Collection may have been sourced originally by the late Mr Les Hill from "The Border Watch".
- Costs for provision of copies only be applied as follows:

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- (i) Study/Research/Community use
  - 1-4 images \$5.00
  - 4+ images \$10.00
  - loan (free of charge)
- (ii) Commercial use
  - \$20 per image (inc. disk)

- Under no circumstances are original photographs from the 'Les Hill Collection' to be issued, these procedures therefore relate to duplicates of photographs only.

Adopted by Council: 20th February 2001	Reviewed: 15 <sup>th</sup> April 2003	Amended: 19 <sup>th</sup> September 2006
Amended: 17 <sup>th</sup> February 2009	Amended:	Amended:
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