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## **Observing and Respecting Diverse Knowledge Traditions in a Digital Archive of Indigenous Language Materials**

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# Observing and Respecting Diverse Knowledge Traditions in a Digital Archive of Indigenous Language Materials

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## Abstract

Australian copyright law and Indigenous Cultural and Intellectual Property (ICIP) have always sat uncomfortably together, each with their own internal logic and legitimacy, but forcing certain arrangements and compromises when applied to specific contexts. The collection of Indigenous language materials into a digital archive has required finding means to observe and respect these two incongruent knowledge traditions. The Living Archive of Aboriginal Languages, an open online repository containing thousands of books in dozens of languages from Indigenous communities of Australia's Northern Territory, offers opportunity to explore how the need to attend to both knowledge traditions led to specific decisions and practices. In particular, where the Australian copyright law was satisfied, additional steps were needed to respectfully incorporate Indigenous perspectives. This paper outlines the negotiations and compromises inherent in seeking a solution which observes and respects both Indigenous and western knowledge practices in a unique collection of cultural heritage materials.

*Keywords:* Indigenous languages, Northern Territory, digital archive, ICIP, intellectual property, copyright

## Observing and Respecting Diverse Knowledge Traditions in a Digital Archive of Indigenous Language Materials

*I'm sitting on a mat in the dust outside a house in a remote community, explaining to a small group of senior Indigenous women that we want to take those old books from the school's bilingual program and put them on computer for anyone in the world to see. If they think it's okay for us to do that, can they please sign this permission form. While they are highly competent in English, it may be their fourth or fifth language. I'm explaining in English, the form is written in English, I don't have any books to show them, or a demonstration of how the books will look on a computer. They talk among themselves in their language, ask about some of the people involved, ask me if I've been given a skin name and by whom. They then sign the forms. I'm uncertain how much they've understood about what they're actually agreeing to. Am I just another well-intentioned white person with a clipboard asking them to sign a piece of paper?*

The experience of the Living Archive of Aboriginal Languages project<sup>1</sup>, in creating an open online repository of thousands of books in dozens of languages from Indigenous communities in Australia's Northern Territory, has involved exploring the processes and resolution of issues of ownership, permission, and access under two largely incongruous knowledge traditions: Indigenous Cultural and Intellectual Property (ICIP)<sup>2</sup> and Australian copyright law. The project demonstrates some of the challenges inherent in digitizing and making accessible a cultural heritage collection produced in a largely pre-digital era under a dual set of "laws" (Indigenous and western), each with their own internal logic and legitimacy, and attempts to observe and respect both sets of traditions and practices in the digital era. Policies and practices regarding digitization and dissemination have emerged as an effect of the everyday work of building the archive, as the project team seeks to balance respect for the Indigenous knowledge traditions from which the materials originally emerged, alongside increased understanding of the requirements of Australian copyright law. The longevity and sustainability of the archive depends on openness to further negotiation and informed responses to community concerns and changes in legislation, as well as technological and cultural developments.

The purpose of this paper is to offer a worked example of a specific

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1. The project website and archive collection are available at [www.livingarchive.cdu.edu.au](http://www.livingarchive.cdu.edu.au)
  2. Regarding terminology, the term ICIP is commonly used in Australia, while internationally the term Traditional Cultural Expression (TCE) is also widely used (World Intellectual Property Organization, 2016).

situation in which means were found to observe and respect both ICIP and Australian copyright systems. The solutions offered here are not intended to be normative, as every project is unique and sits within a very specific context and purpose. However, the processes described in this paper may inform and assist others facing similar challenges. The paper outlines the origins of the Living Archive of Aboriginal Languages project (hereafter referred to as the Living Archive, or the Archive) and its uniqueness in comparison with other similar projects. The two legal systems are briefly introduced, with a focus on the key features of ICIP which concern this project. The ways in which the project addressed the copyright and ICIP issues are then described in turn, from the straightforward cases to the problem works and the solutions identified, following the outline presented in Table 1.

Table 1 <i>Outline</i>		
	<u>Western</u>	<u>ICIP</u>
Who	Copyright Holders	Named Creators
How	Licenses/agreements	Signed Permission
Challenges	3 <sup>rd</sup> party works	Authorship, orphan works
Solutions	s200AB, take down policy	Take-down policy, hidden items

Finally, issues relating to access and usage are addressed. These sections are interspersed with reflections from the project manager and first author, presented in italics, which ground some of these issues in specific contexts.

### **Background to the Living Archive Project**

From 1973 to the early 2000s, a large range of books and other materials in local Aboriginal languages were produced in Literature Production Centres (LPCs) in remote schools with bilingual education programs in Australia's Northern Territory (NT). This corpus includes thousands of books in dozens of languages, most of which were created to enable children who spoke Indigenous languages at home to learn to read and write in their own language before transferring to English literacy (Harris, 1995; Devlin, Disbray, & Devlin, 2017). This produced a rich body of literature created for specific local contexts but with potentially wider significance and utility. The materials were mostly small books of around 10–20 pages, locally printed in runs of 50–100 copies, with illustrations by local artists, and some including English translations. There are stories of traditional and contemporary Aboriginal life, including creation stories, instructional texts, cautionary

tales, local knowledge, historical reminiscences, ethno-scientific works, translations, and adaptations from other languages.

With the shift away from bilingual education in the NT since the mid-2000s (Nicholls, 2005; Simpson, Caffery, & McConvell, 2009; Devlin et al., 2017), most LPCs ceased production. Hard copies of existing materials were left in harsh environments in remote communities, vulnerable to rapid deterioration, or scattered around libraries and private collections. There was no systematic cataloguing or collection of these resources, which became largely inaccessible not just to interested researchers but in some cases even to the communities in which and for whom they were produced.

Concern for the future of these materials led to the establishment of the Living Archive in 2012.<sup>3</sup> This federally-funded collaboration between universities and key stakeholders was created to collect, digitize, preserve, and allow access to this endangered corpus of Indigenous literature from around the NT (Bow, Christie, & Devlin, 2014). It is hosted at Charles Darwin University on the library's digital repository.

The project had several key aims: re-engagement with owners, storytellers, and descendants, including new possibilities for engagement and collaboration; recontextualization and enhancement of materials (for example by linking audio files to works); digital preservation of endangered physical items; and dissemination to a new and wider audience (Christie, Devlin, & Bow, 2014). This reconnection of the materials with their communities, and their subsequent use and reuse, was intended to create a "Living Archive." By the end of 2018, the project had digitized over 5,000 works representing 50 Indigenous languages from 40 communities around the NT.

Drawing on the chief investigators' long history of working with remote Indigenous communities in the NT, and previous experience with similar projects (Christie, 1997, 2005b; Christie & Verran, 2006; Christie, Guyula, Gurruwiwi, & Greatorex, 2013), the project proposed to collect and digitize all books produced in schools with bilingual programs and publish them online, with no restrictions on access. This would make them available to diverse groups, including other Indigenous

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3. The Living Archive of Aboriginal Languages is supported under the Australian Research Council's Linkage, Infrastructure, Equipment and Facilities funding scheme (LE120100016 and LE140100063) as a collaboration between Charles Darwin University, Northern Territory Department of Education, Australian National University, Batchelor Institute of Indigenous Tertiary Education, Northern Territory Library, and Northern Territory Catholic Education Office. The chief investigators are Professor Michael Christie (CDU), Dr Brian Devlin (CDU), Professor Jane Simpson (ANU), and Maree Klesch (Batchelor Institute).

community members, academics, researchers, educators, and the general public. This initial plan was based on the fact that, in discussions with key stakeholders including the NT Department of Education (a project partner and the copyright holder of most of the materials in the collection) and many Indigenous authorities, there was a willingness to make these materials openly available online, without requiring any kind of login or password. This is consistent with fundamental archival principles, whereby “archives are made accessible to everyone, while respecting the pertinent laws and the rights of individuals, creators, owners and users” (International Council on Archives, 2011). Open access would also increase recognition of Indigenous languages and allow access to a rich body of previously unknown literature, challenging the notion that these mostly oral cultures have few written documents in their languages. As the materials were produced for school contexts, they did not contain secret or sacred knowledge that should not be made public.

As the project unfolded and technical requirements were established, it became clear that a more nuanced approach to digitization and access would be required, to respect Aboriginal claims of ownership and locatedness (Christie, Devlin, & Bow, 2015) while satisfying the legal requirements of Australian law.

### **Key Distinctives**

The development of the Living Archive places these previously hidden materials into an existing archival ecosystem of Indigenous language materials, amenable to sharing and reuse. Significant digital archiving of Australian Indigenous materials has been successfully realized in other contexts, though none are directly comparable to the Living Archive. Unlike the collections of the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), this project was not managing the digitization of an existing physical collection (Lewincamp & Faulkner, 2003), subject to access requirements imposed by depositors (Koch, 2010). In contrast to the Pacific And Regional Archive for Digital Sources in Endangered Cultures (PARADISEC), which archives audio and video materials and linguistic field notes or descriptions (Thieberger, 2010; Thieberger & Barwick, 2012), the Living Archive deals with text-based primary materials, stories written by and for Aboriginal people. Unlike state library collections (Thorpe & Galassi, 2014; Nicholls et al., 2016), the Living Archive is not subject to requirements such as legal deposit, nor does it contain materials which require special conditions of access (Byrne & Moorcroft, 1994). It does not focus on a particular language or people group, unlike many other collections (Barwick, Marett, Walsh, Reid, & Ford, 2005; Christen, 2005;

Hughes & Dallwitz, 2007; Cawthorn & Cohen, 2013; Gumbula, Corn, & Mant, 2013; Scales, Burke, Dallwitz, Lowish, & Mann, 2013); however it is restricted geographically to the NT. The materials in this collection differ from those often discussed in the literature about Indigenous knowledge in archival collections (Anderson, 2005; Janke & Iacovino, 2012), where Indigenous people were the subjects of the record and not the owners (Iacovino, 2010; McKemmish, Faulkhead, Iacovino, & Thorpe, 2010), becoming “captives of the archive” (Fourmile, 1989). Instead, this collection represents materials created largely by and for Indigenous users, albeit created as part of a western education system and legally owned by western authorities. The transfer of knowledge from oral to written to digital forms in these books (Bow, Christie, & Devlin, 2017) creates new affordances for sharing and transmission, while also creating new contexts under both legal traditions.

Overall the Living Archive is an unusual beast. It is based on a corpus of physical works but is entirely digital, with no hard copy access to manage. It is situated in a university context but is not directly connected to any specific teaching program. It is partnered with a library for technical support but is not directly involved in local dissemination of the materials (which are available through any library or any internet connection). It is associated with the school system but has no direct impact on education. It is an archive of cultural materials but not a key cultural institution. The project aims to make the digital resources entirely open to the public, yet nearly one-third of the items are not yet publicly available (pending approval from copyright holders). It represents a wide range of language and cultural groups, contained within the borders of the NT. Like many archives, the project team had no responsibility over how the materials or metadata (title, author, etc.) were originally created, but only how they should be managed now. In common with many archives of cultural heritage, the project team recognizes the challenges inherent in taking custody of material without taking ownership (Janke & Iacovino, 2012). Acknowledging the existing ecosystem, and the similarities and points of difference between this and other projects, the team has worked to ensure that while the Living Archive primarily focuses on its corpus, the steps taken in regards to ICIP and copyright will allow the materials to participate in this wider archival environment of Indigenous language collections.

### **The Framework: Copyright and ICIP**

With no directly comparable projects to draw on, and in the absence of clear frameworks, the Living Archive project team had to

return to first principles to navigate the different manifestations of law according to the Indigenous (ICIP) and non-Indigenous intellectual property (IP) practices, within the aims of the project. Both legal contexts needed to be addressed and respected, yet it was also necessary to find ways to move the project forward in the context of two largely incommensurable systems. Focusing on following the requirements of just one of these systems would not achieve the aims of the project, and would limit both the content and the audience of the Archive. While it has been argued that the legal issues of such a project may be more straightforward than the ethical issues from a linguist's perspective (O'Meara & Good, 2010), this paper explores the ways in which ethical issues are resolved when the legal framework is problematic.

ICIP rights refer to Indigenous Australian's rights to their heritage. As Janke notes, "heritage consists of the intangible and tangible aspects of the whole body of cultural practices, resources and knowledge systems developed, nurtured and refined by Indigenous people and passed on by them as part of expressing their cultural identity" (Janke, 1998, pp. XVII).

In contrast to the relatively recent arrival of copyright law to Australian shores, Indigenous groups recognize a continuous 60,000-year history of living culture, spanning several hundred language groups. Forms of cultural expression have always been subject to local understandings of intellectual property, with IP rules and procedures imposing certain obligations and responsibilities over Indigenous knowledges and practices (Janke & Quiggin, 2005). Many aspects of culture are linked to certain traditional understandings, which do not always sit well with western understandings.

Stories and images are protected within the Indigenous context in which they are produced, and are subject to Indigenous law before they become implicated in Australian law (Christie, 2005a). Certain negotiations enable them to be published in material form for a specific context, such as curating an art exhibition or producing books for bilingual education programs. The transfer of materials to a digital realm for preservation and access requires new negotiations, which need to take seriously both knowledge traditions and their practices (Christen, 2005). Books published in Indigenous languages are not traditional artefacts of Indigenous knowledge (such as dance, song, visual art), however they perform some of the same work in maintaining and building community relationships and sharing knowledge. As soon as the books that make up the bulk of the archival collection were created, they were implicated in the western IP system as copyright protected works.

Like many former British colonies, Australia has a common law system of copyright, currently codified in the *Copyright Act 1968* (Cth), the *Copyright Regulations 1969* (Cth) as amended from time to time, and enforceable through the courts. Distinctively, copyright law is based on a concept of property, protecting original expression only when it is reduced to “material form” (such as being written down or recorded), and vesting rights over that property in the owner (or “rights holder”) such as the rights of sale and use. This notion is an uncomfortable fit with Indigenous knowledge production and transmission, which is often communal and not in a material form. It is only when ICIP is assimilated into western knowledge traditions that it is protected through Australian law and assigned an “owner.” By default, the owner is the “author” of the work, considered to be the employer if the works are created in the course of employment.

In 2000, Australia introduced legally enforceable rights that pertain solely to the author, known as moral rights. These are “(a) a right of attribution of authorship; or (b) a right not to have authorship falsely attributed; or (c) a right of integrity of authorship” (*Copyright Act 1968*, s. 189). Moral rights only apply to works in which copyright subsists, and require the creators or artists to establish authorship in terms of copyright law, which may be problematic for Indigenous knowledge authorities (Janke & Iacovino, 2012). Australia’s copyright law only recognizes a particular view of authorship, usually connected to an individual, which differs from Indigenous practices of attributing ownership (the “author” as “authority”) to a clan or other group (Australian Institute of Aboriginal and Torres Strait Islander Studies, 2015). For the materials comprising the Living Archive collection, the “author” for moral rights is the person who wrote down the story or drew the illustrations, rather than the wider Indigenous heritage on which they draw.

Both knowledge systems are equally concerned about protection of knowledge and of the creators or custodians of that knowledge. However the processes and practices in which they manifest are vastly different: in the understanding of how that knowledge is constituted (in material form or not); its ownership status (individual or communal); its value (commercial or cultural); and its time frame (life of author plus 70 years or in perpetuity) (Janke, 1998).

Attempts to shoehorn Indigenous knowledge practices into western structures are inherently unsatisfactory (Anderson, 2005, 2010; Janke, 1998; Janke & Iacovino, 2012), particularly if Indigenous knowledge practices are simply seen as an alternative but commensurate system, such as comparing Australian law to US or UK law. The distinctions are much more of an ontological nature. In addition, Indigenous knowledge

practices are not uniform across the hundreds of people groups across Australia, so a single “law” will not satisfy this diversity. Yolŋu elders from Arnhem Land state:

Whatever there is in our law that the ancestral creators have given us in east Arnhem Land, they are inseparable. It’s the land, the places, the kinship networks connect them together. It makes up our version of an Intellectual Property tree, that makes up our foundation (Guyula & Gurruwiwi, 2010, p. 53).

Yolŋu copyright law is in place, not to protect the artist, but to protect the image. Aboriginal traditional images, like Aboriginal land, do not belong to any one individual person. They belong to a group of people who relate to the image in a particular way (Marika, 1993, p. 14).

Despite more than a dozen domestic reviews and studies that have touched upon these issues (Productivity Commission, 2016), including recommendations for a national framework linking government, community, and industry (Ormond-Parker & Sloggett, 2012), there is no short-term prospect of legislative reform to resolve the inherent tension between these two systems. Internationally, there are efforts to develop legal instruments to protect traditional knowledge and traditional cultural expressions (World Intellectual Property Organization, 2016). However, ICIP lacks consistent definition across different jurisdictional boundaries, and is subject to power positions and interests, including colonialism, that disenfranchise and dispossess many Indigenous groups (Anderson, 2012).

In the absence of regulation, best practice has been codified in protocols (Nakata, Byrne, Nakata, & Gardiner, 2005), which have the benefit of being a more flexible means of establishing protection, and can be adapted to particular subject matter (Janke, 2016). Protocols may be recognized by a community of practice as defining standards or official procedures and rules, however they do not provide legal protection for institutions or for Indigenous authorities (Nakata et al., 2008). There are a number of different sets of guidelines and protocols available to guide respectful and appropriate handling of Indigenous cultural heritage material, such as those created for libraries (Aboriginal and Torres Strait Islander Library, Information and Resource Network Inc, 2012; Garwood-Houng & Blackburn, 2014), museums (Museums Australia, 2005), archives (McKemmish et al., 2010), linguists (Zuckermann, 2015), those working with Aboriginal authors (Australian Institute of Aboriginal and Torres Strait Islander Studies, 2015) and artists (Australia Council for the Arts, 2007), and collecting institutions working with born digital materials (de Souza, Edmonds, McQuire, Evans, & Chenhall, 2016), as

well as international guidelines for museums, libraries, and archives (Torsen & Anderson, 2010). These have informed the Living Archive project team's activities; however no existing protocols are directly applicable to this unique project.

While infringement of copyright, including moral rights, poses legal risk to the project, failure to respect ICIP, although not legally enforceable, is potentially more serious, indicating a lack of trust and a breakdown in working relationships with Indigenous communities. Such an outcome could threaten the character of the project as creating a "living archive," break good faith connections with the represented communities and other stakeholders, and/or risk damaging future attempts at collaboration with these communities for other projects and other researchers. Nakata et al. (2008) describe professionals negotiating Indigenous interest with copyright interests as "moving between a rock and a hard place" (p. 227), with risks of infringement of copyright or providing inappropriate access to materials being potentially ruinous to a project or collection.

If Australian laws and protocols are not adequate to protect intellectual property around Aboriginal material culture, it is even more problematic once material culture emerges in digital form. The use of digital technology, with its substantive capacity to expand the creation, collection, and distribution of Indigenous knowledge well beyond the intended purpose of the created materials, raises additional complex questions (Hudson & Kenyon, 2007; de Souza et al., 2016). The transformation of these resources to electronic formats changes their nature, which raises concerns about who can interact with the materials and how. As Christie (2005a, p. 46) points out, "the work of Aboriginal cultural production does not lie inside digital objects, but it lies in the performances and negotiations over those objects. The cultural, political and religious work lies in their assessment and exchange."

Emergent understandings of how to observe and respect both the western copyright and ICIP contexts informed the process of creating the Living Archive as a digital repository of cultural heritage. In collecting, digitizing, and making available this corpus of endangered language materials, the project team had a desire to ensure an equitable "two-way" exchange between Indigenous people and academic researchers (McConvell, 2000), and to find common ground (Christie et al., 2015; Devlin, Bow, Purdon, & Klesch, 2015) that satisfied the requirements of both knowledge traditions in terms of their legal systems and practices. Working through issues of copyright ownership and use and meaningful engagement with communities through an ICIP framework takes time, resources, and careful consideration of practice. The solutions which

have emerged in the context of the Living Archive project are sufficient for the ongoing life of this project, but are provisional and situational, responding to the specifics of this project and its aims in particular social, legal, and technical contexts.

### Addressing Copyright Issues

*I'm in a former Literature Production Centre, working through piles of books in the local language produced over decades and stored in moldy cupboards, dusty bookshelves, and rusty filing cabinets. There are some materials published in the school's short-lived bilingual education program, others attributed to the community library or language centre, several one-off items with no indication of authorship, and commercially published books in English with vernacular translations physically pasted over the English text. The local Aboriginal authorities I've spoken to want them all preserved, so we add them all to the pile of materials to take back to Darwin for scanning. We'll work out the IP details later.*

The Living Archive project was developed in partnership with the NT Department of Education (hereafter, the Department), under whose auspices most of the books in the collection were created through the bilingual programs in selected government schools. As most of the creators of the materials were working in the schools, the works are crown copyright according to sections 176 and 177 of the Copyright Act, as unless otherwise agreed, governments own copyright in material created by their employees and those working under their supervision (Copyright Act 1968). It is unclear whether those employees were aware of this fact at the time they created the materials, particularly since it would have been a remarkable contrast with Indigenous understandings of ownership of knowledge practices. Nonetheless, the Department has the right to assert its position as copyright holder, the “legal owner” for the majority of the works in the collection.

The Department agreed that the works could be converted to digital formats and put online on the Archive's open access website. The executive director of the Department sent a letter of support to those schools where materials had been produced, inviting them to share those resources with the Living Archive. Members of the project team visited these sites and collected hard copies of the books for scanning. The initial verbal agreement with the Department was eventually negotiated as a non-exclusive license, granting Charles Darwin University the right to digitize and publish these materials online under an open license, while retaining copyright for the Crown. There was a substantial gap in time between the verbal and formal written agreements, which involved

significant negotiations as to the exact wording.

A smaller but sizeable subset of materials was created in non-government schools (Catholic and independent) with bilingual programs. These works were also made by language and literacy workers and other staff, both Indigenous and non-Indigenous, during the course of their employment, and to that extent copyright in the books belongs to the employer (under section 35(6) of the Copyright Act). These other organizations endorsed the work of the Living Archive, and the team were able to make agreements with these copyright holders under equivalent terms as the license with the Department, including one independent school whose board gave approval.

A second stage of project funding in 2014 extended the Archive to include materials from communities which did not have bilingual education programs, which also expanded the number of copyright holders. Similar arrangements have been negotiated with other organizations which hold copyright of material digitized in the Archive.

### **Making Digital Copies and Preservation**

Under the Copyright Act, the project team can legally create digital copies of all these materials, thanks to certain exceptions in the Act. Despite having no physical home, the Living Archive is considered an Archive under section 10(4).<sup>4</sup> The archival “preservation and other purposes” exception (s. 51A) at the time allowed an archive to make a copy of a published work that forms or formed part of its collection if it has “been damaged or has deteriorated for the purpose of replacing the work” as long as “a copy (not being a second-hand copy) of the work, or of the edition in which the work is held in the collection, cannot be obtained within a reasonable time at an ordinary commercial price” (*Copyright Act 1968*). As the majority of these books were never available for sale, the commercial availability test is no barrier to making a copy, and there is no limitation as to the format that copy may take. Additionally, the Archive may also make copies for “administrative purposes” which allows the project team to deal with the digital items in an efficient manner and create copies for internal use. Both the administrative and preservation copying provisions have recently been updated with amendments to the *Copyright Act 1968* (Cth) commencing in December 2017. The amendments remove the one copy restriction

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4. Section 10(4) defines an archive as (a) a collection of documents or other material of historical significance or public interest that is in the custody of a body, whether incorporated or unincorporated, is being maintained by the body for the purpose of conserving and preserving those documents or other material; (b) the body does not maintain and operate the collection for the purpose of deriving a profit (*Copyright Act 1968*).

on preservation copies and instead allow the Archive to use the works in whatever way is necessary for preservation purposes, which may be useful if any further materials are received, or better-quality preservation copies need to be made.

With permission from the legal rights holders to create digital copies of the materials, the works were transferred to digital form. Each page of every book was scanned or photographed, and the outputs saved as PDF for presentation and TIFF for preservation, plus cover images in JPG format and plain text versions of the texts extracted through Optical Character Recognition (Mamtora & Bow, 2017). In some cases, materials previously transferred to digital formats through local initiatives were provided to the project team in already-digital form. The digital artefacts were stored on Charles Darwin University Library's institutional repository, with a web interface for easy access.<sup>5</sup>

### **Problem Works**

As the project continued and more works were collected, different issues emerged. More complex and nuanced responses were required to handle materials with less straightforward or transparent issues of authorship and ownership, particularly those for which the NT Government, Catholic or independent schools did not hold all the copyright in the work. Several different forms of these “third-party works” were identified, including commercially-produced works which were adapted for use in the school, for example by translating the text into the local vernacular and either reprinting in the local language or simply pasting the words on top of the English text. Some materials incorporated photos from other copyrighted materials, or otherwise produced new materials based on existing works. These works potentially have additional copyright owners or persons with an ICIP interest who are not covered by the agreements with the government and schools.

Due to the incomplete nature of much of the metadata in the materials (Bow et al., 2015), third-party works were not always clearly identifiable. For example, books may have been adapted into a local language with no reference to the original work, or images used from another source with no attribution to the original creator. Some books included images from other sources (sometimes referred to in the metadata, sometimes indicating associated rights), which makes the copyright status of the entire book more problematic.

Even when third-party works were identifiable, there were no records available of any copyright arrangements made at the time

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5. This is available at <http://laal.cdu.edu.au/>

of production. In the 1970s and 80s when the majority of the books were produced, the audience was restricted to the local school and community. While some items were sent to AIATSIS or the National Library for legal deposit, their reach was never expected to go far beyond the local community. In these non-commercial circumstances, it is likely copyright issues were not a high priority, and possibly were never even considered. The net result is that the Living Archive team cannot with certainty identify third-party works and the conditions under which they were created and distributed.

The collection of these various materials from different sources resulted in four different categories of works from a legal perspective: (1) those owned by the Department or other bodies which can be used under agreement, (2) known works with third-party copyright, (3) an unknown number of works which may have third-party copyright, and (4) a number of “orphans” with no attribution of authorship. Each one technically requires different means of management; however as the collection grew and the project team’s resources dwindled, it became more difficult to address these categories separately. Various solutions were implemented with the goal of making all materials publicly available. Where the third-party copyright holders can be identified, the works can be dealt with on a case-by-case basis. Approaches to commercial publishers and other copyright holders have been met with goodwill in most cases. For example, an Australian cartoonist approved inclusion of a series of books created in collaboration with a local community. The licensees of the “Phantom” comics approved inclusion of translations of these works into the Maung language, on condition that a copyright statement and trademark logo be attached to the item. Approaching other organizations and publishers has been an ongoing task, but it is likely that many items will never be available through the Living Archive website. The alternative would be to adopt a “high-risk” strategy of putting them up in good faith, and relying on the “take-down” policy to alert the team to any concerns.

For those works whose copyright owner cannot be identified or located (known as “orphan” works) the Archive may be able to work under an exception to copyright. In 2006 the Copyright Act introduced a new section, the “flexible dealing” exception (s. 200AB), to cover certain uses of works by libraries and archives. This exception allows organizations such as archives to use copyrighted material for socially beneficial purposes, without permission and without payment, provided certain criteria are met (Copyright Amendment Bill 2006 [Cth]). This section of the Copyright Act appears to be a useful reference point for many of the problematic works in the Living Archive, in principle allowing many of

them to go online. To take orphan works as an example, there is no other exception that would allow these works to be published online, the use is non-commercial and for a socially beneficial purpose, the use would not conflict with the normal exploitation of the work (as the works are not being used), the use would not prejudice the copyright holder and the use is a special case.

There is some debate about the limits of the exception. The Australian Copyright Council takes quite a conservative view, noting that section 200AB is more likely to apply if “the number of people the use is for is small; the time-frame of the use is short; the proportion of the work you are using is small” (Australian Copyright Council, 2014, p. 2). This allows libraries and educational institutions to make a copy available to a user for a specific purpose. However, the Living Archive is intended for a broad public, and will be online for an extended period, and contains complete works rather than small proportions.

It seems that the Australian Government expected that the section would be used in some cases of orphan works, as the Explanatory Memorandum states that s. 200AB “might be determined by a court, for example, to allow a library or archive to make a use of a work where a copyright owner’s permission cannot be obtained because he or she cannot be identified or contacted” (Copyright Amendment Bill 2006 Explanatory Memorandum [Cth], s. 52). Memory institutions have used s. 200AB for a growing number of digitization projects since the section was introduced (Coates, Robertson, & van de Velde, 2016), including cases where it was impossible to identify copyright third-party works (van Dyk, 2010). As the exception was designed to be flexible in order to “enable copyright material to be used for certain socially beneficial purposes” (Explanatory Memorandum, Copyright Amendment Bill 2006) it is arguable that the wishes of and benefits to the Indigenous communities who have expressed their desires for the materials to be placed online could also be taken into account, to bolster the argument for placing the materials online. While it appears that this exception would cover a number of the problem works within the Living Archive, as yet no cases have yet reached the court, so there is no case law to guide legislative interpretation. As such the project team still has some hesitations about relying on the exception.

### **Addressing ICIP Issues**

Yolŋu elder and current member of the NT Legislative Assembly Yinŋiya Guyula, in discussing the use of his teaching materials in a Charles Darwin University course, stated:

Before things go up on a website, the university should have some practices in place to look after and better protect my work. They can hold it and protect it. They have knowledge through the white man's system of protecting work that I don't understand. But I have knowledge of how the Yolŋu copyright system works. One day we'll come to understand each other's systems of intellectual properties and copyright protection and both systems may work together (Guyula & Gurruwiwi, 2010, p. 56).

Alongside the collection, digitization and preservation processes, the project team also addressed issues relating to the publishing of the materials online. Licenses from the copyright owner were understood to give the project the right to make all works openly available through the public website. However, although there was no legal requirement for any community consultation, from an ICIP perspective such consultation was essential, to include the voices of the Indigenous owners of the materials in the process of making their materials available online. This process required more care to ensure that ICIP was properly respected, and entailed significant additional work to seek individual permissions rather than relying on the general goodwill of the communities.

With a collection spanning dozens of communities and language groups across the NT, it is important to acknowledge the various forms of customary law in different communities, which are practiced at different levels of operation, often dependent on the impact of western influence on Indigenous cultures, traditions, and lifestyles (Janke & Quiggin, 2005). Unlike western IP law, there is no single one-size-fits-all system across different people groups. Logistically however, it was not possible for the project team to have an in-depth knowledge of all the rules relating to cultural and intellectual property for each group.

Therefore, in order to avoid becoming another example of well-meaning but inappropriate decision-making which assumes that public access to Indigenous language materials would be seen as beneficial and welcomed by community members, it was essential that the communities and the original creators of the materials should be consulted about their works becoming publicly available online. This approach is derived from first principles such as respect, consultation, and consent (Australia Council for the Arts, 2007), and builds upon the relationships and consultations with individuals and communities which had informed and motivated the project from the outset.

The project team elected to seek permission from all the named contributors to the original materials, or from their descendants if they were no longer living. A simple permission form was designed (see Appendix A.1), explaining the project and how materials would be

openly available via the internet. Working with a lawyer provided by the Department of Education in 2014, the permission form was later updated to include more robust legal language, with a parallel “plain English” version (Appendix A.2). The project manager visited communities and spoke to many of the people involved in the production of these materials, who readily agreed to sign the permission form. To date only two people have chosen not to sign, but gave no reason for their decision.

Locating individuals in remote communities to sign permission forms was onerous, yet also productive for promoting awareness of and engagement with the project. Trips to communities with long lists of names of people to find took significant time and resources. These lists of names were circulated among partner agencies and others working in Indigenous communities, and any time someone visited a community they were asked to locate individuals and invite them to sign a permission form. Some of the challenges of this process relate to everyday community life over any period, where people move away, pass on or sometimes change names. The names of non-Indigenous contributors in the lists were also problematic; they may have been a teacher in the school who contributed to a book or a creator of third-party materials noted above, who may have had no connection to the community.

### **Challenges and Solutions**

While it seems simple to state that permission should be sought from the relevant people, discerning who the relevant people are was also challenging. Moral rights include the right of attribution, which requires an available and meaningful identification of the names of contributors. In many materials in the Archive, metadata is incomplete, inconsistent, or sometimes incorrect, so the creators cannot always be unambiguously identified (see examples in Bow, Christie, & Devlin, 2015). In one case, a prolific author and translator from one community was asked about a series of books from the 1980s for which she was listed as a translator, but she had no recollection of the stories. Such situations offer opportunities to explore some of the different understandings of authorship within the two different knowledge systems, and also require a negotiation of which system is prioritized in the solution. In this case, the translators’ name remained attached to the books, as a decision was made to respect the original metadata.

The project team had little choice but to take the metadata at face value, as it was impossible to trace the origin of each individual book. In some cases local knowledge filled in some missing attributions, with additional information added from some communities and individuals who were able to identify authors or illustrators of specific items. Calls

have been made through the project's mailing list and social media pages for additional information to be provided, and further crowdsourcing options have been explored.

*A colleague took a set of books out to a community with a short history of bilingual education. A series of readers were produced, some of which listed the creators; others did not. He sat with the ladies who used to work in the Literature Production Centre and made notes as they recalled who wrote which books, and who drew which pictures. Collective memory can be a rich source of information, but how can the resources be shared online to find the creators, without first finding the creators to allow them to be shared online?*

As previously noted, attribution of authorship can also be quite different under traditional Indigenous law, where ownership of story as a collective in Indigenous contexts competes with western requirements for attributing authorship to individuals. Where local knowledge practices would invest authority over a particular story in a clan or group, the metadata in these items may only record an individual as the "author." In some cases, this term may have been used as a convenience, where terms such as "translator," "transcriber," or "storyteller" may have been more accurate. For example, the story of "The Little Frog" has several different translations in the Archive, with some versions attributed to different authors. This ambiguity makes it difficult to know whose moral rights are at stake. Seeking the permission of the named contributors to the works has the undesired outcome of perpetuating the assumption of individual authority over their works, despite acknowledging the communal nature of knowledge and story.

A number of works in the Archive have no indication of authorship. Initially the project team assumed that these could be freely included in the open access collection, however legal advice indicated that the holder of the copyright or moral rights may be identified later and disapprove of what has been done with their works. Lack of attribution is not a defense, which makes managing cases of this nature particularly problematic. The value in making them available online may well outweigh the risk of litigation, particularly as there is little or no commercial interest. A take-down message was included with every record in the Archive, stating:

Efforts have been made to identify and contact the person or people responsible for creating these materials to request permission to include them in this archive. If you have any concerns about materials being made public on this site, please contact us and we will remove the item from display until any concerns have been addressed.

To date there have been no requests to take down any materials, though this should not be taken as evidence for the efficacy of the measures put in place.

The permission form provided a focus for discussion about the project and the uses and prospects of those sometimes long-forgotten materials. Where possible, local contacts were invited to explain the project and the permission form in the local language, and in some cases verbal approvals were documented on the same forms. Once the public website was up and running, demonstrations of the site and verbal explanations of what people are allowed to do with the materials were given alongside the permission form.

The decision to collect signed permission forms was an attempt to appease the demands of the western tradition while incorporating consideration of Indigenous practices and protocols. It cannot be assumed that all those involved in discussions over permission forms were fully aware of the implications of their signature, especially with those for whom English is not their strongest language. The requirement to use appropriately complex legal language on the permission form made it much less comprehensible to those to whom it was addressed, making it more necessary to rely on a simple explanation, presented in plain English to a multilingual audience, or using a community interpreter. In the end, the verbal explanations of the written text are unlikely to satisfy either the legal requirements of the document or the cultural understandings of the signatories. However, the process functioned sufficiently to allow the work of the project to continue.

The disconcertment of using a western tool (seeking signed written permission) in an Indigenous context is not unique to this project. Seadle (2002, paragraph 8) points out that permission “includes both the explicit permission of the informants and any unspoken rules that might limit how the information is used. Of course, a researcher may not really understand all the implied limits on an informant’s permission immediately, if ever.” Nakata et al. (2008) note that “the thorn in the side of established practice is not just the onerous burden of gaining permissions and clearances to satisfy legal compliance and Indigenous interests. Attending to the legal and cultural sensitivities issues has an impact on all aspects of the decision-making process” (p. 230). This has certainly been the case for the Living Archive project.

*I had a message from a colleague in a desert community who had been out with a list of people to find to ask them to sign permission forms. She was not the first to go out with such a list, and locals were asking why they couldn’t just give community approval. I explained the (western) legal system’s reliance on individual named authorship, but the community*

*members didn't feel that the individuals should be the ones giving permission. The books were produced BY and FOR the entire community so the community should give approval. The elders wrote a letter stating their request to have all the language material produced in the school's LPC available via the Living Archive website without all individuals signing permission forms. I'm sure the lawyers won't like it, but which law should be prioritized when the practices are so different?*

Like many projects of this nature, the Living Archive project had limitations of both time and resources, making it difficult to address each individual item in the collection with the appropriate authorities. The result is that the straightforward cases make their way to the front of the line, while more complex cases remain hidden. The public website includes only records and documents with appropriate permissions, whereas the metadata of records which have been scanned but are not publicly available is hidden within the system, only visible to members of the project team and technical support staff. This makes it impossible for users to know which items have been scanned but are hidden because permission has not yet been given. This results in the paradox that the more unidentified materials are made available online, the easier it is to identify them and get permission; but the materials cannot be put online without appropriate permission. Returning to first principles of communication, consultation, and consent, it is difficult to share information about works that can't yet be made public without making them public. The team has been working towards a technical solution which would allow access to the "hidden" items via a login to enable "crowdsourcing" of additional information, a process which would likely be impossible if the materials were not in digital form.

The team are aware they are also battling against time. The longer the period between creation and distribution, the less chance there is that someone in the community recognizes the works from the time they were made. If the time period is too long there may be nobody left with the first-hand memory of the works' creation.

The fact that the Archive has received strong support from the Indigenous authorities in communities represented in its collection may be taken into account as strengthening the project's purpose (to protect and make significant material available) and the special case analysis that deals with materials of special importance to a specific community. Collecting institutions vary in their practices (Nakata et al., 2008), but some see risk management as preferable to strict compliance. The risk of infringing copyright must be weighed against the benefit of access to the community which has some moral, if not legal claim, to the material (Coates et al., 2016). While such an approach may be "legally precarious"

(Corbett & Boddington, 2011, p. 13), the alternative severely constrains which items can be viewed online, defeating the initial purpose of the Archive. In managing each of these issues, solutions were found which allowed the project to move forward. Problem works in the Archive indefinitely remain in digital form but are not publicly available; however they can be supplied to communities or researchers under other sections of the Copyright Act.

### Access and Usage

The digitization and dissemination of cultural heritage materials is valuable for preservation and promotional purposes, but also make them vulnerable to misappropriation and misuse (Anderson, 2005; Dyson & Underwood, 2006; Talakai, 2007). Once the materials were converted to digital formats and made public through the Archive, consideration was needed regarding how the works could be used by those accessing them through the website.

The project team was keen to enable users to access and enjoy the materials available, but also to protect their integrity and respect the authority of the creators. Current web technologies allow and even encourage mash-ups of work, taking sections of different items and combining them to create new forms for entertainment or educational purposes. There is a culturally constructed tension between creativity and misappropriation, and the project team sought appropriate ways to manage this tension, to prevent inappropriate use of the materials without restricting opportunities for Indigenous communities in which they may be used.

Visitors to the Living Archive website are required to view a “warning” notice that states: “Stories and pictures in this archive belong to the Aboriginal language owners, creators of the materials and their descendants.” Entrance to the Archive requires agreeing to the terms and conditions described in the User License Agreement<sup>6</sup>, which was developed in consultation with a legal team provided by the Department of Education. In addition, every record in the Archive includes a “good faith” notice which includes a clear statement of the take-down policy, as noted above. Each PDF in the collection also has a copyright statement appended to the final page (see Appendix B).

Even with these strategies in place, there is an awareness that once something is digitized and made available online it is impossible

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6. This is available at <http://www.cdu.edu.au/laal/user-license-agreement/>.

to guarantee that the work will not be misused. Rights are particularly difficult to enforce overseas, where the cost of bringing proceedings is prohibitive, even if there is clear infringement (Productivity Commission, 2016). Making the materials available in this way implies that the benefits of online access should outweigh the risks. Such judgments are made in light of current understandings, which cannot accurately predict future contexts which may render such judgments inappropriate.

Since the works remain under copyright, consideration of what terms and conditions would be attached to the works was important, as these control who could make use of them and in what ways. The various legal options available included reserving all rights, assigning rights to the individual creators (requiring users to seek permission to use any materials), putting all works in the public domain, or using a Creative Commons license.

The project team selected a Creative Commons Attribution-NonCommercial-NoDerivatives 3.0 Australia (CC BY-NC-ND 3.0 AU) license (Creative Commons, n.d.), which allows users to copy and redistribute the material as long as appropriate attribution is given, no derivatives are made, and the material is not used for commercial purposes. This was seen as the most appropriate license to enable use of the collection while still retaining the integrity of the materials.

The decision to license them under Creative Commons deliberately uses a “some rights reserved” path to navigate the issues in copyright law, while allowing the works to be used in ways that respect Indigenous authority. This license is problematic for third-party works, as only the rights holder can give permission for their works to be openly licensed, meaning that there are a number of works that may be able to be scanned and put online under copyright exceptions, but not licensed for reuse. The license also theoretically restricts what community members can do with their own materials, restricting their ability to reuse the works legally, though neither the copyright holders nor the project team would take action against them. The solution is not ideal, but it is a functional compromise in an imperfect system.

*In an effort to encourage engagement with the materials in the Living Archive, we ran a competition in 2015, inviting people to select an item from the collection and create a new digital resource, with the permission of people who “own” the story. Entries included animations, songs, websites, and videos, mostly from the communities of origin of those stories. Were others deterred by the prospect of seeking permission, even with suggestions of how to go about this included with the competition details? The prize was finally shared by two separate groups in the same community who presented quite different versions of the same book (Bow, 2015).*

## Conclusion

The Living Archive of Aboriginal Languages project demonstrates how a specific project worked through some of the challenges inherent in digitizing a cultural heritage collection, and attempting to observe and respect a dual set of knowledge traditions which emerge as western and Indigenous “laws.” Every archive and cultural heritage project is unique and faces its own challenges, and there will be no single solution that will meet the individual needs of such diverse projects. This paper is a worked example of a specific situation and the means that were found to allow the project to continue in a fine balance between two largely incommensurable legal systems. Some decisions privileged one system over the other, as the team managed incomplete understandings of both systems and found workable solutions that are unlikely to fully satisfy either tradition. The project recognizes the multiplicity of knowledge systems as not simply variations of the same system, nor as uniform across all Indigenous groups, and connections between these knowledge traditions acknowledge this overarching dissonance and disparity.

The solutions chosen for this project have not yet been tested by any legal challenges or reports of dissatisfaction, and have generally been supported by the communities represented in the Archive. All proposed solutions are necessarily tentative and subject to change with regard to community requests and in alignment with any changes in the law, which is yet to produce a satisfactory solution to the problems inherent in the spaces between traditional and contemporary law.

Whichever way it turns out, people working within Australian law to protect Aboriginal knowledge need to look carefully at how traditional law is already starting to govern ways in which digital environments are configured and managed. A careful analysis might help with the development of a law reform agenda and a legal practice which is equally committed to protect from fracture the skeleton of principle of Aboriginal law (Christie, 2005a, p. 49).

In calling the project Living Archive, the project team was keen to include the voices of the Indigenous creators of the materials. Licenses from the copyright holders to scan and publish materials online, coupled with exceptions from the Copyright Act, were legally sound and sufficient to enable the team to create and populate the archive. However, it was felt that this neglected the voice of the original creators of the materials and would not respect ICIP. Covering the breadth of content across numerous communities meant that individual negotiations with specific groups was not logistically possible. Without wanting to be yet

another band of well-intentioned non-Indigenous researchers, taking Indigenous materials and appropriating them for a non-Indigenous audience, it was important for the team to invite the Indigenous owners and creators of the materials to have a say in what happened to their materials. The longevity and sustainability of the Archive depends on openness to further negotiation and informed responses to changes in legislature and community concerns that will outlast any research funding cycle.

## Appendix A

## 1. Original consent form



I (name) \_\_\_\_\_ have been told about the *Living Archive of Aboriginal Languages* Project. I understand that the Living Archive will make books in Aboriginal languages available on the internet for people everywhere to study and enjoy. No one is allowed to sell or buy the stories or the pictures.

**I give permission for these materials to be put in the Living Archive:**

- all books I was involved in creating
- all books created by my relative named: \_\_\_\_\_

If/my relative may also be known by these names:

\_\_\_\_\_

(Please note below any books that should NOT be included in the archive)

\_\_\_\_\_

\_\_\_\_\_

Signed: \_\_\_\_\_ Date \_\_\_\_ / \_\_\_\_ / 2012

If people are interested to find out more about the story behind these books they can contact

- me directly on \_\_\_\_\_ (phone or email)
- the LPC or school at \_\_\_\_\_
- the **Living Archive** at CDU
- or  Please don't contact me

For more information call (08) 8946 6876 or email [livingarchive@cdu.edu.au](mailto:livingarchive@cdu.edu.au)

or visit our website <http://www.cdu.edu.au/laal>

## 2. Revised form following legal advice



**Living Archive of Aboriginal Languages  
Creator Consent Form**

<b>This tells us who YOU are</b>	_____ of _____ (your name) (your community)  Please also list here any other names you might be known by: _____
<b>This tells us what work you're giving us permission to use (eg from working in a school, or somewhere else).</b>  <b>You can say which books you DON'T want us to use</b>	All works you (or your relative below) were involved in creating in : (Please tick the boxes below that are correct) <input type="checkbox"/> your bilingual school program OR <input type="checkbox"/> (list the details of what this consent will cover) _____  except: (list any books or other work that you <b>don't</b> want this consent to cover) _____
<b>This says who you're giving permission to – CDU and whoever published your work</b>	Charles Darwin University, and (Please tick the boxes below for any other party that this licence is granted to) <input type="checkbox"/> Northern Territory Government <input type="checkbox"/> other (eg Catholic Education, Bachelor Institute, AUSIL) _____
<b>This says that you're the person (or related to the person) who made these books, so you have the right to sign.</b>  <b>Sometimes people use different names.</b>	(Please tick the box below that is correct) <input type="checkbox"/> You confirm that <b>you</b> created the Works and you give the permission and rights set out in this document. <input type="checkbox"/> You confirm that <b>your relative</b> created the Works and gave the permission and rights set out in this document. Your relative's name is _____  Other names that your relative might be known by: _____
<b>This helps us know that you're the right person</b>	How are you related to them? _____
<b>You can say if you want people to talk or work with you about this</b>	Are you happy for us to contact you about the Work or if people are interested in finding out more about the Work? <input type="checkbox"/> yes <input type="checkbox"/> no Contact via: _____



	<b>By reading and signing this document, you agree:</b>
<b>CDU can use your work and put it on the internet</b>	1. You grant a licence to Us to reproduce, use, and communicate the Work or any part of the Work to the public, take copies of the Work, convert the Work to another format and to otherwise modify or adapt the Work.
<b>People who find your work there have to name you as the creator, they can't make money from it, and if they change anything they can't share it</b>	2. This licence also includes the right to digitise the Work and publish the Work on the internet as part of the Living Archive of Aboriginal Languages Project, for any user from the public to view and to use under a licence such as the <b>Creative Commons Attribution-Noncommercial-No Derivs 3.0 Australia licence (Public Licence)</b> . This licence allows users to share, copy and re-distribute the Work, but they are not allowed to sell the Work. You understand and agree that this licence will not be revoked if the users follow the terms of the Public Licence. <i>See the Note below for further information.</i>
<b>This says that you're definitely the right person to sign this</b>	3. You warrant that the Work is the original work of the person named on this document, and that our inclusion of the Work in the Living Archive of Aboriginal Languages (and the rights provided to the public under the Public Licence) will not infringe the copyright or other intellectual property rights of any third party.
<b>This says you won't get paid for putting this work on the internet</b>	4. You do not require any payment or compensation under this licence or for the grant of rights under this licence, and you waive any rights and claims and release Us from any liability associated with Us doing anything anticipated by this document.
<b>Your name will be seen</b>	5. We may use your or your relative's name in connection with the Work.
<b>This is a legal document</b>	6. This document is signed as a Deed Poll and is governed by the laws of the Northern Territory.
<b>We will keep this document private</b>	7. The information on this form will be stored and used at Charles Darwin University in accordance with Northern Territory Information Act 2002. If you have any queries, please contact <a href="mailto:livingarchive@cdu.edu.au">livingarchive@cdu.edu.au</a> or phone (08) 8946 6876.

Name : \_\_\_\_\_

Signature : \_\_\_\_\_ Location: \_\_\_\_\_

Witness Name : \_\_\_\_\_

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

*(If you are under 18 years of age, please have your guardian sign below, accepting these terms on your behalf.)*

Guardian Name : \_\_\_\_\_

Guardian Signature : \_\_\_\_\_

	<b>IMPORTANT NOTE:</b>
<b>If you change your mind, we can remove your books from the internet, but we can't stop people who already found your book from using it.</b>	If you would like to find out more about the Public Licence, you can find a summary at this website: <a href="https://creativecommons.org/licenses/by-nc-nd/3.0/au/">https://creativecommons.org/licenses/by-nc-nd/3.0/au/</a> and you can find the full terms of the licence at this website: <a href="https://creativecommons.org/licenses/by-nc-nd/3.0/au/legalcode">https://creativecommons.org/licenses/by-nc-nd/3.0/au/legalcode</a> . Creative Commons licences are not revocable, but this doesn't mean creators can't cease offering a work under the licence, it simply means that whoever used the work in the past under a particular licence will continue to have the right to use the work given by that licence, even if you change the licence permissions or revoke the licence for any new users. If you would like more information, see this website: <a href="http://wiki.creativecommons.org/FAQ/What_if_I_change_my_mind_3f">http://wiki.creativecommons.org/FAQ/What_if_I_change_my_mind_3f</a> .



## Appendix B

Copyright statement attached to all PDFs downloaded from the Living Archive website



This work is from the **Living Archive of Aboriginal Languages** [www.cdu.edu.au/laal](http://www.cdu.edu.au/laal)

If you have any questions or wish to access information concerning this work, please contact us at [livingarchive@cdu.edu.au](mailto:livingarchive@cdu.edu.au).

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- (ii) do not use the work for commercial purposes;
- (iii) do not distribute the modified work if they remix, transform or build upon the work, and
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The creators of this work assert their **moral rights** to:

- be identified and named as the creators of this work. This means that if you reproduce the work, you must identify these creators;
- take action if this work is falsely attributed as being someone else's work; and
- take action if this work is distorted or treated in a way that is harmful to their honour or reputation. This means that the creators of this work have the right to object to distortion, mutilation or other modification of, or derogatory action in relation to the work.

If you share this work, you must identify the creators named in this work and on the Living Archive of Aboriginal Languages website and abide with all other attribution requirements under the Creative Commons licence.

Note that any action that is in breach of the moral rights of the author will give rise to a right of the creators to take legal action under the Copyright Act 1968 (Cth).

Do not remove this notice



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