



**Australian
Silo Art Trail**
The ultimate road trip!

UNDERSTANDING COPYRIGHT LAW
AND ARTISTS MORAL RIGHTS

GUIDELINES

FOR THE USE OF

SILO AND WATER TOWER ART



TERMS

Silo Art: This document refers to all silo art and water tower art.

ASAT: Refers to Australian Silo Art Trail.

Artist: May refer to both the creator of the art, and the photographer taking an image of the art.

OVERVIEW

The purpose of these guidelines is to give introductory information about Copyright of silo art. If you need to know how the law applies in a particular situation, please seek legal advice.

The information provided in these guidelines are for anyone wishing to use a photograph of silo art, and to understand the Copyright Law of Australia and the artist moral rights.

ASAT does not hold the Copyright of any silo art and is unable to give permission for its use. ASATs purpose is to promote the artwork as a national trail, for the

benefit of the local communities and regional tourism.

As part of our commitment to the silo art movement, the local communities, and the individual artist, we have prepared these guidelines to inform the public of copyright law, which will help protect the artist and the photographer.



KEY POINTS

Copyright in Australia automatically protects most artistic works that have resulted from some skill and effort.

When an artist creates a silo art in the public realm as a tourist attraction for the local community, there is an implied license that the artwork can be photographed for personal use and shared on social media platforms such as Facebook and Instagram.

Copyright of silo art, essentially means that others need permission from the copyright holder to use an image of the artwork, especially for a commercial purpose, such as using an on merchandise, tourist souvenirs, promoting a business and selling a photograph on platforms such as iStock, Shutterstock, and Etsy.

In most cases the artist is the first Copyright holder, however there may be instances and agreements in place

for the silo owner, the group or person who commissioned the artwork, or work created for the government who may also hold the copyright and need to provide permission for its use.

GrainCorp are the commercial owners of many silos that have silo art murals and have provided guidelines for the commercial use of any image of silo art on their silos. Please view the guidelines at <https://www.graincorp.com.au/silo-art/>

Artist moral rights are to ensure that any use of an image of the artwork is credited to the creator of the work, and is not subject to derogatory treatment, such as modifying the image.

Further resources are available from Australian Copyright Council and the Arts Law Centre of Australia.



FREQUENTLY ASKED QUESTIONS

1. When is it OK to take and use a photo without the artist permission?

Under Copyright Laws of Australia an image of silo art may be used for the purpose of news, or research and study either in print or video footage. When an artist creates a silo art in the public realm as a tourist attraction for the local community, there is an implied license that the artwork can be photographed for personal use and shared on social media platforms such as Facebook and Instagram.

2. What is personal use of artwork?

Enlarging a photo of silo art to be displayed in a private home, would not be likely be considered a breach of copyright

3. How do I get in touch with an artist to seek permission to use their artwork?

Most professional artists are contactable via their website, Instagram or Facebook

4. What happens if I have breached copyright law?

The artist may consider how you have infringed on their copyright and contact you with a letter of demand to remove the image or items from sale and/or pay a license fee

5. Is it OK to use a photo that was found on Facebook or a website?

Depending on the purpose of your use, there are two issues to consider, firstly the copyright of the photographer, and the copyright of the artist.

You will need permission from the photographer as well as the artist to use the photograph.

6. If silo art does not have a © copyright symbol, does that mean there is no copyright?

No. Copyright in Australia is automatically applied to all silo art, and does not need to display the © symbol.

7. How does ASAT produce a silo art calendar to be sold to the public?

ASAT seeks permission to use an image of the silo art from:

- a) the artist
- b) the owner of the silo
- c) the local community, Council / Shire or community group
- d) The photographer

Permission is granted on the basis that we will pay a license fee to the communities valued at 50% of all profits from the sale of the calendar.

8. What if I am unsure if my use of the artwork would infringe on Copyright law.

If in doubt always ask for permission from the artist and photographer.

9. I am an artists and I think some of my work has been used without my permission?

We can highly recommend you contact Arts Law Centre of Australia who provides legal advice and information on a wide range of arts related legal and business matters. www.artslaw.com.au

EXAMPLES OF COPYRIGHT

1. A photographer takes a photo of a silo art, and lists the photograph for sale on www.shutterstock.com and Bluethumb.com.au

A photo of silo art may be sold for news, research and study purposes only. Any other use without the permission of the copyright holder, would likely be an infringement of copyright.

2. A professional photographer uses his images of silo art to create merchandise, (coffee mugs, keyrings, postcards jigsaws and calendars) and is sold for a commercial gain in newsagents and souvenir shops.

Whether the merchandise is intended to be a fundraiser or for commercial gain, without the permission from the copyright holder it will be considered an infringement of copyright.

3. A tour company uses a photograph of silo art to promote a tour, which is for the purpose of promoting their tour for a commercial gain.

Without the permission of the copyright holder it may be considered an infringement of copyright.

4. A blogger has written an article about the silo art movement and their personal touring holiday and wishes to use images of the silo art to be used on their private blog.






The consideration would be the implied permission given by the artist. Is the blog only for personal use to document their travels, or is the blog or article being used to sell advertising or promote a larger audience to attract a commercial gain.

5. A year 11 student is doing a research project on the social benefits of art in regional communities.

A school project would generally be considered for education and is an exception to the act and would not be considered an infringement of copyright law.



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-  www.twitter.com/siloart

© Copyright Australian Silo Art Trail

All Artists and Photographers have given consent to showcase their artwork. We have endeavoured to fully comply with Australian Copyright Laws and artists' moral rights.

Thanks to PUBLIC Silo Trail WA, GrainCorp, Viterra and the private silo owners for their assistance.



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