

NZGOAL: detailed factsheet

1. What is NZGOAL?

NZGOAL is an open access and open licensing framework that promotes the release for re-use of non-personal copyright works and non-copyright material held by State Services agencies. It is widely recognised that re-use of this material by individuals and organisations may have significant creative and economic benefit for New Zealand.

NZGOAL establishes a standardised approach for State Services agencies to apply when releasing their material for re-use. It:

- provides a series of open licensing and open access principles for copyright works and non-copyright material;
- promotes the release of copyright works for re-use using the most open Creative Commons licence, and non-copyright material for re-use using 'no known rights' statements; and
- guides agencies through the questions they need to consider before releasing material for re-use.

2. When was NZGOAL released?

The Minister of State Services released NZGOAL in late July 2010, together with its Cabinet Paper, the Cabinet Minute and the first version of this factsheet. Earlier papers prepared for this work can be found online, at <http://ict.govt.nz/guidance-and-resources/open-government/nzgoal/development-nzgoal/>. These are the:

- *Suggested All-of-Government Approach to Licensing of Public Sector Copyright Works: Discussion Paper*
- *Summary and Analysis of Departmental Feedback*
- *Draft New Zealand Government Open Access and Licensing framework (NZGOAL)*.

3. What motivated the preparation of NZGOAL?

There were six drivers behind what was originally called the Open Government Information and Data Re-Use Project, from which NZGOAL has now emerged. Those six drivers were:

- confusion, uncertainty and criticism from members of the public around Crown copyright and licensing, including difficulties being experienced through various and inconsistent licensing practices across the State Services
- recognition that, although the Policy Framework for Government-Held Information and the Web Standards set admirable principles and expectations regarding access to public sector information and data and licensing of public sector copyright works, they are no longer adequate to deal with the tapestry of copyright and licensing issues that arise in the digital age
- increasing interest from New Zealand government agencies in the potential use of CC licences
- notable public sector information, data and copyright work initiatives across the State Services (including early adopters of CC licences) as well as, more

recently, tangible and collaborative efforts by the private sector to assist government in opening up certain categories of its datasets, most notably the work of Koordinates and the individuals behind the Open Data Catalogue

- international developments regarding the use and valuable exploitation of public sector information, data and copyright works, including automated re-use
- the current economic climate. For example, Land Information New Zealand (LINZ) commissioned a report which estimates "that by investing in making geospatial data more accessible and reducing access charges, the potential exists to boost the economy by an extra \$500 million a year"¹.

4. What sort of material is subject to NZGOAL?

NZGOAL covers both copyright works and non-copyright material that:

- are produced by or for State Services agencies; and
- are appropriate for release to the public or sections of the public.

It explains how agencies should apply copyright and licensing statements, or no known rights statements, to both hard copy and electronic material.

State Services Commission (SSC) and other agencies have identified the following categories of copyright and non-copyright material as examples of material to which one can expect NZGOAL to be applied:

- geospatial datasets
- commissioned research reports
- scientific datasets
- collections of official statistics
- datasets on government performance (financial and otherwise)
- photographic images
- educational resources
- archive film
- out-of-copyright images and other material in which, by law, there is no copyright.

NGOAL does not apply to software. Similarly, NZGOAL does not apply to personal information, except for its guidance on anonymising datasets which, once stripped of personal information, might be licensed or released.

5. What is NZGOAL's status and to which agencies does it apply?

NZGOAL is government guidance approved by Cabinet (see [Cabinet Paper](#) and [Cabinet minute](#)). In particular, Cabinet has:

- **directed** all Public Service departments, the New Zealand Police, the New Zealand Defence Force, the Parliamentary Counsel Office, and the New Zealand Security Intelligence Service;
- strongly **encouraged** other State Services agencies (other than school boards of trustees; and
- **invited** school boards of trustees,

to:

- familiarise themselves with NZGOAL, in its current form and as may be updated from time to time; and
- take NZGOAL into account when releasing copyright material and non-copyright material to the public for re-use.

6. Why is NZGOAL not mandatory?

Although departments are obliged, and other State Services agencies are strongly encouraged or invited, to familiarise themselves with NZGOAL and to take it into account when releasing material for re-use, NZGOAL is not mandatory in the sense of requiring agencies to apply it to all material in their possession.

When departments were consulted on whether a framework like NZGOAL should be mandatory or recommendatory, the uniform response was that it should be recommendatory. There were various reasons for this, including the following:

- State Services agencies hold vast quantities of copyright works and non-copyright material, some of which will be of no interest to people from a re-use perspective;
- the volume of re-usable material in agencies differs, as does the level of resources available to apply NZGOAL to them; and
- some Crown entities have differing business models.

7. What is Creative Commons?

Creative Commons (CC) is a non-profit organisation that is dedicated to making it easier for people to share and build on the copyright works of others. Among other things, it provides six free licences to mark copyright works with the freedoms the creators or owners wish them to carry.

8. How, in the context of NZGOAL, do the Creative Commons licences work?

Once an agency has gone through NZGOAL's Review and Release Process and selected an appropriate licence, it applies the chosen licence to the copyright work in question. How it does this depends on whether the work is in hard copy or electronic form. The process entails including a statement that the named copyright work is licensed for re-use under the selected Creative Commons licence. That licensing statement links through to the online wording of the chosen licence and contains whatever attribution statements the agency may choose to require of people who distribute or publish the licensed work. Where relevant, it may also remove state emblems or trade marks from the scope of the licence.

The main difference between what appears on hard copy and electronic works is that electronic works contain metadata (data about data) that enables search engines to find the works by reference to their licence type. The NZGOAL Review and Release Process walks agencies through the process for obtaining that metadata and applying it to the web page in or from which the work can be found.

The licences themselves, found online, are available in three forms:

- human readable (key features of the licence described in plain terms)
- lawyer readable (the full legal terms)
- machine readable (the metadata).

9. What is the value of NZGOAL to New Zealanders?

If NZGOAL is taken up by agencies as expected, New Zealanders will benefit from having greater access to government material - both copyright and non-copyright material - on terms that make it clear that that material may be reused for their own purposes.

As more and more copyright material is released under CC licences, New Zealanders will become more and more familiar with the licences, particularly their human readable form and easy to understand icons, and be able to determine very quickly the uses to which they can lawfully put licensed material.

Individuals and organisations will be able to put government material to creative, social, and economic use in a legally consistent manner. Inconsistent licensing practices will reduce and there ought to be considerably less friction in combining multiple datasets from various government sources into a workable end product, solution or service.

In addition, where released material is not subject to copyright, no known rights statements will make that clear. That, in turn, makes it clear that a licence for re-use is not required.

New Zealanders will be able squeeze more value out of taxpayer funded works than government can, to the benefit of themselves and the wider economy.

Indirectly, New Zealanders may also benefit from a greater culture of sharing, collaboration and transparency across the State Services than currently exists.

10. How does NZGOAL relate to the Official Information Act 1982 and why is release under that Act not enough?

While the Official Information Act is a powerful piece of legislation in enabling access to official information, it says nothing about licensing copyright material released by government following a request under the Act. To the contrary, copyright works released to a person following a request under the Act do not lose their copyright protection by virtue of being released in this way. Nor does the fact of release entitle the recipient to use the works in a way which would infringe copyright. The recipient needs a licence to re-use these works.. NZGOAL provides a framework within which licences can, at an agency's discretion, be granted, either proactively or upon request. Indeed, to some extent NZGOAL can be seen as a logical extension of the principle of availability in section 5 of the Official Information Act.

11. Why not just release the material online?

The mere release of copyright works online says nothing about the uses to which those copyright works may lawfully be put. Legally speaking, licences that authorise re-use are required.

12. Why don't State Services agencies just waive copyright? Why not use CC Zero?

These two questions address the same issue, because CC Zero is a separate CC tool designed to enable copyright owners to waive all known copyright in a work.

There are legal, policy and operational aspects to this issue, each of which provides sufficient reason not to adopt a waiver/CC Zero approach.

Legally, there are questions around whether and the extent to which the Crown and other State Services agencies can, in fact, waive (or abandon) copyright under the Copyright Act 1994 and potential inconsistencies with the moral rights regime in that Act.

At a policy level, guidance which advocated all-of-government waiving of Crown copyright (for departments) and copyright (for other State Services agencies) would be a substantial move and one which is considered more appropriate for consideration in the context of any future reform of the Copyright Act, which is primarily a matter for the Ministry of Economic Development (MED), not SSC. It would raise a large number of issues which are more appropriately dealt with as a matter of law reform.

At the operational level, waiving copyright would have the effect of removing attribution requirements when ensuring correct attribution to and integrity of certain categories of copyright works is important to many government agencies.

13. What will it cost agencies to implement NZGOAL?

Agencies may require resources to implement NZGOAL. Relevant staff may need to be trained and additional time may be required to license material for re-use which previously would not have been licensed. For some agencies, this might require a reprioritisation or reallocation of resources.

As NZGOAL is recommended guidance only, agencies are able to factor this potential impact into their business planning and release material for re-use in a manner that suits them.

'Re-use champions' have also been designated in a wide range of agencies. These people take the lead in understanding, spreading appreciation of and implementing NZGOAL.

14. How does the Government promote NZGOAL and how does it work with Creative Commons Aotearoa New Zealand?

SSC, DIA and LINZ have undertaken and continue to undertake a range of activities to promote NZGOAL. Those activities include:

- preparation of a Quick Guide for Agencies and a Quick Guide for Users;
- development and delivery of a training programme for agencies;
- engagement with Creative Commons Aotearoa New Zealand with a view to its assisting in the promotion of NZGOAL through its website and other channels and being involved in the training programme.

15. How does New Zealand compare with overseas jurisdictions?

Favourably. NZGOAL is consistent with initiatives in, for example, Australia, the United Kingdom and the United States. It is also consistent with, and gives effect to, recommendations from the OECD Council for enhanced access to and more

effective use of public sector information which was adopted by OECD Ministers, including New Zealand, in June 2008.

16. Are we prejudicing New Zealand's interests given the non-territorial nature of the licences?

No. It is true that material licensed under a Creative Commons licence can be used by anyone with access to the material. For material released online, that means anyone in the world with an internet connection. Theoretically, therefore, an overseas organisation could exploit New Zealand-released government material with a view to being first to market with a product or service.

However, New Zealanders are likely to be every bit as able as, if not more able than, their overseas counterparts to put New Zealand government material to constructive use. They are likely to be more motivated to do so and better able to do so given their knowledge of New Zealand markets and the New Zealand environment.

In addition, solutions to the world's problems are more likely to be found if rich and diverse datasets and other material from around the world can be used by anyone with the ability to contribute to solutions. Imposing territorial restrictions on the licences used for government works would have unnecessarily stifling effects.

17. How does NZGOAL accommodate Maori concerns and interests?

Maori concerns and interests are captured in two of the restrictions set out in the NZGOAL Policy Principles. These restrictions recognise that release of government held traditional knowledge or other culturally sensitive material could threaten the control over or integrity of that material or jeopardise the economic or other potential to Maori or other indigenous groups of that material. NZGOAL advises agencies to consult Te Puni Kokiri if in any doubt about the application of these restrictions.

SSC and DIA considered including an indigenous licence in NZGOAL. Consultation with departments indicated strong support for it. However, given its complexity and following discussion with MED, it was considered appropriate to await release of the WAI 262 report before taking this issue further. It is not merely a matter of copyright licensing. Some traditional knowledge, and other sensitive material government holds, may be out of copyright or not qualify for copyright yet still need protection. The matter is more complex than trying to draft an indigenous licence by reference to current Western concepts of intellectual property law.

18. How is "attribution stacking" covered?

As NZGOAL notes, copyright datasets released on terms allowing re-use are more likely than other copyright works to be combined or mashed-up with other datasets, either wholly or partially. In some instances data from multiple datasets, potentially large numbers of datasets, may feed into an end application. This may be particularly so in applications of a scientific, technological or geographic nature. In such situations compliance with multiple attribution requirements, one to each source, may be burdensome for researchers or the developers of such applications, at least where the attribution requirements are more than minimal and non-standardised. This has been referred to in the literature as the problem of "attribution stacking".

NZGOAL contains a Policy Principle which deals with the potential problem. It asks State Services agencies releasing copyright datasets under Creative Commons licences to:

- consider whether there is any prospect that those datasets or portions of them will be combined with one or more other datasets or portions of other datasets; and
- if there is any such prospect, keep attribution requirements (if any) to a minimum, requiring at most a statement that: (i) identifies the agency as a data source; and(ii) contains the agency's Uniform Resource Identifier (URI) that contains licensing information for the data but only if it is reasonably practicable for the end user to refer to the URI in its application, tool, system, programme, research or other use.

¹ ACIL Tasman Pty Ltd. *Spatial information in the New Zealand economy: realising productivity gains*. (August 2009)
<http://www.linz.govt.nz/sites/default/files/docs/geospatial-office/spatial-information-in-the-new-zealand-economy-2009.pdf>.