



**CITY OF BUNBURY
SURF LIFE SAVING CLUB INC.
PHOTOGRAPHY POLICY**

**POLICY
NUMBER
3.4
July 2019
Version: 1**

INTRODUCTION

The City of Bunbury SLSC will abide by Surf Life Saving Australia's national Photography Policy (Policy Number 6.21 31st March 2014) as follow:

1. PHOTOGRAPHY AND DIGITAL RECORDING

1.1. Overview

Images of people and activities on Australian beaches, including surf lifesavers and their patrolling and competitive activities, are part of Australia's cultural history and identity.

However, the increasing amount and convenience of digital photo and video recording devices has led to concerns about the moral, ethical and legal obligations with regard to photography, video recording and the role of SLSA members.

This policy outlines the circumstances under which photography may be restricted or not permitted, and provides guidelines for SLSA members when carrying out their duties.

1.2. SLSA's role

As part of its constitutional objectives SLSA seeks to:

- ensure the maintenance and enhancement of SLSA and Surf Life Saving, its standards, quality and reputation for the benefit of the members and Surf Life Saving;
- at all times act in the interests of the members and Surf Life Saving;
- formulate or adopt and implement appropriate policies, including in relation to sexual harassment, equal opportunity, equity, drugs in sport, health, safety, junior and senior programs, infectious diseases and such other matters as arise from time to time as issues to be addressed in Surf Life Saving;
- have regard to the public interest in its operations; and
- promote the health and safety of members and all other users of the aquatic environment.

This policy helps assist SLSA meet its objectives by clarifying the issues surrounding photography of persons at patrolled beaches and the immediate vicinity of patrolled beaches.



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SLSA is also currently responsible for a number of major surf sports carnivals including the Australian Surf Life Saving Championships. Surf Life Saving state centres, branches and clubs are responsible for many other events. Together, these events are important and established parts of Australian culture and present a variety of issues for organisers when considering photography and recording. SLSA therefore considers it has an interest in articulating this policy for the following reasons:

- the growth of photographic and digital technology;
- protection of SLSA members, particularly minors;
- protection of SLSA official and accredited photographers;
- clarifying the status of amateur and professional photographers in public places for SLSA members;
- and
- providing general information for spectators and other members of the public.

2. LAWS AND RESTRICTIONS

2.1. The Privacy Act

Under the Privacy Act if an individual's identity is apparent, or can reasonably be ascertained, from a photograph or other image, then the collection, use and disclosure of that image is covered by the Privacy Act. This extends to video and digital images as well as photographs.

As with other forms of personal information, the coverage of images is limited by the scope of the Privacy Act. For example, an image is not covered by the Privacy Act if it was taken by an individual who is acting in their private capacity. The image is also not covered if the image was taken by someone acting on behalf of a small business. Similarly, images taken by a person acting on behalf of a state or territory agency may not be covered by the Privacy Act, but rather covered by a state or territory law.

Where an event is held on private property, such as a surf life saving club, other privately owned land, a school or council owned facilities (but not, for example, a council road or park), the owners of private property or venues are able to restrict or ban photography (e.g. some council owned facilities will not allow mobile phones or cameras in change rooms or toilets). SLSA members need to be aware that a person may still be able to photograph or record from outside the property boundary (unless taken for indecent or improper purposes).

Where SLSA members take photographs, or film or digital images or recordings for the purposes of, or as part of, their role as an SLSA member, the taking of the image and the image itself is covered by this policy.



2.2. Criminal law

Criminal laws with regards to unauthorised photography or digital recording are based on state legislation and differ between the States.

There are a number of existing criminal laws with regard to the taking and use of unauthorised images and recordings. Some of these are as follows:

- the use of surveillance devices to record a 'private activity' without consent¹;
- filming for indecent purposes²;
- committing indecent or offensive acts in a public place³;
- "upskirting"⁴; and
- using a telecommunications network or carriage service to facilitate certain offences⁵.

The majority of these laws involve elements of private activity. Activity carried out in a public environment, or an activity in a place where privacy may not be entirely expected, such as swimming, beach activities, and so on, may not be covered by the particular offence.

In certain States it may also be an offence to intentionally distribute images without a person's consent; irrespective of whether the image is offensive in nature.

¹ For example: *Surveillance Devices Act 1999* (Vic); *Surveillance Devices Act 2000* (NT); *Surveillance Devices Act 1998* (WA); *Listening and Surveillance Devices Act 1972* (SA) (for listening devices).

² For example: *Summary Offences Act 1988* (NSW); *Summary Offences Act 1953* (Qld).

³ For example: *Criminal Code* (Qld); *Summary Offences Act 1988* (NSW); *Police Offences Act 1935* (Tas).

⁴ For example: *Summary Offences Act 1966* (Vic) div 4A; *Summary Offences (Indecent Filming) Amendment Bill 2008* (SA).



2.3. Images of minors

Consensual photos of a minor (including one's own child) may also contravene criminal laws and censorship laws if the child is photographed in a provocative or offensive manner. Some of the laws with regard to children are as follows:

- making an image of a minor engaged in a private act for prurient purposes⁶;
- making indecent visual images of a minor under the age of 16⁷; and
- other child pornography offences⁸.

Certain criminal offences may not cover images of minors that are not explicit in nature, but that may be used for offensive purposes. This is relevant to SLSA insofar as images of people on the beach are concerned.

2.4. Local council restrictions

Certain local council authorities have prohibited photography on beaches and other council controlled areas. By way of example, a permit is required to commercially photograph any outdoor, publicly-owned space in Waverley (NSW), which includes beaches and parks. SLSA advises photographers to check with the relevant local council whether there are restrictions on photography.

3. PHOTOGRAPHY OR RECORDING ON SLSA PATROLLED BEACHES OR SLSA EVENTS

3.1. Patrolled beaches

SLSA members are not entitled or empowered to confiscate, or attempt to confiscate a person's camera or digital recording device.

Photographs or digital recordings of people in public places may be taken without permission for a variety of innocuous reasons: parents taking photographs of their children in a group; amateur or professional photographers shooting a crowd scene; or tourists photographing a beach. Some people may consider such photography or recording of themselves or others on a beach as 'unwarranted or obtrusive,' however there is no generally recognised right to privacy in these situations.

⁵ For example: *Criminal Code* (Cth) s474.14; s474.17; s 474.19; s474.20; s474.22; s474.23.

⁶ For example: *Criminal Law Consolidation Act 1935* (SA) s 63B.

⁷ For example: *Criminal Code* (Qld) s210(1)(f).

⁸ For example: *Crimes Act 1958* (Vic); *Criminal Code Act 1924* (Tas).



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First, if an individual does not wish to be photographed or recorded, they should approach the photographer and make it clear to them. Continued filming or recording may be reported to a patrolling SLSA member or the police.

Second, if an SLSA member (including a patrolling member) becomes aware of any person who appears to be taking photographs or digitally recording competitors, bathers or minors, and that SLSA member believes that the photographs or digital recording might be considered 'unwarranted or obtrusive', that member should approach the person to enquire what they are doing and why they are taking the photographs or recording.

Third, if the SLSA member is unable or unwilling in the circumstances to ask the person, or otherwise believes that the photographer is taking inappropriate images, he or she should seek to notify police or other relevant security (for example council inspectors or rangers). Members should record the incident and take reasonable steps to remember and record the person's attire and appearance, including any other identifiable characteristic (for example, car registration if possible in the circumstances).

If concerned that the person being photographed or recorded is unaware of the activity, a SLSA member may advise the person.

At all times SLSA members should act calmly and reasonably in such situations.

3.2. Official SLSA surf sports events

SLSA is responsible for a number of major surf sports carnivals, including the:

- Australian Surf Life Saving Championships;
- Australian IRB Championships;
- Australian Pool Rescue Championships;
- Kellogg's Nutri-Grain Ironman Series; and the
- Coolangatta Gold.

For these events, and with agreement with local authorities, SLSA has control of certain sections of the beach for the duration of the event. Events will follow the following guidelines:

All appointed photographers seeking access to SLSA events must be officially accredited.



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This requires the submission of a media accreditation form (Appendix C), which is available on request in advance of each event. Such accreditation may require the photographer to provide proof of any relevant 'working with children' accreditation applicable in that particular state.

Due to logistical and other considerations, accreditation will generally not be granted to 'club, branch or state photographers' (photographers representing surf life saving clubs, branches or state centres) to SLSA events.

Accreditation will be granted on the following conditions:

- that any photograph/film/imagery taken of competitors during or in connection with any of these events may only be used for editorial and non-advertising purposes;
- any commercial reproduction of photographs (including on-selling of images or forwarding to external organisations) must receive prior written approval by SLSA; and
- accreditation passes are non-transferable.

An accreditation fee may apply, and, if so, shall be paid prior to the issue of the accreditation.

Only SLSA accredited photographers are allowed onto any "controlled" competition areas at any SLSA Championship. Any other photographers shall be asked to leave. If a photographer cannot produce accreditation, or they do not leave the controlled area, they should be escorted from the relevant area by official security or the police.

Non-accredited photographers are able to take photographs from all publicly accessible areas, for example, grandstands, footpaths or boardwalks.

Surf Life Saving state centres, branches and clubs are encouraged to adopt the foregoing procedures for their own events. Photographers should check with the relevant event organisers to determine what (if any) policies are in place in these situations. This can normally be done by approaching a member of the organising committee on the day of the event.



4. PROTECTION OF SLSA IMAGERY

4.1. Use of red and yellow imagery for promotional purposes

No SLSA Intellectual Property shall be used to sell, promote, endorse or approve any product or service without prior written authorisation from SLSA. SLSA shall actively monitor and administer this position.

Restrictions on the use of the Intellectual Property owned by SLSA and, in particular, the red and yellow imagery associated with surf lifesaving flags, caps, uniforms and equipment against ambush marketing and unauthorised use, both within surf lifesaving and by external parties for commercial gain, are set out in SLSA Policy 6.1 Intellectual Property.

4.2. Use of images of SLSA members for promotional purposes

From time to time, SLSA, its state centres, branches or clubs carry out photography of SLSA members for promotional purposes in accordance with Policy 6.1 Intellectual Property.

In all such situations, wherever an individual's image is to be used, consent must be obtained [Appendix A]. Consent forms should be kept for as long as the image is displayed.

In some instances, for example, major surf sports events, it is not practical to obtain consent in all situations, in which case, either a disclaimer [Appendix B] should be displayed in prominent positions around the site. Further, general disclaimers should be part of all event entry criteria.

SLSA, its state centres, branches or clubs may also disclose these images to third parties (sponsors, government departments etc) for promotional or commercial purposes. SLSA, its state centres, branches or clubs shall only pass on these images where consent has been obtained. These images shall not be used to sell, promote, endorse or approve any product or service without prior written authorisation from SLSA.

4.3. Copyright of photographic images

Copyright protects a range of materials, including photographs. A photograph is protected by copyright automatically from the moment it is taken. For photographs, unless there is an agreement to the contrary, the general rule is that the photographer is the first owner of copyright. There are, however, a number of



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exceptions to this general rule, such as photographs taken in the course of employment and other commissioned photographs.

Relevantly for SLSA, its state centres, branches and clubs are the exceptions in relation to commissioned photographs. Specific provisions set out the general rules on ownership of copyright where a person who is not the photographer's employer (a client) pays a photographer to take a photograph:

- For photographs taken before 1 May 1969, the person who paid for the photograph to be taken owns the copyright, unless the photographer and client agreed otherwise;
- For photographs taken on or after 1 May 1969 and before 30 July 1998, the first owner of copyright in a commissioned photograph is the commissioning client, unless the photographer and client agreed otherwise;
- For photographs taken on or after 30 July 1998, the general rule on ownership depends on the purpose for which the photographs were taken:
 - if the photographs were taken for "private or domestic purposes" (such as family portraits, or wedding photographs), the first owner of copyright is the client, unless the photographer and client agree otherwise; however
 - if they were taken for any other purpose (e.g. commercial shots), the photographer will be the first owner of copyright, unless the photographer and client agree otherwise.

For more detailed information on copyright, see www.copyright.org.au

5. DISPLAYING IMAGES OF MINORS

From time to time, SLSA, its state centres, branches or clubs, seek to promote surf lifesaving activities in magazines, website etc.

The Australian Sports Commission has produced guidelines in these instances. SLSA supports and follows the ASC guidelines as follows:

- SLSA shall obtain permission from the minor's parent/guardian prior to taking the images of the minor;



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- SLSA shall ensure that all persons relevant to the minor's wellbeing are aware of the way in which the image is to be used and how long the image will be displayed;
- Unless unavoidable, if an image of a minor is to be used, SLSA will avoid naming the child;
- SLSA will not display information about a minor's hobbies, likes/dislikes, school, etc as this information has the potential to be used as grooming tools;
- SLSA shall only use appropriate images of the minor, relevant to sport or activity, and ensure that the minor is suitably attired. Images of athletes participating in sports or activities that involve minimal clothing (e.g. swimming) or unusual body positions/poses have the potential to be misused;
- Where possible, SLSA will reduce the ability for direct copying of pictures from a website to another source (i.e. disable the 'right mouse click' function);
- SLSA shall clearly outline in its written contracts with photographers who will retain the images taken, include arrangements made for negatives, digital file and proofs and outline any restrictions for use and sale; and
- SLSA will consider using models for promotional / advertising purposes.

6. FURTHER INFORMATION

Concerns or queries over this with respect to this policy can be made to: Privacy Officer

SLSA

Locked Bag 1010 Rosebery, NSW 2018

Email: privacy@slsa.asn.au

Phone: +61(0)2 9215 8000.

We will respond to your concern within 30 days and try to resolve it within 90 days. If we are unable to resolve your concern within this time, or you are unhappy with the outcome, you can contact the Office of Australian Information Commissioner via its enquiries line 1300 363 992 or website <http://www.oaic.gov.au/> to lodge a complaint.

For further information on SLSA's management of privacy information, please contact SLSA. SLSA may amend this Policy from time to time.

¹ For example: *Surveillance Devices Act 1999* (Vic); *Surveillance Devices Act 2000* (NT); *Surveillance Devices Act 1998* (WA); *Listening and Surveillance Devices Act 1972* (SA) (for listening devices).

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