



## 6.21 Photography, Digital Recording & Images

<b>Title:</b>	Photography, Digital Recording & Images
<b>Document Number:</b>	6.21
<b>Last Review Date:</b>	June 2024
<b>Next Review Date:</b>	June 2025
<b>Responsible Portfolio:</b>	Public Affairs
<b>Authority:</b>	This Policy is made under clause 39 of the SLSA Constitution. It is binding on all Members of SLSA and is to be interpreted in accordance with the SLSA Constitution.

### 1 PURPOSE

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#### 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.

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

This Policy seeks to assist SLSA meet its constitutional and community objects by clarifying issues surrounding photography of persons at patrolled beaches and the immediate vicinity of patrolled beaches.

SLSA is also currently responsible for a number of major surf sports carnivals including the Australian Surf Life Saving Championships. SLS State Centres, Branches and Clubs (SLS Entities) 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:

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

#### 1.3 Scope

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 or the Membership Declaration.

In all such situations, wherever an individual's image is to be used, consent should be obtained. Note however that Members when joining and renewing agree to the member's declaration as part of the [SLSA Membership form](#). This outlines that a member or a parent/guardian consent to the use of image. In signing, members consent to the relevant SLS Entity(ies) using their name, image, likeness and also performance in or of any SLS Activity at any time to promote the Objects of the relevant SLS Entity(ies), by any form of media. As per the Membership form members waives any rights they might have to name, image or likeness by the relevant SLS Entity(ies).

## 2 RESTRICTIONS

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### 2.1 Privacy

Under Privacy legislation including the *Privacy Act 1988 (Cth)*, 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 that legislation. This extends to video and digital images as well as photographs.

Where an event is held on private property, such as at a Club, other privately-owned land, a school or council owned facility (but not, for example, a council road or park), the owners of the private property or venue 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). Such matters may also be addressed in leases over Clubs' land.

SLSA Members should 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).

### 2.2 Crime

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

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

- a. the use of surveillance devices to record a 'private activity' without consent<sup>1</sup>;
- b. filming for indecent purposes<sup>2</sup>;
- c. committing indecent or offensive acts in a public place<sup>3</sup>; and
- d. using a telecommunications network or carriage service to facilitate certain offences<sup>4</sup>.

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

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<sup>1</sup> For example: *Surveillance Devices Act 1999 (Vic)*; *Surveillance Devices Act 2007 (NT)*; *Surveillance Devices Act 1998 (WA)*; *Listening and Surveillance Devices Act 1972 (SA)* (for listening devices).

<sup>2</sup> For example: *Summary Offences Act 1988 (NSW)*; *Summary Offences Act 1953 (SA)*; *Summary Offences Act 2005 (Qld)*.

<sup>3</sup> For example: *Criminal Code Act 1899 (Qld)*; *Summary Offences Act 1988 (NSW)*; *Police Offences Act 1935 (Tas)*.

<sup>4</sup> For example: *Criminal Code Act 1995 (Cth)* s474.14; s474.17; s 474.19; s474.20; s474.22; s474.23.

## 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:

- a. making an image of a minor engaged in a private act for prurient purposes<sup>5</sup>;
- b. making indecent visual images of a minor under the age of 166; and
- c. other child pornography offences<sup>7</sup>.

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. For 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 at the beach or which they are taking photos.

# 3 PHOTOGRAPHY OR RECORDING ON SLSA PATROLLED BEACHES OR AT SLSA EVENTS

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## 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 recognised right to privacy in these situations.

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

Secondly, 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. Such approach should only be undertaken if the Member feels safe to do so.

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<sup>5</sup> For example: *Criminal Law Consolidation Act 1935 (SA)* s 63B.

<sup>6</sup> For example: *Criminal Code Act 1899 (Qld)* s210(1)(f).

<sup>7</sup> For example: *Crimes Act 1958 (Vic)*; *Criminal Code Act 1924 (Tas)*.

Thirdly, 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 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, the 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;
- Iron Series and Trial(s); and
- 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. Organisers of these events should apply the following guidelines:

- a. All appointed photographers seeking access to SLSA events must be officially accredited by the SLSA Public Affairs Team.
- b. This requires the submission of a media accreditation form (**Annexure 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.
- c. Accreditation will be granted on the following conditions:
  - i. 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;
  - ii. any commercial reproduction of photographs (including on-selling of images or forwarding to external organisations) must receive prior written approval by SLSA; and
  - iii. 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.

SLS State Centres, Branches and Clubs are encouraged to adopt the above 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 be done by approaching a member of the organising committee on the day of the event.

## 4 CCTV & SECURITY RECORDINGS

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To assist in providing a safe physical environment SLS Entities may have a CCTV surveillance system installed at their premises. The area covered at each SLS Entity is covered by this policy and is to be read in line with the [Policy 6.02 Privacy](#) and relevant legislation in each jurisdiction(s).

### 4.1 Overt Camera Surveillance

In a security context, camera surveillance is generally used to:

- a. deter security incidents e.g. theft, vandalism, violence, etc;
- b. gather information that may be used in evidence, by law enforcement agencies, if a crime is committed within view of the camera (assuming the camera is recording); and/or
- c. allow a security incident to be viewed as it is occurring and an appropriate response to be raised.

### 4.2 Monitoring of Camera Surveillance

Where continuous monitoring of CCTV at SLS Entity premises is not feasible the following strategies, as a minimum, should be considered:

- a. the CCTV is continuously recorded with archived images stored for up to 7 days;
- b. a physical security response is mobilised where an alarm is activated;
- c. protocols advising SLSC officers if an incident occurs are established; and
- d. regular review of the effectiveness of the above strategies is undertaken to ensure risk and liability are being appropriately managed in a way that maintains the security of the SLS Entity.

### 4.3 Placement of Cameras

Where a security risk assessment results in the decision to use overt camera surveillance in a particular location, effective placement of the camera within this location is critical to the success of a surveillance strategy aimed at controlling security risks.

- a. Lighting levels, including shadowing, minimum lux levels, type and height including varying lighting levels in open areas as opposed to under awnings etc and obstructions to fields of view.
- b. Pedestrian thoroughfares, including analysis of the amount of pedestrian access throughout each day.
- c. The recommended height of equipment above ground to deter potential vandalism (while noting that position height of cameras needs to allow adequate identification of persons).
- d. The view from the recommended camera height, taking into account building structures and awnings.
- e. Direction of the sun, including sunrise and sunset 'blooming' and the possible effect on the cameras.
- f. Whether private premises would come within the view of the cameras.
- g. The accessibility of equipment for maintenance purposes including any safety issues for members or contractors undertaking the maintenance.

- h. Possibility of accompanying lighting intruding upon the surrounding area. Access to power supply.
- i. Cabling routes and distances.
- j. Availability of existing cables and conduits.

#### **4.4 Related Procedures**

SLS Entities should also consider:

- a. ensuring camera surveillance equipment remains appropriately placed, and continues to be pointed in the necessary direction;
- b. maintenance and testing of the equipment - a maintenance log is recommended. The CCTV system and any alarms should be regularly tested;
- c. undertaking regular risk assessments to ensure that the introduction of camera surveillance has not created new or different security risks e.g. moved potential illegal activity from the area now under surveillance to other surrounding areas, or created expectations in relation to a duress response that may be unrealistic or unable to be met.

#### **4.5 Use and Disclosure of Surveillance Records**

Any record made as a result of surveillance should only be viewed by persons expressly authorised by the SLS Entity and should not be used or disclosed to any third party unless the disclosure is:

- a. for a legitimate purpose related to the legitimate business activities of a SLS Entity;
- b. to a member or officer of a law enforcement agency (eg Police) for use in connection with the detection, investigation or prosecution of an offence;
- c. for a purpose that is directly or indirectly related to the taking of civil or criminal proceedings; and/or
- d. reasonably believed to be necessary to avert an imminent threat of serious violence or of substantial damage to property.

As it is in the public interest to assist law enforcement agencies to pursue their law enforcement and public protection activities, SLS Entities should assess requests for surveillance records in the absence of a warrant on a case by case basis.

In deciding whether to provide surveillance records SLS Entities should balance this need with its own obligations of confidentiality to its members and the sensitive nature of legal information.

Factors that should be considered prior to disclosing surveillance records without a warrant include:

- The seriousness of the alleged offence.
- The degree of evidence available that suggests the surveillance record contains information that will assist with law enforcement.
- Whether significant personal information relating to third parties will be disclosed.
- How well sign posted the camera surveillance is i.e. will members and visitors to the area have a reasonable expectation that they will be captured in surveillance records.
- Any industrial arrangements as the surveillance records may also include footage of members.

## 5 PROTECTION OF SLSA IMAGERY

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### 5.1 Use of red and yellow imagery for promotional purposes

No SLSA Intellectual Property can be used to sell, promote, endorse or approve any product or service without prior written authorisation from SLSA.

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 SLS, and by external parties for commercial gain, are set out in [Policy 6.01 Intellectual Property](#).

### 5.2 Use of images of SLSA members for promotional purposes

From time to time, SLSA, its State Centres, Branches or Clubs carry out photography of SLS Members for promotional purposes. Such photography and purposes should be carried out in accordance with this policy and [Policy 6.01 Intellectual Property](#).

In some instances, for example, major Surf Sport events, it is not practical to obtain consent in all situations, in which case, either a disclaimer [**Annexure 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.

### 5.3 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 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:

- a. 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;
- b. 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;
- c. For photographs taken on or after 30 July 1998, the general rule on ownership depends on the purpose for which the photographs were taken:
  - i. 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



- ii. 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 <http://www.copyright.org.au/>

## 6 DISPLAYING IMAGES OF MINORS

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From time to time, SLSA, its State Centres, Branches or Clubs, seek to promote surf lifesaving activities in magazines, websites, etc. Sport Australia (ASC) has produced guidelines in these instances. SLSA follows the ASC guidelines as follows:

- a. SLSA shall obtain permission from the minor's parent/guardian prior to taking the images of the minor;
- b. 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;
- c. unless unavoidable, if an image of a minor is to be used, SLSA will avoid naming the child;
- d. 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;
- e. 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;
- f. 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);
- g. 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
- h. SLSA will consider using models for promotional/advertising purposes.

## 7 FURTHER INFORMATION & BREACH OF POLICY

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

**SLSA Media**

Email: [media@slsa.asn.au](mailto:media@slsa.asn.au)

Ph: 02 9215 8000

SLSA will endeavour to 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 refer to [Policy 6.02 Privacy](#). SLSA encourages all Members to report any use of photography which is perceived to have breached this policy. If you believe there has been a breach of this policy, please report and submit details of the alleged breach by going to [complaints.sls.com.au](http://complaints.sls.com.au).



## ANNEXURE A - SAMPLE RELEASE FORM

I hereby irrevocably grant to Surf Life Saving Australia (SLSA), its State Centres, other Members and partners, all rights in and to the photographs, images, videotape and sound recording made of me (**Image**) on \_\_\_\_\_, 20\_\_.

The rights granted to SLSA include the perpetual, exclusive and unencumbered right to use, edit, reproduce, distribute, telecast, publish and otherwise exhibit the 'Image' worldwide, including excerpts, in any and all forms of media.

In addition, the rights granted to SLSA include the right to use the Image or any portion of it, and my name, voice, likeness and biographical material to publicise and advertise the Image and/or the services of SLSA.

I hereby release and indemnify SLSA and hold SLSA harmless from and against any:

- a. liability based on any personal, property, residual, re-use or other right which I have or may have by virtue of any such use of my name, voice, likeness, biographical material or related clips in which I appear, or as a result of the exhibition, telecast or distribution of the Appearance or any portion thereof;
- b. claim arising out of any of my acts or statements made in connection with the 'Image' (including but not limited to defamation, invasion of privacy, and the like);
- c. claim for further consideration or compensation for the 'Image' or the rights granted hereunder.

I have the full right and legal capacity to sign this Consent and Release. I have read this Consent and Release prior to signing it and I understand its contents.

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

Producer \_\_\_\_\_ Name of Interviewee: \_\_\_\_\_

SLSA Project \_\_\_\_\_

***(If this Consent and Release is signed by a minor, the following must be completed by a parent or legal guardian)***

***I warrant that I am a parent (or legal guardian) of the minor whose signature appears immediately above, and I hereby agree that I and the said minor will be bound by all releases, consents and covenants contained in this Consent and Release.***

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

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

## ANNEXURE B - SAMPLE DISCLAIMER FORM

This disclaimer is based on documents used previously at the Australian Surf Life Saving Championships. Details should be amended to take into account the individual circumstances at each event.]

### Important Notice

Information about photography during the [event]

#### Access of photographers to competition areas

- As per [insert details of council by-laws, where applicable] [SLS entity] has “exclusive use” of [insert relevant location] for the duration of this event. This entitles [SLS entity] to “impose restrictions on access” to the beach, and to direct any person to leave the beach.
- Only official [SLS entity] photographers and officially accredited media photographers will be admitted on to the competition arenas. Official accreditation is denoted by [insert description of accreditation e.g. blue
- wristbands].
- In the interests of event management and safety, club photographers are not permitted onto the competition arenas during this event. Club photographers and members of the public are permitted to take photos from all publicly accessible areas, for example, grandstands, footpaths or boardwalks.
- Competitors, officials or spectators who become concerned about the behaviour of non-accredited photographers are asked to contact [insert relevant contact details].

#### **Use of images by [SLS entity]**

- Competitors are advised that during the course of this event they may be photographed or filmed by official [SLS entity] photographers or by officially accredited media.
- It is a condition of entry to the championships that competitors **consent to the use** of any photos or film containing their image, by media outlets, and/or by [SLS entity] and/or by related parties in pursuit of [SLS entity’s] objectives.
- Competitors **who do not consent** to this use, must inform the official [SLS entity] photographers or officially accredited media.
- For further information on SLSA’s commitment to the protection of personal information, see the SLSA Privacy Policy at [www.slsa.com.au](http://www.slsa.com.au).

***Event Management***

# ANNEXURE C - SAMPLE SURF SPORTS EVENT MEDIA ACCREDITATION FORM

Name \_\_\_\_\_

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

Club/Branch/State or National \_\_\_\_\_

Media Organisation \_\_\_\_\_

Position \_\_\_\_\_

Editor/administrator \_\_\_\_\_

Website \_\_\_\_\_

Social Media Handle: \_\_\_\_\_

Circulation/Readership/Viewership/Listenership: \_\_\_\_\_

Address \_\_\_\_\_

Telephone/Mobile \_\_\_\_\_

Email \_\_\_\_\_

National Press Card # & or AIPS \_\_\_\_\_

### Please indicate which days accreditation is applied for:

- |                             |                             |                             |
|-----------------------------|-----------------------------|-----------------------------|
| <input type="radio"/> Day 1 | <input type="radio"/> Day 3 | <input type="radio"/> Day 5 |
| <input type="radio"/> Day 2 | <input type="radio"/> Day 4 | <input type="radio"/> Day 6 |

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

In applying for accreditation for the event, I certify that any photographic images taken are for the purpose of reproduction in the above newspaper and in other newspapers subscribing to its syndications service. Images sold to readers will be sold on the basis that they are marked for personal consumption only and are not to be re-used commercially. Photographic images taken at the event will not be sold for commercial use without the express permission of this organisation.

Director's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

(please include stamp of organisation if applicable) In signing this application I certify that the above person is a professional working journalist/broadcaster/photographer whose work will be used only for the purposes specified.

Director's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please do not sign this Accreditation Form if the above person is not a professional working journalist/broadcaster/photographer working for your organisation.