



SURF LIFE SAVING AUSTRALIA POLICY STATEMENT PHOTOGRAPHY POLICY

**POLICY
NUMBER
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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. It is in SLSA's interest that this continues to be the case.

However, the increasing use of digital photo and video capture devices has led to concerns about when and where it is legal to take photos, and the role of SLSA members. This policy outlines the legal status of photography and videography, 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

Amongst its constitutional objects 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
- promote the health and safety of members and all other users of the aquatic environment.

SLSA considers that in order to meet these objects a policy is required regarding the clarification of the legal 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, while Surf Life Saving state centres, branches and clubs also are responsible for many other events. These events, important and established parts of Australian culture, also present a variety of issues for organisers when considering photography – see section 3.

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 children
- 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. Photography in public places, such as the beach

2.1. The law

In Australia, generally speaking, there is no law restricting photography of people (including children) in public spaces as long as the images are not considered as:

- indecent (such as “up skirt” or “downblouse” photographs taken covertly in change rooms, toilets or other invasions of privacy)
- being used for voyeurism or made for the purpose of observing and visually recording the other person’s genital or anal region
- protected by a court order (e.g. child custody or witness protection)
- defamatory
- for commercial purposes (person’s likeness is used to entice people to buy or it appears they are endorsing a product). This may require a Model Release/Consent Form to be signed – see Appendix A.

Consensual photos of a child (including one’s own child) also contravene criminal laws and censorship laws if the child is photographed in a provocative or sexual manner.

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). There is nothing, however, to prevent a person from photographing outside the property boundary unless it is taken for indecent or improper purposes, as listed above.

2.2. Guidelines for SLSA members

There are obvious public policy reasons for criminalising the type of behaviour referred to above. What is more problematic is trying to distinguish between photographs taken for an innocuous purpose, and photography which might be considered by the subject(s) ‘unwarranted or obtrusive’.

As noted above, photographs or videos of people in a public place 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 packed beach.

Some people may consider photography or videos of themselves or others on a beach as ‘unwarranted or obtrusive’ however there is no generally recognised right to privacy in these situations. Common sense and courtesy should apply in these situations. If you do not wish to be photographed or videoed, you should approach the photographer and make it clear that you do not wish to be photographed. SLSA members are not entitled or empowered to confiscate, or attempt to confiscate a person’s camera.

If an SLSA member (including a patrolling member) is aware or is made aware of any person who appears to be taking photographs or video of competitors or members (e.g. Nippers), which 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 film of SLSA members or competitors. Remember however that it is not illegal to take photographs in a public place, nor is consent required and SLSA members should at all times behave courteously in these situations.

If the SLSA member has reason to believe that a photographer is taking inappropriate images (see 2.1 above) 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. Also any other identifiable characteristic (for example, car registration should be recorded if possible in the circumstances).

At all times SLSA members should act calmly and reasonably in approaching any suspicious person. As noted above, SLSA members are not entitled or empowered to confiscate, or attempt to confiscate a person's camera.

3. Photography at official SLSA surf sports events

As noted above, SLSA is currently responsible for a number of major surf sports carnivals, including the Australian Surf Life Saving Championships, the Australian IRB Championships, the Australian Pool Rescue Championships, the Kellogg's Nutri-Grain Ironman Series and the Coolangatta Gold. In these situations, and by agreement with local authorities, SLSA generally has control of certain sections of the beach for the duration of the event. This section of the policy applies to official SLSA events and does not necessarily apply to other surf carnivals. Surf Life Saving state centres, branches and clubs are encouraged to adopt the following 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.

3.1. Official accreditation to SLSA surf sports events

From time to time, SLSA will appoint an official photographer to provide photographic services at SLSA events. All other photographers seeking access to SLSA events must be officially accredited. This requires the submission of a media accreditation form (see sample at 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 is granted on the express condition 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. The 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 can and should be asked to leave. If a photographer cannot produce their accreditation or they do not leave the controlled area they should be escorted from the relevant area by security. The police may also be called. Non-accredited photographers are able to take photographs from all publicly accessible areas, for example, grandstands, footpaths or boardwalks.

See appendix C for sample accreditation form for SLSA surf sports events – other Surf Life Saving state centres, branches and clubs may have their own accreditation form and interested photographers are advised to check with the relevant organisation.

4. Protection of SLSA imagery

4.1. Use of red and yellow imagery for promotional purposes

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.

As noted in that policy:

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

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 (see above). In all such situations, wherever an individual’s image is to be used, consent must be obtained [see appendix A for sample consent form]. 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 [see appendix B] should be displayed in prominent positions around the site, or the disclaimer should be part of the event entry criteria.

From time to time, SLSA, its state centres, branches or clubs pass on these images to third parties (sponsors, government departments etc) for promotional 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 exceptions to this general rule:

- Photographs taken in the course of employment
- Commissioned photographs

Of most relevance to 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 them 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 in them 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.

Information for this section is taken from Information Sheet G11 Photographers and copyright, January 2006, Australian Copyright Council.

4.4. Displaying images of children

From time to time, SLSA, its state centres, branches or clubs, seek to surf lifesaving activities in magazines, website etc. The Australian Sports Commission has produced guidelines in these instances – see http://www.ausport.gov.au/ethics/information_sheets/IS_acquiring_images.asp.

The ASC advises that if an organisation is acquiring an image of a child for display:

- Consider using models or illustrations for promotional / advertising purposes.
- Obtain permission from the child's parent/guardian prior to taking the images of a child or young person.
- Ensure that all concerned are aware of the way in which the image is to be used and how long the image will be displayed.
- If an image is used avoid naming the child. If this is not possible avoid using both a first name and surname.
- Avoid displaying personal information such as residential address, email address or telephone numbers if images are being posted on websites or distributed in publications.
- Do not display information about hobbies, likes/dislikes, school, etc as this information has the potential to be used as grooming tools by paedophiles or other persons.
- Only use appropriate images of the child, relevant to the sport or activity, and ensure that the athlete/child is suitably clothed. Images of athletes participating in sports or activities that involve minimal clothing (e.g. swimming and gymnastics) or unusual body positions/poses could potentially be misused. The age of the child is another factor to consider when deciding if the image is appropriate.
- Reduce the ability for direct copying of pictures from a website to another source (i.e. disable the 'right mouse click' function).
- Clearly outline in a written contract to photographers who are contracted or paid to take photos, who will retain the images taken, include arrangements made for negatives, digital file and proofs and outline any restrictions for use and sale.
- Provide details of who to contact and what to do if concerns or complaints of inappropriate image use are raised.

5. Conclusion

The above policy guidelines are provided in the interest of balancing the needs of legitimate photographers with the wellbeing of SLSA members. The rapid advances in digital camera, mobile phone and internet technologies referred to earlier means that attitudes to what is appropriate and what is inappropriate photography may also change. SLSA will endeavour to ensure these guidelines are updated from time to time to take into account these changes.

Surf Life Saving Australia
July 2008

CONSENT AND RELEASE

I hereby irrevocably grant to Surf Life Saving Australia (SLSA), its state centres and partners, all rights in and to the photographs, images, videotape and sound recording made of me ("Image") on _____, 200____.

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 thereof, 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:

- i. any 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;
- ii. any 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);
- iii. any 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: _____
(Please Print)

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: _____

Appendix B – Sample disclaimer form

This disclaimer is based on ones 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 SLISA's commitment to the protection of personal information, see the SLISA Privacy Policy at www.slsa.com.au.

Event Management

MEDIA ACCREDITATION

Name:.....

Representing
media organisation:.....

Position:.....

Editor/administrator:.....

Address:.....

Country: Internet site:

Telephone:..... Fax:.....

Email:..... Mobile:.....

National Press Card No: & or AIPS:

Passport No:

Issued at:

Please indicate which days accreditation is applied for:

- Day 1
- Day 2
- Day 3
- Day 4
- Day 5
- 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 Name:

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:

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