



# PHOTOGRAPHY, DIGITAL RECORDING, AND IMAGES (PHOTOGRAPHY) POLICY

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<b>Person responsible for review:</b>	Operations Manager

# 1 PURPOSE

## 1.1 Overview

Images of people playing sport 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 FDNA Members and persons attending FDNA facilities.

This Policy outlines the circumstances under which photography may be restricted or not permitted and provides guidelines for FDNA Members and persons attending FDNA facilities.

## 1.2 FDNA's role

This Policy seeks to assist FDNA to meet its constitutional and community objects by clarifying issues surrounding photography of persons on both indoor and outdoor courts and the immediate vicinity of those courts/amenities within the Stadium.

FDNA also hosts a number of events, including tournaments. These events may present a variety of issues for organisers when considering photography and recording. FDNA 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 FDNA Members, particularly minors;
- c. protection of FDNA official and accredited photographers;
- d. clarifying the status of amateur and professional photographers in public places for FDNA Members; and
- e. providing general information for spectators and other members of the public.

## 1.3 Scope

Where FDNA staff or representatives take photographs, or film or digital images or recordings for the purposes of, or as part of, their role, the taking of the image and the image itself is covered by this Policy.

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 their [Netball Victoria registration](#). This outlines that a member or a parent/guardian consent to the use of image. Members and persons attending FDNA facilities consent to FDNA using their name, image, likeness and also participation in or of any FDNA Activity at any time to promote the Objects of FDNA, by any form of media. Members and persons attending FDNA facilities waive any rights they might have to name, image or likeness by the relevant FDNA Entity(ies).

Note: Peninsula Waves (Waves) VNL Club operates under the auspice of FDNA and as such this Policy applies all Waves members and activities. The use of the term "FDNA" applies to members and participants of all programs hosted by FDNA.

# 2 RESTRICTIONS

## 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.

FDNA Members and persons attending FDNA facilities 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

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 playing sport, 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.

## 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 16<sup>6</sup>; 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

FCC has photography restrictions on its council-controlled areas. FDNA advises photographers to check with FCC whether there are restrictions on photography.

<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.

### **3 PHOTOGRAPHY OR RECORDING AT FDNA CONTROLLED FACILITIES OR EVENTS**

FDNA may take photographs/video for promotional purposes from time to time. Said images will not be used in a manner deemed adverse or defamatory to the subjects and will only be used to meet the objects of FDNA: to promote and grow the sport of netball. Images taken will be relevant to the sport/activity and will not be manipulated in an inappropriate manner.

Particular care for the welfare of children will be exercised when photographing/filming.

If an individual does not wish to be photographed or recorded, they should approach the FDNA authorized photographer and politely make this clear to them.

Unauthorised photography/filming at any FDNA facility/event is not allowed. Anyone wishing to take photographs/video should submit the "Request Permission to Photograph Form" for approval before taking any photos/video.

Unauthorised filming or recording may be reported to a FDNA staff member. FDNA staff are not entitled or empowered to confiscate, or attempt to confiscate a person's camera or digital recording device.

If FDNA staff become aware of any person who appears to be taking photographs or digitally recording participants and believes that the photographs or digital recording might be considered 'unwarranted or obtrusive', that staff 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 staff member feels safe to do so. The staff member should inform their manager at the earliest opportunity.

If FDNA staff believes that the photographer is taking inappropriate images, they should notify the FDNA Operations Manager and/or Police or other relevant body (that person's Club for example). Staff 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 staff member may advise the person. At all times FDNA staff should act calmly and reasonably.

### **4 CCTV & SECURITY RECORDINGS**

To assist in providing a safe physical environment FDNA has a CCTV surveillance system installed at its premises. The area covered is to be read in line with FDNA's CCTV Policy and relevant legislation.

### **5 PROTECTION OF FDNA IMAGERY**

#### **5.1 Use of FDNA imagery for promotional purposes**

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

#### **5.2 Use of images of FDNA members for promotional purposes**

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

FDNA may also disclose these images to third parties (Netball Victoria, FCC, sponsors etc) for promotional or commercial purposes. FDNA 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 FDNA.

## **6 DISPLAYING IMAGES OF MINORS**

From time to time, FDNA seeks to promote netball and sporting activities on social media and websites etc. FDNA follows the ASC guidelines as follows:

- a. FDNA shall obtain permission from the minor's parent/guardian prior to taking the images of the minor;
- b. FDNA 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, FDNA will avoid naming the child;
- d. FDNA 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. FDNA 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, FDNA will reduce the ability for direct copying of pictures from a website to another source (i.e. disable the 'right mouse click' function);
- g. FDNA 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

## **7 FURTHER INFORMATION**

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

**Operations Manager**

Email: [netball@fdna.com.au](mailto:netball@fdna.com.au)

Ph: 03 97765 5155

For further information on FNDA's management of privacy information, please refer to Netball Australia's Member Protection Policy. FDNA 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 sending an email to [netball@fdna.com.au](mailto:netball@fdna.com.au).

**APPENDIX A – SAMPLE RELEASE FORM**

**CONSENT AND RELEASE**

I hereby irrevocably grant to Frankston District Netball Association Inc (FDNA) and partners, all rights in and to the photographs, images, videotape and sound recording made of me (**Image**) on \_\_\_\_, 202.

The rights granted to FDNA 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 FDNA 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 FDNA.

I release and indemnify FDNA and hold FDNA harmless from and against any:

- i. 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. 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. 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 \_\_\_\_\_

Staff member: \_\_\_\_\_ Name photographer: \_\_\_\_\_

FDNA 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 – NOTIFICATION FOR DISPLAY

# Important Notice

## Information about photography at FDNA facilities

### Access of photographers to competition areas

- Under its lease with Frankston City Council (FCC) FDNA has “exclusive use” of Jubilee Park Indoor Stadium and Jubilee Park Outdoor Netball courts for the duration of this event.
- Only official FDNA authorised photographers and officially accredited media photographers will be admitted on to the competition arenas. Official accreditation is denoted by wearing FDNA photographer badge.
- In the interests of participant safety, members of the public **are not permitted** to take photos from publicly accessible areas, for example, grandstands, footpaths or boardwalks.
- Members or visitors who become concerned about the behaviour of non- accredited photographers **are asked to contact FDNA Staff**.

### Use of images by FDNA

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

## APPENDIX C – REQUEST PERMISSION TO PHOTOGRAPH



### REQUEST PERMISSION TO PHOTOGRAPH / VIDEO FOOTAGE

Most people taking photos or video of children at children at sporting events are doing so for acceptable reasons and are using appropriate methods.

This form must be completed by any individual wishing to take photographs/video footage at the F.D.N.A venue. Permission to take photographs/video footage is only granted for the date specified.

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

Address: \_\_\_\_\_ P/Code: \_\_\_\_\_

Email: \_\_\_\_\_

Date and time of Photography/Filming: \_\_\_\_\_

Match: \_\_\_\_\_ Vs \_\_\_\_\_

Please Turn over to complete PERMISSION FROM OPPOSING TEAM Section.

How will the images be used: \_\_\_\_\_

Authorisation for filming/photography at the F.D.N.A on the date specified above is provided under the following conditions:

- Photographs/Video footage is for **personal use only** and will not be used in a manner deemed adverse or defamatory to the subject(s) **nor used for any commercial gain.**
- No photography/video footage will be taken of any team/individual that have/has not provided consent.
- Accept the right to privacy of every person.
- Images taken are relevant to the sport or activity.
- Images and sound will not be manipulated in an inappropriate manner.
- Exercise particular care for the welfare of children in photography/filming involving them

I have read the above conditions and agree to comply.

Signed: \_\_\_\_\_ Date: \_\_\_/\_\_\_/\_\_\_

*Form continues over page*



