

Local Studies Photographic Collection

Takedown requests

Policy Statement

Port Macquarie-Hastings Library has endorsed a position statement on public requests to take down content from our online Local Studies Photographic collection. The position statement outlines how the library will respond to takedown requests. This statement is based on guidelines published by National and State Libraries Australia (NSLA).

Target Audience

This policy applies to anybody who requests the library to take down content from its online photographic collection.

Operational Requirements

Takedown requests

Libraries have mandated roles to collect and preserve cultural heritage. A significant component of this collecting role concerns the acquisition, storage and display of photographic materials. In making collections available *online* public libraries act to respect jurisdictional legal considerations. However, despite best efforts there may be occasions when material made available online is considered to breach copyright or other relevant law or contains information that is culturally sensitive. In terms of copyright infringements, Australia has legislated to extend safe harbours protection to include cultural, educational and disability groups where they provide online services to the public. The Copyright Amendment (Service Providers) Act 2018 sets the services and compliance requirements to which safe harbours may apply.

Making a takedown request

If a member of the public is concerned about that any photograph made available through the Port Macquarie-Hastings Library catalogue and/or website has been used without permission, or contravenes privacy laws, is defamatory, or is in breach of copyright law, they can contact the library in writing stating the following:

1. Contact details
2. Full description and details of the photograph
3. Reason for request, including (but not limited to) copyright law, privacy laws, data protection, defamation, proof of rights to the material, etc.

Responding to takedown requests

Port Macquarie-Hastings Library will acknowledge takedown requests in writing and will make an initial assessment of the request. The material may be temporarily removed from the library catalogue or website until a final decision is agreed upon.

Port Macquarie-Hastings Library will make all possible efforts to resolve takedown requests quickly and to the satisfaction of both parties, with the following possible outcomes:

- Access to the material is restored unchanged
- Access to the material is restored with changes
- Access to the material is removed

There will be regular reviews of takedown decisions. Where the circumstances of the original takedown request have changed over time, it may result in access to the material being restored.

Takedown requests will be assessed according to the following criteria, including whether or not:

- Online access to the identified material is in breach of copyright law.
- The identified material is subject of a suppression order or other legal restriction on availability or is subject to specific jurisdictional legislation or related exemptions.
- Online access to the identified material contravenes conditions imposed by a donor.
- The identified material is defamatory or objectionable under Australian law.
- There is a need to mitigate harm and legal liability.
- The identified material includes personal information about someone who is still alive and continued online access would cause serious invasion of privacy or harm.
- Online access to the identified material is in breach of the protocols maintaining the right of Indigenous peoples to determine access provisions for heritage materials, which reflect their history, culture, language, and perspective.

Related Key Legislation and Policy

Most relevant legislation:

- Copyright Act 1968 (Cth)
- Library Act 1939
- Privacy and Personal Information Protection Act 1998
- State Records Act 1998

Definitions

NSLA - National and State Libraries Australia

Takedown -To remove or restrict access to material on the Port Macquarie-Hastings Library website and/or catalogue