



16 April 2014

The Director
Criminal Law Review
NSW Department of Attorney General and Justice
By email: justicepolicy@agd.nsw.gov.au

Dear Director,

Consent provisions of the *Crimes Act 1900*

1. Women's Legal Services NSW (WLS NSW) thanks the NSW Department of Attorney General and Justice for the opportunity to comment on a recommendation arising from the *Review of the Consent Provisions for Sexual Assault Offences in the Crimes Act 1900* (the Review).
2. WLS NSW is a community legal centre that aims to achieve access to justice and a just legal system for women in NSW. We seek to promote women's human rights, redress inequalities experienced by women and to foster legal and social change through strategic legal services, community development, community legal education and law and policy reform work. We prioritise women who are disadvantaged by their cultural, social and economic circumstances. We provide specialist legal services relating to domestic and family violence, sexual assault, family law, discrimination, victims support, care and protection, human rights and access to justice.
3. Our work in the area of sexual assault includes advising women who have experienced sexual violence about reporting to police, evidence collection and legal processes; victims support entitlements; privacy and use of sensitive information; and complaints about service providers such as police. We also assist services providing therapeutic support to women to respond to subpoenas and requests for records in court proceedings.
4. We agree with all recommendations made at the conclusion of the Review and in response to this further consultation we support the application of the section 61HA definition of consent to other sexual offences in the *Crimes Act 1900* for which a lack of consent must be proved. We acknowledge that this may raise complexities, such as when an indecent assault may be comprised of an assault and an act of indecency, which may require different directions to the juries, but such complexities should not be an impediment to developing a progressive victim / survivor focused justice system.



5. A common scenario for many of our clients who have experienced child sexual abuse or domestic violence, and one that was also identified in the Review, is an escalation in the seriousness of sexual offences.¹ We believe that a statutory requirement for reasonable grounds for belief in consent and a clear articulation of the circumstances that negate consent for all sexual offences is essential if the criminal justice system is to appropriately and meaningfully respond to the needs of all victims / survivors of sexual assault.
6. While acknowledging that there may be occasions where different directions to a jury are required, we believe a single statutory definition, which clearly articulates what amounts to consent for all sexual offences, is vital to educate the community and to assist to break down barriers to justice for victims / survivors of sexual violence.
7. We look forward to your further recommendations and if legislative amendments are proposed we would appreciate the opportunity to comment on an exposure draft of the bill.
8. If you would like to discuss any aspect of this submission, please contact Carolyn Jones, Senior Solicitor or Liz Snell, Law Reform and Policy Coordinator on 02 8745 6900.

Yours faithfully,
Women's Legal Services NSW

Janet Loughman
Principal Solicitor

¹ NSW Department of Attorney General & Justice, *Review of the Consent Provisions for Sexual Assault Offences in the Crimes Act 1900*, October 2013, at 26.