

St Catherine's School  
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29 June 2018

To whom it may concern,

We are writing on the matter of consent in regards to sexual assault, as teenage girls who are directly affected by these laws, and as our society progresses we feel it imperative to have our values translated in NSW legislation. 83% of sexual assault victims are female and 60% of victims are aged 19 years and under, which makes it all the more relevant for our demographic to be actively participating in this discussion. Furthermore, this statistic is only representative of the fraction of victims that do step forward. Within our submission we will highlight areas where we feel law reform is necessary, and express our concerns of our safety under the Crimes Act 1900 - specifically Section 61HA.

This review into consent laws, gives our society a chance to define consent clearly and raise more awareness of both consent and sexual assault. We will be calling for the following:

- Clarity on the definition of consent.
  - Shift towards defining what it means to consent, rather than outlining what consent is not.
- Wider compulsory education for both sexes on consent, particularly within secondary schools.

### **Definition of Consent**

Consent is defined in the Crimes Act 1900 Section 61HA in subsection (2) "a person "consents" to sexual intercourse if the person freely and voluntarily agrees to the sexual intercourse." This definition is not comprehensive enough in specifying the meaning of positive consent to the community. Currently, there is a focus on what entails non-consensual sexual intercourse, with subsections (3) through to (8) outlining situations in which consent would not be present. It is imperative that subsections are introduced that detail the presence of consent - that is, a positive and mutual agreement on having sexual intercourse between the parties. This meaning of consent resembles the affirmative model of consent, which was implemented in California, in 2014. The Californian legislation defines consent as "affirmative, conscious, voluntary, verbal or non-verbal, and something that can be revoked at any time." People involved in sexual intercourse must ascertain that the other party is affirmatively agreeing to warrant that consent is present. A definition constructed of the affirmative consent model is recommended for NSW legislation, as it is simple and provides clarity that is absent yet necessary.

### **Compulsory Education**

In conjunction with the proposed legislative amendment, comprehensive and compulsory consent education should be introduced to the secondary education sector. Providing widespread education would foster a strong understanding of positive consent and eliminate uncertainties regarding the legalities of sexual intercourse in forthcoming generations. Currently, under the NESA K-10 PDHPE

Syllabus, there is no compulsory unit of study on consent within the context of sexual relationships. NESA does suggest the teaching of consent within some units, however the teaching of consent needs to become a mandatory requirement of education. The NSW Minister for the Prevention of Domestic Violence and Sexual Assault, Pru Goward stated "...education needs to stress to young people that you can make no assumptions about what the other person is thinking from what you believe their behaviour is telling you." This statement resonates with what needs to be achieved state-wide and what the introduction of consent as a compulsory education unit would provide.

As young women, we are pleased that the government is taking the initiative to inquire into this pressing matter and are grateful we are able to voice our opinions and recommendations to NSW Law Reform Commission. We hope that this review sparks the long-awaited change that is necessary for the progression and safety of our society.

Sincerely,

Maisy Lam-Po-Tang, Sophia Elliott and our Legal Studies cohort.