

END RAPE ON CAMPUS AUSTRALIA

Submission to the NSW Law Reform Commission review of consent in relation to sexual offences

End Rape on Campus Australia

28 June 2018

End Rape on Campus Australia (EROC Australia) thanks the New South Wales Law Reform Commission (NSWLRC) for the opportunity to contribute to the *Review of consent in relation to sexual offences*. We commend NSWLRC's commitment to improving the ways in which sexual offences are handled in courts of law.

EROC Australia is a volunteer organisation that works to end sexual violence at universities and residential colleges through direct support for survivors and their communities, prevention through education, and policy reform at the campus, state and federal levels. Our work includes, but is not limited to, establishing support networks, mentoring student activists, and advocating for the realisation of the rights of students under applicable university policies, and state and federal legislation. EROC Australia commonly works to support students who have experienced sexual violence while attending higher educational institutions in Australia, including New South Wales. We adopt a survivor-centric model of advocacy, which entails supporting survivors to make their own informed decisions after experiences of sexual assault. As such, we believe that it is every survivor's right to report their experiences to police and to pursue redress through the criminal justice system.

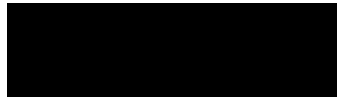
In our experience, however, very few of the student-survivors we have supported have chosen to engage with the criminal justice process in relation to their experiences of sexual violence. This may be due to a number of reasons. Student-survivors may feel distrustful of police and other personnel involved in these procedures; they may feel daunted by the lengthy nature of criminal trials, and the possibility of being re-traumatised; they may not feel that their experiences of sexual violence are captured by legislation such as section 61HA of the *Crimes Act 1900* (NSW) ('the Crimes Act'); and/or they may be deterred by the relatively low prosecution rates of sexual assault in NSW courts.

In preparing this submission, we have consulted with Rape & Domestic Violence Services Australia (R&DVSA), an organisation with internationally recognised expertise in the areas of sexual assault, domestic and family violence, and trauma. We share the concerns of R&DVSA that section 61HA of the Crimes Act has generally not been successful in implementing a standard of communicative consent, as demonstrated, for example, in the recent *Lazarus* case. We also share their broader concern that there are significant problems with the way in which the court system currently operates in response to sexual offences. Our experiences working with

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student survivors reflect the potential noted by R&DVSA for these criminal procedures to be inaccessible, protracted, and re-traumatising.

As such, EROC Australia fully endorses the suite of recommendations made by RDVSA in their submission to the NSW Law Reform Commission to address the above concerns. We thank R&DVSA for their extensive consultation with key stakeholders in the preparation of their submission, and their ongoing work to support those who have experienced gendered violence.



Anna Hush
Director, End Rape on Campus Australia

