



AASW
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Australian Association
of Social Workers

Australian Association of Social Workers Submission

NSW Sexual Consent Reforms Review

December 2025

About the Australian Association of Social Workers

The Australian Association of Social Workers (AASW) is the national professional body representing more than 17,000 social workers throughout Australia. The AASW works to promote the profession of social work including setting the benchmark for professional education and practice in social work, while also advocating on matters of human rights to advance social justice.

Acknowledgements

This submission has been informed by feedback from AASW members. The AASW thanks members who contributed their expertise and lived practice insights through the consultation process.

The Australian Association of Social Workers (AASW) acknowledges the Traditional Owners of Country throughout Australia. This submission was written across Dja Dja Wurrung and Wurundjeri Country. We pay our deep respect to Elders past, present and emerging, and recognise their continuing connection to land, water and community.

For further information or questions relating to this submission, please contact:

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Executive Summary

The Australian Association of Social Workers (AASW) welcomes the *Crimes Legislation Amendment (Sexual Consent Reforms) Act 2021* as a positive and necessary step towards strengthening consent laws in New South Wales. The introduction of affirmative consent and the criminalisation of stealthing represent important progress in recognising sexual autonomy and aligning the law with community expectations.

However, legislative reform alone is not enough. The AASW's position is that substantial, ongoing investment from the NSW Government is required to educate the public about what affirmative consent means in practice and to promote primary prevention strategies that change community attitudes and behaviours.

Further reform is also needed within policing and justice processes to ensure victim-survivors receive trauma-informed and consistent responses. This includes sustained, long-term funding for victim support services and stronger integration between justice, health, and community sectors. Social workers are central to achieving these outcomes. They provide trauma-informed sexual assault counselling, advocacy, and recovery support, and are well placed to lead prevention and education programs—including in schools and community settings—focused on affirmative consent, stealthing, and image-based abuse.

The AASW urges the NSW Government to draw upon the expertise of social workers to strengthen prevention, improve victim support, and ensure that the promise of affirmative consent reform is fully realised in practice.

Recommendations

1. Sustain and expand funding for sexual assault services that employ social workers to deliver trauma-informed counselling, crisis response, and recovery services for victim-survivors.
2. Increase NSW Government investment in primary prevention networks similar to *Our Watch* to address the drivers of sexual violence and promote cultural change across communities.
3. Develop a coordinated, long-term public education campaign to raise awareness of affirmative consent, stealthing, and image-based abuse, and to promote respectful relationships across all age groups.
4. Embed social workers within police, prosecution, and court settings to provide integrated support to victim-survivors, improve trauma-informed practice, and strengthen collaboration between justice and community services.
5. Provide additional, sustained funding for the NSW Sexual Violence Helpline to ensure it can meet rising demand and provide accessible, professional, and timely support across the state.
6. Ensure comprehensive and ongoing training for police, legal professionals, judicial officers, and community workers on the legislative changes, the meaning of affirmative consent, and trauma-informed engagement with victims.
7. Strengthen partnerships between justice, health, and social service sectors to create a coordinated and victim-centred response system that reduces retraumatisation and service fragmentation.
8. Invest in education programs across schools, universities, and workplaces led by social workers and other qualified professionals to build understanding of affirmative consent, healthy relationships, and prevention of sexual violence.
9. Improve data collection and evaluation systems to monitor the impact of consent reforms on reporting, prosecution outcomes, and victim experiences, ensuring accountability and continuous improvement.
10. Recognise and utilise the expertise of social workers in both prevention and response efforts, including policy design, research, and the delivery of community-based initiatives that advance gender equality and reduce sexual violence.

11. Legislative Recommendation - Sexual Intercourse (Section 61HA):
The AASW recommends that section 61HA of the *Crimes Act 1900 (NSW)* adopt a gender-neutral and anatomically inclusive definition of "sexual intercourse," to ensure all victim-survivors—including cisgender men, transgender and non-binary people, and people with intersex variations—are protected and that the law reflects the diversity of sexual assault experiences.
12. Legislative Recommendation - Sex Work (Section 292A):
The AASW recommends that section 292A of the *Crimes Act 1900 (NSW)* be amended to explicitly recognise that non-consensual sexual activity can occur in commercial sexual contexts. Reforms should include that stealthing during purchased sex constitutes sexual assault, introduce a "fraudulent consent" ground where consent is absent, and emphasise in jury directions that consent cannot be assumed based on profession, appearance, clothing, or location. This amendment would protect sex workers, particularly street-based workers, to reinforce their rights to safety and bodily autonomy and provide clearer guidance to courts and juries in cases of sexual violence.
13. Legislative Recommendation - Stealthing:
The AASW recommends that stealthing (i.e., removing a condom without consent) be explicitly recognised under the *Crimes Act 1900 (NSW)* as non-consensual sexual activity. This would align NSW with other jurisdictions, provide clarity for victims and courts, and strengthen protections for vulnerable populations, including young people and LGBTQIA+SB communities.

Context for this submission

The Australian Association of Social Workers (AASW) welcomes the opportunity to contribute to the Statutory Review of the *Crimes Legislation Amendment (Sexual Consent Reforms) Act 2021*. These reforms represent a significant step towards strengthening sexual consent laws in New South Wales and ensuring the justice system better reflects contemporary understandings of consent, sexual autonomy, and respect. Social workers are key frontline professionals supporting individuals affected by sexual assault, family violence, and domestic violence nationally, including across New South Wales. They provide specialist, trauma-informed, and recovery-oriented services that align closely with the objectives of the consent reforms.

Working at the intersection of the individual and society, social workers address both the immediate impacts of sexual violence and the broader systemic and cultural contexts that influence recovery and access to justice. Social work practice is grounded in human rights, social justice, and self-determination principles that are critical to the effective implementation of affirmative consent laws and to improving victim-survivor outcomes.

In NSW, social workers and Accredited Mental Health Social Workers (AMHSWs) are integral to sexual assault services, family violence programs, and community-based victim support networks. They deliver specialist counselling, crisis intervention, case management, psychoeducation, advocacy, and therapeutic support, including trauma-focused modalities such as Eye Movement Desensitisation and Reprocessing (EMDR). They also assist victim-survivors in navigating complex systems such as police, courts, healthcare, housing, and Centrelink, ensuring coordinated and continuous support.

Social workers are often the first point of contact for victim-survivors, providing:

- Crisis intervention, safety planning, and immediate emotional support.
- Counselling and therapeutic interventions to address trauma and promote recovery.
- Advocacy and liaison with police, courts, and legal representatives.
- Court support.
- Sex work specific peer-support or clinics.
- Assistance within Hospitals or other crisis services.
- Assistance with navigating financial assistance schemes, disability, housing, and other community services supports.
- Education and support for families, carers, and communities.
- Supporting victim services.

The involvement of social workers and AMHSWs ensures a holistic and trauma-informed response to sexual violence, addressing not only the psychological harm but also the social, cultural, and economic factors that impact recovery. Social workers are very often at the coal face of working with victim-survivors including in Emergency Departments, Sexual Assault crisis services, family violence crisis services, and other community services organisations. Therefore, social workers are uniquely positioned to provide holistic, trauma-informed, systems-theory informed responses. As such, the NSW Government must draw upon the skills, experiences and expertise of the profession when bolstering the reforms of the legislation.

Through their frontline experience, social workers are well placed to identify systemic barriers that limit the effectiveness of affirmative consent reforms, including gaps in trauma-informed responses, inconsistent police practices, and inadequate support for marginalised groups such as Aboriginal and Torres Strait Islander peoples, LGBTQIA+SB people, people with disability, and culturally and linguistically diverse communities.

Embedding social workers, including AMHSWs, within police, prosecution, and court settings would strengthen trauma-informed practice, improve victim engagement, and ensure the intent of the reforms is realised in practice.

To achieve this, sustained government investment is required to:

- Expand and fund sexual assault services that employ social workers.
- Increase community education and primary prevention initiatives focused on affirmative consent, stealthing, and image-based abuse.
- Support multidisciplinary collaboration across justice, health, and community sectors.
- Ensure that all professionals that are supporting victim-survivors of sexual assault are well trained and resourced to understand affirmative consent, stealthing, and image-based abuse whilst ensuring empathetic, trauma-informed, and victim-centered approaches.
- Reform legislation in line with the recommendations of the NSW Law Reform Council and the AASW.
- The AASW recommends that section 61HA of the *Crimes Act 1900 (NSW)* adopt a gender-neutral and anatomically inclusive definition of "sexual intercourse." Section 292A should be amended to recognise that non-consensual sexual activity can occur in commercial sexual contexts, including defining stealthing during purchased sex as sexual assault and prohibiting assumptions of consent based on profession, clothing, or location. The Act should also explicitly recognise stealthing, as a circumstance where there is no consent, aligning NSW with other jurisdictions and strengthening protections for vulnerable populations.

Social workers are not only central to supporting victims after harm occurs but are also well positioned to lead primary prevention and education programs. Particularly in schools and community settings, to promote understanding of consent, respect, and healthy relationships. The AASW Members have advocated that social workers' expertise must be drawn upon when the NSW Government is formulating its review and subsequent response, as social workers will help embed affirmative consent into both community norms and institutional practice, creating safer, more informed, and more equitable outcomes for all.

Our submission

Theme 1: Language Used

It is the position of the AASW that the *Crimes Act 1900 (NSW)* should adopt a more explicit and inclusive definition of "sexual intercourse" under section 61HA. The current wording uses gendered language which fails to fully capture the range of sexual assaults experienced by people of all genders.

AASW Members have articulated that a broader definition would ensure that the legislation is inclusive of all victim-survivors regardless of sex, gender identity, or anatomical variation and would provide equal protection under the law for cisgender men, transgender and non-binary people, and people with intersex variations.

The AASW acknowledges that cisgender women continue to comprise the majority of sexual assault victim-survivors. The AASW maintains that the scope of the legislation must reflect the diversity of victim-survivor experiences and ensure that all forms of sexual assault are recognised and treated with equal seriousness. Adopting a gender-neutral and anatomically inclusive definition would align the legislation with contemporary understandings of gender, bodily autonomy, and equality before the law, ensuring that all victims have equitable access to justice and protection. Members have articulated that through a broadening of legislation, male and LGBTQIA+SB victim-survivors will be able to identify when sexual assault occurs, and will enable greater identification and reporting to social services including victims support and the police.

Recommendation(s):

The AASW recommends that section 61HA of the *Crimes Act 1900 (NSW)* adopt a gender-neutral and anatomically inclusive definition of “sexual intercourse”. This ensures all victim-survivors—including cisgender men, transgender and non-binary people, and people with intersex variations—are protected and that the law reflects the diversity of sexual assault experiences.

Theme 2: Inclusion of Sex Work

Amend section 292A of ‘The Act’: to adequately protect sex-workers by explicitly including sex work within ‘circumstances in which non-consensual sexual activity occurs’. Reforms must include that stealthing during purchased sex is sexual assault, introducing ‘fraudulent cement’ ground when a person does not consent, and emphasising in jury directions that there must not be the assumption of consent based upon profession, appearance, clothing, or being present in a particular location, this protecting particularly vulnerable street based sex workers.

It is the position of the AASW that the *Crimes Legislation Amendment (Sexual Consent Reforms) Act 2021* should be amended to explicitly recognise that non-consensual sexual activity can occur between people who provide or purchase commercial sexual services. Aligning the NSW legislation with Section 47H of the *Jury Directions Act 2015 (Vic)* would strengthen protections for sex workers and ensure that sexual assault laws clearly apply within all contexts, including commercial sexual settings. This amendment would reinforce that sex workers have the same rights to safety, bodily autonomy, and consent as any other person and would provide clearer guidance to courts and juries in cases involving sexual violence against sex workers. AASW members, who work with sex workers have articulated that this reform, stating this will bridge a gap in the legislation and result in greater sex worker community trust within legislative and policing reporting and intervention, if they are to be assaulted during work.

Recommendation(s):

The AASW recommends that section 292A of the *Crimes Act 1900 (NSW)* be amended to explicitly recognise that non-consensual sexual activity can occur in commercial sexual contexts. Reforms should include that stealthing during purchased sex constitutes sexual assault, introduce a “fraudulent consent” ground where consent is absent, and emphasise in jury directions that consent cannot be assumed based on profession, appearance, clothing, or location.

Theme 3: Stealthing

The AASW recommends that the NSW Government strengthen the legislation to explicitly define *stealthing* as a circumstance in which consent is not given. While section 61H(5) of the *Crimes Act 1900* provides that consent to sexual activity using a condom does not imply consent to sexual activity without one, the Act does not expressly identify stealthing as non-consensual sexual activity. The NSW Law Reform Commission (LRC) recommended adopting this approach instead of introducing a separate offence. However, there were divided views throughout the LRC review about whether this provision would be sufficient, and the statutory review provides an opportunity to assess its effectiveness in practice.

It is the AASW's position that stealthing should be explicitly recognised in the legislation as a circumstance where there is no consent. This would align New South Wales with other jurisdictions, including the Australian Capital Territory, Victoria, Tasmania, South Australia, Queensland, and the Northern Territory, all of which have amended their criminal codes to specifically identify stealthing as a form of sexual assault. Social workers have reported that stealthing is a significant and underreported issue, particularly among younger people and within LGBTQIA+SB communities. Explicitly including stealthing as a circumstance where there is no consent would provide greater clarity for victims, legal practitioners, and courts, strengthen protections for vulnerable populations, and ensure that the law reflects contemporary community expectations regarding sexual autonomy and consent.

Recommendation(s):

The AASW recommends that stealthing—removing a condom without consent be explicitly recognised under the Crimes Act 1900 (NSW) as non-consensual sexual activity. This would align NSW with other jurisdictions, provide clarity for victims and courts, and strengthen protections for vulnerable populations, including young people and LGBTQIA+SB communities.

Conclusion

The AASW appreciates the opportunity to contribute to this important statutory review. Social workers and AMHSWs see firsthand the ongoing challenges faced by victim-survivors in navigating complex justice, health, and community systems.

We urge the NSW Government to use this review to strengthen the implementation of affirmative consent reforms through sustained investment in public education, prevention, and trauma-informed support services. This must include better integration between justice and community responses, greater recognition of the role of social workers, and consistent, culturally safe, and person-centred practices across all stages of the justice process.

The AASW supports a system that not only upholds the principles of affirmative consent in law but also ensures these principles are reflected in practice creating a safer, more informed, and more equitable response for all people affected by sexual violence in New South Wales.

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