

Ms Yvette Berry  
**Deputy Chief Minister**  
Legislative Assembly for the ACT  
GPO Box 1020 Canberra ACT 2601  
Emailed to: berry@act.gov.au

Dear Minister Berry

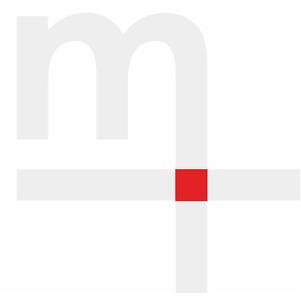
**Comments regarding the Crimes (Consent) Amendment Bill 2021: Draft Exposure Bill.**

Meridian welcomes the opportunity to provide our support for, and comments regarding, Dr Paterson's proposed Sexual Consent Law Reform. We also acknowledge and thank you for establishing the tri-partisan Sexual Assault Prevention and Response Program. Meridian welcomes the recent appointment of Renée Leon as Chair of the overarching Steering Committee and the establishment of inclusive and intersectional Groups to drive reform in this important area.

With experience serving LGBTQIA+ communities, people living with HIV and Sex Workers, Meridian is passionately aware that issues of consent are important to individuals being able to live their lives safely and securely. Meridian is the ACT's leading community-based HIV organisation. We provide care and support to people living with and impacted by HIV and AIDS, as well as education, prevention and health promotion activities. One of Meridian's primary population groups is lesbian, gay, bisexual, transgender, intersex, queer and asexual (LGBTQIA+) communities, and as such we provide current information, support and education on all aspects of health and welfare related issues affecting LGBTQIA+ people. Meridian works with Sex Workers and supports sex workers rights through our Sex Worker Outreach Program.

Meridian strongly endorses the proposed Crimes (Consent) Amendment Bill (2021) on the basis that the principles of a communicative model of consent accord with our position that consent should be a free and voluntary agreement between parties, not assumed based on context or previous instances of consent, and involves ongoing and mutual communication that is free from fear, intimidation, coercion and provided by a person who is capable of giving informed consent.

Meridian also strongly endorses the concept of reasonable belief, whereby any beliefs held by an accused person about another person's consent must be reasonable under all circumstances, according to an objective standard: we appreciate that a mistaken assumption is no longer an excuse for sexual assault, when an accused person has not proactively ascertained another person's consent.

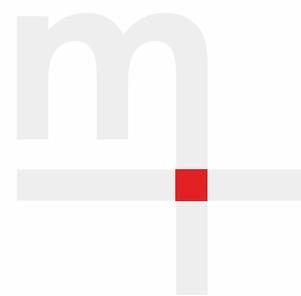


Also in support of the proposed Consent amendments, we attach, for your information, our recent correspondence to Ms Madelon Rosenberg (A/g Senior Director Criminal Law Team of ACT Justice and Community Safety Directorate). This attachment pertains to amendments to the Crimes Act regarding stealthing; in this stealthing submission we outlined Meridian's strong support for legislative reforms that unequivocally criminalise removal of a condom, or intentionally compromising the integrity of a condom, as forms of sexual assault.

Our LGBTIQ+ communities experience disproportionate rates of mental distress, homelessness, alcohol, tobacco and drug use and domestic and family violence, all linked to exposure to discrimination, homophobia, biphobia, transphobia, prejudice and stigma based on our identities. Suffering is compounded for members of our communities with intersecting marginalised identities, for example our community members who are living with HIV and who are sex workers. Lateral violence, resulting from the trauma of violence and abuse that is perpetrated against our communities, also constitutes a barrier to LGBTIQ+ living in full alignment with our dignity as human beings. Accepting our human rights to consensual sex, negotiating consent, identifying sexual assault as a crime, accessing the courage and support to speak up, being believed and reporting such crimes to police, are all tremendously challenging prospects for our community members, due to the trauma of societal discrimination and stigmatization. Many of our clients report to us that consent is a fraught issue in their sexual lives; it is clear to us that the normalisation of consent as a communicative process, will require significant cultural change, community education and awareness raising within our communities.

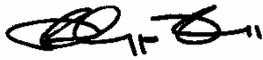
All of this brave cultural-change work must be grounded in much broader and continuing anti-discrimination work, mainstream community education and sustained support for peer-led LGBTIQ+ organisations, so that we can continue to challenge destructive prejudices, and work together to validate and promote the inherent worthiness and value of human beings inclusive of our human diversity in the expression of our sex, sexual and gender identities.

At this time, Meridian is unable to send a representative to join the working group. This is simply due to workforce capacity and the ongoing demand for representation on many important reference and working groups. However, we would like to be kept up to date on progress and please reach out if there is any other way Meridian could assist in working with our LGBTIQ+ communities, people living with HIV and sex worker communities, to ensure that reforms are as appropriate, inclusive, respectful and responsive to our unique communities, as possible.



We thank you for your consideration of these Comments and we offer our best wishes for your continued work to reform current consent legislation and systems to benefit survivors of sexual violence in the ACT.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'P. Moss'.

Philippa Moss  
**Chief Executive Officer**  
29 June 2021

*Attached - ACT Justice and Community Safety Directorate submission on Stealthing*



# COPY

Ms Madelon Rosenberg  
A/g Senior Director Criminal Law Team  
Legislation, Policy and Programs  
ACT Justice and Community Safety Directorate  
Emailed to: [jacslppcriminal@act.gov.au](mailto:jacslppcriminal@act.gov.au)

Dear Ms Rosenberg,

## **Re: Consultation request – amendments to the Crimes Act – stealthing**

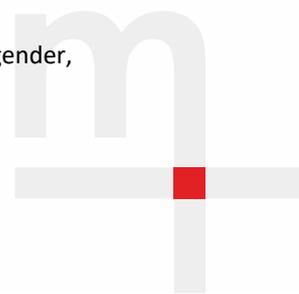
Thank you for the opportunity to provide feedback on vital legislative change to be part of bringing forth much needed positive consent laws in the ACT.

Meridian was formed as the AIDS Action Council in 1983 and incorporated in 1986 as part of the community response to the impact of HIV/AIDS in Australia. Today we are Canberra's leading community-based organisation for people living with HIV/AIDS, and sex and gender diverse people<sup>1</sup>. We provide a range of services to our communities, including counselling, support, information, emergency accommodation and advocacy. Meridian also hosts the Sex Worker Outreach Program ACT (SWOP) which is a sex worker-led peer based community organization whose primary purpose is the prevention of HIV and other sexually transmitted infections, through education, referral and empowerment. As part of this Program, Meridian works to ensure that sex workers are treated respectfully in and outside of their safe workplaces.

Unfortunately, our local sex worker community has faced, and continues to face, regular stealthing events that are overwhelmingly underreported to authorities. To SWOP ACT's knowledge, to date, there has not been enough evidence to lay charges due to the type of stealthing techniques involved, and the hesitation in some cases to come forward in a timely manner. **Any tightening or clarification of the current wording of the legislation needs to ensure it is ironclad for a criminal charge to be laid against the perpetrators of this type of sexual assault. This process would also assist the local sex worker community to believe that coming forward and reporting could result in justice being upheld.**

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<sup>1</sup> This includes but is not limited to people who self-identify as lesbian, gay, bicurious/bisexual, transgender, queer, questioning, intersex, asexual and/or ally and more (LGBTIQA+).

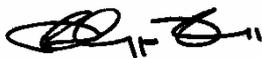


SWOP ACT delivers peer education that stealthing perpetrated by a client is a breach of a 'contract of service' by a non-consensual act, which constitutes rape. During the negotiation of a contract of service, the client and sex worker have agreed to sex with a condom. Stealthing occurs to sex workers when a client removes the condom, pushes the condom off inside of the sex worker, and by far the most common - removes the condom when a sex worker moves into a different position or faces away from the client and does not see or hear the removal of the condom. The most devious stealthing technique encountered by sex workers is the slicing of the tip or head of the condom with a sharp nail - leaving the base of the condom remaining. This technique has tricked many sex workers who would only check the condom base only to ensure the condom is on, not realising that the integrity of the rest of the condom has been compromised. Other techniques that are important to flag are: biting through the condom when the condom wrapper is being torn open by the teeth, and the client using excessive lubricant under the condom to ensure that it slips off during penetration.

Meridian strongly supports the ACT JACS Directorate's advocacy to the ACT Attorney-General for greater legislative certainty that removal of a condom without consent during sex is a crime. Meridian endorses explicit wording that covers the multitude of techniques that are involved in the act of stealthing and unequivocally advocates that the **removal of a condom, or intentionally compromising the integrity of a condom, is a crime.**

We thank you for your consideration of this submission and we welcome the opportunity to provide further information, if requested.

Yours Sincerely,



Philippa Moss  
**Chief Executive Officer**  
Tuesday 11 May 2021

CC – Office of Elizabeth Lee - [Liam.Develin@parliament.act.gov.au](mailto:Liam.Develin@parliament.act.gov.au)

