

Crimes Act 1900	NSW Crimes Legislation Amendment (Sexual Consent Reforms) Bill 2021	Exposure Draft Bill 2021 (revisions in bold)	Draft Bill Tabled (further revisions in red)	Bill as amended for debate (further revisions in red)
Section 67 - Consent	S61HJ – A person does not consent to a sexual activity if-	Section 67 – When a person does not consent to an act	Section 67 – When a person does not consent to an act	Section 67 – When a person does not consent to an act
(1) For sections 54, 55 (3) (b), 60 and 61 (3) (b) and without limiting the grounds on which it may be established that consent is negated, the consent of a person to sexual intercourse with another person, or to the committing of an act of indecency by or with another person, is negated if that consent is caused	(2) This section does not limit the grounds on which it may be established that a person does not consent to a sexual activity.	(1) For a sexual offence consent provision and without limiting the grounds on which it may be established that a person does not consent to an act mentioned in the provision, a person does not consent to an act mentioned in the provision if the person—	(1) For a sexual offence consent provision and without limiting the grounds on which it may be established that a person does not consent to an act mentioned in the provision, a person does not consent to an act mentioned in the provision if the person—	(1) For a sexual offence consent provision and without limiting the grounds on which it may be established that a person does not consent to an act mentioned in the provision, a person does not consent to an act mentioned in the provision if the person—
	(1) (a) the person does not say or do anything to communicate consent			(aa) does not say or do anything to communicate consent; or
	(1) (a) the person does not say or do anything to communicate consent	(a) says or does something to communicate withdrawing agreement to the act either before or during the act; or	(a) says or does something to communicate withdrawing agreement to the act either before or during the act; or	(a) says or does something to communicate withdrawing agreement to the act either before or during the act; or
(a) by the infliction of violence or force on the person, or on a third person who is present or nearby; or		(b) is overborne because of the infliction of violence or force on the person, or	(b) is-overborne participates in the act because of the infliction of violence or force on the person, or another	(b) participates in the act because of the infliction of violence or force on the

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		another person, an animal or property; or	person, an animal or property; or	person, or another person, an animal or property; or
(b) by a threat to inflict violence or force on the person, or on a third person who is present or nearby; or		(c) is overborne because of a threat to inflict violence or force on the person, or another person, an animal or property; or	(c) is overborne participates in the act because of a threat to inflict violence or force on the person, or another person, an animal or property; or	(c) participates in the act because of a threat to inflict violence or force on the person, or another person, an animal or property; or
(c) by a threat to inflict violence or force on, or to use extortion against, the person or another person; or (d) by a threat to publicly humiliate or disgrace, or to physically or mentally harass, the person or another person; or	(1) (f) the person participates in the sexual activity because of coercion, blackmail or intimidation, regardless of – (i) when the coercion, blackmail or intimidation occurs, or (ii) whether it occurs in a single instance or as part of an ongoing pattern	(d) is overborne because of extortion, coercion, blackmail, intimidation or a fear of public humiliation or disgrace of the person or another person; or	(d) is overborne participates in the act because of extortion, coercion, blackmail, intimidation or a fear of public humiliation or disgrace of the person or another person; or	(d) participates in the act because of extortion, coercion, blackmail, intimidation or a fear of public humiliation or disgrace of the person or another person; or
<i>(d) by a threat to publicly humiliate or disgrace, or to physically or mentally harass, the person or another person; or</i>		(e) is overborne because of a threat to mentally or physically harass the person or another person; or	(e) is overborne participates in the act because of a threat to mentally or physically harass the person or another person; or	(e) participates in the act because of a threat to mentally or physically harass the person or another person; or
	(1) (e) the person participates in the sexual activity because of force, fear of force or fear of serious harm of any kind to the person, another person, an animal or property, regardless of-	(f) is overborne because of force or fear of anything else; or	(f) is overborne participates in the act because of force or fear of anything else; or	(f) participates in the act because of force or fear; or

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	(i) when the force or conduct giving rise to the fear occurs; or (ii) Whether it occurs as a single instance or as part of an ongoing pattern			
(e) by the effect of intoxicating liquor, a drug or an anaesthetic; or	(1) (c) the person is so affected by alcohol or another drug as to be incapable of consenting to the sexual activity	(g) is incapable of agreeing, to the act because of intoxication; or	(g) is incapable of agreeing, to the act because of intoxication; or	(g) is incapable of agreeing, to the act because of intoxication; or
(f) by a mistaken belief as to the identity of that other person; or	(1) (i) the person participates in the sexual activity because the person is mistaken about— (i) the nature of the sexual activity, or (ii) the purpose of the sexual activity, including about whether the sexual activity is for health, hygienic or cosmetic purposes, (1) (j) the person participates in the sexual activity with another person because the person is mistaken— (i) about the identity of the other person, or (ii) that the person is married to the other person	(h) is mistaken about any element of the act; or	(h) is mistaken about the identity of the other person; or	(h) is mistaken about the identity of the other person; or
(g) by a fraudulent misrepresentation of any	(1) (k) the person participates in the sexual	(i) participates in the act on the grounds of	(i) participates in the act on the grounds because of	(i) participates in the act because of fraudulent

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fact made by the other person, or by a third person to the knowledge of the other person; or	activity because of a fraudulent inducement	fraudulent misrepresentation or deception of any fact in relation to the act made by someone else ; or	fraudulent misrepresentation or deception of any fact in relation to the act made by someone else; or	misrepresentation of any fact made by someone else ; or
			(j) by an intentional misrepresentation by the other person about the use of a condom; or	(j) by an intentional misrepresentation by the other person about the use of a condom; or
(h) by the abuse by the other person of his or her position of authority over, or professional or other trust in relation to, the person; or	(1) (h) the person participates in the sexual activity because the person is overborne by the abuse of a relationship of authority, trust or dependence	(j) is overborne by abuse of a relationship of authority, trust or dependence , or a professional relationship; or	(k) is overborne by participates in the act as a result of an abuse of- (i) a relationship of authority, trust or dependence ; or (ii) a professional relationship ; or	(k) participates in the act as a result of an abuse of- (i) a relationship of authority, trust or dependence ; or (ii) a professional relationship ; or
(i) by the person's physical helplessness or mental incapacity to understand the nature of the act in relation to which the consent is given; or	(1) (b) the person does not have the capacity to consent to the sexual activity	(k) does not have the capacity to agree to the act ; or	(l) does not have the capacity to agree to the act ; or	(l) does not have the capacity to agree to the act ; or
	(1) (d) the person is unconscious or asleep	(l) is unconscious ; or (m) is asleep ; or	(m) is unconscious ; or (n) is asleep ; or	(m) is unconscious ; or (n) is asleep ; or
(j) by the unlawful detention of the person.	(1) (g) the person participates in the sexual activity because the person or another person is unlawfully detained	(n) is unlawfully detained or knows that another person is unlawfully detained .	(o) is unlawfully detained or knows that another person is unlawfully detained .	(o) is unlawfully detained or knows that another person is unlawfully detained .