



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: DHrgCrim:1553231

27 June 2018

Mr Andrew Cappie-Wood
Secretary
Department of Justice
GPO Box 6
SYDNEY NSW 2001

By email: nick.wilkinson@justice.nsw.gov.au

Dear Mr Cappie-Wood,

Consultation paper – strangulation offences in NSW

Thank you for seeking the Law Society's comments on the reform options contained in the consultation paper *Strangulation offences in NSW*. We understand that the Department is reviewing how effectively the strangulation offences in section 37(1) and 37(2) of the *Crimes Act 1900* address non-fatal strangulation, particularly where it occurs in a domestic violence context.

The BOCSAR statistics provided in the consultation paper demonstrate that the 2014 amendments resulted in a significant increase in the number of charges and convictions for strangulation, and would appear to have been effective in achieving the objective of better addressing domestic violence strangulation. We therefore do not support a variation to the current offence, and note that we are generally opposed to the expansion of categories of criminal offences, in the absence of clear and compelling justification.

However, we understand that there are still concerns with the conviction rates for the strangulation offences, and that reform is desired to more effectively address domestic violence strangulation.

Therefore, of the three options for reform, the Law Society's preferred option is Option 3, an offence of injuring by strangling with intent to cause the injury. In our view this offence would be simpler to prove than the existing offence, but targets the offence towards actually causing harm and having the requisite intent.

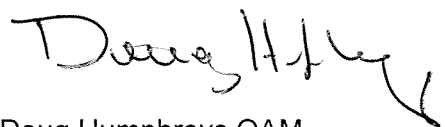
The consultation paper refers to a number of additional elements or factors which should be considered in the formulation of any of the options for reform. These include whether:

- the offence should include unlawfulness or lack of consent as an element
- the offence should specifically cover an 'attempt' to strangle
- the offence should be specific to the domestic violence context.

For the reasons provided in the consultation paper, we do not consider that any of the additional elements should be considered in the formulation of any new or amended offence.

We look forward to further engagement with the Department as the review progresses.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Doug Humphreys". The signature is written in a cursive style with a large initial "D" and a long, sweeping underline.

Doug Humphreys OAM
President