



11 October 2019

Attn: Dr Jennifer Buckley  
Committee Secretary  
Economic Policy Scrutiny Committee  
Legislative Assembly of the Northern Territory  
GPO Box 3721  
Darwin NT 0801

*By email to EPSC@nt.gov.au*

Dear Madam or Sir,

### **Submission of the Northern Territory Women's Legal Services – Sex Industry Bill 2019**

The Northern Territory Women's Legal Services (**NTWLS**) welcome the opportunity to make a submission to the Sex Industry Bill 2019 (**the Bill**). Our submission will be focused on our experience of and expertise in assisting women across the Northern Territory (**NT**), including Aboriginal and Torres Strait Islander women, and women from culturally and linguistically diverse backgrounds.

In May 2019, the NTWLS made submission to the Discussion Paper issued by Licensing NT regarding potential reforms to the sex industry, being "Reforming Regulation of the Sex Industry in the Northern Territory". We **enclose** a copy of the NTWLS submission to this Discussion Paper, for your reference.

#### About NTWLS

The NTWLS comprise the three women's legal services in the NT; the Central Australian Women's Legal Service (**CAWLS**), the Katherine Women's Legal Service (**KWILS**), and the Top End Women's Legal Service (**TEWLS**). Our shared vision is a community within which women enjoy and are entitled to legal and social justice.

The NTWLS are part of a national network of community legal centres specialising in women's legal issues and focused on the advancement of women's rights. Our services provide free and confidential legal information, advice, representation and advocacy to women across the Central Australian, Barkly, Katherine and Top End regions. We primarily deliver services to women experiencing or at risk of experiencing domestic and family violence, with corresponding legal issues including family law, housing and tenancy, consumer law, credit and debt, sexual assault, discrimination, compensation for victims of crime, and child protection. Almost all women we assist experience financial disadvantage.

## Our submission

### **I In principle support for the Bill**

Further to the May 2019 submission, we write to confirm that it is our submission that the primary considerations with respect to the sex industry in the NT are workplace health and safety and human rights protections. Noting the decriminalised model proposed by the Bill, representing the adoption of a best practice regulatory model in the NT, the NTWLS give in principle support for the Bill.

In providing adequate work protections and regulating the sex industry under the same rules that apply to any other business, the NT will be leading the way in legitimising sex industry standards, as well as disputing existing community stigmas in respect of the industry and its workers. Further, TEWLS supports the Bill's enshrining of the rights of sex workers to undertake sex work, including the notation in the Explanatory Statement to the Bill that the remedy of specific performance for a sex work contract would equate to a criminal offence.<sup>1</sup>

### **II Responses to the Bill**

In reviewing the Bill, we provide response as follows.

#### *A Certification*

The proposed clause 19 of the Bill captures "suitability certificates" and supplementary certification processes. It is our submission that this proposed clause 19 does not provide requisite definitions to be use. For example, the word "suitable" is not defined in the context of a "suitable person",<sup>2</sup> and there are no regulations provided in respect of any further requirements to which an applicant may be subject. The NTWLS submit that decision-making processes must be both clear and procedurally fair. Further, we note that the Bill is not accompanied by the complementary regulations to which it refers. This means that any response to the Bill will not be complete as not all information has been provided as at the date that comments are due.

In respect of certification, the issue of privacy is of importance. As noted in our response to the Discussion Paper, records being used against sex workers is an important consideration, where the current system has featured records retained by Police able to be used against women who have previously worked in the sex industry. The NTWLS express concerns regarding the privacy of applications for suitability certificates and the register of current suitability certificates, acknowledging that a community stigma remains regarding predominantly women's involvement in the sex industry. In our submission, clarity must be provided regarding what information will be recorded in the "public record".

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<sup>1</sup> Explanatory Statement, Sex Industry Bill 2019, Serial No. 105, 3.

<sup>2</sup> Sex Industry Bill 2019 (NT) cl 19(3)(a).

## *B Regulations*

We note that proposed clause 24 of the Bill provides that the Administrator may make regulations under this Act, including items such as fees payable under the Bill (to be Act) and requirements for suitability certificates. It is our submission that any proposed regulations be provided for comment to suitable sex industry representative groups so as to ensure that the regulations are appropriate.

## *C Definitions*

Further to the above in respect of there being no definition of "suitable person" in clause 19 of the Bill, we note our concerns in respect of the proposed definition of "sex work" itself.<sup>3</sup> In the proposed definition of "sex work", sex work means the provision of services to a person in exchange for payment or reward. The inclusion of the latter word "reward" raises concerns for the NTWLS, where in our submission, such definition leaves sex workers vulnerable to exploitation as well as an expectation to work for inadequate return. Noting that in colloquial use, "payment" is able to include more than an exchange of monies, it is our submission that "reward" be removed from the proposed definition of sex work.

## *D Awareness of legal rights and responsibilities – community legal education*

As noted in the Public Briefing Transcript,<sup>4</sup> where there are significant changes to laws and regulations, there will inevitably be issues regarding awareness and understanding of legal rights and responsibilities. In NTWLS' experience, one of the most effective ways to raise knowledge in a respective group is through community legal education. In this respect, and following the completion of this legislative process, we would advocate for community legal education to be provided by the NTWLS in each major NT centre (Darwin, Katherine, Alice Springs), with funding to be provided for same. In providing this community legal education, we would propose to work collaboratively with sex industry groups to ensure that practical questions in respect of the new legislative scheme are answered. We would suggest that sessions be made available for male sex workers by a suitable provider.

## *E Advertising*

We note that clause 15 of the Bill does not make provision in respect of online advertising, which in the current marketplace, is commonly used. Further, and as noted above, we note that we have not had the opportunity to review and provide submission to relevant regulations that would proscribe the size, content and types of photographs able to be used for advertising.

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<sup>3</sup> Sex Industry Bill 2019 (NT) cl 4.

<sup>4</sup> Legislative Assembly of the Northern Territory, 13<sup>th</sup> Assembly, Economic Policy Scrutiny Committee, Sex Industry Bill 2019, Public Briefing Transcript, 3.

Conclusion

We appreciate the opportunity to make this submission and to support ongoing policy and legal development for women in the NT. Should you wish to discuss this submission further, please contact Janet Taylor by phone on (08) 8952 4055 or email to [Janet.taylor@cawls.org.au](mailto:Janet.taylor@cawls.org.au)

Yours faithfully,

**NORTHERN TERRITORY WOMEN'S LEGAL SERVICES**

A handwritten signature in blue ink, consisting of a stylized 'J' followed by a long horizontal stroke that tapers to the right.

On behalf of the NTWLS