

POPPY INDUSTRY BILL 2016*First Reading*

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Niall Blair.

Second Reading

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (15:39): I move:

That this bill be now read a second time.

The entry of New South Wales into the alkaloid poppy industry will support Australia's central role in safely and securely providing opiates for a range of important medicines. The Poppy Industry Bill 2016 establishes the legal framework for a poppy industry in New South Wales. It provides for alkaloid poppies to be grown in this State and to be supplied for the manufacture and production of therapeutic goods and for scientific research. Our focus is on doing this in a manner that ensures the safety and security of the New South Wales community. The Poppy Industry Bill 2016 supports an alkaloid poppy industry in New South Wales that is consistent with our national and international security and compliance obligations and exists within a robust framework to prohibit unlawful activities.

The long-term global demand for opiate-related medicine is likely to continue to increase as a result of the growth of developing economies and the global population. In 2015 the United Nations International Narcotics Control Board found that more than three-quarters of the world's population had no access to proper pain relief. At a national level, Australia's ageing population has increased the demand for opiate-based medications. Opiate-based medications are used for a wide range of conditions, including for pain relief, palliative care and anti-addiction medications. Opiate-based medicines are clinically important, and there are very few other pain relief medicines that can match their cost-effectiveness. As a member of the compassionate Liberal-Nationals Government I am proud to introduce this bill, knowing that it supports the production of medicines that are so important for the quality of life of people from the back of Bourke to our biggest cities.

Australia is a trusted and reputable source of alkaloid poppies because of the strength of its regulatory controls and its sound compliance history. This gives the United Nations confidence that the risk of alkaloid poppies being diverted for illicit purposes is well managed. By clearly tracking every step of the process, we ensure that the risks are minimised. I am aware that, unfortunately, there have been a small number of deaths in Tasmania associated with poppies over the past 40 years. The deaths have occurred as a result of individuals stealing poppy capsules, the seed head of the plant, to make tea. Thebaine is one of the key active ingredients in the poppy species that are grown for opiate-based medications. Thebaine compounds are highly toxic to humans.

Commercially grown poppies do not result in the psychoactive effect known as a "high". The poppies that are rich in thebaine are not easily distinguishable from traditional opium poppies. We are acutely aware of these risks. I am confident that the strict regulatory regime in this bill mitigates the risks as far as possible. The regime restricts planting to isolated sites and requires fencing and clear signage stating that the crop is dangerous and has been known to cause death. The regulatory regime will be supported by education for communities where poppy cultivation licences are granted. The education and awareness campaign will include the NSW Police Force and health officials.

It is important to now put this bill in context and discuss the poppy industry in Australia more broadly. Over the past few years Tasmanian farmers have, on occasion, experienced challenges in maintaining an adequate supply of poppy straw. Tasmania has struggled with seasonal conditions, a continued growth in demand for the product and, more recently, crop losses from disease. As a consequence, the processing companies in this industry have been investigating opportunities for expansion of the industry to mainland States. There are only eight companies licensed globally to extract, export and sell opiates. Three of those eight companies operate in Australia. Geographic expansion will assist those companies in managing the risks of crop loss through disease and climate events. It will allow for an increase in supply, in accordance with our international obligations, and will spread the cultivation and harvest times, allowing Australia to meet its supply targets.

Victoria, the Northern Territory and South Australia have already passed legislation establishing frameworks for alkaloid poppies to be grown and processed in those jurisdictions. Victoria has issued licences to approximately 50 growers in the past two years. An alkaloid poppy industry in New South Wales has the potential to provide significant economic benefits for this State. It is true that there have been some recent reports that the global demand for opiates has plateaued. It will be up to the market to decide what investment in this industry will look like over the coming years. It is clear that it is not the role of this Government to perpetuate an unnecessary blanket ban on the cultivation of a product that we have the means to regulate effectively. Indeed, if global demand continues to increase there is potential for the alkaloid poppy industry in New South Wales to be worth up to \$100 million in 10 years, providing jobs, income and opportunities for the people of this State.

An alkaloid poppy industry in New South Wales also provides an opportunity to establish a new high-value rural industry with a well-established international reputation and strong prospects for future growth. The entry of New South Wales into the alkaloid poppy cultivation industry will support Australia's central role in producing opiates, which are critical to modern medicine. Bringing the bill forward now will enable the industry to move into New South Wales as commercial partnerships are identified. I will provide some background on the use of opiate medicines. Alkaloid poppies, the term used to describe poppies that produce opiates, are grown to provide medical-grade opiate compounds for the manufacture of pain-relief medicines such as morphine, codeine and oxycodone, as well as anti-addiction medicines such as naloxone—also known as Narcan—and naltrexone. Opiate-based medicines are also used for a range of other purposes, including palliative care, as anaesthetics, sedatives, to reverse narcotic overdose, in anti-addiction medicines and to suppress coughs and diarrhoea.

The growth of opium poppies is strictly regulated by the United Nations Single Convention on Narcotic Drugs, to which Australia is a signatory. The manufacture of opiate-based medicines is also highly regulated. The three processing companies that operate in Australia contract farmers to grow alkaloid poppies. Poppies are harvested then converted into narcotic raw material, or concentrate of poppy straw, a powder precursor to opiate medicines. The powder is then processed into medications. Alkaloid poppies have been grown successfully in Australia since 1971, when the industry was initially established in Tasmania. Since then, the high quality and consistency of the product and the effectiveness of the strict controls and regulations has meant that Australia is now responsible for more than 50 per cent of the world's legal supply of poppy material for medicinal purposes.

Australia is highly regarded internationally for its well-managed and strictly regulated industry. Tasmania currently has about 800 farmers. While the production fluctuates annually, there have previously been up to 30,000 hectares of approved plantings. Those farmers supply to the three registered processing companies. In 2013 the industry was worth around \$290 million to the Tasmanian economy. Under the United Nations convention the Commonwealth of Australia has responsibility for overseeing all production of opium poppies and narcotic materials. This responsibility includes licensing manufacturers to produce narcotic materials and closely monitoring the volumes of material produced and corresponding areas of poppy crop planted.

This bill sets a strong regulatory framework for an alkaloid poppy industry in New South Wales. The regulatory framework has been based on those operating successfully in other States in Australia and incorporates learnings from those jurisdictions. This bill sets a stringent regulatory framework that will facilitate the establishment of the industry and implement clear and rigorous checks on all industry participants to ensure the safety and security of the people of New South Wales. It sets clear parameters around who can participate in the industry, what they can grow or handle, where they can operate and for what purpose they can participate. This will ensure transparency and reduce the risk that crops grown under this bill will be diverted to illicit uses.

The bill aims to manage the risks associated with the alkaloid poppy industry through the licensing of cultivators and processors. Prospective licensees will be required to have contracts and appropriate manufacturing approvals in place before licences are granted or poppies are planted.

This will ensure that there is a clear chain of custody from growing and harvest, through transport and processing.

There are between 70 to 100 poppy species in the world, only a few of which produce the alkaloids that are utilised for the production of opiates. The bill is not intended to regulate ornamental poppies commonly found in gardens, nor will it impact on the use of poppy seeds in food. In fact, the bill explicitly states that it does not cover poppy seeds, to ensure that this valuable food product remains available for the community to enjoy. I will now outline the provisions of the bill.

The bill is divided into five parts. Part 1 of the bill provides preliminary information. Clause 3 sets out the proposed objects, which are centred on facilitating and regulating the cultivation of alkaloid poppies. The objects also cover the supply of material derived from poppies to be used for producing therapeutic goods and in scientific research. The objectives provide a definitive basis on which the industry will operate. Clause 4 of the bill provides a clear definition of what poppies are covered by this Act, identifying the key species currently used in the industry, *Papaver somniferum*, also known as the opium poppy. It also provides definitions for key terms used in the bill. Clause 5 of the bill proposes a fit and proper person test, which will require the Secretary of the Department of Industry to determine whether applicants are suitable for licences under the bill.

Part 2 of the bill creates the offence to possess alkaloid poppy material unless it is authorised by a poppy licence or permit. It sets out the conditions licensees must comply with and processes for application, renewals, amendments and cancellation. Clause 7 sets out the types of licences and permits that will be available. A cultivation licence will allow for the cultivation and harvest of alkaloid poppies, and for the transport and storage of harvested alkaloid poppies. Cultivation licences also provide for the supply of material harvested to a holder of a New South Wales processing licence. Cultivation licences may also allow for research into alkaloid poppies. A processing licence will allow for receiving, storage and transport of poppy material harvested under a cultivation licence. A processing licence will allow supply of poppy material to a person who holds a poppy licence, interstate poppy licence or a licence to manufacture or export. A processing licence may also allow for scientific research.

Clauses 8, 9, 10 and 11 set out the conditions for licences and permits including: the classes of poppies that can be cultivated, transported or stored; the land or premises on which activities are authorised; the quantities authorised for cultivation, processing or research; requirements for assessing employees, and obligations to maintain security of the crop or related material. There is also a requirement that there can be no planting of a crop without the licensee having appropriate arrangements in place with a licenced processor or a researcher. Licence holders are required to advise the secretary of any changes to such arrangements so that a clear chain of custody of the poppy material can be maintained.

For processing licences, arrangements must be in place for the supply of the poppy material, either through approvals under a manufacturing licence or an export licence under the Customs Act 1912. All licence holders must ensure that reasonable steps are taken to prevent unauthorised people from entering areas where there are alkaloid poppies or poppy material. Any suspected intrusion or theft must be immediately reported to the NSW Police Force. The bill also provides that licence applicants must submit a risk management plan as part of their application. These plans will detail the actions that applicants intend to undertake to ensure the security of properties where poppies are to be grown or processed.

The plans will also explain how licence holders will mitigate the risks to the community. All plans must be approved by the secretary before a licence can be granted. There will be regular audits to ensure compliance with the approved risk management plan. The conditions also oblige all licence holders to ensure that any poppy residues are destroyed and efforts are made to ensure that no self-seeded poppies are allowed to mature. Where licences are for research, this research must be undertaken by someone with appropriate scientific qualifications and experience. In addition to the conditions listed in the bill, the secretary has the power to set other conditions, including those relating to security and surveillance and records to be kept. There is also a requirement that certain changes to the circumstances of the licence holder or the licenced activity must be reported to the secretary within seven days.

Clause 12 makes it an offence to contravene a licence or permit, with a penalty of up to 100 penalty units for an individual and up to 500 penalties for a corporation. Clauses 13 to 17 relate to licence fees and the renewal, amendment and surrender of a licence or permit. Clause 18 outlines the information required to be submitted with applications, including a requirement that applicants provide details of relevant contracts or licences. Clause 19 sets out the criteria for determining applications and conditions. Clause 20 provides for the auditing of licence holders to ensure that operations are consistent with the conditions of the licence or permit, including the risk management plans.

Clause 21 provides for the suspension, cancellation or amendment of licences and permits. This clause also proposes that the secretary has the power to require licence holders who have not met licence conditions, to undertake activities to meet licence requirements. If these requirements are not undertaken, they can be undertaken at the cost of licence holders, provided advice has been given to the licence holder. The clause also makes it an offence if the holder of a cancelled or suspended licence or permit does not return it to the secretary within 14 days. Clause 22 allows the secretary to order former licensees to ensure the security of poppy material and minimise the risk of environmental harm or harm to humans. This includes being able to order holders of cancelled or suspended licences to continue to destroy any plants that might grow following harvest of a poppy crop.

Clause 23 provides that the secretary must refer each application to the Commissioner of Police for review. The secretary may rely on information provided by the commissioner to determine whether to approve an application or suspend, cancel or amend a licence or permit. Should the commissioner oppose the grant of a licence, the secretary must not grant a licence. Part 3 includes detail on the authorised officers and their role and powers. Clause 26 provides for the appointment of authorised officers. Clause 28 sets out the powers conferred on authorised officers, including the power to enter and inspect premises and vehicles, require people to take samples, produce documents and records, take photographs or recordings, and seize materials.

The bill proposes that authorised officers will also have the power to request the name and residential details of people they reasonably believe may have or are about to contravene a provision of the Act. A warrant must be obtained before an authorised officer enters and inspects residential premises. Part 4 of the bill covers offences and proceedings. Clauses 31, 32 and 33 deal with liability of directors. Clause 35 makes it an offence to provide false or misleading information under the bill. Clause 37 enables penalty notices to be issued by an authorised officer if it appears to that officer that a person has committed an offence against the bill. This part of the bill also covers details of proceedings for offences, the use of evidentiary certificates and continuing offences.

Finally, part 5 of the bill provides for miscellaneous provisions. These include a provision against self – incrimination and details covering the giving and service of documents. Clause 44 proposes an offence for disclosing information obtained in connection with the administration or enforcement of the Act except, and exceptions to the offence. Clause 46 clearly states that the bill does not affect the use of alkaloid poppy seeds for purposes other than cultivation. Clause 47 provides for the making of regulations. Finally, clause 47 of the bill provides for a review of the Act by the Minister as soon as possible after five years.

Schedule 1 to the bill sets out amendments to the Drug Misuse and Trafficking Act 1985 to amend a definition of a prohibited plant and to set out the relationship between that Act and this bill, providing that anything authorised by the bill is not illegal under the Drug Misuse and Trafficking Act 1985. The schedule also provides for amendment to the Poisons and Therapeutic Goods Act 1966 to clarify the relationship between that Act and the Poppy Industry Bill. This bill provides a robust framework for regulating alkaloid poppies in New South Wales. Nothing in this bill allows for, or reduces the controls around, illegal use of drugs. Targeted consultation has occurred with poppy processors, the NSW Farmers Association and several agricultural peak bodies.

New South Wales government officials have also been working with officials at the national and State level to develop the detail that is contained in this bill.

Not only will the proposed legislative framework and associated licence conditions and guidelines provide clear and rigorous requirements for the industry; the processors themselves undertake comprehensive checks on potential growers before issuing contracts.

The strict approval of Commonwealth manufacturing licences and the high value of the industry mean that processors are keenly aware of the need to ensure that their operations and the operations of those contracted to them are above reproach. The proposed penalties in the bill are consistent with the potential for illegal usage of poppies and the contravention of the administrative requirements of the bill. The New South Wales Liberal-Nationals Government is committed to supporting this valuable new industry and ensuring that the risks to the community are appropriately managed. I commend the bill to the House.

Debate adjourned.