

**INTERVENTIONS TO REDUCE ROAD TRAUMA IN REGIONAL NSW CAUSED
BY SPEEDING, FATIGUE, DRINK AND DRUG DRIVING**

Organisation: Unharm

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Unharm submission

Joint Standing Committee on Road Safety Inquiry: Interventions to reduce road trauma in regional NSW caused by speeding, fatigue, drink and drug driving

Submission prepared by Dr Will Tregoning, Unharm CEO.

About Unharm

Unharm is a health promotion charity focussed on drug policy. We campaign for laws that are grounded in evidence and prioritise health, dignity, and safety.

Terms of reference for this Inquiry

That the Joint Standing Committee on Road Safety inquire into and report on interventions to reduce road trauma in regional NSW caused by speeding, fatigue, drink and drug driving, with reference to:

- a) Research and data on regional NSW-specific factors, characteristics and demographics of road crashes
- b) Effectiveness of current strategies and programs to reduce speeding, fatigue, drink and drug driving in regional NSW
- c) Proposed measures to reduce road trauma in regional NSW
- d) Implementation of relevant recommendations from the 2023 Performance Audit Report of the Auditor-General, entitled 'Regional Road Safety', dated 30 November 2023, and
- e) Any other related matters.

This submission

This submission focuses on the following term of reference for this inquiry:

- b) Effectiveness of current strategies and programs to reduce speeding, fatigue, drink and drug driving in regional NSW

Effectiveness of current strategies and programs to reduce speeding, fatigue, drink and drug driving in regional NSW

Introduction

Unharm's specific area of expertise is in drug policy and programs. Our submission therefore focuses on initiatives to prevent drug-driving-related road trauma.

As outlined in this submission, roadside drug testing in NSW uses resources that could be more effectively spent on more evidence-based road safety interventions, including alternative transport options, and on regional services to treat problematic use of drugs. Current NSW road laws and law enforcement practices also have questionable deterrent effects and inhibit road safety by preventing prescribers from providing medicinal cannabis patients with relevant information about safer driving.

Current law and enforcement

Section 111.1 of the NSW Road Transport Act 2013 makes it an offence to drive with any 'prescribed illicit drug' present in oral fluid, saliva, urine or blood. Note a separate section of the act, Section 112, prohibits driving under the influence of 'alcohol or any other drug.'

The 2013 Road Transport Act defines 'prescribed illicit drug' as inclusive of delta-9-tetrahydrocannabinol (THC), the main psychoactive substance in cannabis. This definition has not been updated to reflect the legalisation of medicinal cannabis in 2016. This means any detectable presence of THC constitutes an offence, regardless of whether it has been used legally, and in the absence of any suspicion of impairment.

Australia is the only country with a widespread random mobile program for testing drivers for the presence of THC.¹ NSW has vastly expanded the number of roadside oral fluid tests from around 20,000 in 2008 to 156,000 in 2019, with corresponding growth in charges for drug presence offences.²

Correlation is not causation

In 2024, the NRMA claimed that 'drug driving is the second leading cause of fatalities in NSW surpassing drink driving, fatigue and non-seatbelt use.'³ This misrepresents the *presence* of illicit drugs in driver or motorcycle riders killed on the roads as causative of those fatal crashes. It also misrepresents a person killed in a crash as being responsible for that crash which is not necessarily the case. Furthermore, as outlined later in this submission, illicit drugs can be present long after

¹ Thomas Arkell et al., 2021, 'Medical cannabis and driving,' in Australian Journal of General Practice.

² Adam Teperski et al., 2024, Trends in drug driving charges, roadside drug testing and drug use in NSW, 2008-2023. (Bureau Brief No. 172); NSW Bureau of Crime Statistics and Research.

³ NRMA, 2024, *Driving high: The need to detect drug drivers*.

impairment has ceased. A more targeted and evidence-based approach is required in order to prevent drug-related fatalities on regional roads in NSW.

Impact on prescribers' advice to medicinal cannabis patients

Defining THC as an 'illicit drug' prevents people who are prescribed medicinal cannabis containing THC from driving, with NSW Health advising that "it is illegal for patients taking cannabis medicines which contain delta-9-tetrahydrocannabinol (THC) to drive."⁴ This blanket prohibition applies regardless of impairment level or driving capability and is disconnected from actual crash risk. As a result, prescribing doctors, nurses and pharmacists are prevented from providing patients with relevant information about safer driving.

Risk of perverse outcomes

'Presence' based driving laws and roadside enforcement using saliva testing has notably limited capacity to deter drug driving. The focus on identifying the residual presence of drug use rather than impairment creates counterproductive incentives because it means that drivers effectively face identical penalties regardless of their impairment level. This reduces the incentive to wait until genuinely safe to drive.

In addition, oral fluid testing can produce false-negative results: some people who have consumed THC recently are not detected with any THC present.⁵ Saliva testing measures THC present in the oral cavity, so consumption of cannabis preparations like capsules, suppositories or patches which bypass the oral cavity are particularly unlikely to be detected by a saliva test.⁶ This undermines the deterrent impact of roadside drug testing. Recent research has also found that many drug drivers use strategies to evade detection for drug driving, 'further eroding deterrence-related perceptions.'⁷ The researchers note that 'one response to this situation would be to further increase the resources devoted to RDT, [but] ... it may be more resource effective to consider how alternative transport options after consuming drugs can be made more convenient and economical.'⁸

⁴ Centre for Medical Cannabis Research and Innovation, 'Driving' (web page), NSW Government; accessible at <https://www.medicinalcannabis.nsw.gov.au/patients/driving#:~:text=It%20is%20illegal%20for%20patients,%2C%20memory%2C%20vision%20and%20coordination>, accessed 3/6/25.

⁵ Thomas Arkell et al., 2019, 'Detection of Δ9 THC in oral fluid following vaporized cannabis with varied cannabidiol (CBD) content: An evaluation of two point-of-collection testing devices,' in Drug testing and analysis.

⁶ Thomas Arkell et al., 2021, 'Medical cannabis and driving,' in Australian Journal of General Practice.

⁷ Razi Hasan et al, 2023, 'What contributes to drug driving? An exploratory investigation into the influence of problematic substance use, roadside testing and alternative transport options,' in *Accident Analysis & Prevention*.

⁸ *ibid.*

Resource misallocation

Testing for residue of past drug use diverts resources from proven road safety interventions that can have a much larger impact like random breath testing for alcohol, speed management, and infrastructure improvements.⁹

Systematic reviews demonstrate that proven interventions include random breath testing (reducing alcohol-related crashes), sobriety checkpoints (17% crash reduction), road safety campaigns (9% crash reduction), roundabouts (30-50% injury crash reduction), and electronic stability control (49% reduction in single-vehicle crashes).¹⁰ Speed management remains the most critical factor, as speeding is the main cause of crashes and speed reduction interventions are highly effective in preventing fatalities and serious injuries.¹¹

NSW research has shown that limited access to alternative transport options is a leading factor contributing to the decision to drug drive.¹² It is likely that this factor is particularly significant in regional areas with fewer alternative transport options. This indicates that an important factor in reducing the prevalence of drug driving would be to increase the availability and use of alternative transport.¹³

People choosing to drive while acutely intoxicated by cannabis tend to be a small minority of high-risk drivers with higher crash risk independent of use.¹⁴ Conversely, people using prescribed medicinal cannabis tend to be more careful about their consumption than recreational users, less impaired by

⁹ Ronald Risa et al., 2022, 'Effects of interventions for preventing road traffic crashes: an overview of systematic reviews,' in *BMC Public Health*.

¹⁰ Ronald Risa et al., 2022, 'Effects of interventions for preventing road traffic crashes: an overview of systematic reviews,' in *BMC Public Health*.

¹¹ George Yannis and Eva Michelaraki, 2025, 'Effectiveness of 30 km/h speed limit – A literature review,' in *Journal of safety research*.

¹² A Gavin et al, 2008, *Knowledge, attitudes and behaviours of NSW drug drivers*. Paper presented at the Proceedings of the Australasian Road Safety Research, Education and Policing Conference. Adelaide.

¹³ Razi Hasan et al, 2023, 'What contributes to drug driving? An exploratory investigation into the influence of problematic substance use, roadside testing and alternative transport options,' in *Accident Analysis & Prevention*.

¹⁴ Ole Rogeberg and Rune Elvik, 2016, 'Response: Cannabis intoxication, recent use and road traffic crash risks,' in *Addiction*.

their cannabis use and more cautious when driving.¹⁵ This indicates the need for well-targeted approaches to preventing drug-impaired driving.

Recent research with drivers from NSW, Victoria and Queensland has found that problematic substance use was the main common factor influencing all drink and drug driving behaviours - indeed 95% of all drug drivers in this study reported problematic drug use.¹⁶ The researchers recommended that 'it may be more effective to treat the problematic use as a health issue rather than rely solely on an enforcement-based approach.'¹⁷ As reported by the Co-Chairs of the 2024 NSW Drug Summit, there are currently significant gaps in access to drug and alcohol treatment services in regional NSW.¹⁸ Any serious attempt to prevent drug driving in regional NSW should prioritise improved access to drug treatment services.

Urgent and immediate reform: exemption to S111.1 for people prescribed medicinal cannabis

NSW should move immediately to introduce an exemption to Section 111.1 so that people who are prescribed medicinal cannabis can drive when unimpaired.

This could be achieved by amending the definition of 'prescribed illicit drug' in Section 4 of the Road Transport Act 2013, to exclude THC prescribed by a medical practitioner and taken in accordance with a medical practitioner's prescription.

This exemption should be available at the roadside to prevent the undue disruption, stress and cost of court proceedings for legitimate medicinal users.

This medical exemption should be supported by:

¹⁵ Tom Arkell et al., 2023, 'Driving-related behaviours, attitudes and perceptions among Australian medical cannabis users: Results from the CAMS 20 survey,' in *Journal of cannabis research*; Laura Mills and James Freeman, 2023, 'Investigating predictors of driving immediately after consuming cannabis: A study of medical and recreational cannabis users in Australia,' in *Transportation Research Part F: Psychology and Behaviour*, Brooke Manning et al., 2024, 'A semi-naturalistic open-label study examining the effect of prescribed medical cannabis use on simulated driving performance,' in *Journal of Psychopharmacology*; Danielle McCartney et al., 2025, 'The driving-related attitudes, beliefs and behaviours of cannabis users in the Australian Capital Territory following decriminalisation,' in *Drug and Alcohol Review*; Carla Scheimer et al., 2025, 'The acute effects of vaporized cannabis on drivers' hazard perception and risk-taking behaviors in medicinal patients: A within-subjects experiment,' in *Journal of safety research*.

¹⁶ Razi Hasan et al, 2023, 'What contributes to drug driving? An exploratory investigation into the influence of problematic substance use, roadside testing and alternative transport options,' in *Accident Analysis & Prevention*.

¹⁷ *ibid.*

¹⁸ Carmel Tebbutt and John Brogden, 2025, *Report on the 2024 New South Wales Drug Summit*, NSW Government.

Improved guidance for health care providers Prescriber guidelines and medicinal cannabis packaging should include clearer information about impairment duration and driving risks.

Public education Public education initiatives should help people understand impairment indicators and avoid driving while impaired.